

Agenda



County of Inyo Board of Supervisors

Board of Supervisors Room
County Administrative Center
224 North Edwards
Independence, California

All members of the public are encouraged to participate in the discussion of any items on the Agenda. Anyone wishing to speak, please obtain a card from the Board Clerk and indicate each item you would like to discuss. Return the completed card to the Board Clerk before the Board considers the item (s) upon which you wish to speak. You will be allowed to speak about each item before the Board takes action on it.

Any member of the public may also make comments during the scheduled "Public Comment" period on this agenda concerning any subject related to the Board of Supervisors or County Government. No card needs to be submitted in order to speak during the "Public Comment" period.

Public Notices: (1) In Compliance with the Americans with Disabilities Act, if you need special assistance to participate in this meeting please contact the Clerk of the Board at (760) 878-0373. (28 CFR 35.102-35.104 ADA Title II). Notification 48 hours prior to the meeting will enable the County to make reasonable arrangements to ensure accessibility to this meeting. Should you because of a disability require appropriate alternative formatting of this agenda, please notify the Clerk of the Board 72 hours prior to the meeting to enable the County to make the agenda available in a reasonable alternative format. (Government Code Section 54954.2). (2) If a writing, that is a public record relating to an agenda item for an open session of a regular meeting of the Board of Supervisors, is distributed fewer than 72 hours prior to the meeting, the writing shall be available for public inspection at the Office of the Clerk of the Board of Supervisors, 224 N. Edwards, Independence, California and is available per Government Code § 54957.5(b)(1).

Note: Historically the Board does break for lunch; the timing of a lunch break is made at the discretion of the Chairperson and at the Board's convenience.

March 19, 2019

8:30 a.m. 1. PUBLIC COMMENT

CLOSED SESSION

2. **CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION – [Pursuant to paragraph (1) of subdivision (d) of Government Code §54956.9] – Los Angeles Department of Water and Power v. County of Inyo, Kern Superior Court Case No. BCV-18-101513-KCT (CEQA).**
3. **CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION – [Pursuant to paragraph (1) of subdivision (d) of Government Code §54956.9] – County of Inyo v. Los Angeles Department of Water and Power, Kern Superior Court Case Nos. BVC-18-101260; BVC-18-101261; and BVC-18-101262.**
4. **CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION –** Initiation of litigation pursuant to paragraph (4) of subdivision (d) of Government Code §54956.9 (one case).
5. **CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION –** Significant exposure to potential litigation pursuant to (2) of subdivision (d) of Government Code §54956.9 (two cases).
6. **CONFERENCE WITH COUNTY'S LABOR NEGOTIATORS [Pursuant to Government Code §54957.6] –** Regarding employee organizations: Deputy Sheriff's Association (DSA); Elected Officials Assistant Association (EOAA); Inyo County Correctional Officers Association (ICCOA); Inyo County Employees Association (ICEA); Inyo County Probation Peace Officers Association (ICPPOA); IHSS Workers; Law Enforcement Administrators' Association (LEAA). Unrepresented employees: all. County designated representatives – Administrative Officer Clint Quilter, Assistant County Administrator Rick Benson, Deputy Personnel Director Sue Dishion, County Counsel Marshall Rudolph, and Assistant County Counsel John Vallejo.

OPEN SESSION (With the exception of timed items, all open-session items may be considered at any time and in any order during the meeting in the Board's discretion.)

10:00 a.m. PLEDGE OF ALLEGIANCE

7. **REPORT ON CLOSED SESSION**
8. **PUBLIC COMMENT**
9. **COUNTY DEPARTMENT REPORTS** (Reports limited to two minutes)

10. **INTRODUCTION** – Emily Lanphear, Librarian, Inyo County Free Library, will be introduced to the Board.
11. **COUNTY ADMINISTRATOR – Inyo Film Commission** – Request Board receive Inyo Film Commissioner Chris Langley’s spring oral report on local filming activity.

DEPARTMENTAL – PERSONNEL ACTIONS

12. **ASSESSOR** – Request Board, consistent with the Fiscal Year 2018-2019 Board Approved Budget, reclassify the Real Property Appraiser, Range 68 (\$4,357 - \$5,294) to an Auditor-Appraiser I, Range 70 (\$4,569 - \$5,557).
13. **ASSESSOR** – Request Board: A) consistent with the Fiscal Year 2018-2019 Board Approved Budget, reclassify the BPAR Office Technician I, Range 55 (\$17.22 - \$20.93/hr.) to a full-time Office Technician I, Range 55 (\$3,213 - \$3,907); and B) consistent with the adopted Authorized Position Review Policy, find that: 1. the availability of funding for the requested position exists in the Assessor’s budget, as certified by the Assessor and concurred with by the County Administrator and Auditor-Controller; 2. where internal candidates may meet the qualifications for the position, the vacancy could possibly be filled through an internal recruitment, but an open recruitment is more appropriate to ensure qualified candidates apply; and 3. approve the hiring of one (1) Office Technician I, Range 55 (\$3,213 - \$3,907).
14. **COUNTY ADMINISTRATOR – Museum** – Request Board find that, consistent with the adopted Authorized Position Review Policy: A) the availability of funding for one (1) Curator of Collections and Exhibits exists in the Museum budget, as certified by the Department Head and concurred with by the County Administrator and Auditor-Controller; B) where there are internal candidates for the position, the vacancy can be filled through an internal recruitment; and C) approve the hiring of one (1) Curator of Collections and Exhibits, Range 60 (\$3,612 - \$4,387).
15. **COUNTY ADMINISTRATOR – Personnel** – Request Board approve the personal services contract with Leslie Chapman as the Assistant County Administrator, at \$10,402 per month effective May 23, 2019, and authorize the County Administrator to sign.
16. **HEALTH & HUMAN SERVICES – Public Health** – Request Board approve the modified Human Services Supervisor job description, and find that, consistent with the adopted Authorized Position Review Policy:
 - A) The availability of funding for one (1) Human Services Supervisor exists in non-General Fund budgets, as certified by the HHS Director and concurred with by the County Administrator and Auditor-Controller;
 - B) Where internal candidates may meet the qualifications for the position, the vacancy could possibly be filled through an internal recruitment, but an open recruitment is more appropriate to ensure qualified candidates apply; and
 - C) Approve the hiring of one (1) Human Services Supervisor at Range 70 (\$4,569 - \$5,557).

DEPARTMENTAL (To be considered at the Board’s convenience)

17. **HEALTH & HUMAN SERVICES – Behavioral Health** – Request Board ratify and approve Amendment A01 to the Standard Agreement between the County of Inyo and the Department of Health Care Services for Drug Medi-Cal Substance Use Disorder Services, recognizing an increase of \$23,422 for years two and three of the contract resulting in a total contract amount of \$257,653 for the period of July 1, 2017 through June 30, 2020, and authorize the Chairperson to sign five original signature pages plus one Certification form and one California Civil Rights Law Certification.
18. **PUBLIC WORKS** – Request Board: A) approve Resolution No. 2019-10 authorizing and approving a treasury loan to the Public Works Department for the Independence Water System in the amount of \$78,000, and authorize the Chairperson to sign; B) authorize the Chairperson to sign the Inyo County Treasury Loan Agreement and Promissory Note; and C) authorize the Public Works Director to accept the loan on behalf of the Public Works Department.

19. **PUBLIC WORKS** – Request Board:
- A) Amend the Independence Water System budget (152101) by:
 - 1. Increasing appropriations in Loan Proceeds (Object Code 4990) by \$78,000;
 - 2. Decreasing appropriations in Rents and Leases of Equipment (Object Code 5281) by \$647; and
 - 3. Increasing appropriations in Infrastructure (Object Code 5620) by \$78,647 (*4/5ths vote required*); and
 - B) Declare HercRentals as a sole-source provider for the supply of 2,840 feet of 12-inch HDPE pipe and fittings; and
 - C) Approve a purchase order for HercRentals in the amount of \$78,646.55.
20. **PUBLIC WORKS** – Request Board approve the closure of the portion of Round Valley Road between Pine Creek Road and Vanadium Ranch Road between the hours of 8 a.m. and 10:30 a.m. on May 31, 2019 for the purpose of the Round Valley Jog-a-thon.

TIMED ITEMS (Items will not be considered before scheduled time but may be considered any time after the scheduled time)

- 11 a.m. 21. **AG COMMISSIONER** – Request Board conduct a workshop to discuss and provide direction to staff on several aspects of Inyo County’s Commercial Cannabis Permitting Program in anticipation of forthcoming license issuance.

Note: The agenda items listed below may be considered by the Board at any time during the meeting in the Board’s discretion, including before scheduled timed items.

COMMENT (Portion of the Agenda when the Board takes comment from the public and County staff)

22. **PUBLIC COMMENT**

BOARD MEMBER AND STAFF REPORTS



AGENDA REQUEST FORM
BOARD OF SUPERVISORS
COUNTY OF INYO

For Clerk's Use Only:
AGENDA NUMBER
 12

- Consent
 Departmental
 Correspondence Action
 Public Hearing
 Scheduled Time for
 Closed Session
 Informational

FROM: Dave Stottlemyre, Assessor

FOR THE BOARD MEETING OF: March 19, 2019

SUBJECT: Reclassification in the Assessor's Office

DEPARTMENTAL RECOMMENDATION:

Request Board find consistent with the Fiscal Year 2018-2019 Board Approved Budget to reclassify the Real Property Appraiser, Range 68 (\$4,357-\$5,294) to an Auditor Appraiser I, Range 70 (\$4,569-\$5,557)

CAO RECOMMENDATION:

SUMMARY DISCUSSION:

This person performs Audits of the accounting records and other relevant records of industrial, commercial, and agricultural businesses in connection with the appraisal process. Additionally, this person performs appraisals using the guidelines established by the Board of Equalization. They must research appraisal techniques and assessment tax law to support their work, and prepares reports and correspondence related to audits and appraisals. They answer public inquiries, represent the Assessor in the assessment appeals process, and conduct field inspections at various locations within the county.



ALTERNATIVES:

Your Board could choose not to approve the hiring of this position, but this would negatively impact the daily operations of the Assessor's office.

OTHER AGENCY INVOLVEMENT:

FINANCING:

Funding for this position is from the General Fund. This position is currently budgeted for in the Assessor's budget 010600, in the Salaries and Benefits object code.

APPROVALS	
AUDITOR/CONTROLLER: 	ACCOUNTING/FINANCE AND RELATED ITEMS (Must be reviewed and approved by the auditor-controller prior to submission to the board clerk.) Approved: <u>yes</u> Date: <u>3/9/19</u>
PERSONNEL DIRECTOR: 	PERSONNEL AND RELATED ITEMS (Must be reviewed and approved by the director of personnel services prior to submission to the board clerk.) Approved: <u>yes</u> Date: <u>3/6/19</u>

DEPARTMENT HEAD SIGNATURE:

(Not to be signed until all approvals are received)
 (The Original plus 14 copies of this document are required)

 for Dave Stottlemyre Date: 3/6/19



AGENDA REQUEST FORM
BOARD OF SUPERVISORS
COUNTY OF INYO

For Clerk's Use Only:
AGENDA NUMBER
 13

- Consent Departmental Correspondence Action Public Hearing
 Scheduled Time for Closed Session Informational

FROM: Dave Stottlemyre, Assessor

FOR THE BOARD MEETING OF: March 19, 2019

SUBJECT: Request approval to fill vacant position with an Office Technician I

DEPARTMENTAL RECOMMENDATION:

Request Board, consistent with the Fiscal Year 2018-2019 Board Approved Budget: A) reclassify the BPAR Office Technician I, Range 55 (\$17.22 -\$20.93 per hour) to a full-time Office Technician I, Range 55 (\$3,363-\$4,086) and B) find consistent with the adopted Authorized Position Review Policy:

- A. The availability of funding for this requested position is budgeted in the Assessor's budget, as certified by the Assessor and concurred with by the County Administrator and Auditor-Controller; and where internal candidates meet the qualifications for the position, the vacancy could be filled through an internal recruitment, but an open recruitment would be more appropriate to ensure qualified candidates apply; and
- B. Approve the hiring of one (1) Office Technician I, Range 55 (\$3,213-\$3,907).

CAO RECOMMENDATION:

SUMMARY DISCUSSION:

The current Assessor Office Technician I, B-Par position was vacated March 22, 2019. This position is critical for the operations of the department, including, but not limited to both taxpayer and departmental customer service and the conversion to a new property tax management system.

ALTERNATIVES: Your Board could choose not to approve the hiring of this position. This alternative is not recommended because not filling this position will adversely impact taxpayer service, support to other departments, and the transition/conversion to the new property tax management system.

OTHER AGENCY INVOLVEMENT: Personnel and the Auditor's office.

FINANCING: Funding for the Assessor Office Tech I position is budgeted in the Assessor's 2018-2019 budget [010600, including all related Salaries and Benefits object codes].

APPROVALS	
COUNTY COUNSEL:	AGREEMENTS, CONTRACTS AND ORDINANCES AND CLOSED SESSION AND RELATED ITEMS (Must be reviewed and approved by county counsel prior to submission to the board clerk.) Approved: _____ Date _____
AUDITOR/CONTROLLER:	ACCOUNTING/FINANCE AND RELATED ITEMS (Must be reviewed and approved by the auditor-controller prior to submission to the board clerk.)  Approved: <u>yes</u> Date <u>3/13/2019</u>
PERSONNEL DIRECTOR:	PERSONNEL AND RELATED ITEMS (Must be reviewed and approved by the director of personnel services prior to submission to the board clerk.)  Approved: <u>✓</u> Date <u>3/13/19</u>

DEPARTMENT HEAD SIGNATURE:

(Not to be signed until all approvals are received)
 (The Original plus 20 copies of this document are required)

 for D.S.

Date: 3/13/19



AGENDA REQUEST FORM
BOARD OF SUPERVISORS
COUNTY OF INYO

For Clerk's Use Only:
AGENDA NUMBER
 14

- Consent Departmental Correspondence Action Public Hearing
 Scheduled Time for Closed Session Informational

FROM: Jon Klusmire, Museum Services Administrator

FOR THE BOARD MEETING OF: March 19, 2019

SUBJECT: Request to fill vacant Curator of Collections and Exhibits position.

DEPARTMENTAL RECOMMENDATION: Request the Board find that consistent with the adopted Authorized Position Review Policy:

- 1) The availability of funding for the requested position exists as certified by the Department Head with concurrence by the County Administrator and Auditor-Controller; and
- 2) Where there are internal candidates for the position have the position filled with a closed, county-wide recruitment.
- 3) Authorize the filling of the position of Curator of Collections and Exhibits, Range 60 (\$3,612 -- \$4,387).

SUMMARY DISCUSSION: The position of Curator of Collections and Exhibits is vacant due to retirement. This position is critical to the operation of the Museum. Under the general supervision of the Museum Services Administrator, the Curator is responsible for the documentation of all donations and current artifacts; provides technical advice and expertise with regard to handling, storing and displaying the Museum's roughly 75,000 artifacts, ranging from personal letters to photos to tools to prehistoric objects; helps design and create rotating exhibits as well as working to improve and update the Museum's permanent exhibits; helps train Museum staff and oversees the efforts of Museum volunteers; manages information, photo and research requests; provides the visiting public with information about the museum.

ALTERNATIVES: Your Board could choose not to authorize filling the vacant position, however, this is not recommended, as the operation of the Eastern California Museum will suffer

OTHER AGENCY INVOLVEMENT: Personnel, Auditor.

FINANCING: Funding for this position is included in the FY 2018-2019 Eastern California Museum Budget (077000), a General Fund Department.

APPROVALS	
COUNTY COUNSEL:	AGREEMENTS, CONTRACTS AND ORDINANCES AND CLOSED SESSION AND RELATED ITEMS (Must be reviewed and approved by county counsel prior to submission to the board clerk.) Approved: <u>NA</u> Date _____
AUDITOR/CONTROLLER:	ACCOUNTING/FINANCE AND RELATED ITEMS (Must be reviewed and approved by the auditor-controller prior to submission to the board clerk.) Approved: <u>✓</u> Date <u>3/4/19</u>
PERSONNEL DIRECTOR:	PERSONNEL AND RELATED ITEMS (Must be reviewed and approved by the director of personnel services prior to submission to the board clerk.) Approved: <u>✓</u> Date <u>3/4/19</u>
DEPARTMENT HEAD SIGNATURE: <u>[Signature]</u> Date: <u>3-7-19</u> (Not to be signed until all approvals are received)	



AGENDA REQUEST FORM
BOARD OF SUPERVISORS
COUNTY OF INYO

For Clerk's Use Only:
AGENDA NUMBER
 15

- Consent Departmental Correspondence Action Public Hearing
 Scheduled Time for Closed Session Informational

FROM: County Administrator – Personnel

FOR THE BOARD MEETING: MARCH 19, 2019

SUBJECT: Assistant County Administrator Contract

DEPARTMENTAL RECOMMENDATION:

Request Board approve the personal services contract with Leslie Chapman as the Assistant County Administrator, at \$10,402 per month effective May 23, 2019 and authorize the County Administrator to sign.

SUMMARY DISCUSSION:

Staff, in association with Prothman, completed a nationwide search for Deputy/Assistant County Administrator. At the conclusion of that process, Leslie Chapman was selected for the Assistant County Administrator job.



Ms. Chapman has wealth of experience in county government and, in particular, county government in the Eastern Sierra, most recently as the County Administrator for our neighbors to the north Mono County. She had also served as Finance Director for Mono County. Prior to that, she spent a number of years as the Inyo County Auditor-Controller.

We are very fortunate to find someone with Ms. Chapman's credentials available to fill this critical role with Inyo County.

ALTERNATIVES: Your Board could choose to not approve the contract; however, this is not recommended.

OTHER AGENCY INVOLVEMENT: County Counsel and Personnel

FINANCING: Funding for this position is included in the Fiscal Year 2018-2019.

APPROVALS	
COUNTY COUNSEL:	AGREEMENTS, CONTRACTS AND ORDINANCES AND CLOSED SESSION AND RELATED ITEMS (Must be reviewed and approved by county counsel prior to submission to the board clerk.) Approved: _____ Date _____
AUDITOR/CONTROLLER:	ACCOUNTING/FINANCE AND RELATED ITEMS (Must be reviewed and approved by the auditor-controller prior to submission to the board clerk.)  Approved: <u>yes</u> Date <u>3/14/2019</u>
PERSONNEL DIRECTOR:	PERSONNEL AND RELATED ITEMS (Must be reviewed and approved by the director of personnel services prior to submission to the board clerk.)  Approved: <u>J</u> Date <u>3/13/19</u>
BUDGET OFFICER:	BUDGET RELATED ITEMS (Must be reviewed and approved by the budget officer prior to submission to the board clerk.) Approved: _____ Date _____

DEPARTMENT HEAD SIGNATURE:

(Not to be signed until all approvals are received)
 (The Original plus 14 copies of this document are required)



Date: 3/13/19

**AGREEMENT BETWEEN COUNTY OF INYO
AND LESLIE CHAPMAN
FOR THE PROVISION OF PERSONAL SERVICES
AS ASSISTANT COUNTY ADMINISTRATOR**

INTRODUCTION

WHEREAS, Leslie Chapman (hereinafter referred to as "Assistant County Administrator") has been or will be duly appointed as an Assistant County Administrator for Inyo County; and

WHEREAS, the County of Inyo (hereinafter referred to as "County") and Assistant County Administrator desire to set forth the manner and means by which Assistant County Administrator will be compensated for performance of duties.

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

TERMS AND CONDITIONS

1. SCOPE OF WORK.

Assistant County Administrator shall furnish to the County those services and work set forth in Attachment A, attached hereto and by reference incorporated herein.

Services and work provided by Assistant County Administrator under this Agreement will be performed in a manner consistent with the requirements and standards established by applicable federal, state, and County laws, ordinances, resolutions, and directions.

2. ADMINISTRATION OF CONTRACT.

Assistant County Administrator will report directly to and shall work under the direction of the County Administrative Officer. As the County's Personnel Director, the County Administrative Officer will administer this contract

3. TERM.

The term of this Agreement shall be from May 23, 2019 until terminated as provided below.

4. CONSIDERATION.

A. Compensation. County shall pay Assistant County Administrator in accordance with the Schedule of Fees (set forth as Attachment B) for the services and work described in Attachment A which are performed by Assistant County Administrator.

B. Travel and Per Diem. County shall reimburse Assistant County Administrator for the travel expenses and per diem which Assistant County Administrator incurs in providing services and work under this Agreement. Travel and per diem expenses will be reimbursed in accordance with the rates set forth in the Schedule of Travel and Per Diem Payment (Attachment C). County reserves the right to deny reimbursement to Assistant County Administrator for travel or per diem expenses which are either in excess of the amounts that may be paid under the rates set forth in Attachment C, or which are incurred by the Assistant County Administrator without the proper approval of the County.

C. No Additional Consideration. Except as expressly provided in this Agreement, Assistant County Administrator shall not be entitled to, nor receive, from County, any additional consideration, compensation, salary, wages, or other type of remuneration for services rendered under this Agreement.

D. Manner of Payment. Assistant County Administrator will be paid in the same manner and on the same schedule of frequency as other County officers and employees.

E. Federal and State Taxes. From all payments made to Assistant County Administrator by County under the terms and provisions of this Agreement, County shall withhold all appropriate federal and state income taxes (resident and non-resident).

5. WORK SCHEDULE.

Assistant County Administrator's obligation is to perform the services and work identified in Attachment A which are needed within the County. It is understood by Assistant County Administrator that the performance of these services and work will require a varied schedule. Assistant County Administrator, in arranging her schedule, will coordinate and make arrangements to fulfill the requirements of the services and work which is necessary.

6. REQUIRED LICENSES, CERTIFICATES, AND PERMITS.

Any licenses, certificates, or permits required by the federal, state, county, or municipal governments for Assistant County Administrator to provide the services and work described in Attachment A must be procured by Assistant County Administrator and be valid at the time Assistant County Administrator enters into this Agreement or as otherwise may be required. Further, during the term of this Agreement, Assistant County Administrator must maintain such licenses, certificates, and permits in full force and effect. Licenses, certificates, and permits may include, but are not limited to, driver's licenses, and professional licenses or certificates. Assistant County Administrator will provide County, at County's request, evidence of current and valid licenses, certificates and permits which are required to perform the services identified in Attachment A. Where there is a dispute between Assistant County Administrator and County as to what licenses, certificates, and permits are required to perform the services identified in Attachment A, County reserves the right to make such determinations for purposes of this Agreement.

7. OFFICE SPACE, SUPPLIES, EQUIPMENT, ETC.

County shall provide Assistant County Administrator with such supplies, reference materials, telephone service, and staff as is deemed necessary by the County for Assistant County Administrator to provide the services identified in Attachment A to this Agreement.

8. COUNTY PROPERTY.

A. Supplies, Equipment, etc. All supplies, equipment, tools, protective or safety devices, badges, identification cards, keys, uniforms, vehicles, reference materials, furniture, appliances, etc. provided to Assistant County Administrator by County pursuant to this Agreement are, and at the termination of this Agreement remain, the sole and exclusive property of County. Assistant County Administrator will use reasonable care to protect, safeguard and maintain such items while they are in Assistant County Administrator's possession.

B. Products of Assistant County Administrator 's Work and Services. Any and all compositions, publications, plans, designs, specifications, blueprints, maps, formulas, processes, photographs, slides, video tapes, computer programs, computer disks, computer tapes, memory chips, soundtracks, audio recordings, films, audio-visual presentations, exhibits, reports, studies, works of art, inventions, patents, trademarks, copyrights, or intellectual properties of any kind which are created, produced, assembled,

compiled by, or are the result or product of, Assistant County Administrator's services or work under this Agreement are, and at the termination of this Agreement remain, the sole and exclusive property of the County. At the termination of the Agreement, Assistant County Administrator will convey possession and title to all such properties to County.

9. WORKERS' COMPENSATION.

County shall provide workers' compensation coverage to Assistant County Administrator for all acts performed in the course and scope of providing the services described in Attachment A to this Agreement. In the event a claim is made by Assistant County Administrator for injuries received in the course and scope of providing such services, County's liability shall be limited to workers' compensation benefits payable under the California Labor Code.

10. DEFENSE AND INDEMNIFICATION.

In the event the Assistant County Administrator is sued for acts performed within the course and scope of providing services and work described in Attachment A of this Agreement, County shall defend, indemnify, and hold the Assistant County Administrator harmless from any and all liability arising from such acts as required by law.

11. TERMINATION AND DISCIPLINE.

Assistant County Administrator's services under this Agreement may be terminated by County without cause, and at will, for any reason by giving to Assistant County Administrator one hundred eighty (180) days written notice of such intent to terminate. Assistant County Administrator may terminate this Agreement without cause, and at will, for any reason whatsoever by giving thirty (30) days written notice of such intent to terminate to County.

12. ASSIGNMENT.

This is an agreement for the personal services of Assistant County Administrator. County has relied upon the skills, knowledge, experience, and training of Assistant County Administrator as an inducement to enter into this Agreement. Assistant County Administrator shall not assign or subcontract this Agreement, or any part of it, without the express written consent of the County.

13. NONDISCRIMINATION.

Assistant County Administrator agrees to comply with various provisions of the federal, state, and county statutes, laws, and ordinances applicable to the County prohibiting discrimination against any person on specified grounds.

14. CONFIDENTIALITY.

Assistant County Administrator agrees to comply with various provisions of the federal, state, and county laws and ordinances providing that information and records kept, maintained, or accessible by the County, shall be privileged, restricted, or confidential. Disclosure of such confidential, privileged, or protected information shall be made by Assistant County Administrator only as allowed by law.

15. CONFLICTS.

Assistant County Administrator agrees that Assistant County Administrator has no interest, and shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance

of the work and services under this Agreement. Assistant County Administrator agrees to complete and file appropriate conflict of interest statements.

16. POST AGREEMENT COVENANT.

Assistant County Administrator agrees not to use any confidential, protected, or privileged information which is gained from the County in the course of providing services and work under this Agreement, for any personal benefit, gain, or enhancement. Further, Assistant County Administrator agrees for a period of two years after the termination of this Agreement, not to seek or accept any employment with any entity, association, corporation, or person who, during the term of this Agreement, has had an adverse or conflicting interest with the County, or who has been an adverse party in litigation with the County, and concerning such, Assistant County Administrator by virtue of this Agreement has gained access to the County's confidential, privileged, protected, or proprietary information.

17. AMENDMENT.

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

18. NOTICE.

Any notice, amendments, or additions to this Agreement, including change of address of either party during the term of this Agreement, which Assistant County Administrator or County shall be required, or may desire, to make shall be in writing and shall be sent by prepaid first class mail to the respective parties as follows:

County of Inyo

<u>County Administrator</u>	Department
<u>P.O. Drawer N</u>	Mailing Address
<u>Independence, CA 93526</u>	City and State

Assistant County Administrator

<u>Leslie Chapman</u>	Name
<u>3065 Topaz Ln.</u>	Street
<u>Topaz, CA 96133</u>	City and State

29. ENTIRE AGREEMENT.

This Agreement contains the entire agreement of the parties, and no representations, inducements, promises, or agreements otherwise between the parties not embodied herein or incorporated herein by reference, shall be of any force or effect. Further, no term or provision hereof may be changed, waived, discharged, or terminated, unless the same be in writing executed by the parties hereto.

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ATTACHMENT A

**AGREEMENT BETWEEN COUNTY OF INYO
AND LESLIE CHAPMAN
FOR THE PROVISION OF PERSONAL SERVICES
AS ASSISTANT COUNTY ADMINISTRATOR**

TERM:

FROM: May 23, 2019 TO: TERMINATION

SCOPE OF WORK:

Upon commencing employment, Assistant County Administrator shall perform the duties and responsibilities as identified in the job description for Assistant County Administrator incorporated herein by this reference.

ATTACHMENT B

**AGREEMENT BETWEEN COUNTY OF INYO
AND LESLIE CHAPMAN
FOR THE PROVISION OF PERSONAL SERVICES
AS ASSISTANT COUNTY ADMINISTRATOR**

TERM:

FROM: May 23, 2019 TO: TERMINATION

SCHEDULE OF FEES:

1. After commencing employment, Assistant County Administrator shall be paid \$10,402 per month, and shall be paid every two weeks on County paydays.
2. The County Administrator will review Assistant County Administrator's performance annually.
3. Except as otherwise provided in this contract, Assistant County Administrator shall be compensated and receive benefits according to Inyo County Resolution Number 2018-02 or a successor resolution applicable to Management Employees.
4. County will provide and maintain a motor vehicle for Assistant County Administrator's use travelling between work locations and in conducting other County business. Said vehicle will be garaged overnight at a County facility unless prior permission is granted by the County Administrator or his designee.
5. Assistant County Administrator shall be credited with one hundred (100) hours of sick leave upon the first day of Assistant County Administrator's employment. (She may thereafter accrue additional sick leave in accordance with applicable County policies.)
6. Assistant County Administrator is entitled to eighty (80) paid administrative hours off every fiscal year. The administrative leave hours shall not accumulate and will be lost if not utilized during the fiscal year. The administrative leave shall have no cash value.
7. For purposes of vacation and sick leave accrual, and longevity compensation, Assistant County Administrator will be considered to begin her employment with 10 years of continuous county service (to which she will add more years of actual service during her employment). Thus, for example, she will be entitled to receive the 10-year longevity increase upon commencement of this Agreement and the 15-year longevity increase approximately five years later.
8. The provisions of this Attachment B shall prevail over any contrary provision in any applicable County personnel policy or rule.

ATTACHMENT C

**AGREEMENT BETWEEN COUNTY OF INYO
AND LESLIE CHAPMAN
FOR THE PROVISION OF PERSONAL SERVICES
AS ASSISTANT COUNTY ADMINISTRATOR**

TERM:

FROM: May 23, 2019 TO: TERMINATION

SCHEDULE OF TRAVEL AND PER DIEM PAYMENT:

1. Subject to Paragraph 2 below, County will reimburse Assistant County Administrator for travel and per diem expenses in the same amount and to the same extent as County reimburses its permanent status merit system employees.
2. Assistant County Administrator will not be reimbursed for intra-county travel by private automobile to destinations less than seventy-five (75) miles from Independence, California.

\\\\\\ NOTHING FOLLOWS



AGENDA REQUEST FORM
BOARD OF SUPERVISORS
COUNTY OF INYO

For Clerk's Use Only:
AGENDA NUMBER

16

Consent Departmental Correspondence Action Public Hearing
 Scheduled Time for Closed Session Informational

FROM: HEALTH & HUMAN SERVICES- Public Health

FOR THE BOARD MEETING OF: March 19, 2019

SUBJECT: Request to approve the modified job description and to hire one full time Human Services Supervisor in the HHS Public Health & Prevention Division

DEPARTMENTAL RECOMMENDATION:

Request your Board approve the modified Human Services Supervisor job description, and find that consistent with the adopted Authorized Position Review Policy:

- A) The availability of funding for the requested position exists in non-General Fund budgets, as certified by the Health and Human Services Director and concurred with by the County Administrator, and Auditor-Controller; and
- B) where internal candidates meet the qualifications for the position, the vacancy could possibly be filled through an internal recruitment, but an open recruitment would be more appropriate to ensure qualified candidates apply
- C) Approve the hiring of one Human Services Supervisor at Range 70 (\$4,569 - \$5,557).

CAO RECOMMENDATION:

SUMMARY DISCUSSION:

The Human Services Supervisor in the HHS Public Health and Prevention division recently promoted to the Prevention Program Manager position in the same division. Under new minimum staffing requirements for Tobacco Control Programs that were set with the passage of Prop 56, this position must be dedicated 100% to Tobacco Control activities, with at least one more 0.5 FTE position dedicated to tobacco coalition coordination. In coordination with community agencies the Human Services Supervisor will be responsible for overall and day-to-day management related to implementing and evaluating Inyo County's Comprehensive Tobacco Control Plan; onboarding new staff; directing and supervising staff; preparing or overseeing the preparation of the Tobacco Control plan and progress reports, assisting with preparation of the budget and cost reports, and maintenance of required documents for auditing purposes.

When reviewing the approved job description for the Human Services Supervisor, the Department noticed that the minimum qualifications had been written more specific to the position working in Behavioral Health and did not provide for experience working in other fields of health and human services. The attached job description has been modified to reflect minimum standards for the classification to allow for its usage across all divisions in Health and Human Services. The essential job duties will remain consistent across all divisions and when used to hire for specific programs, such as Tobacco Control, the description can be altered to include a position-specific section to reflect specialized job duties.

The Department respectfully request your Board approve the modified job description and authorize the hiring of a Human Services Supervisor for the Tobacco Control Program.

ALTERNATIVES:

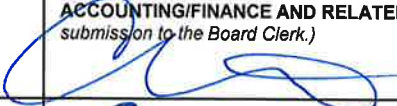

Your Board could choose not to fill this position. Doing so would mean that HHS would not be able to meet the minimum staffing requirements for Tobacco Control, which would impact Inyo County's ability to receive tobacco funding.

OTHER AGENCY INVOLVEMENT:

Local schools, Mono County Tobacco Control, Inyo County Tobacco Coalition

FINANCING:

State and Federal funding. This position is budgeted 100% in Tobacco (640317) in the Salaries and Benefits object codes. No County General Funds.

<u>APPROVALS</u>	
AUDITOR/CONTROLLER:	ACCOUNTING/FINANCE AND RELATED ITEMS (Must be reviewed and approved by the Auditor/Controller prior to submission to the Board Clerk.)  Approved: <u>yes</u> Date: <u>3/1/2019</u>
PERSONNEL DIRECTOR:	PERSONNEL AND RELATED ITEMS (Must be reviewed and approved by the Director of Personnel Services prior to submission to the Board Clerk.)  Approved: <u>J</u> Date: <u>2/26/19</u>

DEPARTMENT HEAD SIGNATURE:  Date: 3/6/19
(Not to be signed until all approvals are received)

INYO COUNTY
PERSONNEL SERVICES
P. O. Box 249
INDEPENDENCE, CA 93526



(760) 878-0377
FAX (760) 878-0465

AN EQUAL OPPORTUNITY EMPLOYER
(WOMEN, MINORITIES, AND DISABLED ARE ENCOURAGED TO APPLY)

ANNOUNCES AN OPEN RECRUITMENT FOR:

HUMAN SERVICES SUPERVISOR

DEPARTMENT: Health and Human Services
LOCATION: Countywide
SALARY: Range 70 \$4569-\$5557 Monthly

****BENEFITS:** CalPERS Retirement System: Existing ("Classic") CalPERS members as of January 1, 2013, (2% at 55) – Inyo County pays employee contribution for current CalPERS members; new CalPERS members hired after January 1, 2013 (2% at 62) will be required to pay at least 50% of normal cost. Medical Plan – Inyo County pays a portion of employee and dependent monthly premium on PERS medical plans; 100% of employee and dependent monthly premium paid for dental and vision; \$20,000 term life insurance policy on employee. Vacation – 10 days per year during the first three years; 15 days per year after three years; 1 additional day for each year of service after ten years to a maximum of 25 days per year. Sick leave – 15 days per year. Flex (personal days) – 5 days per fiscal year. Paid holidays – 11 per year.

DEFINITION: Under direction of the HHS Director or her designee, will provide first-line supervision in the organization and operation of one or more Health and Human Services programs, including Behavioral Health, Tobacco Control, and Ombudsman services.

ESSENTIAL JOB DUTIES: Supervises and evaluates the work of staff, as well as directly provides a broad range of health and human services activities which may be specific to one or more programs, such as prevention, behavioral health, social services or senior services programs (ESAAA); provides directly and/or arranges for on-going training to volunteers and staff; develops, facilitates, and supports collaborative efforts with other work units and/or community stakeholders; develops and implements work unit goals, writes required plans, monitors, and reports on progress toward goals; makes regular presentations to community groups and policy makers (i.e., civic clubs, churches, governing boards, etc.) for purposes of educating about services and/or advocating for policy, systems, and environmental change; coordinates, and may provide activities to ensure timely and appropriate completion of tasks and projects; interviews and participates in the selection of staff; conducts employee conferences to discuss or interpret departmental rules, regulations, policies and procedures, and performance problems; identifies and resolves operational problems; receives and resolves employee complaints and makes recommendations to superiors on difficult and complex personnel matters; supervises and participates in quality control; ensures compliance with applicable rules, regulations, policies and procedures governing tasks within assigned duties. May be assigned to additional supervisory, training, investigative and/or routine administrative responsibilities.

EMPLOYMENT STANDARDS

Education/Experience:

Path 1: A Bachelor's Degree from and accredited 4-year university AND one (1) year of performing duties in a social services, public health, behavioral health or related health & human services agency.

-OR-

Path 2: High school graduate or equivalent AND three (3) years of professional experience performing work consistent with the assigned work unit, including one year of lead or supervisory experience in such programs, AND completion of the equivalent of 18 semester units (28 quarter units) in a related field.

-OR-

Path 3: High school graduate or equivalent and one (1) year of front line supervisory experience in a health & human services agency, public or private.

Knowledge of: The functions of Human Services agencies and the specific issues assigned in the work unit (e.g. Tobacco Control Program; Mental Health Services Act; Long-Term Care Ombudsman).

Ability to: Speak and write English using appropriate grammar and paragraph structure, and produce oral and written reports/presentations concisely and clearly. Plan, assign, monitor, and supervise the work of others. Apply interpersonal skills effectively. Establish and maintain cooperative working relationships with community groups, co-workers and the general public. Work effectively with other work units in the agency. Train and develop staff including consumers. Operate automated office equipment and systems used by the department. Identify problems and develop solutions; analyze a situation accurately and adopt an effective course of action; use available sources of information effectively in determining program goals and activities. Consistent attendance is an essential function of the position.

SPECIAL REQUIREMENTS: Must possess a valid California Driver's License; must successfully complete a pre-employment background check and physical examination, including drug screen.

SELECTION: Selection procedures will determined by the number and qualifications of applicants and may include a qualification screening, written examination, and oral interview.

APPLICATION: Applications **must be received** in the Personnel Office, P.O. Box 249, Independence, CA 93526, no later than 5:00 p.m. on [REDACTED] (postmarks not accepted).

THIS RECRUITMENT WILL ESTABLISH AN ELIGIBILITY LIST THAT WILL BE USED FOR ONE YEAR IN FILLING COUNTYWIDE VACANCIES THAT MAY OCCUR IN THIS JOB CLASSIFICATION AND SALARY RANGE.

REASONABLE ACCOMMODATION FOR INDIVIDUALS WITH QUALIFYING DISABILITIES: Inyo County will make reasonable efforts in the examination process on a case-by-case basis to accommodate persons with disabilities. If you have special needs, please contact (760) 878-0377 prior to the examination process.

CITIZENSHIP/IMMIGRATION STATUS: Inyo County employs only U.S. citizens and lawfully authorized non-citizens in accordance with the Immigration Reform and Control Act of 1986.

The County of Inyo has work sites located throughout Inyo County in the Owens Valley (Independence, Bishop, Lone Pine, Big Pine, and Olancho) and the Death Valley area (Death Valley, Shoshone, and Tecopa). Additionally, the County of Inyo has work sites located in Mono County. Positions are assigned to a work site based upon the needs of the County. Positions may be temporarily or permanently reassigned to another work site as deemed necessary by the Department Head.



AGENDA REQUEST FORM
BOARD OF SUPERVISORS
COUNTY OF INYO

For Clerk's Use Only:
AGENDA NUMBER
17

- Consent Hearing
 Scheduled Time for
 Departmental
 Closed Session
 Correspondence Action
 Informational
 Public

FROM: HEALTH & HUMAN SERVICES – Behavioral Health, Drug Medi-Cal (DMC) Substance Use Disorder Services

FOR THE BOARD MEETING OF: March 19, 2019

SUBJECT: Ratification and Approval of amendment #1 to the Multi-Year DMC Substance Use Disorder Services contract for Years 2017-2018 through 2019-2020.

DEPARTMENTAL RECOMMENDATION:

Request your Board ratify and approve Amendment A01 to the Standard Agreement between the County of Inyo and the Department of Health Care Services for DMC Substance Use Disorder Services, recognizing an increase of \$23,422 for years two and three of the contract resulting in a total contract amount of \$257,653 for the period of July 1, 2017 through June 30, 2020, and authorize the Chairperson to sign five original signature pages plus one original signature on the Certification (CCC-307) and one original signature on the California Civil Rights Law Certification.

CAO RECOMMENDATION:

SUMMARY DISCUSSION:

This Agreement was received by our department on January 31, 2019 and the signed documents are due back to the State with Board minutes indicating approval by March 31, 2019. This is the first amendment that the Department of Health Care Services is issuing for DMC services recognizing additional administrative tasks involved in the contract.

This is the standard contract between the County of Inyo and the Department of Health Care Service for DMC services for a three-year cycle. In addition to the increase of \$11,711 for year two of the contract and \$11,711 for year three of the contract, other changes include modification to the terms and conditions as follows:

- 1) Exhibit A, Attachment I A1 (Program Specifications), which is incorporated in its entirety with amended language added regarding the additional administrative oversight and monitoring of providers including such areas as corrective action plans, training, monthly provider enrollment, Medi-Cal eligibility verification, and dedicated capacity reporting, as well as updated references and sites to submit reports.
- 2) Exhibit B, Attachment 1 A4 – Funding for FY 2017-2018 through FY 2019-2020 which is incorporated in its entirety with increased amount totaling \$23,422 for budget years two (2018/2019) and three (2019/2020).

All other terms and conditions shall remain the same.

The Department is respectfully requesting that your Board ratify and approve Amendment A01 to the Standard Agreement between the County of Inyo and Department of Health Care Services for DMC Substance Use Disorder Services and authorize the Chairperson to sign five original signature pages plus one original signature on the Certification (CCC-307) and one original signature on the California Civil Rights Law Certification.

ALTERNATIVES:




Your Board could deny or delay this request, which would end or interrupt the flow of State and Federal funds for substance use disorders programming in the County of Inyo.

OTHER AGENCY INVOLVEMENT:

State of California – Health and Human Services Agency-Department of Health Care Services

FINANCING:

This will be brought in as Revenue to the Substance Use Disorders Budget (045315) as Federal Other (4552).

<u>APPROVALS</u>	
COUNTY COUNSEL: 	AGREEMENTS, CONTRACTS AND ORDINANCES AND CLOSED SESSION AND RELATED ITEMS <i>(Must be reviewed and approved by County Counsel prior to submission to the Board Clerk.)</i> Approved: <u>yes</u> Date: <u>2/19/19</u>
AUDITOR/CONTROLLER: 	ACCOUNTING/FINANCE AND RELATED ITEMS <i>(Must be reviewed and approved by the Auditor/Controller prior to submission to the Board Clerk.)</i> Approved: <u>yes</u> Date: <u>2/22/2019</u>
PERSONNEL DIRECTOR: 	PERSONNEL AND RELATED ITEMS <i>(Must be reviewed and approved by the Director of Personnel Services prior to submission to the Board Clerk.)</i> Approved: <u>✓</u> Date: <u>2/26/19</u>

DEPARTMENT HEAD SIGNATURE:
(Not to be signed until all approvals are received)

 Date: 3/6/19

STATE OF CALIFORNIA
STANDARD AGREEMENT AMENDMENT
 STD. 213A_DHCS (Rev. 03/18)

Check here if additional pages are added: 112 Page(s)

Agreement Number 17-94074	Amendment Number A01
Registration Number:	



1. This Agreement is entered into between the State Agency and Contractor named below:
 State Agency's Name (Also known as DHCS, CDHS, DHS or the State)
Department of Health Care Services

 Contractor's Name (Also referred to as Contractor)
County of Inyo
2. The term of this Agreement is: **July 1, 2017**
through **June 30, 2020**
3. The maximum amount of this **\$ 257,653**
 Agreement after this amendment is: **Two Hundred Fifty-Seven Thousand, Six Hundred Fifty-Three Dollars**
4. The parties mutually agree to this amendment as follows. All actions noted below are by this reference made a part of the Agreement and incorporated herein:
 - I. The effective date of this amendment is the date approved by DHCS.
 - II. **Purpose of amendment:** This amendment 1) modifies the terms and conditions and 2) increases the budget in years 2 and 3 to compensate the Contractor for performing additional services.
 - III. Certain changes made in this amendment are shown as: Text additions are displayed in **bold and underline**. Text deletions are displayed as strike through text (i.e., ~~Strike~~).
 - IV. Paragraph 3 (maximum amount payable) on the face of the original STD 213 is increased by \$23,422 and is amended to read: ~~\$234,231 (Two Hundred Thirty Four Thousand, Two Hundred Thirty One Dollars)~~ **\$257,653 (Two Hundred Fifty-Seven Thousand, Six Hundred Fifty-Three Dollars)**.

(Continued on next page)

All other terms and conditions shall remain the same.

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

CONTRACTOR		CALIFORNIA Department of General Services Use Only
Contractor's Name (If other than an individual, state whether a corporation, partnership, etc.)		
County of Inyo		
By (Authorized Signature)	Date Signed (Do not type)	
		
Printed Name and Title of Person Signing		
Address		
163 May Street Bishop, CA 93514		
STATE OF CALIFORNIA		
Agency Name		
Department of Health Care Services		
By (Authorized Signature)	Date Signed (Do not type)	
		
Printed Name and Title of Person Signing		
Carrie Talbot, Chief, Contract Management Unit		
Address		
1000 G Street, 4 th Floor, MS 4200, P.O. Box 997413, Sacramento, CA 95899-7413		
		<input type="checkbox"/> Exempt per: W&I Code 14087.4

CCC 04/2017

CERTIFICATION

I, the official named below, CERTIFY UNDER PENALTY OF PERJURY that I am duly authorized to legally bind the prospective Contractor to the clause(s) listed below. This certification is made under the laws of the State of California.

<i>Contractor/Bidder Firm Name (Printed)</i> <i>County of Inyo</i>		<i>Federal ID Number</i> <i>95-6005445</i>
<i>By (Authorized Signature)</i>		
<i>Printed Name and Title of Person Signing</i>		
<i>Date Executed</i>	<i>Executed in the County of</i> <i>Inyo</i>	

CONTRACTOR CERTIFICATION CLAUSES

1. STATEMENT OF COMPLIANCE: Contractor has, unless exempted, complied with the nondiscrimination program requirements. (Gov. Code §12990 (a-f) and CCR, Title 2, Section 11102) (Not applicable to public entities.)

2. DRUG-FREE WORKPLACE REQUIREMENTS: Contractor will comply with the requirements of the Drug-Free Workplace Act of 1990 and will provide a drug-free workplace by taking the following actions:

a. Publish a statement notifying employees that unlawful manufacture, distribution, dispensation, possession or use of a controlled substance is prohibited and specifying actions to be taken against employees for violations.

b. Establish a Drug-Free Awareness Program to inform employees about:

- 1) the dangers of drug abuse in the workplace;
- 2) the person's or organization's policy of maintaining a drug-free workplace;
- 3) any available counseling, rehabilitation and employee assistance programs; and,
- 4) penalties that may be imposed upon employees for drug abuse violations.

c. Every employee who works on the proposed Agreement will:

- 1) receive a copy of the company's drug-free workplace policy statement; and,
- 2) agree to abide by the terms of the company's statement as a condition of employment on the Agreement.

Failure to comply with these requirements may result in suspension of payments under the Agreement or termination of the Agreement or both and Contractor may be ineligible for award of any future State agreements if the department determines that any of the following has occurred: the Contractor has made false certification, or violated the

certification by failing to carry out the requirements as noted above. (Gov. Code §8350 et seq.)

3. NATIONAL LABOR RELATIONS BOARD CERTIFICATION: Contractor certifies that no more than one (1) final unappealable finding of contempt of court by a Federal court has been issued against Contractor within the immediately preceding two-year period because of Contractor's failure to comply with an order of a Federal court, which orders Contractor to comply with an order of the National Labor Relations Board. (Pub. Contract Code §10296) (Not applicable to public entities.)

4. CONTRACTS FOR LEGAL SERVICES \$50,000 OR MORE- PRO BONO REQUIREMENT: Contractor hereby certifies that Contractor will comply with the requirements of Section 6072 of the Business and Professions Code, effective January 1, 2003.

Contractor agrees to make a good faith effort to provide a minimum number of hours of pro bono legal services during each year of the contract equal to the lesser of 30 multiplied by the number of full time attorneys in the firm's offices in the State, with the number of hours prorated on an actual day basis for any contract period of less than a full year or 10% of its contract with the State.

Failure to make a good faith effort may be cause for non-renewal of a state contract for legal services, and may be taken into account when determining the award of future contracts with the State for legal services.

5. EXPATRIATE CORPORATIONS: Contractor hereby declares that it is not an expatriate corporation or subsidiary of an expatriate corporation within the meaning of Public Contract Code Section 10286 and 10286.1, and is eligible to contract with the State of California.

6. SWEATFREE CODE OF CONDUCT:

a. All Contractors contracting for the procurement or laundering of apparel, garments or corresponding accessories, or the procurement of equipment, materials, or supplies, other than procurement related to a public works contract, declare under penalty of perjury that no apparel, garments or corresponding accessories, equipment, materials, or supplies furnished to the state pursuant to the contract have been laundered or produced in whole or in part by sweatshop labor, forced labor, convict labor, indentured labor under penal sanction, abusive forms of child labor or exploitation of children in sweatshop labor, or with the benefit of sweatshop labor, forced labor, convict labor, indentured labor under penal sanction, abusive forms of child labor or exploitation of children in sweatshop labor. The contractor further declares under penalty of perjury that they adhere to the Sweatfree Code of Conduct as set forth on the California Department of Industrial Relations website located at www.dir.ca.gov, and Public Contract Code Section 6108.

b. The contractor agrees to cooperate fully in providing reasonable access to the contractor's records, documents, agents or employees, or premises if reasonably required by authorized officials of the contracting agency, the Department of Industrial Relations,

or the Department of Justice to determine the contractor's compliance with the requirements under paragraph (a).

7. DOMESTIC PARTNERS: For contracts of \$100,000 or more, Contractor certifies that Contractor is in compliance with Public Contract Code section 10295.3.

8. GENDER IDENTITY: For contracts of \$100,000 or more, Contractor certifies that Contractor is in compliance with Public Contract Code section 10295.35.

DOING BUSINESS WITH THE STATE OF CALIFORNIA

The following laws apply to persons or entities doing business with the State of California.

1. CONFLICT OF INTEREST: Contractor needs to be aware of the following provisions regarding current or former state employees. If Contractor has any questions on the status of any person rendering services or involved with the Agreement, the awarding agency must be contacted immediately for clarification.

Current State Employees (Pub. Contract Code §10410):

1). No officer or employee shall engage in any employment, activity or enterprise from which the officer or employee receives compensation or has a financial interest and which is sponsored or funded by any state agency, unless the employment, activity or enterprise is required as a condition of regular state employment.

2). No officer or employee shall contract on his or her own behalf as an independent contractor with any state agency to provide goods or services.

Former State Employees (Pub. Contract Code §10411):

1). For the two-year period from the date he or she left state employment, no former state officer or employee may enter into a contract in which he or she engaged in any of the negotiations, transactions, planning, arrangements or any part of the decision-making process relevant to the contract while employed in any capacity by any state agency.

2). For the twelve-month period from the date he or she left state employment, no former state officer or employee may enter into a contract with any state agency if he or she was employed by that state agency in a policy-making position in the same general subject area as the proposed contract within the 12-month period prior to his or her leaving state service.

If Contractor violates any provisions of above paragraphs, such action by Contractor shall render this Agreement void. (Pub. Contract Code §10420)

Members of boards and commissions are exempt from this section if they do not receive payment other than payment of each meeting of the board or commission, payment for preparatory time and payment for per diem. (Pub. Contract Code §10430 (e))

2. LABOR CODE/WORKERS' COMPENSATION: Contractor needs to be aware of the provisions which require every employer to be insured against liability for Worker's Compensation or to undertake self-insurance in accordance with the provisions, and Contractor affirms to comply with such provisions before commencing the performance of the work of this Agreement. (Labor Code Section 3700)

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

4. CONTRACTOR NAME CHANGE: An amendment is required to change the Contractor's name as listed on this Agreement. Upon receipt of legal documentation of the name change the State will process the amendment. Payment of invoices presented with a new name cannot be paid prior to approval of said amendment.

5. CORPORATE QUALIFICATIONS TO DO BUSINESS IN CALIFORNIA:

a. When agreements are to be performed in the state by corporations, the contracting agencies will be verifying that the contractor is currently qualified to do business in California in order to ensure that all obligations due to the state are fulfilled.

b. "Doing business" is defined in R&TC Section 23101 as actively engaging in any transaction for the purpose of financial or pecuniary gain or profit. Although there are some statutory exceptions to taxation, rarely will a corporate contractor performing within the state not be subject to the franchise tax.

c. Both domestic and foreign corporations (those incorporated outside of California) must be in good standing in order to be qualified to do business in California. Agencies will determine whether a corporation is in good standing by calling the Office of the Secretary of State.

6. RESOLUTION: A county, city, district, or other local public body must provide the State with a copy of a resolution, order, motion, or ordinance of the local governing body which by law has authority to enter into an agreement, authorizing execution of the agreement.

7. AIR OR WATER POLLUTION VIOLATION: Under the State laws, the Contractor shall not be: (1) in violation of any order or resolution not subject to review promulgated by the State Air Resources Board or an air pollution control district; (2) subject to cease and desist order not subject to review issued pursuant to Section 13301 of the Water Code for violation of waste discharge requirements or discharge prohibitions; or (3) finally determined to be in violation of provisions of federal law relating to air or water pollution.

8. PAYEE DATA RECORD FORM STD. 204: This form must be completed by all contractors that are not another state agency or other governmental entity.

CALIFORNIA CIVIL RIGHTS LAWS CERTIFICATION

Pursuant to Public Contract Code section 2010, if a bidder or proposer executes or renews a contract over \$100,000 on or after January 1, 2017, the bidder or proposer hereby certifies compliance with the following:

1. **CALIFORNIA CIVIL RIGHTS LAWS:** For contracts over \$100,000 executed or renewed after January 1, 2017, the contractor certifies compliance with the Unruh Civil Rights Act (Section 51 of the Civil Code) and the Fair Employment and Housing Act (Section 12960 of the Government Code); and
2. **EMPLOYER DISCRIMINATORY POLICIES:** For contracts over \$100,000 executed or renewed after January 1, 2017, if a Contractor has an internal policy against a sovereign nation or peoples recognized by the United States government, the Contractor certifies that such policies are not used in violation of the Unruh Civil Rights Act (Section 51 of the Civil Code) or the Fair Employment and Housing Act (Section 12960 of the Government Code).

CERTIFICATION

I, the official named below, certify under penalty of perjury under the laws of the State of California that the foregoing is true and correct.		<i>Federal ID Number</i> 95-6005445
<i>Proposer/Bidder Firm Name (Printed)</i> County of Inyo		
<i>By (Authorized Signature)</i>		
<i>Printed Name and Title of Person Signing</i>		
<i>Date Executed</i>	<i>Executed in the County and State of</i> Inyo, California	

**Exhibit A, Attachment I A1
Program Specifications**

Part I: Drug Medi-Cal Treatment Program Substance Use Disorder Services

Section 1: Formation and Purpose

- A. This Exhibit A, Attachment I, Part I of the Contract is entered into by and between the Department of Health Care Services (DHCS) and the Contractor for the purpose of identifying and providing for covered Drug Medi-Cal (DMC) services for Substance Use Disorder (SUD) treatment in the Contractor's service area pursuant to Sections 11848.5(a) and (b) of the Health and Safety Code (hereinafter referred to as HSC), Sections 14021.51 – 14021.53, and 14124.20 – 14124.25 of the Welfare & Institution Code (hereinafter referred to as W&I Code), and Title 22 of the California Code of Regulations (hereinafter referred to as Title 22), Sections 51341.1, 51490.1, and 51516.1.
- B. It is further agreed this Contract is controlled by applicable provisions of: (a) the W&I Code, Chapter 7, Sections 14000, et seq., in particular, but not limited to, Sections 14100.2, 14021, 14021.5, 14021.6, 14043, et seq., (b) Title 22, including but not limited to Sections 51490.1, 51341.1 and 51516.1; and (c) Division 4 of Title 9 of the California Code of Regulations (hereinafter referred to as Title 9).
- C. It is understood and agreed that nothing contained in this Contract shall be construed to impair the single state agency authority of DHCS.
- D. The objective of this Contract is to make SUD treatment services available to Medi-Cal beneficiaries through utilization of federal and state funds available pursuant to Title XIX or Title XXI of the Social Security Act for reimbursable covered services rendered by certified DMC providers.

Section 2: Covered Services

- A. Covered Services
 - 1. Contractor shall establish assessment and referral procedures and shall arrange, provide, or subcontract for covered services in the Contractor's service area. Covered services include:
 - a) Outpatient Drug-Free Treatment
 - b) Narcotic Replacement Therapy
 - c) Naltrexone Treatment
 - d) Intensive Outpatient Treatment
 - e) Perinatal Residential Substance Abuse Services (excluding room and board)

**Exhibit A, Attachment I A1
Program Specifications**

2. In accordance with W&I Code, Section 14124.22, in addition to Narcotic Treatment Program (NTP) services, an NTP provider that is also enrolled as a Medi-Cal provider may provide medically necessary treatment of concurrent health conditions within the scope of the provider's practice, to Medi-Cal beneficiaries who are not enrolled in managed care plans. Medi-Cal beneficiaries enrolled in managed care plans shall be referred to those plans for receipt of medically necessary medical treatment of concurrent health conditions.

Diagnosis and treatment of concurrent health conditions of Medi-Cal beneficiaries not enrolled in managed care plans by a NTP provider may be provided within the Medi-Cal coverage limits. When the services are not part of the SUD treatment reimbursed pursuant to W&I Code, Section 14021.51, services shall be reimbursed in accordance with the Medi-Cal program. Services reimbursable under this section shall include, but not limited to, all of the following:

- a) Medical treatment visits
- b) Diagnostic blood, urine, and X-rays
- c) Psychological and psychiatric tests and services
- d) Quantitative blood and urine toxicology assays
- e) Medical supplies

An NTP provider, enrolled as a Medi-Cal fee-for-service provider, shall not seek reimbursement from a beneficiary for substance abuse treatment services, if services for treatment of concurrent health conditions are billed to the Medi-Cal fee-for-service program.

3. In the event of a conflict between the definition of services contained in this Section of the Contract, and the definition of services in Title 22, Sections 51341.1, 51490.1, and 51516.1, the provisions of Title 22 shall govern.
4. Contractor, to the extent applicable, shall comply with "Sobky v. Smoley" (Document 2A), 855 F. Supp. 1123 (E.D. Cal 1994), incorporated by this reference.
5. Contractor shall comply with federal and state mandates to provide alcohol and other drug treatment services deemed medically necessary for Medi-Cal eligible: (1) pregnant and postpartum women and (2) youth under age 21 who are eligible under the Early and Periodic Screening, Diagnostic and Treatment (EPSDT) Program.
 - a) If DMC services are provided to minor consent beneficiaries, Contractor shall comply with California Family Code Section 6929, and Title 22, Sections 50147.1, 50030, 50063.5, 50157(f)(3), 50167(a)(6)(D), and 50195(d).

**Exhibit A, Attachment I A1
Program Specifications**

B. Access to Services

1. Subject to DHCS provider enrollment certification requirements, Contractor shall maintain continuous availability and accessibility of covered services and facilities, service sites, and personnel to provide the covered services through use of DMC-certified providers. Such services shall not be limited due to budgetary constraints.
 - a) When a request for covered services is made by a beneficiary, Contractor shall require services to be initiated with reasonable promptness. Contractor shall have a documented system for monitoring and evaluating accessibility of care, including a system for addressing problems that develop regarding waiting times and appointments.
 - b) Contractor shall **ensure** ~~authorize~~ residential services **are provided** in accordance with the medical necessity criteria specified in Title 22, Section 51303, and the coverage provisions of the approved state Medi-Cal Plan. Room and board are not reimbursable DMC services. If services are denied, the provider shall inform the beneficiary in accordance with Title 22, Section 51341.1 (p).
 - c) Contractor shall require that treatment programs are accessible to people with disabilities in accordance with Title 45, Code of Federal Regulations (hereinafter referred to as CFR), Part 84 and the Americans with Disabilities Act.
 - d) **The failure of the Contractor, or its subcontractors, to comply with Section 2 of this Part will be deemed a breach of this Contract sufficient to terminate this Contract for cause.**

2. **Courtesy Dosing**

- a) **An NTP/OTP provider may provide replacement narcotic therapy to visiting beneficiaries approved to receive services on a temporary basis (less than 30 days) in accordance with Title 9, Section 10295. Prior to providing replacement narcotic therapy to a visiting beneficiary, an NTP/OTP provider must comply with Title 9, Section 10210(d).**
- b) **The Contractor shall accept, and reimburse, a claim from any subcontracted NTP/OTP provider (Referring NTP/OTP) that pays another NTP/OTP for providing courtesy dosing (Dosing NTP/OTP) to a beneficiary. The Contractor shall use the reimbursement rate established in the NTP/OTP provider's subcontract.**

2. **3.** Covered services, whether provided directly by the Contractor or through subcontractors with DMC certified and enrolled programs, shall be provided to beneficiaries without regard to the beneficiaries' county of residence.

**Exhibit A, Attachment I A1
Program Specifications**

- ~~3. The failure of the Contractor, or its subcontractors, to comply with Section B of this Part will be deemed a breach of this Contract sufficient to terminate this Contract for cause. In the event the Contract is terminated, the provision of this Exhibit A, Attachment I, Part II, Section B, shall apply.~~

C. Payment for Services

1. DHCS shall make the appropriate payments set forth in Exhibit B and take all available steps to secure and pay Federal Financial Participation Funds (FFP) and State General Funds (SGF) to the Contractor, once DHCS receives FFP and SGF, for claims submitted by the Contractor. DHCS shall notify Contractor and allow Contractor an opportunity to comment to DHCS when questions are posed by Centers for Medicare and Medicaid Services (CMS), or when there is a federal deferral, withholding, or disallowance with respect to claims made by the Contractor.
2. Contractor shall amend its subcontracts for covered services in order to provide sufficient funds to match allowable Federal Medicaid reimbursements for any increase in provider DMC services to beneficiaries.
3. In the event that the Contractor fails to provide covered services in accordance with the provisions of this Contract, at the discretion of DHCS, Contractor may be required to forfeit its county realignment funds pursuant to Government Code Section 30027.10 (a) through (d) from the Behavioral Health Subaccount that is set aside for DMC services and surrender its authority to function as the administrator of covered services in its service area.
4. Contractor shall require all subcontractors to comply with 45 CFR 162.410(a)(1) for any subpart that would be a covered health care provider if it were a separate legal entity. For purposes of this paragraph, a covered health care provider shall have the same definition as set forth in 45 CFR 160.103. DHCS shall make payments for covered services only if Contractor is in compliance with federal regulations.

Section 3: Drug Medi-Cal Certification and Continued Certification

A. DMC Certification and Enrollment

1. DHCS will certify eligible providers to participate in the DMC program.
2. DHCS shall certify any county operated or non-governmental providers. This certification shall be performed prior to the date on which the Contractor begins to deliver services under this Contract at these sites.
3. The Contractor shall require that providers of perinatal DMC services are properly certified to provide these services and comply with the requirements contained in Title 22, Section 51341.1, Services for Pregnant and Postpartum Women.

**Exhibit A, Attachment I A1
Program Specifications**

4. Contractor shall require all the subcontracted providers of services to be licensed, registered, DMC certified, and/or approved in accordance with applicable laws and regulations. The Contractor's subcontracts shall require that providers comply with the following regulations and guidelines:
 - a) Title 21, CFR Part 1300, et seq., Title 42, CFR, Part 8
 - b) Title 22, CCR, Sections 51341.1, 51490.1, and 51516.1, (Document 2C)
 - c) Minimum Quality Treatment Standards, (Document 2F(a))
 - d) Title 9, CCR, Division 4, Chapter 4, Subchapter 1, Sections 10000, et. seq.
 - e) Title 22, CCR, Division 3, Chapter 3, sections 51000 et. seq.

In the event of conflicts, the provisions of Title 22 shall control if they are more stringent.

5. Contractor shall notify Provider Enrollment Division (PED) of an addition or change of information in a provider's pending DMC certification application within 35 days of receiving notification from the provider. The Contractor must ensure that a new DMC certification application is submitted to PED reflecting the change.
6. Contractor is responsible for ensuring that any reduction of covered services or relocations by providers are not implemented until approval is issued by DHCS. Within 35 days of receiving notification of a provider's intent to reduce covered services or relocate, the Contractor shall submit, or require the provider to submit, a DMC certification application to PED. The DMC certification application must be submitted to PED 60 days prior to the desired effective date of the reduction of covered services or relocation.
7. If, at any time, a subcontractor's license, registration, certification, or approval to operate a substance use treatment program or provide a covered service is revoked, suspended, modified, or not renewed by entities other than DHCS, the Contractor must notify DHCS Program Support and Grants Management Section by e-mail at DHCSMPF@dhcs.ca.gov within ~~two~~ **five** business days of learning of the revocation, suspension, modification, or non-renewal.
 - a) A provider's certification to participate in the DMC program shall automatically terminate in the event that the provider or its owners, officers, or directors are convicted of Medi-Cal fraud, abuse, or malfeasance. For purposes of this section, a conviction shall include a plea of guilty or nolo contendere.

**Exhibit A, Attachment I A1
Program Specifications**

B. Continued Certification

1. All DMC certified providers shall be subject to continuing certification requirements at least once every five years.
2. DHCS may allow the provider to continue delivering covered services to beneficiaries at a site subject to on-site review by DHCS as part of the recertification process prior to the date of the on-site review, provided the site is operational, the certification remains valid, and has all required fire clearances.
3. DHCS will conduct recertification on-site visits at clinics for circumstances identified in W&I Code, Sections 14043.37, 14043.4, and 14043.7.

Section 4: Monitoring

A. State Monitoring

1. DHCS **Postservice Prepayment Monitoring Utilization** Reviews (**referred to as Drug Medi-Cal Monitoring (DMCM) Reviews**) and Financial Audits of Contractor.
 - a) DHCS shall monitor the Contractor's operations for compliance with the provisions of this Contract, and applicable federal and state law and regulations. Such monitoring activities shall include, but not be limited to, inspection and auditing of Contractor services, management systems and procedures, and books and records, as DHCS deems appropriate, at any time during the Contractor's or facility's normal business hours.
 - b) ~~When monitoring activities identify areas of non-compliance, DHCS shall issue **DMCM** reports to the Contractor, **with a copy to the subcontracted DMC provider that provided the service**, detailing findings, recommendations, and **required** corrective actions. **The Contractor shall be responsible for ensuring their subcontracted providers and county-run program's deficiencies are remediated pursuant to Sections 4(2)(c)(i)(1 and 2) herein. The Contractor shall attest the deficiencies have been remediated and are complete, pursuant to Section 4(A), Paragraph (c), herein.**~~
 - i. **All deficiencies identified by the DMCM review shall be corrected and the Contractor shall submit a Contractor-approved CAP to the DMCM Unit within 60 days of the date of the DMCM report.**
 - 1) **The CAP shall:**
 - a. **Address each demand for recovery and/or programmatic deficiency**

**Exhibit A, Attachment I A1
Program Specifications**

- b. Provide a specific description of how the deficiency shall be corrected
 - c. Specify the date of implementation of the corrective action
 - d. Identify who will be responsible for correction and who will be responsible for on-going compliance.
- 2) DHCS shall provide written approval of the CAP to the Contractor with a copy to the subcontracted DMC provider that provided the service. If DHCS does not approve the CAP, DHCS will provide guidance on the deficient areas and request an updated CAP from the Contractor with a copy to the provider.

The entity subcontracted DMC provider that provided the services shall submit an updated CAP to the DMCM Unit within 30 days of notification. If the subcontracted DMC provider that provided the services does not submit a CAP, or does not implement the approved CAP provisions within the designated timeline, then DHCS may withhold funds from the Contractor until the entity that provided the services is in compliance with Exhibit A, Attachment I, Part I, Section 4(A)(2). DHCS shall inform the Contractor when funds will be withheld.

- c) Contractor must monitor and attest compliance and/or completion by providers with CAP requirements detailed in Section 4, Paragraph (A)(2)(c) of this Exhibit as required by any DMCM review. Contractor shall attest to DHCS, using the form developed by DHCS, that the requirements in the CAP have been completed by the Contractor and/or the provider. Submission of DHCS Form 8049, as identified in this section, by Contractor must be accomplished within the timeline specified in the approved CAP, as noted by DHCS.

2. **DHCS** Postservice Postpayment Utilization Reviews

- a) After the DMC services have been rendered and paid, DHCS shall conduct Postservice Postpayment (PSPP) Utilization Reviews of the subcontracted DMC providers to determine whether the DMC services were provided in accordance with Title 22, Section 51341.1. Any claimed DMC service may be reviewed for compliance with all applicable standards, regulations, and program coverage after services are rendered and the claim is paid.
- b) DHCS shall issue the PSPP report to the Contractor with a copy to any

**Exhibit A, Attachment I A1
Program Specifications**

subcontracted DMC provider. The Contractor shall be responsible for ensuring their subcontracted providers and county-run program's deficiencies are remediated pursuant to ~~Sections 1 and 2~~ **Section 4(A)(2)(c)(i)(1 and 2)** herein. The Contractor shall attest the deficiencies have been remediated and are complete, pursuant to Section 4(A), Paragraph 2(c), herein.

- c) DHCS shall take appropriate steps in accordance with Title 22, CCR, Section 51341.1, to recover payments made if subsequent investigation uncovers evidence that the claim(s) should not have been paid or that DMC services have been improperly utilized, and/or shall take the corrective action as appropriate. If programmatic or fiscal deficiencies are identified, the provider shall be required to submit a Corrective Action Plan (CAP) to the Contractor for review and approval prior to submission to DHCS for final approval.
 - i. Pursuant to Title 22, CCR, Section 51341.1(o), all deficiencies identified by the PSPP review, whether or not a recovery of funds results, shall be corrected and the **Contractor** ~~entity that provided the services~~ shall submit a Contractor-approved CAP to the PSPP Unit within 60 days of the date of the PSPP report.
 - 1) The ~~plan~~ **CAP** shall:
 - a. Address each demand for recovery of payment and/or programmatic deficiency
 - b. Provide a specific description of how the deficiency shall be corrected
 - c. Specify the date of implementation of the corrective action
 - d. Identify who will be responsible for correction and who will be responsible for ongoing compliance
 - 2) DHCS will provide written approval of the CAP to the Contractor with a copy to the provider. If DHCS does not approve the CAP, DHCS will provide guidance on the deficient areas and request an updated CAP from the Contractor with a copy to the provider. The entity that provided the services must submit an updated CAP to the DMC PSPP Unit within 30 days of notification.

If the entity that provided the services does not submit a CAP, or does not implement the approved CAP provisions within the designated timeline, then DHCS may withhold funds from the Contractor until the entity that provided the services is in compliance with Exhibit A, Attachment I, Part I, Section 4(A)(2). DHCS shall inform the Contractor when funds will be withheld.

**Exhibit A, Attachment I A1
Program Specifications**

- d) Contractor and/or subcontractor may appeal DMC dispositions concerning demands for recovery of payment and/or programmatic deficiencies of specific claims. Such appeals shall be handled pursuant to Title 22, CCR, Section 51341.1(q). This section shall not apply to those grievances or complaints arising from the financial findings of an audit or examination made by or on behalf of DHCS pursuant to Exhibit B, Part III, Section 2, of this Contract.
- e) DHCS shall monitor the subcontractor's compliance with PSPP utilization review requirements in accordance with Title 22. Contractor shall also monitor the subcontractor's compliance in accordance with Section 4, Paragraph (A)(2), of this Contract. The federal government may also review the existence and effectiveness of DHCS's utilization review system.
- f) Contractor shall implement and maintain compliance with the system of review described in Title 22, Section 51341.1(k), for the purposes of reviewing the utilization, quality, and appropriateness of covered services and ensuring that all applicable Medi-Cal requirements are met.
- g) Contractor shall assure that subcontractor sites keep a record of the clients/patients being treated at each location. Contractor shall retain client records for a minimum of ~~three~~ **ten** years after the completion of the final settlement process. When an audit by the Federal Government or DHCS has been started before the expiration of the ~~three~~ **ten**-year period, the client records shall be maintained until completion of the audit and the final resolution of all issues as a result of the audit.

3. Training

- a) Contractor shall ensure subcontractors ~~complete receive~~ training on the requirements of Title 22 regulations and DMC program requirements at least annually from either DHCS's SUD Program, Policy and Fiscal Division (SUD PPF) or the Contractor. ~~Documented attendance of annual trainings offered by DHCS shall suffice to meet the requirements of this provision.~~ Contractor shall **provide documentation of attendance at the annual training** ~~report~~ compliance to DHCS' e-mail address SUDCOUNTYREPORTS@dhcs.ca.gov annually as part of the DHCS Contractor monitoring process.
- b) Contractor may request additional technical assistance or training from SUD PPF on an ad hoc basis.

B. Contractor Monitoring

- 1. Program Integrity: Contractor is responsible for ensuring program integrity of its services and its subcontracted providers through a system of oversight, which shall include at least the following:

**Exhibit A, Attachment I A1
Program Specifications**

- a) Compliance with state and federal law and regulations, including, but not limited to, ~~42 CFR 433.32~~, 42 CFR 433.51, 42 CFR 431.800 et. seq., 42 CFR 440.230, 42 CFR 440.260, 42 CFR 455 et. seq., 42 CFR 456 et. seq., 42 CFR 456.23, 22 CCR 51490, 22 CCR 51490.1, ~~22 CCR 51341.1~~, 22 CCR 51159, WIC 14124.1, WIC 14124.2, 42 CFR 438.320, 42 CFR 438.416, 42 CFR 438.10, and 42 CFR 438.206.
- b) Contractor shall conduct, at least annually, a utilization review of DMC providers to assure covered services are being appropriately rendered. The annual review must include an on-site visit of the service provider. Reports of the annual review shall be provided to DHCS's Performance **and Integrity** Management Branch at:

Substance Use Disorders Program, Policy and Fiscal Division,
Performance **and Integrity** Management Branch
Department of Health Care Services
PO Box 997413, MS-2621
Sacramento, CA 95899-7413:

Or by secure, encrypted email to: SUDCountyReports@dhcs.ca.gov

Review reports shall be provided to DHCS within two weeks of completion by the Contractor.

Technical assistance is available to counties from DHCS SUD PPF.

- c) Contractor shall ensure that Drug and Alcohol Treatment Access Report (DATAR) submissions, detailed in Part III, Paragraph E of this contract are complied with by all treatment providers and subcontracted treatment providers. Contractor shall attest that each subcontracted provider is enrolled in DATAR at the time of execution of the subcontract.
- d) Contractor must monitor and attest compliance and/or completion by providers with CAP requirements detailed in Section 4, Paragraph (A)(2)(c) of this Exhibit as required by any PSPP review. Contractor shall attest to DHCS, using the form developed by DHCS, that the requirements in the CAP have been completed by the Contractor and/or the provider. Submission of DHCS Form 8049, as identified in this section, by Contractor must be accomplished within the timeline specified in the approved CAP, as noted by DHCS.
- e) Contractor shall certify the DMC claims submitted to DHCS represent expenditures eligible for FFP and attest that the submitted claims have been subject to review and verification process for accuracy and legitimacy (42 CFR 430.30, 433.32, and 433.51). Contractor shall not knowingly submit claims for services rendered to any beneficiary after the beneficiary's date of death, or from uncertified or decertified providers.

**Exhibit A, Attachment I A1
Program Specifications**

~~2. Training to DMC Subcontractors~~

- ~~a) Contractor shall ensure that all subcontractors receive training on the requirements of Title 22 regulations and DMC requirements at least annually. Documented attendance of any subcontracted provider at the annual trainings offered by DHCS (specified in Section 4, paragraph (A)(3) of this Contract) shall suffice to meet the requirements of this provision. Contractor shall report compliance with this section to DHCS annually as part of the DHCS County monitoring process.~~

2. Monthly Monitoring

- a) Contractor shall, check **on a monthly basis, monitor** the status of all providers monthly to ensure that they are continuing **they maintain active** participation, **enrollment** in the DMC program. Any subcontracted provider that surrenders its certification or closes its facility must be reported by the Contractor to DHCS' **Provider Enrollment Division** at DHCSMPF@dhcs.ca.gov, DHCSDMCRECERT@dhcs.ca.gov within ~~two~~ **five** business days of notification or discovery.
- b) During the monthly status check, the Contractor shall monitor for a triggering recertification event (change in ownership, change in scope of services, remodeling of facility, or change in location) and report any triggering events to DHCS' County Monitoring Unit **Provider Enrollment Division at** DHCSDMCRECERT@dhcs.ca.gov within ~~two~~ **five** business days of notification or discovery.

3. Program Complaints

- a) All complaints received by Contractor regarding a DMC-certified facility shall be forwarded to the SUD Compliance Division, Complaints Unit within two business days of receipt as follows:

DMC Complaints are to be submitted to:
Department of Health Care Services
Substance Use Disorder Services
P.O. Box 997413
MS# 2601
Sacramento, CA 95899-7413

Fax form to: (916) 440-5094
Call the Hotline Phone Toll-Free: (800) 822-6222
Email to Fraud@dhcs.ca.gov

Complaints for Residential Adult Alcoholism or Drug Abuse Recovery or Treatment Facilities may also be made by telephoning the appropriate

**Exhibit A, Attachment I A1
Program Specifications**

licensing branch listed below:

SUD Compliance Division:

Public Number: (916) 322-2911

Toll Free Number: (877) 685-8333

The Complaint Form is available and can be submitted online at:
<http://www.dhcs.ca.gov/individuals/Pages/Sud-Complaints.aspx>.

- b) Contractor shall be responsible for investigating complaints and providing the results of all investigations to DHCS's e-mail address by secure, encrypted e-mail to: SUDCountyReports@dhcs.ca.gov within two business days of completion.

4. Record Retention

- a) Contractor shall include instructions on record retention in any subcontract with providers and mandate all providers to keep and maintain records for each service rendered, to whom it was rendered, and the date of service, pursuant to W&I Code, Section 14124.1 and 42 CFR Section 433.32, and 22 CCR Section 51341.1.

5. Subcontract Termination

- a) Contractor shall notify ~~their assigned~~ DHCS' County Monitoring Unit analyst **Program Support and Grants Management Section by email at: DHCSMPF@dhcs.ca.gov** through e-mail of the termination of any contract with a certified subcontracted provider, and the basis for termination of the contract, within ~~two~~ **five** business days.

6. Corrective Action Plan

- a) If the Contractor fails to ensure any of the foregoing oversight through an adequate system of monitoring, utilization review, and fiscal and programmatic controls, DHCS may request a CAP from the Contractor to address these deficiencies and a timeline for implementation. Failure to submit a CAP or adhere to the provisions in the CAP may result in a withholding of funds allocated to Contractor for the provision of services, and/or termination of this Contract for cause.
- b) Failure to comply with monitoring requirements shall result in:
- i. DHCS shall issue a report to Contractor after conducting monitoring, utilization, or fiscal auditing reviews of the Contractor. When the DHCS report identifies non-compliant services or processes, it shall require a

**Exhibit A, Attachment I A1
Program Specifications**

CAP. Contractor shall submit a CAP to DHCS within the timeframes required by DHCS.

- 1) The CAP shall include:
 - a. A statement of the deficiency
 - b. A list of action steps to be taken to correct the deficiency
 - c. Target date for implementation of each corrective action
 - d. Who will be responsible for correction and ongoing compliance
- ii. DHCS will provide written approval of the CAP to the Contractor. If DHCS does not approve the CAP submitted by the Contractor, DHCS will provide guidance on the deficient areas and request an updated CAP from the Contractor with a new deadline for submission.
- iii. If the Contractor does not submit a CAP, or does not implement the approved CAP provisions within the designated timeline, DHCS may withhold funds until the Contractor is in compliance. DHCS shall inform the Contractor 30 calendar days in advance of when funds will be withheld.

Section 5: Investigations and Confidentiality of Administrative Actions

- A. Contractor acknowledges that if a DMC provider is under investigation by DHCS or any other state, local, or federal law enforcement agency for fraud or abuse, DHCS may temporarily suspend the provider from the DMC program, pursuant to W&I Code, Section 14043.36(a). Information about a provider's administrative sanction status is confidential until such time as the action is either completed or resolved. DHCS may also issue a Payment Suspension to a provider pursuant to W&I Code, Section 14107.11 and 42 CFR Section 455.23. Contractor is to withhold payments from a DMC provider during the time a Payment Suspension is in effect.

Contractor shall execute the Confidentiality Agreement, attached as Document 5A. The Confidentiality Agreement permits DHCS to communicate with Contractor concerning subcontracted providers that are subject to administrative sanctions.

**Exhibit A, Attachment I A1
Program Specifications**

Part II - General

A. Additional Contract Restrictions

This Contract 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 Contract in any manner.

B. Nullification of this Contract

The parties agree that if the Contractor fails to comply with the provisions of W&I Code Section 14124.24, all areas related to the DMC Treatment Program SUD services of this Contract shall be null and void.

C. No Unlawful Use or Unlawful Use Messages Regarding Drugs

Contractor agrees that information produced through these funds, and which pertains to drug- and alcohol-related programs, shall contain a clearly written statement that there shall be no unlawful use of drugs or alcohol associated with the program. Additionally, no aspect of a drug- and alcohol-related program shall include any message on the responsible use, if the use is unlawful, of drugs or alcohol (HSC Section 11999-11999.3). By signing this Contract, Contractor agrees that it will enforce, and will require its subcontractors to enforce, these requirements.

D. Noncompliance with Reporting Requirements

Contractor agrees that DHCS has the right to withhold payments until Contractor has submitted any required data and reports to DHCS, as identified in Exhibit A, Attachment I, Part III – Reporting Requirements, or as identified in Document 1F(a), Reporting Requirements Matrix for Counties.

E. Health Insurance Portability and Accountability Act (HIPAA) of 1996

If any of the work performed under this Contract is subject to HIPAA, Contractor shall perform the work in compliance with all applicable provisions of HIPAA. As identified in Exhibit F, DHCS and the Contractor shall cooperate to assure mutual agreement as to those transactions between them, to which this provision applies. Refer to Exhibit F for additional information.

1. Trading Partner Requirements

- a) **No Changes.** Contractor hereby agrees that for the personal health information (Information), it will not change any definition, data condition or use of a data element or segment as proscribed in the Federal HHS Transaction Standard Regulation (45 CFR 162.915 (a)).

**Exhibit A, Attachment I A1
Program Specifications**

- b) No Additions. Contractor hereby agrees that for the Information, it will not add any data elements or segments to the maximum data set as proscribed in the HHS Transaction Standard Regulation (45 CFR 162.915 (b)).
- c) No Unauthorized Uses. Contractor hereby agrees that for the Information, it will not use any code or data elements that either are marked "not used" in the HHS Transaction's Implementation specification or are not in the HHS Transaction Standard's implementation specifications (45 CFR 162.915 (c)).
- d) No Changes to Meaning or Intent. Contractor hereby agrees that for the Information, it will not change the meaning or intent of any of the HHS Transaction Standard's implementation specification (45 CFR 162.915 (d)).

2. Concurrence for Test Modifications to HHS Transaction Standards

Contractor agrees and understands that there exists the possibility that DHCS or others may request an extension from the uses of a standard in the HHS Transaction Standards. If this occurs, Contractor agrees that it will participate in such test modifications.

3. Adequate Testing

Contractor is responsible to adequately test all business rules appropriate to their types and specialties. If the Contractor is acting as a clearinghouse for enrolled providers, Contractor has obligations to adequately test all business rules appropriate to each and every provider type and specialty for which they provide clearinghouse services.

4. Deficiencies

Contractor agrees to correct transactions, errors, or deficiencies identified by DHCS, and transactions errors or deficiencies identified by an enrolled provider if the Contractor is acting as a clearinghouse for that provider. When County is a clearinghouse, Contractor agrees to properly communicate deficiencies and other pertinent information regarding electronic transactions to enrolled providers for which they provide clearinghouse services.

5. Code Set Retention

Both parties understand and agree to keep open code sets being processed or used in this Contract for at least the current billing period or any appeal period, whichever is longer.

6. Data Transmission Log

Both parties shall establish and maintain a Data Transmission Log, which shall

**Exhibit A, Attachment I A1
Program Specifications**

record any and all Data Transmissions taking place between the Parties during the term of this Contract. Each party will take necessary and reasonable steps to ensure that such Data Transmission Logs constitute a current, accurate, complete, and unaltered record of any and all Data Transmissions between the parties, and shall be retained by each party for no less than 24 months following the date of the Data Transmission. The Data Transmission Log may be maintained on computer media or other suitable means provided that, if it is necessary to do so, the information contained in the Data Transmission Log may be retrieved in a timely manner and presented in readable form.

F. Counselor Certification

Any counselor or registrant providing intake, assessment of need for services, treatment or recovery planning, individual or group counseling to participants, patients, or residents in a DHCS-licensed or -certified program is required to be registered or certified as defined in Title 9, Division 4, Chapter 8 (Document 3H).

G. Cultural and Linguistic Proficiency

To ensure equal access to quality care by diverse populations, each service provider receiving funds from this Contract shall adopt the Federal Office of Minority Health Culturally and Linguistically Appropriate Service (CLAS) national standards (Document 3V).

~~H.~~ **H.** Trafficking Victims Protection Act of 2000

Contractor and its subcontractors that provide services covered by this Contract shall comply with the Trafficking Victims Protection Act of 2000 (22 USC 7104(g)), as amended by section 1702 of Pub. L. 112-239.

~~H.~~ **I.** Tribal Communities and Organizations

Contractor shall regularly assess (e.g. review population information available through Census, compare to information obtained in CalOMS Treatment to determine whether population is being reached, survey Tribal representatives for insight in potential barriers) the substance use service needs of the American Indian/Alaskan Native (AI/AN) population within the County geographic area and shall engage in regular and meaningful consultation and collaboration with elected officials of the tribe, Rancheria, or their designee for the purpose of identifying issues/barriers to service delivery and improvement of the quality, effectiveness and accessibility of services available to AI/NA communities within the County.

J. Perinatal Practice Guidelines

Contractor will follow the guidelines in Document 1G incorporated by this reference, "Perinatal Practice Guidelines," in developing and implementing perinatal treatment and recovery programs funded under this Exhibit, until such

**Exhibit A, Attachment I A1
Program Specifications**

time as new Perinatal Practice Guidelines are established and adopted. No formal amendment of this Contract is required for new guidelines to be incorporated into this Contract.

~~I.~~ **K.** Youth Treatment Guidelines

Contractor will follow the guidelines in Document 1V, incorporated by this reference, "Youth Treatment Guidelines," in developing and implementing youth treatment programs funded under this Exhibit, until such time as new Youth Treatment Guidelines are established and adopted. No formal amendment of this Contract is required for new guidelines to be incorporated into this Contract.

~~J.~~ **L.** Nondiscrimination in Employment and Services

By signing this Contract, Contractor certifies that under the laws of the United States and the State of California, incorporated into this Contract by reference and made a part hereof as if set forth in full, Contractor will not unlawfully discriminate against any person.

~~K.~~ **M.** Federal Law Requirements:

1. Title VI of the Civil Rights Act of 1964, Section 2000d, as amended, prohibiting discrimination based on race, color, or national origin in federally funded programs.
2. Title VIII of the Civil Rights Act of 1968 (42 USC 3601 et seq.) prohibiting discrimination on the basis of race, color, religion, sex, handicap, familial status or national origin in the sale or rental of housing.
3. Age Discrimination Act of 1975 (45 CFR Part 90), as amended (42 USC Sections 6101 – 6107), which prohibits discrimination on the basis of age.
4. Age Discrimination in Employment Act (29 CFR Part 1625).
5. Title I of the Americans with Disabilities Act (29 CFR Part 1630) prohibiting discrimination against the disabled in employment.
6. Title II of the Americans with Disabilities Act (28 CFR Part 35) prohibiting discrimination against the disabled by public entities.
7. Title III of the Americans with Disabilities Act (28 CFR Part 36) regarding access.
8. Section 504 of the Rehabilitation Act of 1973, as amended (29 USC Section 794), prohibiting discrimination on the basis of individuals with disabilities.
9. Executive Order 11246, 42 USC 2000e et seq., and 41 CFR Part 60 regarding nondiscrimination in employment under federal contracts and construction contracts greater than \$10,000 funded by federal financial assistance.

**Exhibit A, Attachment I A1
Program Specifications**

10. Executive Order 13166 (67 FR 41455) to improve access to federal services for those with limited English proficiency.
11. The Drug Abuse Office and Treatment Act of 1972, as amended, relating to nondiscrimination on the basis of drug abuse
12. Confidentiality of Alcohol and Drug Abuse Patient Records (42 CFR Part 2, Subparts A – E).

~~L~~ **N**. State Law Requirements:

1. Fair Employment and Housing Act (Government Code Section 12900 et seq.) and the applicable regulations promulgated thereunder (2 CCR 7285.0 et seq.).
2. Title 2, Division 3, Article 9.5 of the Government Code, commencing with Section 11135.
3. Title 9, Division 4, Chapter 8 of the CCR, commencing with Section 13000.
4. No state, federal, or County Realignment funds shall be used by the Contractor or its subcontractors for sectarian worship, instruction, or proselytization. No state funds shall be used by the Contractor or its subcontractors to provide direct, immediate, or substantial support to any religious activity.
5. Noncompliance with the requirements of nondiscrimination in services shall constitute grounds for DHCS to withhold payments under this Contract or terminate all, or any type, of funding provided hereunder.

~~M~~ **O**. Additional Contract Restrictions

This Contract is subject to any additional restrictions, limitations, or conditions enacted by the federal or state governments that affect the provisions, terms, or funding of this Contract in any manner.

~~N~~ **P**. Information Access for Individuals with Limited English Proficiency

1. Contractor shall comply with all applicable provisions of the Dymally-Alatorre Bilingual Services Act (Government Code sections 7290-7299.8) regarding access to materials that explain services available to the public as well as providing language interpretation services.
2. Contractor shall comply with the applicable provisions of Section 1557 of the Affordable Care Act (45 CFR Part 92), including, but not limited to, 45 CFR 92.201, when providing access to:
 - a) Materials explaining services available to the public

**Exhibit A, Attachment I A1
Program Specifications**

- b) Language assistance
- c) Language interpreter and translation services
- d) Video remote language interpreting services

Q. Subcontract Provisions

Contractor shall include the foregoing Part II general provisions in all of its subcontracts.

R. Participation of County Behavioral Health Director's Association of California.

The County Alcohol and Other Drug (AOD) Program Administrator shall participate and represent the County in meetings of the County Behavioral Health Director's Association of California for the purposes of representing the counties in their relationship with DHCS with respect to policies, standards, and administration for alcohol and other drug abuse services.

The County AOD Program Administrator shall attend any special meetings called by the Director of DHCS. Participation and representation shall also be provided by the County Behavioral Health Director's Association of California.

**Exhibit A, Attachment I A1
Program Specifications**

Part III – Reporting Requirements

Contractor agrees that DHCS has the right to withhold payments until Contractor submits any required data and reports to DHCS, as identified in this Exhibit A, Attachment I or as identified in Document 1F (a), Reporting Requirement Matrix for Counties.

A. Year-End Cost Settlement Reports

Pursuant to W&I Code, Section 14124.24 (g) (1), Contractor shall submit to DHCS, on November 1 of each year, the following year-end cost settlement documents, for itself and its subcontracted providers, by paper or electronic format, as prescribed by DHCS, ~~submission for the previous fiscal year:~~

1. Document 2P, County Certification Year-End Claim for Reimbursement
2. Document 2P(a), Drug Medi-Cal Provider Cost Report Excel Workbook

B. Drug Medi-Cal Claims and Reports

Contractors or providers that bill DHCS or the County for services identified in Section 51516.1 of Title 22 shall submit claims in accordance with DHCS's DMC Provider Billing Manual (Document 2G).

Contractors and subcontractors that provide DMC services shall be responsible for verifying the Medi-Cal eligibility of each client for each month of service prior to billing for DMC services to that client for that month. Medi-Cal eligibility verification ~~should~~ **shall** be performed prior to rendering service, in accordance with and as described in DHCS' DMC Provider Billing Manual. Options for verifying the eligibility of a Medi-Cal beneficiary are described in the DHCS' DMC Provider Billing Manual.

Claims for DMC reimbursement shall include only those services covered under Title 22, Section 51341.1(c-d) and administrative charges that are allowed under W&I Code, Sections 14132.44 and 14132.47.

1. Contractor shall submit the "Certified Expenditure" form, reflecting either: (1) the approved amount of the 837P claim file, after the claims have been adjudicated or (2) the claimed amount identified on the 837P claim file, which could account for both approved and denied claims. Contractor shall submit the SHCS Drug Medi-Cal Certification Form DHCS Form DHCS 100224A (Document 4D) to DHCS for each 837P transaction approved for reimbursement of the federal Medicaid funds.
2. DMC service claims shall be submitted electronically in a Health Insurance Portability and Accountability Act (HIPAA) compliant format (837P). All adjudicated claim information must be retrieved by the Contractor via an 835 HIPAA compliant format (Health Care Claim Payment/Advice).

**Exhibit A, Attachment I A1
Program Specifications**

3. The following forms shall be prepared as needed and retained by the provider for review by DHCS:
 - a) Multiple Billing Override Certification (MC 6700), Document 2K
 - b) Good Cause Certification (6065A), Document 2L(a)
 - c) Good Cause Certification (6065B), Document 2L(b)

In the absence of good cause documented on the Good Cause Certification (6065A or 6065B) form, claims that are not submitted within ~~30 days of the end of the month~~ **6 months of the date** of service shall be denied. The existence of good cause shall be determined by DHCS in accordance with Title 22, CCR, Sections 51008 and 51008.5.

4. Certified Public Expenditure County Administration

Separate from direct service claims as identified in this section above, ~~county~~ **Contractor** may submit an invoice for administrative costs for administering the DMC program on a quarterly basis. The form requesting reimbursement shall be submitted to DHCS.

5. If, while completing the **Quality Assurance and Utilization Review (QAUR)** and ~~Quality Assurance~~ requirements of this Exhibit A, Attachment I, Part I, Section 4, any of the Contractor's skilled professional medical and personnel directly supporting staff meet the criteria set forth in 42 CFR 432.50(d)(1), then the Contractor shall submit a written request that specifically demonstrates how the skilled professional medical personnel and directly supporting staff meet all of the applicable criteria set forth in 42 C.F.R. 432.50(d)(1) and outline the duties they will perform to assist DHCS, or DHCS' skilled professional medical personnel, in activities that are directly related to the administration of the DMC Program. DHCS shall respond to the Contractor's written request within 20 days with either a written agreement pursuant to 42 CFR 432.50(d) (2) approving the request, or a written explanation as to why DHCS does not agree that the Contractor's skilled professional medical personnel and directly supporting staff do not meet the criteria set forth in 42 CFR 432.50(d)(1).

C. California Outcomes Measurement System (CalOMS) for Treatment (CalOMS-Tx)

The CalOMS-Tx Business Rules and Requirements are:

1. Contractor shall contract with a software vendor that complies with the CalOMS-Tx data collection system requirements for submission of CalOMS-Tx data. A Business Associate Agreement (BAA) shall be established between the Contractor and the software vendor. The BAA shall state that DHCS is allowed to return the processed CalOMS-Tx data to the vendor that supplied the data to DHCS.
2. Contractor shall conduct information technology (IT) systems testing and pass

**Exhibit A, Attachment I A1
Program Specifications**

DHCS certification testing before commencing submission of CalOMS-Tx data. If the Contractor subcontracts with vendor for IT services, Contractor is responsible for ensuring that the subcontracted IT system is tested and certified by DHCS prior to submitting CalOMS-Tx data. If Contractor changes or modifies the CalOMS-Tx IT system, then Contractor shall re-test and pass DHCS re-certification prior to submitting data from a new or modified system.

3. Electronic submission of CalOMS-Tx data shall be submitted by Contractor within 45 days from the end of the last day of the report month.
4. Contractor shall comply with data collection and reporting requirements established by the DHCS CalOMS-Tx Data Collection Guide (Document 3J) and all former Department of Alcohol and Drug Programs Bulletins and DHCS Information Notices relevant to CalOMS-Tx data collection.
5. Contractor shall submit CalOMS-Tx admission, discharge, annual update, resubmissions of records containing errors or in need of correction, and "provider no activity" report records in an electronic format approved by DHCS.
6. Contractor shall comply with the CalOMS-Tx Data Compliance Standards established by DHCS identified in Document 3S for reporting data content, data quality, data completeness, reporting frequency, reporting deadlines, and reporting method.
7. Contractor shall participate in CalOMS-Tx informational meetings, trainings, and conference calls.
8. Contractor shall implement and maintain a system for collecting and electronically submitting CalOMS-Tx data.
9. Contractor shall meet the requirements as identified in Exhibit F, Privacy and Information Security Provisions and Exhibit F, Attachment I – Social Security Administration Agreement.

D. CalOMS-Tx General Information

1. If the Contractor experiences system or service failure or other extraordinary circumstances **of CalOMS-Tx** that affects its ability to timely submit **timely** CalOMS-Tx data, ~~and or meet other CalOMS-Tx data compliance requirements,~~ **the** Contractor shall report the problem in writing by secure, encrypted email to DHCS **at: by e-mail at ITServiceDesk@dhcs.ca.gov** before the established data submission deadlines.
2. **If the Contractor is unable to submit CalOMS-Tx data due to system or service failure or other extraordinary circumstance, written notice shall be submitted prior to the data submission deadline at: SUDcalomssupport@dhcs.ca.gov.**
The written notice shall include a remediation plan that is subject to review and

**Exhibit A, Attachment I A1
Program Specifications**

approval by DHCS. DHCS may, at its sole discretion, grant a grace period of up to 60 days for the Contractor to resolve the problem.

- 2- **3.** If DHCS experiences system or service failure, an extension equal to the number of business days will be granted for Contractor data submission.
- 3- **4.** Contractor shall comply with the treatment data quality standards established by DHCS. Failure to meet these standards on an ongoing basis may result in withholding DMC funds.
- 4- **5.** If the Contractor submits data after the established deadlines, due to a delay or problem, Contractor is still responsible for collecting and reporting data from time of delay or problem.

E. Drug and Alcohol Treatment Access Report (DATAR)

The DATAR business rules and requirements are:

1. The Contractor shall be responsible for ensuring that the Contractor-operated treatment services and all treatment providers with whom Contractor makes a contract or otherwise pays for the services, submit a monthly DATAR report in an electronic copy format as provided by DHCS.

~~In instances where the Contractor maintains, either directly or indirectly, a central intake unit or equivalent, which provides intake services including a waiting list, the Contractor shall and begin submitting monthly DATAR reports for the central intake unit by a date to be specified by DHCS.~~

2. Contractor shall ensure that all DATAR reports are submitted by either Contractor-operated treatment **services providers and/or** by each subcontracted treatment provider to DHCS by the 10th of the month following the report activity month.
3. **The Contractor shall ensure that treatment providers who reach or exceed 90 percent of their dedicated capacity report this information to DHCSOWPS@dhcs.ca.gov within seven days of reaching capacity.**
- 3- **4.** Contractor shall ensure that all applicable providers are enrolled in DHCS' web-based DATARWeb program for submission of data, accessible on the DHCS website when executing the subcontract.
- 4- **5.** If the Contractor or its subcontractor experiences system or service failure or other extraordinary circumstances that affect its ability to timely submit a monthly DATAR report, and/or to meet data compliance requirements, the Contractor shall report the problem in writing by secure, encrypted email to: DHCS by e-mail at ITServiceDesk@dhcs.ca.gov before the established data submission deadlines. The written notice shall include a ~~corrective action plan~~ **CAP** that is subject to

**Exhibit A, Attachment I A1
Program Specifications**

review and approval by DHCS. A grace period of up to 60 days may be granted, at DHCS' sole discretion, for the Contractor to resolve the problem before DMC payments are withheld (See Exhibit B, Part II, Section 2).

5. 6. If DHCS experiences system or service failure, no penalties will be assessed to Contractor for late data submission.
 6. 7. The Contractor shall be considered compliant if a minimum of 95% of required DATAR reports from the Contractor's treatment providers are received by the due date.
- F. Failure to meet required reporting requirements shall result in:
1. DHCS shall issue a Notice of Deficiency (Deficiencies) to Contractor regarding specified providers with a deadline to submit the required data and a request for a CAP to ensure timely reporting in the future. DHCS will approve or reject the CAP or request revisions to the CAP, which shall be resubmitted to DHCS within 30 days.
 2. If the Contractor has not ensured compliance with the data submission or CAP request within the designated timeline, then DHCS may withhold funds until all data is submitted. DHCS shall inform the Contractor 30 calendar days in advance of when funds will be withheld.

**Exhibit A, Attachment I A1
Program Specifications**

Part IV – Definitions

Section 1 - General Definitions

The words and terms of this Contract are intended to have their usual meanings unless a particular or more limited meaning is associated with their usage pursuant to Division 10.5 of HSC, Section 11750 et seq., and Title 9, CCR, Section 9000 et seq.

- A. **“Available Capacity”** means the total number of units of service (bed days, hours, slots, etc.) that a Contractor actually makes available in the current fiscal year.
- B. **“Contractor”** means the county identified in the Standard Agreement or authorized by the County Board of Supervisors to administer SUD programs.
- C. **“Corrective Action Plan” (CAP)** means the written plan of action document which the Contractor or its subcontracted service provider develops and submits to DHCS to address or correct a deficiency or process that is non-compliant with laws, regulations or standards.
- D. **“County”** means the county in which the Contractor physically provides covered SUD treatment services.
- E. **“County Realignment Funds”** means Behavioral Health Subaccount funds received by the County as per Government Code Section 30025.
- F. **“Days”** means calendar days, unless otherwise specified.
- G. **“Dedicated Capacity” means the historically calculated service capacity, by modality, adjusted for the projected expansion or reduction in services, which the Contractor agrees to make available to provide SABG services to persons eligible for Contractor’s services.**
- ~~G.~~ **H. “Final Settlement”** means permanent settlement of the Contractor’s actual allowable costs or expenditures as determined at the time of audit, which shall be completed within three years of the date the year-end cost settlement report was accepted for interim settlement by the DHCS. If the audit is not completed within three years, the interim settlement shall be considered as the final settlement.
- ~~H.~~ **I. “Interim Settlement”** means temporary settlement of actual allowable costs or expenditures reflected in the Contractor’s year-end cost settlement report.
- ~~I.~~ **J. “Key points of contact”** means common points of access to substance use treatment services from the county, including but not limited to the county’s beneficiary problem resolution process, county owned or operated or contract hospitals, and any other central access locations established by the county.

**Exhibit A, Attachment I A1
Program Specifications**

- J. **K. "Maximum Payable"** means the encumbered amount reflected on the Standard Agreement of this Contract and supported by Exhibit B, Attachment I.
- K. **L. "Modality"** means those necessary overall general service activities to provide SUD services as described in Division 10.5 of the HSC.
- L. **M. "Performance"** means providing the dedicated capacity in accordance with Exhibit B, Attachment I, and abiding by the terms of this Exhibit, including all applicable state and federal statutes, regulations, and standards, including Alcohol and/or Other Drug Certification Standards (Document 1P), in expending funds for the provision of substance use services hereunder.
- M. **N. "Revenue"** means Contractor's income from sources other than DHCS allocation.
- N. **O. "Service Area"** means the geographical area under Contractor's jurisdiction.
- O. **P. "Service Element"** is the specific type of service performed within the more general service modalities.
- P. **Q. "State"** means the Department of Health Care Services or DHCS.
- Q. **R. "Utilization"** means the total actual units of service used by clients and participants.

Section 2 – Definitions Specific to Drug Medi-Cal

The words and terms of this Contract are intended to have their usual meaning unless a specific or more limited meaning is associated with their usage pursuant to the HSC, CCR Title 9, and/or CCR Title 22. Definitions of covered treatment modalities and services are found in Title 22 (Document 2C) and are incorporated by this reference.

- A. **"Administrative Costs"** means the Contractor's actual direct costs, as recorded in the Contractor's financial records and supported by source documentation, to administer the program or an activity to provide service to the DMC program. Administrative costs do not include the cost of treatment or other direct services to the beneficiary. Administrative costs may include, but are not limited to, the cost of training, programmatic and financial audit reviews, and activities related to billing. Administrative costs may include Contractor's overhead per the approved indirect cost rate proposal pursuant to OMB Circular A-87 and the State Controller's Office Handbook of Cost Plan Procedures.
- B. **"Authorization"** is the approval process for DMC Services prior to the submission of a DMC claim.
- C. **"Beneficiary"** means a person who: (a) has been determined eligible for Medi-Cal; (b) is not institutionalized; (c) has a substance-related disorder per the "Diagnostic and Statistical Manual of Mental Disorders IV (DSM)", or DSM V criteria; and (d) meets the admission criteria to receive DMC covered services.

**Exhibit A, Attachment I A1
Program Specifications**

- D. **“Certified Provider”** means a SUD clinic location that has received certification to be reimbursed as a DMC clinic by the DHCS to provide services as described in Title 22, California Code of Regulations, Section 51341.1.
- E. **“Covered Services”** means those DMC services authorized by Title XIX or Title XXI of the Social Security Act, Title 22 Section 51341.1, W&I Code, Section 14124.24, and California's Medicaid State Plan.
- F. **“Direct Provider Contract”** means a contract established between the DHCS and a DMC certified provider entered into pursuant to this Agreement for the provision of DMC services.
- G. **“Drug Medi-Cal Program”** means the state system wherein beneficiaries receive covered services from DMC-certified SUD treatment providers.
- H. **“Drug Medi-Cal Termination of Certification”** means the provider is no longer certified to participate in the DMC program upon DHCS issuance of a DMC certification termination notice.
- I. **“Early and Periodic Screening, Diagnosis, and Treatment Program (EPSDT)”** means the federally mandated Medicaid benefit that entitles full-scope Medi-Cal-covered beneficiaries less than 21 years of age to receive any Medicaid service necessary to correct or ameliorate a defect, mental illness, or other condition, such as a substance-related disorder, that is discovered during a health screening.
- J. **“Federal Financial Participation (FFP)”** means the share of Federal Medicaid funds for reimbursement of DMC services.
- K. **“Medical Necessity”** means those substance use treatment services that are reasonable and necessary to protect life, prevent significant illness or disability, or alleviate severe pain through the diagnosis and treatment of a disease, illness, or injury or in the case of EPSDT services that meet the criteria specified in Title 22, Sections 51303 and 51340.1.
- L. **“Minor Consent DMC Services”** are those covered services that, pursuant to Family Code Section 6929, may be provided to persons 12-20 years old without parental consent.
- M. **“Narcotic Treatment Program”** means an outpatient clinic licensed by DHCS to provide narcotic replacement therapy directed at stabilization and rehabilitation of persons who are opiate-addicted and have a substance use diagnosis.
- N. **“Payment Suspension”** means the DMC certified provider has been issued a notice pursuant to W&I Code, Section 14107.11 and is not authorized to receive payments after the payment suspension date for DMC services, regardless of when the service was provided.

**Exhibit A, Attachment I A1
Program Specifications**

- O. **“Perinatal DMC Services”** means covered services as well as mother/child habilitative and rehabilitative services, services access (i.e., provision or arrangement of transportation to and from medically necessary treatment), education to reduce harmful effects of alcohol and drugs on the mother and fetus or infant, and coordination of ancillary services (Title 22, Section 51341.1(c) (4)).
- P. **“Postpartum”**, as defined for DMC purposes, means the 60-day period beginning on the last day of pregnancy, regardless of whether other conditions of eligibility are met. Eligibility shall end on the last day of the calendar month in which the 60th day occurs.
- Q. **“Postservice Postpayment (PSPP) Utilization Review”** means the review for program compliance and medical necessity conducted by DHCS after service was rendered and paid. DHCS may recover prior payments of federal and DHCS funds if such review determines that the services did not comply with the applicable statutes, regulations, or standards (CCR, Title 22, Section 51341.1 (k)).
- R. **“Postservice Prepayment Utilization Review” (referred to as Drug Medi-Cal Monitoring (DMCM) Review)** means the review for program compliance and or integrity conducted by DHCS. DHCS will provide technical assistance for areas identified that did not comply with the applicable statutes, regulations, or standards (CCR, Title 22, Section 51159(b)).
- R. ~~S.~~ **S.** **“Projected Units of Service”** means the number of reimbursable DMC units of service, based on historical data and current capacity, the Contractor expects to provide on an annual basis.
- S. ~~T.~~ **T.** **“Provider Certification”** means the provider must be certified by the Provider Enrollment Division of DHCS in order to participate in the Medi-Cal program.
- T. ~~U.~~ **U.** **“Provider of DMC Services”** means any person or entity that provides direct substance use treatment services and has been certified by the DHCS in accordance with CCR, Title 22, Section 51000.30-Medi-Cal Provider Application for Enrollment, Continued Enrollment, or Enrollment at a New, Additional, or Change in Location.
- U. ~~V.~~ **V.** **“Re-certification”** means the process by which the DMC certified clinic program is required to submit an application and specified documentation, as determined by DHCS, to remain eligible to participate in and be reimbursed in through the DMC program. Re-certification shall occur no less than every five years from the date of previous DMC certification or re-certification.
- V. ~~W.~~ **W.** **“Statewide Maximum Allowances (SMA)”** means the maximum amount authorized to be paid by DMC for each covered unit of service for outpatient drug free, intensive outpatient treatment, perinatal residential, and Naltrexone treatment services. While the rates are approved by DHCS, they are subject to change through the regulation process. The SMA for FY 2017-18 is listed in the “Unit of Service” table in Exhibit B, Part 2, Section 2.

**Exhibit A, Attachment I A1
Program Specifications**

- ~~W.~~ X. **“Subcontract”** means an agreement between the Contractor and its subcontractors. A subcontractor shall not delegate its obligation to provide covered services or otherwise subcontract for the provision of direct patient/client services.
- ~~X.~~ Y. **“Subcontractor”** means an individual or entity that is DMC certified and has entered into an agreement with the Contractor to be a provider of covered services. It may also mean a vendor who has entered into a procurement agreement with the Contractor to provide any of the administrative functions related to fulfilling the Contractor’s obligations under the terms of this Exhibit A, Attachment I.
- ~~Y.~~ Z. **“Temporary Suspension”** means the provider is temporarily suspended from participating in the DMC program as authorized by W&I Code, Section 14043.36(a). The provider cannot bill for DMC services from the effective date of the temporary suspension.

**Exhibit A, Attachment I A1
Program Specifications**

DOCUMENTS INCORPORATED BY REFERENCE

~~The following documents are hereby incorporated by reference into the County contract though they may not be physically attached to the contract but will be issued in a CD under separate cover:~~

All DMC documents incorporated by reference into this contract may not be physically attached to the contract, but can be found at DHCS' website:

<https://www.dhcs.ca.gov/provgovpart/Pages/DMC-Contracts.aspx>

Document 1F(a): Reporting Requirement Matrix – County Submission Requirements for the Department of Health Care Services

Document 1G: Perinatal Practice Guidelines FY 2018-19

~~http://www.dhcs.ca.gov/individuals/Documents/Perinatal_Practice_Guidelines_FY1819.pdf~~

Document 1K: Drug and Alcohol Treatment Access Report (DATAR) User Manual

~~<http://www.dhcs.ca.gov/provgovpart/Pages/DATAR.aspx>~~

Document 1P: Alcohol and/or Other Drug Program Certification Standards
(March 15, 2004 ~~May 1, 2017~~)

~~http://www.dhcs.ca.gov/provgovpart/Pages/Facility_Certification.aspx
http://www.dhcs.ca.gov/Documents/DHCS_AOD_Certification_Standards.pdf~~

Document 1V: Youth Treatment Guidelines

~~http://www.dhcs.ca.gov/individuals/Documents/Youth_Treatment_Guidelines.pdf~~

Document 2A: Sobky v. Smoley, Judgment, Signed February 1, 1995

Document 2C: Title 22, California Code of Regulations

~~<http://ccr.oal.ca.gov>~~

Document 2F(a): Minimum Quality **Drug** Treatment Standards for DMC

**Exhibit A, Attachment I A1
Program Specifications**

- Document 2G: Drug Medi-Cal Billing Manual
http://www.dhcs.ca.gov/formsandpubs/Documents/DMC_Billing_Manual.pdf
- Document 2K: Multiple Billing Override Certification (MC 6700)
- Document 2L(a): Good Cause Certification (6065A)
- Document 2L(b): Good Cause Certification (6065B)
- Document 2P: County Certification - Cost Report Year-End Claim for Reimbursement
- Document 2P(a): Drug Medi-Cal Provider Cost Report Excel Workbook
- Document 3G: California Code of Regulations, Title 9 – Rehabilitation and Developmental Services, Division 4 – Department of Alcohol and Drug Programs, Chapter 4 – Narcotic Treatment Programs
<http://www.calregs.com>
<https://govt.westlaw.com/calregs/Search/Index>
- Document 3H: California Code of Regulations, Title 9 – Rehabilitation and Developmental Services, Division 4 – Department of Alcohol and Drug Programs, Chapter 8 – Certification of Alcohol and Other Drug Counselors
<http://www.calregs.com>
<https://govt.westlaw.com/calregs/Search/Index>
- Document 3J: CalOMS Treatment Data Collection Guide
http://www.dhcs.ca.gov/provgovpart/Documents/CalOMS_Tx_Data_Collection_Guide_JAN%202014.pdf
- Document 3S: CalOMS Treatment Data Compliance Standards
http://www.dhcs.ca.gov/provgovpart/Documents/CalOMS_Data_Cmpliance%20Standards%202014.pdf
- Document 3T: Non-Drug Medi-Cal and Drug Medi-Cal DHCS Local Assistance Funding Matrix

**Exhibit A, Attachment I A1
Program Specifications**

- Document 3V: Culturally and Linguistically Appropriate Services (CLAS) National Standards
- <http://minorityhealth.hhs.gov/omh/browse.aspx?lvl=2&lvlID=53>
<https://www.thinkculturalhealth.hhs.gov/clas>
- Document 4A: Drug Medi-Cal Claim Submission Certification – County Contracted Provider – DHCS Form MC 100186 with Instructions
- Document 4B: Drug Medi-Cal Claim Submission Certification – County Operated Provider – DHCS Form MC 100187 with Instructions
- Document 4D: Drug Medi-Cal Certification for Federal Reimbursement (DHCS 100224A)
- Document 4E: Treatment Standards for Substance Use Diagnosis: A Guide for Services (Spring 2010)
- Document 4F: Drug Medi-Cal (DMC) Services Quarterly Claim for Reimbursement of County Administrative Expenses (Form #MC 5312)
- Document 5A: Confidentiality Agreement

Exhibit B A1
Budget Detail and Payment Provisions

Part I – General Fiscal Provisions

Section 1 – General Fiscal Provisions

A. Fiscal Provisions

For services satisfactorily rendered, and upon receipt and approval of documentation as identified in Exhibit A, Attachment I, Part III, the Department of Health Care Services (DHCS) agrees to compensate the Contractor for actual expenditures incurred in accordance with the rates and/or allowable costs specified herein.

B. Use of State General Funds

Contractor may not use allocated Drug Medi-Cal (DMC) State General Funds to pay for any non-Drug Medi-Cal services.

C. Funding Authorization

Contractor shall bear the financial risk in providing any substance use disorder services covered by this Contract.

D. Availability of Funds

It is understood that, for the mutual benefit of both parties, this Contract may have been written before ascertaining the availability of congressional appropriation of funds in order to avoid program and fiscal delays that would occur if this Contract were not executed until after that determination. In this event, DHCS may amend the amount of funding provided for in this Contract based on the actual congressional appropriation.

E. Subcontractor Funding Limitations

Contractor shall reimburse its subcontractors that receive a combination of DMC funding and other federal or county realignment funding for the same service element and location based on the subcontractor's actual costs in accordance with Medicaid reimbursement requirements as specified in Title XIX or of the Social Security Act, Section 51516.1 of California Code of Regulations Title 22, and the Medicaid state plan. Payments at negotiated rates shall be settled to actual cost at year-end.

F. Budget Contingency Clause

It is mutually agreed that if the Budget Act of the current year and/or any subsequent years covered under this Contract does not appropriate sufficient funds for the program, this Contract shall be of no further force and effect. In this event, DHCS shall have no liability to pay any funds whatsoever to Contractor or to furnish any other

Exhibit B A1
Budget Detail and Payment Provisions

considerations under this Contract and Contractor shall not be obligated to perform any provisions of this Contract.

If funding for any fiscal year is reduced or deleted by the Budget Act for purposes of this program, DHCS shall solely have the option to either cancel this Contract with no liability occurring to DHCS, or offer an amended contract to Contractor to reflect the reduced amount.

G. Expense Allowability / Fiscal Documentation

1. Invoices, received from a Contractor and accepted and/or submitted for payment by DHCS, shall not be deemed evidence of allowable contract costs.
2. Contractor shall maintain for review and audit, and supply to DHCS upon request, adequate documentation of all expenses claimed pursuant to this Contract to permit a determination of expense allowability.
3. If the allowability or appropriateness of an expense cannot be determined by DHCS because invoice detail, fiscal records, or backup documentation is nonexistent or inadequate according to generally accepted accounting principles, and generally accepted governmental audit standards, all questionable costs may be disallowed and payment may be withheld by DHCS. Upon receipt of adequate documentation supporting a disallowed or questionable expense, reimbursement may resume for the amount substantiated and deemed allowable.
4. Costs and/or expenses deemed unallowable shall not be reimbursed or, if mistakenly reimbursed, those costs and/or expenses shall be subject to recovery by DHCS pursuant to Title 22, CCR Section 51458.1.

H. Effective from the date of execution of this Contract, nothing in this Contract waives the protections provided to Contractor under Section 36 of article XIII of the California Constitution ("Proposition 30"). Except where specifically stated in the terms of this contract, Contractor's performance of any additional legal requirements, including, but not limited, to court-ordered requirements and statutory or regulatory amendments, is subject to Proposition 30's funding requirements.

Section 2 – General Fiscal Provisions – Drug Medi-Cal

A. Return of Unexpended Funds

Contractor assumes the total cost of providing covered services on the basis of the payments delineated in this Exhibit B, Part II. Any State General Funds or Federal Medicaid funds paid to the Contractor, but not expended for DMC services shall be returned to DHCS.

Exhibit B A1
Budget Detail and Payment Provisions

B. Amendment or Cancellation Due to Insufficient Appropriation

This Contract is valid and enforceable only if sufficient funds are made available to DHCS by the United States Government for the purpose of the DMC program. It is mutually agreed that if the Congress does not appropriate sufficient funds for this program, DHCS solely has the option to void this Contract or to amend the Contract to reflect any reduction of funds.

C. Exemptions

Exemptions to the provisions of Item B above, of this Exhibit, may be granted by the California Department of Finance provided that the Director of DHCS certifies in writing that federal funds are available for the term of the Contract.

D. Allowable costs

Allowable costs, as used in Section 51516.1 of California Code of Regulations (CCR) Title 22 shall be determined in accordance with Title 42, Code of Federal Regulations (CFR), Chapter IV, Subchapter B, Parts 405 and 413, and Centers for Medicare and Medicaid Services (CMS), "Medicare Provider Reimbursement Manual (Publication Number 15)," which can be obtained from the Centers for Medicare & Medicaid Services, or www.cms.hhs.gov. In accordance with Welfare and Institutions (W&I) Code, Sections 14132.44 and 14132.47, funds allocated to the Contractor for DMC services, including funding for alcohol and other drug services for pregnant and postpartum women pursuant to Title 22, Section 51341.1(c), may not be used as match for targeted case management services or for DMC administrative activities.

Exhibit B A1
Budget Detail and Payment Provisions

Part II – Reimbursements

Section 1. General Reimbursement

A. Prompt Payment Clause

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

B. Amounts Payable

1. The amount payable under this Contract shall not exceed the amount identified on the State of California Standard Agreement form STD 213_DHCS (Rev. 06/16).
2. Reimbursement shall be made for allowable expenses up to the amount annually encumbered commensurate with the state fiscal year in which services are performed and/or goods are received.
3. The funds identified for the fiscal years covered by ~~under this **Contract Section**, within this Exhibit,~~ are subject to change depending on the availability and amount of funds appropriated by the Legislature and the Federal Government. The amount of funds available for expenditure by the Contractor shall be limited to the amount identified in the final allocations issued by DHCS for that fiscal year. Changes to allocated funds will require written amendment to the Contract.
4. For each fiscal year, DHCS may settle costs for services to the Contractor and its subcontractors based on each fiscal year-end cost settlement report as the final amendment for the specific fiscal year cost settlement report to this ~~the approved single State/County Contract.~~

Section 2. Drug Medi-Cal

- A. To the extent that the Contractor provides the covered services in a satisfactory manner in accordance with the terms and conditions of this Contract, DHCS agrees to pay the Contractor Federal Medicaid funds according to Exhibit A, Attachment I, Part III. Subject to the availability of such funds, Contractor shall receive Federal Medicaid funds and/or State General Funds for allowable expenditures as established by the Federal Government and approved by DHCS, for the cost of services rendered to beneficiaries.
- B. Any payment for covered services rendered pursuant to Exhibit A, Attachment I, Part I, shall only be made pursuant to applicable provisions of Title XIX or Title XXI of the Social Security Act, the W&I Code, the HSC, California's Medicaid State Plan, and Title 22, CCR, Sections 51341.1, 51490.1, 51516.1, and 51532.

Exhibit B A1
Budget Detail and Payment Provisions

- C. It is understood and agreed that failure by the Contractor or its subcontractors to comply with applicable federal and state requirements in rendering covered services shall be sufficient cause for DHCS to deny payments to and/or recover payments from the Contractor and/or terminate the Contractor or its subcontractor from DMC program participation. If DHCS or the Department of Health and Human Services (DHHS) disallows or denies payments for any claim, Contractor shall repay to DHCS the Federal Medicaid funds and/or State General Funds it received for all claims so disallowed or denied. The overpayment shall be recovered by any of the methods allowed in Title 22, CCR, Sections 51047(a) and (b).
- D. Before such denial, recoupment, or disallowances are made, DHCS shall provide the Contractor with written notice of its proposed action. Such notice shall include the reason for the proposed action and shall allow the Contractor 60 days to submit additional information before the proposed action is taken, as required in Title 22, Section 51047(a). This requirement does not apply to the DMC PostService PostPayment Utilization Reviews.
- E. DHCS shall refund to the Contractor any recovered Federal DMC overpayment that is subsequently determined to have been erroneously collected, together with interest, in accordance with Title 22, CCR, Section 51047(e).
- F. Contractor shall be reimbursed by DHCS on the basis of its actual net reimbursable cost, not to exceed the unit of service maximum rate.
- G. Claims submitted to the Contractor by a subcontracted provider that is not certified or whose certification has been suspended pursuant to the W&I Code section 14107.11 and 42 CFR 455.23, shall not be certified or processed for federal or state reimbursement by the Contractor. Payments for any DMC services shall be held by the Contractor until the payment suspension is resolved.
- H. In the event a contract amendment is required pursuant to the preceding paragraph, Contractor shall submit to DHCS information as identified in Exhibit E, Section 1(D). To the extent the Contractor is notified of DHCS Budget Act allocation prior to the execution of the Contract, DHCS and the Contractor may agree to amend the contract after the issuance of the first revised allocation.
- I. Reimbursement for covered services, other than Narcotic Treatment Program (NTP) services, shall be limited to the lower of:
 - 1. The provider's usual and customary charges to the general public for the same or similar services.
 - 2. The provider's actual allowable costs.
 - 3. The DMC Statewide Maximum Allowance (SMA) for the modality.

Exhibit B A1
Budget Detail and Payment Provisions

- J. Reimbursement to NTP's shall be limited to the lower of either the Uniform Statewide Daily Reimbursement (USDR) rate, pursuant to W&I Code Section 14021.51(h), or the provider's usual and customary charge to the general public for the same or similar service. However, reimbursement paid by a county to an NTP provider for services provided to any person subject to Penal Code Sections 1210.1 or 3063.1 and for which the individual client is not liable to pay, does not constitute a usual or customary charge to the general public for the purpose of this section. (W&I Code Section 14021.51(h)(2)(A))
- K. DHCS shall reimburse the Contractor the State General Funds and/or Federal Medicaid amount of the approved DMC claims and documents submitted in accordance with Exhibit A, Attachment I, Part III.
- L. DHCS will adjust subsequent reimbursements to the Contractor to actual allowable costs.
Actual allowable costs are defined in the Medicare Provider Reimbursement Manual (CMS-Pub.15), which can be obtained from the Centers for Medicare & Medicaid Services, Baltimore, Maryland, or www.cms.hhs.gov.
- M. Contractors and subcontractors must accept, as payment in full, the amounts paid by DHCS in accordance with Title 22, CCR, Section 51516.1, plus any cost sharing charges (deductible, coinsurance, or copayment) required to be paid by the client. However, Contractors and subcontractors may not deny services to any client eligible for DMC services on account of the client's inability to pay or location of eligibility. Contractors and subcontractors may not demand any additional payment from DHCS, client, or other third party payers.

Section 3. Drug Medi-Cal Direct Provider Contracts

- A. Pursuant to W&I Code 14124.21, DHCS shall contract **directly** with qualified DMC providers within the **Contractor's** county **as necessary to ensure beneficiary access to DMC services** ~~when a county does not contract to operate DMC services, in whole or in part.~~
- B. DHCS will invoice the County for the county realignment share of approved DMC claims received by DHCS from DHCS's direct contractor providers. The County shall reimburse DHCS for the county realignment share of the approved DMC claims within 30 days of receipt of the invoice. If the County does not reimburse DHCS within 30 days of receipt of the invoice, DHCS may offset the amount owed from any other funding owed to the County by DHCS or any other State agency. The parties acknowledge that DHCS's direct contractor providers shall be responsible for repayment of any disallowed claims. However, in no event shall DHCS be liable for Medicaid reimbursement for any disallowed claims.

Exhibit B A1
Budget Detail and Payment Provisions

1. Any Contractor contracting with DHCS for the provision of services through NTP providers may receive reimbursement of the NTP administrative rate.
2. As a result of the direct contract provider's settled cost report, any County Realignment funds owed to the direct contract provider will be handled through an invoice process to the Contractor. Additionally, as a result of the direct contract provider's settled cost report, any County Realignment funds owed to DHCS will be returned to the Contractor.

Exhibit B A1
Budget Detail and Payment Provisions

Part III - Financial Audit Requirements

Section 1. General Fiscal Audit Requirements

- A. In addition to the requirements identified below, the Contractor and its subcontractors are required to meet the audit requirements as delineated in Exhibit C, General Terms and Conditions, and Exhibit D(F), Special Terms and Conditions, of this Contract.
- B. All expenditures of county realignment funds, state and federal funds furnished to the Contractor and its subcontractors pursuant to this Contract are subject to audit by DHCS. Objectives of such audits may include, but are not limited to, the following:
1. To determine whether units of service claimed/reported are properly documented by service records and accurately accumulated for claiming/reporting.
 2. To validate data reported by the Contractor for prospective contract negotiations.
 3. To provide technical assistance in addressing current year activities and providing recommendation on internal controls, accounting procedures, financial records, and compliance with laws and regulations.
 4. To determine the cost of services, net of related patient and participant fees, third-party payments, and other related revenues and funds.
 5. To determine that expenditures are made in accordance with applicable state and federal laws, regulations, and contract requirements.
 6. To determine the facts in relation to analysis of data, complaints, or allegations, which may be indicative of fraud, abuse, willful misrepresentation, or failure to achieve the Contract objectives of Exhibit C and D(F).
- C. Unannounced visits may be made at the discretion of DHCS to the Contractor and/or its subcontractors.
- D. The refusal of the Contractor or its subcontractors to permit access to and inspection of electronic or print books and records, physical facilities, and/or refusal to permit interviews with employees, as described in this part, constitutes an express and immediate material breach of this Contract and will be sufficient basis to terminate the Contract for cause or default.
- E. Reports of audits conducted by DHCS shall reflect all findings, recommendations, adjustments, and corrective action as a result of its finding in any areas.

Exhibit B A1
Budget Detail and Payment Provisions

Section 2. Drug Medi-Cal Financial Audits

- A. In addition to the audit requirements set forth in Exhibit D(F), DHCS may also conduct financial audits of DMC programs, exclusive of NTP services, to accomplish any of, but not limited to, the following audit objectives:
1. To review reported costs for validity, appropriate allocation methodology, and compliance with Medicaid laws and regulations.
 2. To ensure that only the cost of allowable DMC activities are included in reported costs.
 3. To determine the provider's usual and customary charge to the general public in accordance with CMS (The Medicare Provider Reimbursement Manual) (CMS-Pub.15), which can be obtained from the Centers for Medicare & Medicaid Services, Baltimore, Maryland, or www.cms.hhs.gov, for comparison to the DMC cost per unit.
 4. To review documentation of units of service and determine the final number of approved units of service.
 5. To determine the amount of clients' third-party revenue and Medi-Cal share of cost to offset allowable DMC reimbursement.
 6. To compute final settlement based on the lower of actual allowable cost, the usual and customary charge, or the maximum allowance, in accordance with Title 22, Section 51516.1.
- B. In addition to the audit requirements set forth in Exhibit D(F), DHCS may conduct financial audits of NTP programs. For NTP services, the audits will address items A(3) through A(5) above, except that the comparison of the provider's usual and customary charge in A(3) will be to the DMC USDR rate in lieu of DMC cost per unit. In addition, these audits will include, but not be limited to:
1. For those NTP providers required to submit a cost report pursuant to W&I Code Section 14124.24, a review of cost allocation methodology between NTP and other service modalities, and between DMC and other funding sources.
 2. A review of actual costs incurred for comparison to services claimed.
 3. A review of counseling claims to ensure that the appropriate group or individual counseling rate has been used and that counseling sessions have been billed appropriately.
 4. A review of the number of clients in group sessions to ensure that sessions include no less than two and no more than twelve clients at the same time, with at least one Medi-Cal client in attendance.

Exhibit B A1
Budget Detail and Payment Provisions

5. Computation of final settlement based on the lower of Uniform Statewide Daily Reimbursement Rate or the provider's usual and customary charge to the general public.
 6. A review of supporting service, time, financial, and patient records to verify the validity of counseling claims.
- C. Contractor shall be responsible for any disallowances taken by the Federal Government, DHCS, or the Bureau of State Audits as a result of any audit exception that is related to its responsibilities. Contractor shall not use funds administered by DHCS to repay one federal funding source with funds provided by another federal funding source, or to repay federal funds with state funds, or to repay state funds with federal funds.
- D. Contractor agrees to promptly develop and implement any corrective action plans in a manner acceptable to DHCS in order to comply with recommendations contained in any audit report. Such corrective action plans shall include time-specific objectives to allow for measurement of progress and are subject to verification by DHCS within six months from the date of the plan.
- E. Contractor, in coordination with DHCS, shall provide follow-up on all significant findings in the audit report, including findings relating to a subcontractor, and submit the results to DHCS.
- If differences cannot be resolved between DHCS and the Contractor regarding the terms of the final financial audit settlements for funds expended under Exhibit B, Contractor may request an appeal in accordance with the appeal process described in the Title 22, Section 51341.1(q). When a financial audit is conducted by the Federal Government, DHCS, or the Bureau of State Audits directly with a subcontractor of the Contractor, and if the subcontractor disagrees with audit disallowances related to its programs, claims or services, Contractor shall, at the subcontractor's request, request an appeal to DHCS in accordance with Title 22, Section 51341.1(q). Contractor shall include a provision in its subcontracts regarding the process by which a subcontractor may file an audit appeal via the Contractor.
- F. Providers of DMC services shall, upon request, make available to DHCS their fiscal and other records to assure that such provider have adequate recordkeeping capability and to assure that reimbursement for covered DMC services are made in accordance with Title 22, Section 51516.1. These records include, but are not limited to, matters pertaining to:
1. Provider ownership, organization, and operation
 2. Fiscal, medical, and other recordkeeping systems

Exhibit B A1
Budget Detail and Payment Provisions

3. Federal income tax status
 4. Asset acquisition, lease, sale, or other action
 5. Franchise or management arrangements
 6. Patient service charge schedules
 7. Costs of operation
 8. Cost allocation methodology
 9. Amounts of income received by source and purpose
 10. Flow of funds and working capital
- G. Contractor shall retain records of utilization review activities required in Exhibit A, Attachment I Part I, Section 4(B) herein for a minimum of ~~three~~ ten years.

Exhibit B A1
Budget Detail and Payment Provisions

Part IV – Records

Section 1. General Provisions

A. Maintenance of Records

Contractor shall maintain sufficient books, records, documents, and other evidence necessary for DHCS to audit contract performance and contract compliance ~~and fiscal~~. Contractor shall make these records available to DHCS, upon request, to evaluate the quality and quantity of services, accessibility and appropriateness of services, and to ensure fiscal accountability. Regardless of the location or ownership of such records, they shall be sufficient to determine if costs incurred by Contractor are reasonable, allowable and allocated appropriately. All records must be capable of verification by qualified auditors.

1. Contractor and subcontractors shall include in any contract with an audit firm a clause to permit access by DHCS to the working papers of the external independent auditor, and require that copies of the working papers shall be made for DHCS at its request.
2. Contractor and subcontractors shall keep adequate and sufficient financial records and statistical data to support the year-end documents filed with DHCS. All records must be capable of verification by qualified auditors.
3. Accounting records and supporting documents shall be retained for a ~~three~~**ten**-year period from the date the year-end cost settlement report was approved by DHCS for interim settlement. When an audit by the Federal Government, DHCS, or the California State Auditor has been started before the expiration of the ~~three~~**ten**-year period, the records shall be retained until completion of the audit and final resolution of all issues that arise in the audit. Final settlement shall be made at the end of the audit and appeal process. If an audit has not been completed within ~~three~~**ten** years, the interim settlement shall be considered as the final settlement.
4. Financial records shall be kept so that they clearly reflect the source of funding for each type of service for which reimbursement is claimed. These documents include, but are not limited to, all ledgers, books, vouchers, time sheets, payrolls, appointment schedules, client data cards, and schedules for allocating costs. All records must be capable of verification by qualified auditors.
5. Contractor's subcontracts shall require that all subcontractors comply with the requirements of Exhibit A, Attachment I, Part I, Section 3.
6. Should a subcontractor discontinue its contractual agreement with the Contractor, or cease to conduct business in its entirety, Contractor shall be responsible for retaining the subcontractor's fiscal and program records for the required retention period. DHCS Administrative Manual (SAM) contains statutory requirements

Exhibit B A1
Budget Detail and Payment Provisions

governing the retention, storage, and disposal of records pertaining to state funds. Contractor shall follow SAM requirements located at <http://sam.dgs.ca.gov/TOC/1600.aspx>.

The Contractor shall retain all records required by W&I Code Section 14124.1, ~~42 CFR 433.32, and 22 CCR 51341.1~~ for reimbursement of services and financial audit purposes.

7. In the expenditure of funds hereunder, Contractor shall comply with the requirements of SAM and the laws and procedures applicable to the obligation and expenditure of federal and state funds.

B. Dispute Resolution Process

1. In the event of a dispute under this Exhibit A, Attachment I, Part I, other than an audit dispute, Contractor shall provide written notice of the particulars of the dispute to DHCS before exercising any other available remedy. Written notice shall include the contract number. The Director (or designee) of DHCS and the County Drug or Alcohol Program Administrator (or designee) shall meet to discuss the means by which they can effect an equitable resolution to the dispute. Contractor shall receive a written response from DHCS within 60 days of the notice of dispute. The written response shall reflect the issues discussed at the meeting and state how the dispute will be resolved.
2. As stated in Part III, Section 2, of this Exhibit, in the event of a dispute over financial audit findings between DHCS and the Contractor, Contractor may appeal the audit in accordance with Title 22, CCR, Section 51341.1(q). When a financial audit by the Federal Government, DHCS, or the California State Auditor is conducted directly with a subcontractor of the Contractor, and if the subcontractor disagrees with audit disallowances related to its programs, claims or services, Contractor shall, at the subcontractor's request, request an appeal to DHCS in accordance with Title 22, Section 51341.1(q). Contractor shall include a provision in its subcontracts regarding the process by which a subcontractor may file an audit appeal via the Contractor.
3. Contractors that conduct financial audits of subcontractors, other than a subcontractor whose funding consists entirely of non-Department funds, shall develop a process to resolve disputed financial findings and notify subcontractors of their appeal rights pursuant to that process. This section shall not apply to those grievances or compliances arising from the financial findings of an audit or examination made by or on behalf of DHCS pursuant to Part III of this Exhibit.
4. To ensure that necessary corrective actions are taken, financial audit findings are either uncontested or upheld after appeal may be used by DHCS during prospective contract negotiations.

**Exhibit B A1
Budget Detail and Payment Provisions**

Part V. Drug Medi-Cal Reimbursement Rates

A. "Uniform Statewide Daily Reimbursement Rate (USDR)" means the rate for NTP services based on a unit of service that is a daily treatment service provided pursuant to Title 22, CCR, Sections 51341.1 and 51516.1 and Title 9, CCR, commencing with Section 10000 (Document 3G), or the rate for individual or group counseling. The following table shows USDR rates:

Service	Type of Unit of Service (UOS)	Non-Perinatal (Regular) Rate Per UOS		Perinatal Rate Per UOS	
		<u>FY 17/18</u>	<u>FY 18/19</u>	<u>FY 17/18</u>	<u>FY 18/19</u>
NTP-Methadone Dosing	Daily	\$13.11	<u>\$13.54</u>	\$14.11	<u>\$14.58</u>
NTP - Individual Counseling (*)	One 10-minute increment	\$15.37	<u>\$15.88</u>	\$16.39	<u>\$16.39</u>
NTP - Group Counseling (*)	One 10-minute increment	\$3.43	<u>\$3.43</u>	\$4.28	<u>\$4.28</u>

(*) The NTP Contractors may be reimbursed for up to 200 minutes (20 ten-minute increments) of individual and/or group counseling per calendar month. If a medical necessity determination is made that requires additional NTP counseling beyond 200 minutes per calendar month, NTP Contractors may bill and be reimbursed for additional counseling (in 10-minute increments). Medical justification for the additional counseling must be clearly documented in the patient record.

Reimbursement for covered NTP services shall be limited to the lower of the NTP's usual and customary charge to the general public for the same or similar services or the USDR rate.

**Exhibit B A1
Budget Detail and Payment Provisions**

B. "Unit of Service" means a face-to-face contact on a calendar day for outpatient drug free, intensive outpatient treatment, perinatal residential, and Naltrexone treatment services. Only one face-to-face service contact per day is covered by DMC except in the case of emergencies when an additional face-to-face contact may be covered for intake crisis intervention or collateral service. To count as a unit of service, the second contact shall not duplicate the services provided on the first contact, and each contact shall be clearly documented in the beneficiary's record. While the rates are approved by DHCS, they are subject to change through the regulation process. Units of service are identified in the following table:

Service	Type of Unit of Service (UOS)	Non-Perinatal (Regular) Rate Per UOS		Perinatal Rate Per UOS	
		FY 17/18	FY 18/19	FY 17/18	FY 18/19
Intensive Outpatient Treatment	Face-to-Face Visit	\$58.53	<u>\$58.53</u>	\$84.43	<u>\$87.21</u>
Naltrexone Treatment	Face-to-Face Visit	\$19.06	<u>\$19.06</u>	NA	<u>NA</u>
Outpatient Drug Free	Face-to Face Visit – Individual (per person)	\$76.91	<u>\$79.44</u>	\$81.93	<u>\$81.93</u>
	Face-to-Face Visit – Group (per person)	\$30.89	<u>\$30.89</u>	\$38.56	<u>\$38.56</u>
Perinatal Residential **	Daily – Residential Day	NA	<u>NA</u>	\$90.14	<u>\$90.14</u>

**** Residential Substance Abuse Services for EPSDT eligible beneficiaries will be reimbursed at the Perinatal Residential DMC rate, excluding room and board.**

**Exhibit B, Attachment I A1
Funding Amounts**

Fiscal Year 2017-18	Funding Amount	
	Original	
State General Funds		
- DMC Non-Perinatal SGF** (08)	25,270	
- DMC Perinatal SGF** (09)	2,807	
- Administration Expenses** (603)	0	
TOTAL	28,077	
Drug Medi-Cal Federal Share		
- DMC Non-Perinatal Federal Share (01)	45,000	
- DMC Perinatal Federal Share (03)	5,000	
- Administration Expenses (603)	0	
TOTAL	50,000	
GRAND TOTAL	78,077	

Fiscal Year 2018-19	Funding Amount	
	Original	A01
State General Funds		
- DMC Non-Perinatal SGF** (08)	25,270	25,270
- DMC Perinatal SGF** (09)	2,807	2,807
- Administration Expenses** (603)	0	4,211
TOTAL	28,077	32,288
Drug Medi-Cal Federal Share		
- DMC Non-Perinatal Federal Share (01)	45,000	45,000
- DMC Perinatal Federal Share (03)	5,000	5,000
- Administration Expenses (603)	0	7,500
TOTAL	50,000	57,500
GRAND TOTAL	78,077	89,788

Fiscal Year 2019-20	Funding Amount	
	Original	A01
State General Funds		
- DMC Non-Perinatal SGF** (08)	25,270	25,270
- DMC Perinatal SGF** (09)	2,807	2,807
- Administration Expenses** (603)	0	4,211
TOTAL	28,077	32,288
Drug Medi-Cal Federal Share		
- DMC Non-Perinatal Federal Share (01)	45,000	45,000
- DMC Perinatal Federal Share (03)	5,000	5,000
- Administration Expenses (603)	0	7,500
TOTAL	50,000	57,500
GRAND TOTAL	78,077	89,788

ORIGINAL THREE-YEAR TOTAL	234,234
A01 THREE-YEAR TOTAL	257,653

**State General Fund amounts are based on biannual DMC estimates approved by the Department of Finance. DHCS will revise the amounts through the contract amendment process for each new allocation.

Special Terms and Conditions

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

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

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

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

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

Index of Special Terms and Conditions

1. Federal Equal Employment Opportunity Requirements	18. Novation Requirements
2. Travel and Per Diem Reimbursement	19. Debarment and Suspension Certification
3. Procurement Rules	20. Smoke-Free Workplace Certification
4. Equipment Ownership / Inventory / Disposition	21. Covenant Against Contingent Fees
5. Subcontract Requirements	22. Payment Withholds
6. Income Restrictions	23. Performance Evaluation
7. Audit and Record Retention	24. Officials Not to Benefit
8. Site Inspection	25. Four-Digit Date Compliance
9. Federal Contract Funds	26. Prohibited Use of State Funds for Software
10. Intellectual Property Rights	27. Use of Small, Minority Owned and Women's Businesses
11. Air or Water Pollution Requirements	28. Alien Ineligibility Certification
12. Prior Approval of Training Seminars, Workshops or Conferences	29. Union Organizing
13. Confidentiality of Information	30. Contract Uniformity (Fringe Benefit Allowability)
14. Documents, Publications, and Written Reports	31. Suspension or Stop Work Notification
15. Dispute Resolution Process	32. Public Communications
16. Financial and Compliance Audit Requirements	33. Lobbying Restrictions and Disclosure Certification
17. Human Subjects Use Requirements	

1. Federal Equal Opportunity Requirements

(Applicable to all federally funded agreements entered into by the Department of Health Care Services)

- a. The Contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, national origin, physical or mental handicap, disability, age or status as a disabled veteran or veteran of the Vietnam era. The Contractor will take affirmative action to ensure that qualified applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex, national origin, physical or mental handicap, disability, age or status as a disabled veteran or veteran of the Vietnam era. Such action shall include, but not be limited to the following: employment, upgrading, demotion or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and career development opportunities and selection for training, including apprenticeship. The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the Federal Government or DHCS, setting forth the provisions of the Equal Opportunity clause, Section 503 of the Rehabilitation Act of 1973 and the affirmative action clause required by the Vietnam Era Veterans' Readjustment Assistance Act of 1974 (38 U.S.C. 4212). Such notices shall state the Contractor's obligation under the law to take affirmative action to employ and advance in employment qualified applicants without discrimination based on their race, color, religion, sex, national origin physical or mental handicap, disability, age or status as a disabled veteran or veteran of the Vietnam era and the rights of applicants and employees.
- b. The Contractor will, in all solicitations or advancements for employees placed by or on behalf of the Contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, national origin physical or mental handicap, disability, age or status as a disabled veteran or veteran of the Vietnam era.
- c. The Contractor will send to each labor union or representative of workers with which it has a collective bargaining agreement or other contract or understanding a notice, to be provided by the Federal Government or the State, advising the labor union or workers' representative of the Contractor's commitments under the provisions herein and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
- d. The Contractor will comply with all provisions of and furnish all information and reports required by Section 503 of the Rehabilitation Act of 1973, as amended, the Vietnam Era Veterans' Readjustment Assistance Act of 1974 (38 U.S.C. 4212) and of the Federal Executive Order No. 11246 as amended, including by Executive Order 11375, 'Amending Executive Order 11246 Relating to Equal Employment Opportunity,' and as supplemented by regulation at 41 CFR part 60, "Office of the Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor," and of the rules, regulations, and relevant orders of the Secretary of Labor.
- e. The Contractor will furnish all information and reports required by Federal Executive Order No. 11246 as amended, including by Executive Order 11375, 'Amending Executive Order 11246 Relating to Equal Employment Opportunity,' and as supplemented by regulation at 41 CFR part 60, "Office of 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 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 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 DHCS may direct as a means of enforcing such provisions including sanctions for noncompliance provided, however, that in the event the Contractor becomes involved in, or is threatened with litigation by a subcontractor or vendor as a result of such direction by DHCS, the Contractor may request in writing to DHCS, who, in turn, may request the United States to enter into such litigation to protect the interests of the State and of the United States.

2. Travel and Per Diem Reimbursement

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

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

3. Procurement Rules

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

a. Equipment/Property definitions

Wherever the term equipment and/or 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 DHCS 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 DHCS 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/property 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/property and services related to such purchases for performance under this Agreement.

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

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

- (2) All equipment/property purchases are subject to Paragraphs d through h of Provision 3. Paragraph b of Provision 3 shall also apply, if equipment/property 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/property solicitations shall be based upon a clear and accurate description of the technical requirements of the goods to be procured.
 - [3] Take positive steps to utilize small and veteran owned businesses.
- d. Unless waived or otherwise stipulated in writing by DHCS, prior written authorization from the appropriate DHCS Program Contract Manager will be required before the Contractor will be reimbursed for any purchase of \$5,000 or more for commodities, supplies, equipment/property, and services related to such purchases. The Contractor must provide in its request for authorization all particulars necessary, as specified by DHCS, for evaluating the necessity or desirability of incurring such costs. The term "purchase" excludes the purchase of services from a subcontractor and public utility services at rates established for uniform applicability to the general public.
- e. In special circumstances, determined by DHCS (e.g., when DHCS has a need to monitor certain purchases, etc.), DHCS may require prior written authorization and/or the submission of paid vendor receipts for any purchase, regardless of dollar amount. DHCS reserves the right to either deny claims for reimbursement or to request repayment for any Contractor and/or subcontractor purchase that DHCS determines to be unnecessary in carrying out performance under this Agreement.
- f. The Contractor and/or subcontractor must maintain a copy or narrative description of the procurement system, guidelines, rules, or regulations that will be used to make purchases under this Agreement. The State reserves the right to request a copy of these documents and to inspect the purchasing practices of the Contractor and/or subcontractor at any time.
- g. For all purchases, the Contractor and/or subcontractor must maintain copies of all paid vendor invoices, documents, bids and other information used in vendor selection, for inspection or audit. Justifications supporting the absence of bidding (i.e., sole source purchases) shall also be maintained on file by the Contractor and/or subcontractor for inspection or audit.

- h. DHCS may, with cause (e.g., with reasonable suspicion of unnecessary purchases or use of inappropriate purchase practices, etc.), withhold, cancel, modify, or retract the delegated purchase authority granted under Paragraphs b and/or c of Provision 3 by giving the Contractor no less than 30 calendar days written notice.

4. Equipment/Property Ownership / Inventory / Disposition

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

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

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

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

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

- (2) **Annual Equipment/Property Inventory** - 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 DHCS Program Contract Manager using a form or format designated by DHCS' Asset Management Unit. If an inventory report form (i.e., Inventory/Disposition of DHCS-Funded Equipment) does not accompany this Agreement, Contractor shall request a copy from the DHCS Program Contract Manager. Contractor shall:

- (a) Include in the inventory report, equipment and/or property in the Contractor's possession and/or in the possession of a subcontractor (including independent consultants).
- (b) Submit the inventory report to DHCS according to the instructions appearing on the inventory form or issued by the DHCS Program Contract Manager.
- (c) Contact the DHCS Program Contract Manager to learn how to remove, trade-in, sell, transfer or survey off, from the inventory report, expired equipment and/or property that is no longer wanted, usable or has passed its life expectancy. Instructions will be supplied by either the DHCS Program Contract Manager or DHCS' 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, DHCS shall be under no obligation to pay the cost of restoration, or rehabilitation of the Contractor's and/or Subcontractor's facility which may be affected by the removal of any state equipment and/or 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, DHCS may require the Contractor and/or Subcontractor to repair or replace, to DHCS' satisfaction, any damaged, lost or stolen state equipment and/or property. In the event of state equipment and/or miscellaneous property theft, Contractor and/or Subcontractor shall immediately file a theft report with the appropriate police agency or the

California Highway Patrol and Contractor shall promptly submit one copy of the theft report to the DHCS Program Contract Manager.

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

g. Motor Vehicles

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

- (1) If motor vehicles are purchased/reimbursed with agreement funds or furnished by DHCS under the terms of this Agreement, within thirty (30) calendar days prior to the termination or end of this Agreement, the Contractor and/or Subcontractor shall return such vehicles to DHCS and shall deliver all necessary documents of title or registration to enable the proper transfer of a marketable title to DHCS.
- (2) If motor vehicles are purchased/reimbursed with agreement funds or furnished by DHCS under the terms of this Agreement, the State of California shall be the legal owner of said motor vehicles and the Contractor shall be the registered owner. The Contractor and/or a subcontractor may only use said vehicles for performance and under the terms of this Agreement.
- (3) The Contractor and/or Subcontractor agree that all operators of motor vehicles, purchased/reimbursed with agreement funds or furnished by DHCS under the terms of this Agreement, shall hold a valid State of California driver's license. In the event that ten or more passengers are to be transported in any one vehicle, the operator shall also hold a State of California Class B driver's license.
- (4) If any motor vehicle is purchased/reimbursed with agreement funds or furnished by DHCS under the terms of this Agreement, the Contractor and/or Subcontractor, as applicable, shall provide, maintain, and certify that, at a minimum, the following type and amount of automobile liability insurance is in effect during the term of this Agreement or any extension period during which any vehicle remains in the Contractor's and/or Subcontractor's possession:

Automobile Liability Insurance

- (a) The Contractor, by signing this Agreement, hereby certifies that it possesses or will obtain automobile liability insurance in the amount of \$1,000,000 per occurrence for bodily injury and property damage combined. Said insurance must be obtained and made effective upon the delivery date of any motor vehicle, purchased/reimbursed with agreement funds or furnished by DHCS under the terms of this Agreement, to the Contractor and/or Subcontractor.
- (b) The Contractor and/or Subcontractor shall, as soon as practical, furnish a copy of the certificate of insurance to the DHCS Program Contract Manager. The certificate of insurance shall identify the DHCS contract or agreement number for which the insurance applies.
- (c) The Contractor and/or Subcontractor agree that bodily injury and property damage liability insurance, as required herein, shall remain in effect at all times during the term of this

Agreement or until such time as the motor vehicle is returned to DHCS.

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

5. Subcontract Requirements

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

- a. Prior written authorization will be required before the Contractor enters into or is reimbursed for any subcontract for services costing \$5,000 or more. Except as indicated in Paragraph a(3) herein, when securing subcontracts for services exceeding \$5,000, the Contractor shall obtain at least three bids or justify a sole source award.
 - (1) The Contractor must provide in its request for authorization, all information necessary for evaluating the necessity or desirability of incurring such cost.
 - (2) DHCS 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 State 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) Firms or individuals proposed for use and approved by DHCS' funding Program via acceptance of an application or proposal for funding or pre/post contract award negotiations,
 - (h) Entities and/or service types identified as exempt from advertising and competitive bidding in State Contracting Manual Chapter 5 Section 5.80 Subsection B.2. View this publication at the following Internet address:
<http://www.dgs.ca.gov/ols/Resources/StateContractManual.aspx>.
- b. DHCS reserves the right to approve or disapprove the selection of subcontractors and with advance written notice, require the substitution of subcontractors and require the Contractor to terminate subcontracts entered into in support of this Agreement.
- (1) Upon receipt of a written notice from DHCS requiring the substitution and/or termination of a subcontract, the Contractor shall take steps to ensure the completion of any work in progress and select a replacement, if applicable, within 30 calendar days, unless a longer period is agreed to by DHCS.
- c. Actual subcontracts (i.e., written agreement between the Contractor and a subcontractor) of \$5,000 or more are subject to the prior review and written approval of DHCS. DHCS may, at its discretion, elect to waive this right. All such waivers shall be confirmed in writing by DHCS.
- d. Contractor shall maintain a copy of each subcontract entered into in support of this Agreement and shall, upon request by DHCS, make copies available for approval, inspection, or audit.
- e. DHCS assumes no responsibility for the payment of subcontractors used in the performance of this Agreement. Contractor accepts sole responsibility for the payment of subcontractors used in the performance of this Agreement.
- f. The Contractor is responsible for all performance requirements under this Agreement even though performance may be carried out through a subcontract.
- g. The Contractor shall ensure that all subcontracts for services include provision(s) requiring compliance with applicable terms and conditions specified in this Agreement.
- h. The Contractor agrees to include the following clause, relevant to record retention, in all subcontracts for services:
- "(Subcontractor Name) agrees to maintain and preserve, until three years after termination of (Agreement Number) and final payment from DHCS to the Contractor, to permit DHCS or any duly authorized representative, to have access to, examine or audit any pertinent books, documents, papers and records related to this subcontract and to allow interviews of any employees who might reasonably have information related to such records."
- i. Unless otherwise stipulated in writing by DHCS, the Contractor shall be the subcontractor's sole point of contact for all matters related to performance and payment under this Agreement.
- j. Contractor shall, as applicable, advise all subcontractors of their obligations pursuant to the following numbered provisions of this Exhibit: 1, 2, 3, 4, 5, 6, 7, 8, 10, 11, 12, 13, 14, 17, 19, 20, 24, 32 and/or other numbered provisions herein that are deemed applicable.

6. Income Restrictions

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

7. Audit and Record Retention

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

- a. The Contractor and/or Subcontractor shall maintain books, records, documents, and other evidence, accounting procedures and practices, sufficient to properly reflect all direct and indirect costs of whatever nature claimed to have been incurred in the performance of this Agreement, including any matching costs and expenses. The foregoing constitutes "records" for the purpose of this provision.
- b. The Contractor's and/or subcontractor's facility or office or such part thereof as may be engaged in the performance of this Agreement and his/her records shall be subject at all reasonable times to inspection, audit, and reproduction.
- c. Contractor agrees that DHCS, the Department of General Services, the Bureau of State Audits, or their designated representatives including the Comptroller General of the United States shall have the right to review and to copy any records and supporting documentation pertaining to the performance of this Agreement. Contractor agrees to allow the auditor(s) access to such records during normal business hours and to allow interviews of any employees who might reasonably have information related to such records. Further, the Contractor agrees to include a similar right of the State to audit records and interview staff in any subcontract related to performance of this Agreement. (GC 8546.7, CCR Title 2, Section 1896.77)
- 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 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, DVD, 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.
- f. The Contractor shall, if applicable, comply with the Single Audit Act and the audit reporting requirements set forth in OMB Circular A-133.

8. Site Inspection

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

9. Federal Contract Funds

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

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

10. Intellectual Property Rights

a. Ownership

- (1) Except where DHCS has agreed in a signed writing to accept a license, DHCS shall be and remain, without additional compensation, the sole owner of any and all rights, title and interest in all Intellectual Property, from the moment of creation, whether or not jointly conceived, that are made, conceived, derived from, or reduced to practice by Contractor or DHCS and which result directly or indirectly from this Agreement.
- (2) For the purposes of this Agreement, Intellectual Property means recognized protectable rights and interest such as: patents, (whether or not issued) copyrights, trademarks, service marks, applications for any of the foregoing, inventions, trade secrets, trade dress, logos, insignia, color combinations, slogans, moral rights, right of publicity, author's rights, contract and licensing rights, works, mask works, industrial design rights, rights of priority, know how, design flows, methodologies, devices, business processes, developments, innovations, good will and all other legal rights protecting intangible proprietary information as may exist now and/or here after come into existence, and all renewals and extensions, regardless of whether those rights arise under the laws of the United States, or any other state, country or jurisdiction.
 - (a) For the purposes of the definition of Intellectual Property, "works" means all literary works, writings and printed matter including the medium by which they are recorded or reproduced, photographs, art work, pictorial and graphic representations and works of a similar nature, film, motion pictures, digital images, animation cells, and other audiovisual works including positives and negatives thereof, sound recordings, tapes, educational materials, interactive videos and any other materials or products created, produced, conceptualized and fixed in a tangible medium of expression. It includes preliminary and final products and any materials and information developed for the purposes of producing those final products. Works does not include articles submitted to peer review or reference journals or independent research projects.
- (3) In the performance of this Agreement, Contractor will exercise and utilize certain of its Intellectual Property in existence prior to the effective date of this Agreement. In addition, under this Agreement, Contractor may access and utilize certain of DHCS' Intellectual Property in existence prior to the effective date of this Agreement. Except as otherwise set forth herein, Contractor shall not use any of DHCS' Intellectual Property now existing or hereafter existing for any purposes without the prior written permission of DHCS. **Except as otherwise set forth herein, neither the Contractor nor DHCS shall give any ownership interest in or rights to its Intellectual Property to the other Party.** If during the term of this Agreement, Contractor accesses any third-party Intellectual Property that is licensed to DHCS, Contractor agrees to

abide by all license and confidentiality restrictions applicable to DHCS in the third-party's license agreement.

- (4) Contractor agrees to cooperate with DHCS in establishing or maintaining DHCS' exclusive rights in the Intellectual Property, and in assuring DHCS' sole rights against third parties with respect to the Intellectual Property. If the Contractor enters into any agreements or subcontracts with other parties in order to perform this Agreement, Contractor shall require the terms of the Agreement(s) to include all Intellectual Property provisions. Such terms must include, but are not limited to, the subcontractor assigning and agreeing to assign to DHCS all rights, title and interest in Intellectual Property made, conceived, derived from, or reduced to practice by the subcontractor, Contractor or DHCS and which result directly or indirectly from this Agreement or any subcontract.
- (5) Contractor further agrees to assist and cooperate with DHCS in all reasonable respects, and execute all documents and, subject to reasonable availability, give testimony and take all further acts reasonably necessary to acquire, transfer, maintain, and enforce DHCS' Intellectual Property rights and interests.

b. Retained Rights / License Rights

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

c. Copyright

- (1) Contractor agrees that for purposes of copyright law, all works [as defined in Paragraph a, subparagraph (2)(a) of this provision] of authorship made by or on behalf of Contractor in connection with Contractor's performance of this Agreement shall be deemed "works made for hire". Contractor further agrees that the work of each person utilized by Contractor in connection with the performance of this Agreement will be a "work made for hire," whether that person is an employee of Contractor or that person has entered into an agreement with Contractor to perform the work. Contractor shall enter into a written agreement with any such person that: (i) all work performed for Contractor shall be deemed a "work made for hire" under the Copyright Act and (ii) that person shall assign all right, title, and interest to DHCS to any work product made, conceived, derived from, or reduced to practice by Contractor or DHCS and which result directly or indirectly from this Agreement.
- (2) All materials, including, but not limited to, visual works or text, reproduced or distributed pursuant to this Agreement that include Intellectual Property made, conceived, derived from, or reduced to practice by Contractor or DHCS and which result directly or indirectly from this Agreement, shall include DHCS' notice of copyright, which shall read in 3mm or larger typeface: "© [Enter Current Year e.g., 2010, etc.], California Department of Health Care Services. This material may not be reproduced or disseminated without prior written permission from the California Department of Health Care Services." This notice should be placed prominently on

the materials and set apart from other matter on the page where it appears. Audio productions shall contain a similar audio notice of copyright.

d. Patent Rights

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

e. Third-Party Intellectual Property

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

f. Warranties

(1) Contractor represents and warrants that:

- (a) It is free to enter into and fully perform this Agreement.
- (b) It has secured and will secure all rights and licenses necessary for its performance of this Agreement.
- (c) Neither Contractor's performance of this Agreement, nor the exercise by either Party of the rights granted in this Agreement, nor any use, reproduction, manufacture, sale, offer to sell, import, export, modification, public and private display/performance, distribution, and disposition of the Intellectual Property made, conceived, derived from, or reduced to practice by Contractor or DHCS and which result directly or indirectly from this Agreement will infringe upon or violate any Intellectual Property right, non-disclosure obligation, or other proprietary right or interest of any third-party or entity now existing under the laws of, or hereafter existing or issued by, any state, the United States, or any foreign country. There is currently no actual or threatened claim by any such third party based on an alleged violation of any such right by Contractor.
- (d) Neither Contractor's performance nor any part of its performance will violate the right of privacy of, or constitute a libel or slander against any person or entity.
- (e) It has secured and will secure all rights and licenses necessary for Intellectual Property including, but not limited to, consents, waivers or releases from all authors of music or performances used, and talent (radio, television and motion picture talent), owners of any interest in and to real estate, sites, locations, property or props that may be used or shown.
- (f) It has not granted and shall not grant to any person or entity any right that would or might derogate, encumber, or interfere with any of the rights granted to DHCS in this Agreement.
- (g) It has appropriate systems and controls in place to ensure that state funds will not be used in the performance of this Agreement for the acquisition, operation or maintenance of computer software in violation of copyright laws.

- (h) It has no knowledge of any outstanding claims, licenses or other charges, liens, or encumbrances of any kind or nature whatsoever that could affect in any way Contractor's performance of this Agreement.
- (2) DHCS MAKES NO WARRANTY THAT THE INTELLECTUAL PROPERTY RESULTING FROM THIS AGREEMENT DOES NOT INFRINGE UPON ANY PATENT, TRADEMARK, COPYRIGHT OR THE LIKE, NOW EXISTING OR SUBSEQUENTLY ISSUED.

g. Intellectual Property Indemnity

- (1) Contractor shall indemnify, defend and hold harmless DHCS and its licensees and assignees, and its officers, directors, employees, agents, representatives, successors, and users of its products, ("Indemnitees") from and against all claims, actions, damages, losses, liabilities (or actions or proceedings with respect to any thereof), whether or not rightful, arising from any and all actions or claims by any third party or expenses related thereto (including, but not limited to, all legal expenses, court costs, and attorney's fees incurred in investigating, preparing, serving as a witness in, or defending against, any such claim, action, or proceeding, commenced or threatened) to which any of the Indemnitees may be subject, whether or not Contractor is a party to any pending or threatened litigation, which arise out of or are related to (i) the incorrectness or breach of any of the representations, warranties, covenants or agreements of Contractor pertaining to Intellectual Property; or (ii) any Intellectual Property infringement, or any other type of actual or alleged infringement claim, arising out of DHCS' use, reproduction, manufacture, sale, offer to sell, distribution, import, export, modification, public and private performance/display, license, and disposition of the Intellectual Property made, conceived, derived from, or reduced to practice by Contractor or DHCS and which result directly or indirectly from this Agreement. This indemnity obligation shall apply irrespective of whether the infringement claim is based on a patent, trademark or copyright registration that issued after the effective date of this Agreement. DHCS reserves the right to participate in and/or control, at Contractor's expense, any such infringement action brought against DHCS.
- (2) Should any Intellectual Property licensed by the Contractor to DHCS under this Agreement become the subject of an Intellectual Property infringement claim, Contractor will exercise its authority reasonably and in good faith to preserve DHCS' right to use the licensed Intellectual Property in accordance with this Agreement at no expense to DHCS. DHCS shall have the right to monitor and appear through its own counsel (at Contractor's expense) in any such claim or action. In the defense or settlement of the claim, Contractor may obtain the right for DHCS to continue using the licensed Intellectual Property; or, replace or modify the licensed Intellectual Property so that the replaced or modified Intellectual Property becomes non-infringing provided that such replacement or modification is functionally equivalent to the original licensed Intellectual Property. If such remedies are not reasonably available, DHCS shall be entitled to a refund of all monies paid under this Agreement, without restriction or limitation of any other rights and remedies available at law or in equity.
- (3) Contractor agrees that damages alone would be inadequate to compensate DHCS for breach of any term of this Intellectual Property Exhibit by Contractor. Contractor acknowledges DHCS would suffer irreparable harm in the event of such breach and agrees DHCS shall be entitled to obtain equitable relief, including without limitation an injunction, from a court of competent jurisdiction, without restriction or limitation of any other rights and remedies available at law or in equity.

h. Federal Funding

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

i. Survival

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

11. Air or Water Pollution Requirements

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

- a. Government contractors agree to comply with all applicable standards, orders, or requirements issued under section 306 of the Clean Air Act (42 USC 7606) section 508 of the Clean Water Act (33 U.S.C. 1368), Executive Order 11738, and Environmental Protection Agency regulations.
- 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 Clean Water Act (33 U.S.C. 1251 et seq.), as amended.

12. Prior Approval of Training Seminars, Workshops or Conferences

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

13. Confidentiality of Information

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

14. Documents, Publications and Written Reports

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

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

15. Dispute Resolution Process

- a. A Contractor grievance exists whenever there is a dispute arising from DHCS' action in the administration of an agreement. If there is a dispute or grievance between the Contractor and DHCS, the Contractor must seek resolution using the procedure outlined below.
 - (1) The Contractor should first informally discuss the problem with the DHCS Program Contract Manager. If the problem cannot be resolved informally, the Contractor shall direct its grievance together with any evidence, in writing, to the program Branch Chief. The grievance shall state the issues in dispute, the legal authority or other basis for the Contractor's position and the remedy sought. The Branch Chief shall render a decision within ten (10) working days after receipt of the written grievance from the Contractor. The Branch Chief shall respond in writing to the Contractor indicating the decision and reasons 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 Health and Safety Code Section 100171.
- c. Unless otherwise stipulated in writing by DHCS, all dispute, grievance and/or appeal correspondence shall be directed to the DHCS Program Contract Manager.
- d. There are organizational differences within DHCS' funding programs and the management levels identified in this dispute resolution provision may not apply in every contractual situation. When a grievance is received and organizational differences exist, the Contractor shall be notified in writing by the DHCS Program Contract Manager of the level, name, and/or title of the appropriate management official that is responsible for issuing a decision at a given level.

16. Financial and Compliance Audit Requirements

- a. The definitions used in this provision are contained in Section 38040 of the Health and Safety Code, which by this reference is made a part hereof.
- b. Direct service contract means a contract or agreement for services contained in local assistance or subvention programs or both (see Health and Safety [H&S] Code Section 38020). Direct service contracts shall not include contracts, agreements, grants, or subventions to other governmental agencies or units of government nor contracts or agreements with regional centers or area agencies on aging (H&S Code Section 38030).

- c. The Contractor, as indicated below, agrees to obtain one of the following audits:
- (1) ***If the Contractor is a nonprofit organization (as defined in H&S Code Section 38040) and receives \$25,000 or more from any State agency under a direct service contract or agreement;*** the Contractor agrees to obtain an annual single, organization wide, financial and compliance audit. Said audit shall be conducted according to Generally Accepted Auditing Standards. This audit does not fulfill the audit requirements of Paragraph c(3) below. The audit shall be completed by the 15th day of the fifth month following the end of the Contractor's fiscal year, ***and/or***
 - (2) ***If the Contractor is a nonprofit organization (as defined in H&S Code Section 38040) and receives less than \$25,000 per year from any State agency under a direct service contract or agreement,*** the Contractor agrees to obtain a biennial single, organization wide financial and compliance audit, unless there is evidence of fraud or other violation of state law in connection with this Agreement. This audit does not fulfill the audit requirements of Paragraph c(3) below. The audit shall be completed by the 15th day of the fifth month following the end of the Contractor's fiscal year, ***and/or***
 - (3) ***If the Contractor is a State or Local Government entity or Nonprofit organization (as defined by the Federal Office of Management and Budget [OMB] Circular A-133) and expends \$500,000 or more in Federal awards,*** the Contractor agrees to obtain an annual single, organization wide, financial and compliance audit according to the requirements specified in OMB Circular A-133 entitled "Audits of States, Local Governments, and Non-Profit Organizations". An audit conducted pursuant to this provision will fulfill the audit requirements outlined in Paragraphs c(1) and c(2) above. The audit shall be completed by the end of the ninth month following the end of the audit period. The requirements of this provision apply if:
 - (a) The Contractor is a recipient expending Federal awards received directly from Federal awarding agencies, or
 - (b) The Contractor is a subrecipient expending Federal awards received from a pass-through entity such as the State, County or community based organization.
 - (4) If the Contractor submits to DHCS a report of an audit other than an OMB A-133 audit, the Contractor must also submit a certification indicating the Contractor has not expended \$500,000 or more in federal funds for the year covered by the audit report.
- d. Two copies of the audit report shall be delivered to the DHCS program funding this Agreement. The audit report must identify the Contractor's legal name and the number assigned to this Agreement. The audit report shall be due within 30 days after the completion of the audit. Upon receipt of said audit report, the DHCS Program Contract Manager shall forward the audit report to DHCS' Audits and Investigations Unit if the audit report was submitted under Section 16.c(3), unless the audit report is from a City, County, or Special District within the State of California whereby the report will be retained by the funding program.
- e. The cost of the audits described herein may be included in the funding for this Agreement up to the proportionate amount this Agreement represents of the Contractor's total revenue. The DHCS program funding this Agreement must provide advance written approval of the specific amount allowed for said audit expenses.
- f. The State or its authorized designee, including the Bureau of State Audits, is responsible for conducting agreement performance audits which are not financial and compliance audits. Performance audits are defined by Generally Accepted Government Auditing Standards.
- g. Nothing in this Agreement limits the State's responsibility or authority to enforce State law or regulations, procedures, or reporting requirements arising thereto.
- h. Nothing in this provision limits the authority of the State to make audits of this Agreement, provided however, that if independent audits arranged for by the Contractor meet Generally Accepted Governmental Auditing Standards, the State shall rely on those audits and any additional audit work and shall build upon the work already done.

- i. The State may, at its option, direct its own auditors to perform either of the audits described above. The Contractor will be given advance written notification, if the State chooses to exercise its option to perform said audits.
- j. The Contractor shall include a clause in any agreement the Contractor enters into with the audit firm doing the single organization wide audit to provide access by the State or Federal Government to the working papers of the independent auditor who prepares the single organization wide audit for the Contractor.
- k. Federal or state auditors shall have "expanded scope auditing" authority to conduct specific program audits during the same period in which a single organization wide audit is being performed, but the audit report has not been issued. The federal or state auditors shall review and have access to the current audit work being conducted and will not apply any testing or review procedures which have not been satisfied by previous audit work that has been completed.

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

17. Human Subjects Use Requirements

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

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

18. Novation Requirements

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

19. Debarment and Suspension Certification

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

- a. By signing this Agreement, the Contractor/Grantee agrees to comply with applicable federal suspension and debarment regulations including, but not limited to 2 CFR 180, 2 CFR 376
- 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) violation of Federal or State antitrust statutes; or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, tax evasion, receiving stolen property, making false claims, obstruction of justice, or the commission of any

other offense indicating a lack of business integrity or business honesty that seriously affects its business honesty;

- (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) Have not, within a three-year period preceding this application/proposal/agreement, engaged in any of the violations listed under 2 CFR Part 180, Subpart C as supplemented by 2 CFR Part 376.
 - (6) 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.
 - (7) Will include a clause entitled, "Debarment and Suspension Certification" that essentially sets forth the provisions herein, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.
- c. If the Contractor is unable to certify to any of the statements in this certification, the Contractor shall submit an explanation to the DHCS Program Contract Manager.
 - d. The terms and definitions herein have the meanings set out in 2 CFR Part 180 as supplemented by 2 CFR Part 376.
 - e. If the Contractor knowingly violates this certification, in addition to other remedies available to the Federal Government, the DHCS may terminate this Agreement for cause or default.

20. Smoke-Free Workplace Certification

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

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

21. Covenant Against Contingent Fees

(Applicable only to federally funded agreements.)

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

22. Payment Withholds

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

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

23. Performance Evaluation

(Not applicable to grant agreements.)

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

24. Officials Not to Benefit

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

25. Four-Digit Date Compliance

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

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

26. Prohibited Use of State Funds for Software

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

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

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

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

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

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

28. Alien Ineligibility Certification

(Applicable to sole proprietors entering federally funded agreements.)

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

29. Union Organizing

(Applicable only to grant agreements.)

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

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

30. Contract Uniformity (Fringe Benefit Allowability)

(Applicable only to nonprofit organizations.)

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

- a. As used herein fringe benefits shall mean an employment benefit given by one's employer to an employee in addition to one's regular or normal wages or salary.

- b. As used herein, fringe benefits do not include:
- (1) Compensation for personal services paid currently or accrued by the Contractor for services of employees rendered during the term of this Agreement, which is identified as regular or normal salaries and wages, annual leave, vacation, sick leave, holidays, jury duty and/or military leave/training.
 - (2) Director's and executive committee member's fees.
 - (3) Incentive awards and/or bonus incentive pay.
 - (4) Allowances for off-site pay.
 - (5) Location allowances.
 - (6) Hardship pay.
 - (7) Cost-of-living differentials
- c. Specific allowable fringe benefits include:
- (1) Fringe benefits in the form of employer contributions for the employer's portion of payroll taxes (i.e., FICA, SUI, SDI), employee health plans (i.e., health, dental and vision), unemployment insurance, worker's compensation insurance, and the employer's share of pension/retirement plans, provided they are granted in accordance with established written organization policies and meet all legal and Internal Revenue Service requirements.
- d. To be an allowable fringe benefit, the cost must meet the following criteria:
- (1) Be necessary and reasonable for the performance of the Agreement.
 - (2) Be determined in accordance with generally accepted accounting principles.
 - (3) Be consistent with policies that apply uniformly to all activities of the Contractor.
- e. Contractor agrees that all fringe benefits shall be at actual cost.
- f. Earned/Accrued Compensation
- (1) Compensation for vacation, sick leave and holidays is limited to that amount earned/accrued within the agreement term. Unused vacation, sick leave and holidays earned from periods prior to the agreement term cannot be claimed as allowable costs. See Provision f (3)(a) for an example.
 - (2) For multiple year agreements, vacation and sick leave compensation, which is earned/accrued but not paid, due to employee(s) not taking time off may be carried over and claimed within the overall term of the multiple years of the Agreement. Holidays cannot be carried over from one agreement year to the next. See Provision f (3)(b) for an example.
 - (3) For single year agreements, vacation, sick leave and holiday compensation that is earned/accrued but not paid, due to employee(s) not taking time off within the term of the Agreement, cannot be claimed as an allowable cost. See Provision f (3)(c) for an example.
- (a) **Example No. 1:**
- If an employee, John Doe, earns/accrues three weeks of vacation and twelve days of sick leave each year, then that is the maximum amount that may be claimed during a one year agreement. If John Doe has five weeks of vacation and eighteen days of sick leave at the beginning of an agreement, the Contractor during a one-year budget period may only claim up to three weeks of vacation and twelve days of sick leave as actually used by the employee. Amounts earned/accrued in periods prior to the beginning of the Agreement are not an allowable cost.
- (b) **Example No. 2:**
- If during a three-year (multiple year) agreement, John Doe does not use his three weeks of vacation in year one, or his three weeks in year two, but he does actually use nine weeks in year three; the Contractor would be allowed to claim all nine weeks paid for in year three. The total compensation over the three-year period cannot exceed 156 weeks (3 x 52 weeks).

(c) **Example No. 3:**

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

31. Suspension or Stop Work Notification

- a. DHCS may, at any time, issue a notice to suspend performance or stop work under this Agreement. The initial notification may be a verbal or written directive issued by the funding Program's Contract Manager. Upon receipt of said notice, the Contractor is to suspend and/or stop all, or any part, of the work called for by this Agreement.
- b. Written confirmation of the suspension or stop work notification with directions as to what work (if not all) is to be suspended and how to proceed will be provided within 30 working days of the verbal notification. The suspension or stop work notification shall remain in effect until further written notice is received from DHCS. The resumption of work (in whole or part) will be at DHCS' discretion and upon receipt of written confirmation.
 - (1) Upon receipt of a suspension or stop work notification, the Contractor shall immediately comply with its terms and take all reasonable steps to minimize or halt the incurrence of costs allocable to the performance covered by the notification during the period of work suspension or stoppage.
 - (2) Within 90 days of the issuance of a suspension or stop work notification, DHCS shall either:
 - (a) Cancel, extend, or modify the suspension or stop work notification; or
 - (b) Terminate the Agreement as provided for in the Cancellation / Termination clause of the Agreement.
- c. If a suspension or stop work notification issued under this clause is canceled or the period of suspension or any extension thereof is modified or expires, the Contractor may resume work only upon written concurrence of funding Program's Contract Manager.
- d. If the suspension or stop work notification is cancelled and the Agreement resumes, changes to the services, deliverables, performance dates, and/or contract terms resulting from the suspension or stop work notification shall require an amendment to the Agreement.
- e. If a suspension or stop work notification is not canceled and the Agreement is cancelled or terminated pursuant to the provision entitled Cancellation / Termination, DHCS shall allow reasonable costs resulting from the suspension or stop work notification in arriving at the settlement costs.
- f. DHCS shall not be liable to the Contractor for loss of profits because of any suspension or stop work notification issued under this clause.

32. Public Communications

Electronic and printed documents developed and produced, for public communications shall follow the following requirements to comply with Section 508 of the Rehabilitation Act and the American with Disabilities Act:

- a. Ensure visual-impaired, hearing-impaired and other special needs audiences are provided material information in formats that provide the most assistance in making informed choices.

33. 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 DHCS Program Contract Manager.

b. Prohibition

Section 1352 of Title 31, U.S.C., provides in part that no appropriated funds may be expended by the recipient of a federal contract or agreement, grant, loan, or cooperative agreement to pay any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with any of the following covered federal actions: the awarding of any federal contract or agreement, the making of any federal grant, the making of any federal loan, entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal contract or agreement, grant, loan, or cooperative agreement.

**Attachment 1
State of California
Department of Health Care Services**

CERTIFICATION REGARDING LOBBYING

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

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

(2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency of the United States Government, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, or cooperative agreement, the undersigned shall complete and submit Standard Form LLL, "Disclosure of Lobbying Activities" in accordance with its instructions.

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

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

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

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

California Department of Health Care Services

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

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

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

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

According to the Paperwork Reduction Act, as amended, no persons are required to respond to a collection of information

**Exhibit E A1
Additional Provisions**

1. Amendment Process

- A. The Department of Health Care Services (DHCS) may amend the Contract.
- B. Should either party, during the term of this Contract, desire a change or amendment to the terms of this Contract, 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 DHCS's official contract amendment process. No amendment will be considered binding on either party until it is formally approved by the both parties and the Department of General Services (DGS), if DGS approval is required.
- C. A contract amendment shall be required to change encumbered amounts for each year of a multi-year contract period.
- D. The Contractor may request Contract amendments until May 1 of each of the Contract's fiscal years. An amendment proposed by either the Contractor or DHCS shall be forwarded in writing to the other party.
 - 1) The Contractor's proposed amendment shall include the proposed changes and a statement of the reason for the proposed change.
 - 2) Amendments shall be duly approved by the County Board of Supervisors or its authorized designee, and signed by a duly authorized representative.
- E. Contractor shall return an executed Contract amendment to DHCS within 90 calendar days from the date of its issuance.
- F. Contractor acknowledges that any newly allocated funds that are in excess of the initial amount for each fiscal year shall not be encumbered if DHCS does not receive a fully executable Contract amendment on or before June 30, 2020.
- G. DHCS shall settle costs for substance use disorder services based on the year-end cost settlement report as the final amendment to the approved single State/County Contract.

2. Cancellation / Termination

- A. This Contract may be cancelled by DHCS without cause upon 30 calendar days advance written notice to the Contractor.
- B. DHCS reserves the right to cancel or terminate this Contract immediately for cause.
- C. The term "for cause" shall mean that the Contractor fails to meet the terms, conditions, and/or responsibilities of this Contract.

**Exhibit E A1
Additional Provisions**

- D. Contract termination or cancellation shall be effective as of the date indicated in DHCS' notification to the Contractor. The notice shall stipulate any final performance, invoicing or payment requirements.
- E. Upon receipt of a notice of termination or cancellation, the Contractor shall take immediate steps to stop performance and to cancel or reduce subsequent Contract costs.
- F. In the event of early termination or cancellation, the Contractor shall be entitled to payment for all allowable costs authorized under this Contract and incurred up to the date of termination or cancellation, including authorized non-cancelable obligations, provided such expenses do not exceed the stated maximum amounts payable.
- G. In the event of changes in law that affect provisions of this Contract, the parties agree to amend the affected provisions to conform to the changes in law retroactive to the effective date of such changes in law. The parties further agree that the terms of this Contract are severable and in the event that changes in law render provisions of the Contract void, the unaffected provisions and obligations of this Contract will remain in full force and effect.
- H. The following additional provisions regarding termination apply to this Contract:
- 1) In the event the Federal Department of Health and Human Services (hereinafter referred to as DHHS), or DHCS determines Contractor does not meet the requirements for participation in the Drug Medi-Cal (DMC) Treatment Program, DHCS will terminate payments for services provided pursuant to Exhibit A, Attachment I, Part I, of this Contract for cause.
 - 2) Contractor's obligations to provide covered services under this Contract shall automatically terminate on the effective date of any termination of this Contract. Contractor shall be responsible for providing or arranging for covered services to beneficiaries until the effective date of termination or expiration of the Contract.

Contractor shall be responsible for processing and paying invoices and statements for covered services and utilization reviews until the effective date of termination or expiration of the Contract.
 - 3) In the event this Contract is terminated, Contractor shall refer DMC clients to providers who are certified to provide the type(s) of services the client has been receiving.
- I. In the event this Contract is terminated, Contractor shall deliver its entire fiscal and program records pertaining to the performance of this Contract to DHCS, which will retain the records for the required retention period.

3. Avoidance of Conflicts of Interest by Contractor

**Exhibit E A1
Additional Provisions**

- A. DHCS intends to avoid any real or apparent conflict of interest on the part of the Contractor, subcontractors, or employees, officers and directors of the Contractor or subcontractors. Thus, DHCS reserves the right to determine, at its sole discretion, whether any information, assertion or claim received from any source indicates the existence of a real or apparent conflict of interest; and, if a conflict is found to exist, to require the Contractor to submit additional information or a plan for resolving the conflict, subject to DHCS review and prior approval.
- B. Conflicts of interest include, but are not limited to:
- 1) An instance where the Contractor or any of its subcontractors, or any employee, officer, or director of the Contractor or any subcontractor has an interest, financial or otherwise, whereby the use or disclosure of information obtained while performing services under the Contract would allow for private or personal benefit or for any purpose that is contrary to the goals and objectives of the Contract.
 - 2) An instance where the Contractor's or any subcontractor's employees, officers, or directors use their positions for purposes that are, or give the appearance of being, motivated by a desire for private gain for themselves or others, such as those with whom they have family, business or other ties.
- C. If DHCS is or becomes aware of a known or suspected conflict of interest, the Contractor will be given an opportunity to submit additional information or to resolve the conflict. A Contractor with a suspected conflict of interest will have five (5) working days from the date of notification of the conflict by DHCS to provide complete information regarding the suspected conflict. If a conflict of interest is determined to exist by DHCS and cannot be resolved to the satisfaction of DHCS, the conflict will be grounds for terminating the Contract. DHCS may, at its discretion upon receipt of a written request from the Contractor, authorize an extension of the timeline indicated herein.
- D. Contractor acknowledges that state laws on conflict of interest, found in the Political Reform Act (Government Code Section 81000 et seq.), Public Contract Code Section 10365.5, and Government Code Section 1090, apply to this Contract.

4. Freeze Exemptions

- A. Contractor agrees that any hiring freeze not mandated by the State during the term of this Contract shall not be applied to the positions funded, in whole or part, by this Contract.
- B. Contractor agrees not to implement any personnel policy, which may adversely affect performance or the positions funded, in whole or part, by this Contract.
- C. Contractor agrees that any travel freeze or travel limitation policy adopted by the

**Exhibit E A1
Additional Provisions**

Contractor during the term of this Contract shall not restrict travel funded, in whole or part, by this Contract.

- D. Contractor agrees that any purchasing freeze or purchase limitation policy adopted by the Contractor during the term of this Contract shall not restrict or limit purchases funded, in whole or part, by this Contract.

5. Domestic Partners

This provision supersedes and replaces Provision 7 (Domestic Partners) in the Department of General Services' Contractor Certification Clauses incorporated by reference within the General Terms and Conditions (GTC) cited on the face of the Contract. Based upon an existing program exemption from Chapter 2 of Part 2 of Division 2 of the Public Contract Code that applies to this Contract, DHCS concludes that this Contract is not subject to the requirements of Public Contract Code Section 10295.3 governing domestic partners.

6. Force Majeure

Neither party shall be responsible for delays or failures in performance resulting from acts beyond the control of the offending party. Such acts shall include but not be limited to acts of God, fire, flood, earthquake, other natural disaster, nuclear accident, strike, lockout, riot, freight-embargo, related-utility, or governmental statutes or regulations super-imposed after the fact. If a delay or failure in performance by the Contractor arises out of a default of its subcontractor, and if such default of its subcontractor, arises out of causes beyond the control of both the Contractor and subcontractor, and without the fault or negligence of either of them, the Contractor shall not be liable for damages of such delay or failure, unless the supplies or services to be furnished by the subcontractor were obtainable from other sources in sufficient time to permit the Contractor to meet the required performance schedule.

7. Identification of Contractor versus Subrecipient

DHCS has classified this Contract as a procurement contract. Therefore, the Contractor is considered a contractor, and not a subrecipient, for the purposes of U.S. Office of Management and Budget Uniform Guidance pursuant to 2 CFR 200.330

Exhibit F A1
Privacy and Information Security Provisions

This Exhibit F is intended to protect the privacy and security of specified Department information that the Contractor may access, receive, or transmit under this Agreement. The Department information covered under this Exhibit F consists of: (1) Protected Health Information (PHI) as defined under the Health Insurance Portability and Accountability Act of 1996, Public Law 104-191 ("HIPAA") and (2) Personal Information (PI) as defined under the California Information Practices Act (CIPA), at California Civil Code Section 1798.3.

Exhibit F consists of the following parts:

1. Exhibit F-1, HIPAA Business Associate Addendum, which provides for the privacy and security of PHI.
2. Exhibit F-2 provides for the privacy and security of PI under Civil Code Section 1798.3(a) and 1798.29.
3. Exhibit F-3, Miscellaneous Provision, sets forth additional terms and conditions that extend to the provisions of Exhibit F in its entirety.

Exhibit F A1
Privacy and Information Security Provisions

F-1
HIPAA Business Associate Addendum

1. Recitals.

- A. A business associate relationship under the Health Insurance Portability and Accountability Act of 1996, Public Law 104-191 ("HIPAA"), the Health Information Technology for Economic and Clinical Health Act, Public Law 111-005 ("the HITECH Act"), 42 U.S.C. Section 17921 et seq., and their implementing privacy and security regulations at 45 CFR Parts 160 and 164 ("the HIPAA regulations") and the Final Omnibus Rule of 2013 between Department and Contractor arises only to the extent that Contractor creates, receives, maintains, transmits, uses or discloses PHI or ePHI on the Department's behalf, or provides services, arranges, performs, or assists in the performance of functions or activities on behalf of the Department that are included in the definition of "business associate" in 45 CFR. 160.103 where the provision of the service involves the disclosure of PHI or ePHI from the Department, including but not limited to, utilization review, quality assurance, or benefit management. To the extent Contractor performs these services, functions, and activities on behalf of Department, Contractor is the Business Associate of the Department, acting on the Department's behalf. The Department and Contractor are each a party to this Agreement and are collectively referred to as the "parties." A business associate is also directly liable and subject to civil penalties for failing to safeguard electronic protected health information in accordance with the HIPAA Security Rule. A "business associate" also is a subcontractor that creates, receives, maintains, or transmits protected health information on behalf of another business associate. Business Associate shall incorporate, when applicable, the relevant provisions of this Addendum into each subcontract or sub-award to such agents, subcontractors and vendors, including the requirement that any security incidents or breaches of unsecured PHI or PI be reported to Business Associate.

Exhibit F A1
Privacy and Information Security Provisions

- B. The Department wishes to disclose to Contractor certain information pursuant to the terms of this Agreement, some of which may constitute Protected Health Information ("PHI"), including protected health information in electronic media ("ePHI"), under Federal law, to be used or disclosed in the course of providing services and activities as set forth in Section 1.A. of Exhibit F-1 of this Agreement. This information is hereafter referred to as "Department PHI".
- C. The purpose of this Exhibit F-1 is to protect the privacy and security of the PHI and ePHI that may be created, received, maintained, transmitted, used or disclosed pursuant to this Agreement, and to comply with certain standards and requirements of HIPAA, the HITECH Act, and the HIPAA regulations and the Final Omnibus Rule of 2013, including, but not limited to, the requirement that the Department must enter into a contract containing specific requirements with the Contractor prior to the disclosure of PHI to Contractor, as set forth in 45 CFR Parts 160 and 164 and the HITECH Act and the Final Omnibus Rule of 2013. To the extent that data is both PHI or ePHI and Personally Identifying Information, both Exhibit F-2 and this Exhibit F-1 shall apply.
- D. The terms used in this Exhibit F-1, but not otherwise defined, shall have the same meanings as those terms have in the HIPAA regulations. Any reference to statutory or regulatory language shall be to such language as in effect or as amended.

2. Definitions.

- A. Breach shall have the meaning given to such term under HIPAA, the HITECH Act, the HIPAA regulations and the Final Omnibus Rule of 2013.
- B. Business Associate shall have the meaning given to such term under HIPAA, the HITECH Act, the HIPAA regulations and the Final Omnibus Rule of 2013.
- C. Department PHI shall mean Protected Health Information or Electronic Protected Health Information, as defined below, accessed by Contractor in a database maintained by the Department, received by Contractor from the Department or acquired or created by Contractor in connection with performing the functions, activities and services on behalf of the Department as specified in Section 1.A. of Exhibit F-1 of this Agreement. The terms PHI as used in this document shall mean Department PHI.

Exhibit F A1
Privacy and Information Security Provisions

- D. Electronic Health Records shall have the meaning given to such term in the HITECH Act, including, but not limited to, 42 U.S.C. Section 17921 and implementing regulations.
- E. Electronic Protected Health Information (ePHI) means individually identifiable health information transmitted by electronic media or maintained in electronic media, including but not limited to electronic media as set forth under 45 CFR section 160.103.
- F. Individually Identifiable Health Information means health information, including demographic information collected from an individual, that is created or received by a health care provider, health plan, employer, or health care clearinghouse, and relates to the past, present, or future physical or mental health or condition of an individual, the provision of health care to an individual, or the past, present, or future payment for the provision of health care to an individual, that identifies the individual or where there is a reasonable basis to believe the information can be used to identify the individual, as set forth under 45 CFR Section 160.103.
- G. Privacy Rule shall mean the HIPAA Regulations that are found at 45 CFR Parts 160 and 164, subparts A and E.
- H. Protected Health Information (PHI) means individually identifiable health information that is transmitted by electronic media, maintained in electronic media, or is transmitted or maintained in any other form or medium, as set forth under 45 CFR Section 160.103 and as defined under HIPAA.
- I. Required by law means a mandate contained in law that compels an entity to make a use or disclosure of PHI that is enforceable in a court of law. This includes, but is not limited to, court orders and court-ordered warrants, subpoenas or summons issued by a court, grand jury, a governmental or tribal inspector general, or an administrative body authorized to require the production of information, and a civil or an authorized investigative demand. It also includes Medicare conditions of participation with respect to health care providers participating in the program, and statutes or regulations that require the production of information, including statutes or regulations that require such information if payment is sought under a government program providing public benefits.

Exhibit F A1
Privacy and Information Security Provisions

- J. Secretary means the Secretary of the U.S. Department of Health and Human Services ("HHS") or the Secretary's designee.
- K. Security Incident means the attempted or successful unauthorized access, use, disclosure, modification, or destruction of Department PHI, or confidential data utilized by Contractor to perform the services, functions and activities on behalf of Department as set forth in Section 1.A. of Exhibit F-1 of this Agreement; or interference with system operations in an information system that processes, maintains or stores Department PHI.
- L. Security Rule shall mean the HIPAA regulations that are found at 45 CFR Parts 160 and 164.
- M. Unsecured PHI shall have the meaning given to such term under the HITECH Act, 42 U.S.C. Section 17932(h), any guidance issued by the Secretary pursuant to such Act and the HIPAA regulations.

3. Terms of Agreement.

A. Permitted Uses and Disclosures of Department PHI by Contractor.

Except as otherwise indicated in this Exhibit F-1, Contractor may use or disclose Department PHI only to perform functions, activities, or services specified in Section 1.A of Exhibit F-1 of this Agreement, for, or on behalf of the Department, provided that such use or disclosure would not violate the HIPAA regulations or the limitations set forth in 42 CFR Part 2, or any other applicable law, if done by the Department. Any such use or disclosure, if not for purposes of treatment activities of a health care provider as defined by the Privacy Rule, must, to the extent practicable, be limited to the limited data set, as defined in 45 CFR Section 164.514(e)(2), or, if needed, to the minimum necessary to accomplish the intended purpose of such use or disclosure, in compliance with the HITECH Act and any guidance issued pursuant to such Act, and the HIPAA regulations.

B. Specific Use and Disclosure Provisions. Except as otherwise indicated in this Exhibit F-1, Contractor may:

- 1) **Use and Disclose for Management and Administration.** Use and disclose Department PHI for the proper management and administration of the Contractor's business, provided that such disclosures are required by law, or the Contractor obtains

Exhibit F A1
Privacy and Information Security Provisions

reasonable assurances from the person to whom the information is disclosed, in accordance with section D(7) of this Exhibit F-1, that it will remain confidential and will be used or further disclosed only as required by law or for the purpose for which it was disclosed to the person, and the person notifies the Contractor of any instances of which it is aware that the confidentiality of the information has been breached.

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

C. Prohibited Uses and Disclosures.

- 1) Contractor shall not disclose Department PHI about an individual to a health plan for payment or health care operations purposes if the Department PHI pertains solely to a health care item or service for which the health care provider involved has been paid out of pocket in full and the individual requests such restriction, in accordance with 42 U.S.C. Section 17935(a) and 45 CFR Section 164.522(a).
- 2) Contractor shall not directly or indirectly receive remuneration in exchange for Department PHI.

D. Responsibilities of Contractor.

Contractor agrees:

- 1) **Nondisclosure.** Not to use or disclose Department PHI other than as permitted or required by this Agreement or as required by law, including but not limited to 42 CFR Part 2.
- 2) **Compliance with the HIPAA Security Rule.** To implement administrative, physical, and technical safeguards that reasonably and appropriately protect the confidentiality, integrity, and availability of the Department PHI, including electronic PHI, that it creates, receives, maintains, uses or transmits on behalf of the

Exhibit F A1
Privacy and Information Security Provisions

Department, in compliance with 45 CFR Sections 164.308, 164.310 and 164.312, and to prevent use or disclosure of Department PHI other than as provided for by this Agreement. Contractor shall implement reasonable and appropriate policies and procedures to comply with the standards, implementation specifications and other requirements of 45 CFR Section 164, subpart C, in compliance with 45 CFR Section 164.316. Contractor shall develop and maintain a written information privacy and security program that includes administrative, technical and physical safeguards appropriate to the size and complexity of the Contractor's operations and the nature and scope of its activities, and which incorporates the requirements of section 3, Security, below. Contractor will provide the Department with its current and updated policies upon request.

- 3) **Security.** Contractor shall take any and all steps necessary to ensure the continuous security of all computerized data systems containing PHI and/or PI, and to protect paper documents containing PHI and/or PI. These steps shall include, at a minimum:
 - a. Complying with all of the data system security precautions listed in Attachment A, Data Security Requirements.
 - b. Achieving and maintaining compliance with the HIPAA Security Rule (45 CFR Parts 160 and 164), as necessary in conducting operations on behalf of DHCS under this Agreement.
 - c. Providing a level and scope of security that is at least comparable to the level and scope of security established by the Office of Management and Budget in OMB Circular No. A-130, Appendix III - Security of Federal Automated Information Systems, which sets forth guidelines for automated information systems in Federal agencies.
- 4) **Security Officer.** Contractor shall designate a Security Officer to oversee its data security program who shall be responsible for carrying out the requirements of this section and for communicating on security matters with the Department.
- 5) **Mitigation of Harmful Effects.** To mitigate, to the extent practicable, any harmful effect that is known to Contractor of a use or disclosure of Department PHI by Contractor or its subcontractors in violation of the requirements of this Exhibit F.

Exhibit F A1
Privacy and Information Security Provisions

- 6) **Reporting Unauthorized Use or Disclosure.** To report to Department any use or disclosure of Department PHI not provided for by this Exhibit F of which it becomes aware.

- 7) **Contractor's Agents and Subcontractors.**
 - a. To enter into written agreements with any agents, including subcontractors and vendors to whom Contractor provides Department PHI, that impose the same restrictions and conditions on such agents, subcontractors and vendors that apply to Contractor with respect to such Department PHI under this Exhibit F, and that require compliance with all applicable provisions of HIPAA, the HITECH Act the HIPAA regulations, and the Final Omnibus Rule of 2013 including the requirement that any agents, subcontractors or vendors implement reasonable and appropriate administrative, physical, and technical safeguards to protect such PHI. As required by HIPAA, the HITECH Act, the HIPAA regulations and the Final Omnibus Rule of 2013, including 45 CFR Sections 164.308 and 164.314, Contractor shall incorporate, when applicable, the relevant provisions of this Exhibit F-1 into each subcontract or sub-award to such agents, subcontractors and vendors, including the requirement that any security incidents or breaches of unsecured PHI be reported to Contractor.

 - b. In accordance with 45 CFR Section 164.504(e)(1)(ii), upon Contractor's knowledge of a material breach or violation by its subcontractor of the agreement between Contractor and the subcontractor, Contractor shall:
 - i) Provide an opportunity for the subcontractor to cure the breach or end the violation and terminate the agreement if the subcontractor does not cure the breach or end the violation within the time specified by the Department; or
 - ii) Immediately terminate the agreement if the subcontractor has breached a material term of the agreement and cure is not possible.

- 8) **Availability of Information to the Department and Individuals to Provide Access and Information:**

Exhibit F A1
Privacy and Information Security Provisions

- a. To provide access as the Department may require, and in the time and manner designated by the Department (upon reasonable notice and during Contractor's normal business hours) to Department PHI in a Designated Record Set, to the Department (or, as directed by the Department), to an Individual, in accordance with 45 CFR Section 164.524. Designated Record Set means the group of records maintained for the Department health plan under this Agreement that includes medical, dental and billing records about individuals; enrollment, payment, claims adjudication, and case or medical management systems maintained for the Department health plan for which Contractor is providing services under this Agreement; or those records used to make decisions about individuals on behalf of the Department. Contractor shall use the forms and processes developed by the Department for this purpose and shall respond to requests for access to records transmitted by the Department within fifteen (15) calendar days of receipt of the request by producing the records or verifying that there are none.
 - b. If Contractor maintains an Electronic Health Record with PHI, and an individual requests a copy of such information in an electronic format, Contractor shall provide such information in an electronic format to enable the Department to fulfill its obligations under the HITECH Act, including but not limited to, 42 U.S.C. Section 17935(e) and the HIPAA regulations.
- 9) **Confidentiality of Alcohol and Drug Abuse Patient Records.** Contractor agrees to comply with all confidentiality requirements set forth in Title 42 Code of Federal Regulations, Chapter I, Subchapter A, Part 2. Contractor is aware that criminal penalties may be imposed for a violation of these confidentiality requirements.
- 10) **Amendment of Department PHI.** To make any amendment(s) to Department PHI that were requested by a patient and that the Department directs or agrees should be made to assure compliance with 45 CFR Section 164.526, in the time and manner designated by the Department, with the Contractor being given a minimum of twenty days within which to make the amendment.

Exhibit F A1
Privacy and Information Security Provisions

- 11) **Internal Practices.** To make Contractor's internal practices, books, and records relating to the use and disclosure of Department PHI available to the Department or to the Secretary, for purposes of determining the Department's compliance with the HIPAA regulations. If any information needed for this purpose is in the exclusive possession of any other entity or person and the other entity or person fails or refuses to furnish the information to Contractor, Contractor shall provide written notification to the Department and shall set forth the efforts it made to obtain the information.
- 12) **Documentation of Disclosures.** To document and make available to the Department or (at the direction of the Department) to an individual such disclosures of Department PHI, and information related to such disclosures, necessary to respond to a proper request by the subject Individual for an accounting of disclosures of such PHI, in accordance with the HITECH Act and its implementing regulations, including but not limited to 45 CFR Section 164.528 and 42 U.S.C. Section 17935(c). If Contractor maintains electronic health records for the Department as of January 1, 2009 and later, Contractor must provide an accounting of disclosures, including those disclosures for treatment, payment or health care operations. The electronic accounting of disclosures shall be for disclosures during the three years prior to the request for an accounting.
- 13) **Breaches and Security Incidents.** During the term of this Agreement, Contractor agrees to implement reasonable systems for the discovery and prompt reporting of any breach or security incident, and to take the following steps:
 - a. **Initial Notice to the Department.** (1) To notify the Department **immediately by telephone call or email or fax** upon the discovery of a breach of unsecured PHI in electronic media or in any other media if the PHI was, or is reasonably believed to have been, accessed or acquired by an unauthorized person. (2) To notify the Department **within 24 hours by email or fax** of the discovery of any suspected security incident, intrusion or unauthorized access, use or disclosure of PHI in violation of this Agreement or this Exhibit F-1 or potential loss of confidential data affecting this Agreement. A breach shall be treated as discovered by Contractor as of the first day on

Exhibit F A1
Privacy and Information Security Provisions

which the breach is known, or by exercising reasonable diligence would have been known, to any person (other than the person committing the breach) who is an employee, officer or other agent of Contractor.

Notice shall be provided to the Information Protection Unit, Office of HIPAA Compliance. If the incident occurs after business hours or on a weekend or holiday and involves electronic PHI, notice shall be provided by calling the Information Protection Unit (916) 445-4646, (866) 866-0602 or by emailing privacyofficer@dhcs.ca.gov. Notice shall be made using the DHCS "Privacy Incident Report" form, including all information known at the time.

Contractor shall use the most current version of this form, which is posted on the DHCS Information Security Officer website (www.dhcs.ca.gov, then select "Privacy" in the left column and then "Business Partner" near the middle of the page) or use this link:

<http://www.dhcs.ca.gov/formsandpubs/laws/priv/Pages/DHCSBusinessAssociatesOnly.aspx>

Upon discovery of a breach or suspected security incident, intrusion or unauthorized access, use or disclosure of Department PHI, Contractor shall take:

- i) Prompt corrective action to mitigate any risks or damages involved with the breach and to protect the operating environment.
 - ii) Any action pertaining to such unauthorized disclosure required by applicable Federal and State laws and regulations.
- b. **Investigation and Investigation Report.** To immediately investigate such suspected security incident, security incident, breach, or unauthorized access, use or disclosure of PHI. Within 72 hours of the discovery, Contractor shall submit an updated "Privacy Incident Report" containing the information marked with an asterisk and all other applicable information listed on the form, to the extent known at that time, to the Information Protection Unit.

Exhibit F A1

Privacy and Information Security Provisions

- c. **Complete Report.** To provide a complete report of the investigation to the Department Program Contract Manager and the Information Protection Unit within ten working days of the discovery of the breach or unauthorized use or disclosure. The report shall be submitted on the "Privacy Incident Report" form and shall include an assessment of all known factors relevant to a determination of whether a breach occurred under applicable provisions of HIPAA, the HITECH Act, and the HIPAA regulations. The report shall also include a full, detailed corrective action plan, including information on measures that were taken to halt and/or contain the improper use or disclosure. If the Department requests information in addition to that listed on the "Privacy Incident Report" form, Contractor shall make reasonable efforts to provide the Department with such information. If, because of the circumstances of the incident, Contractor needs more than ten working days from the discovery to submit a complete report, the Department may grant a reasonable extension of time, in which case Contractor shall submit periodic updates until the complete report is submitted. If necessary, a Supplemental Report may be used to submit revised or additional information after the completed report is submitted, by submitting the revised or additional information on an updated "Privacy Incident Report" form. The Department will review and approve the determination of whether a breach occurred and whether individual notifications and a corrective action plan are required.
- d. **Responsibility for Reporting of Breaches.** If the cause of a breach of Department PHI is attributable to Contractor or its agents, subcontractors or vendors, Contractor is responsible for all required reporting of the breach as specified in 42 U.S.C. section 17932 and its implementing regulations, including notification to media outlets and to the Secretary (after obtaining prior written approval of DHCS). If a breach of unsecured Department PHI involves more than 500 residents of the State of California or under its jurisdiction, Contractor shall first notify DHCS, then the Secretary of the breach immediately upon discovery of the breach. If a breach involves more than 500 California residents, Contractor shall also provide, after obtaining written prior approval of DHCS, notice to the Attorney General for the State of California, Privacy Enforcement Section. If Contractor has reason to

Exhibit F A1
Privacy and Information Security Provisions

believe that duplicate reporting of the same breach or incident may occur because its subcontractors, agents, or vendors may report the breach or incident to the Department in addition to Contractor, Contractor shall notify the Department, and the Department and Contractor may take appropriate action to prevent duplicate reporting.

- e. **Responsibility for Notification of Affected Individuals.** If the cause of a breach of Department PHI is attributable to Contractor or its agents, subcontractors or vendors and notification of the affected individuals is required under state or Federal law, Contractor shall bear all costs of such notifications as well as any costs associated with the breach. In addition, the Department reserves the right to require Contractor to notify such affected individuals, which notifications shall comply with the requirements set forth in 42U.S.C. section 17932 and its implementing regulations, including, but not limited to, the requirement that the notifications be made without unreasonable delay and in no event later than 60 calendar days after discovery of the breach. The Department Privacy Officer shall approve the time, manner and content of any such notifications and their review and approval must be obtained before the notifications are made. The Department will provide its review and approval expeditiously and without unreasonable delay.

- f. **Department Contact Information.** To direct communications to the above referenced Department staff, the Contractor shall initiate contact as indicated herein. The Department reserves the right to make changes to the contact information below by giving written notice to the Contractor. Said changes shall not require an amendment to this Addendum or the Agreement to which it is incorporated.

**Exhibit F A1
Privacy and Information Security Provisions**

Department Program Contract Manager	DHCS Privacy Officer	DHCS Information Security Officer
See the Exhibit A, Scope of Work for Program Contract Manager information	Information Protection Unit c/o: Office of HIPAA Compliance Department of Health Care Services P.O. Box 997413, MS 4722 Sacramento, CA 95899-7413 (916) 445-4646; (866) 866-0602 Email: privacyofficer@dhcs.ca.gov Fax: (916) 440-7680	Information Security Officer DHCS Information Security Office P.O. Box 997413, MS 6400 Sacramento, CA 95899-7413 Email: iso@dhcs.ca.gov Telephone: ITSD Service Desk (916) 440-7000; (800) 579-0874 Fax: (916) 440-5537

- 14) **Termination of Agreement.** In accordance with Section 13404(b) of the HITECH Act and to the extent required by the HIPAA regulations, if Contractor knows of a material breach or violation by the Department of this Exhibit F-1, it shall take the following steps:
- a. Provide an opportunity for the Department to cure the breach or end the violation and terminate the Agreement if the Department does not cure the breach or end the violation within the time specified by Contractor or
 - b. Immediately terminate the Agreement if the Department has breached a material term of the Exhibit F-1 and cure is not possible.
- 15) **Sanctions and/or Penalties.** Contractor understands that a failure to comply with the provisions of HIPAA, the HITECH Act and the HIPAA regulations that are applicable to Contractors may result in the imposition of sanctions and/or penalties on Contractor under HIPAA, the HITECH Act and the HIPAA regulations.

E. Obligations of the Department.

The Department agrees to:

Exhibit F A1
Privacy and Information Security Provisions

- 1) **Permission by Individuals for Use and Disclosure of PHI.** Provide the Contractor with any changes in, or revocation of, permission by an Individual to use or disclose Department PHI, if such changes affect the Contractor's permitted or required uses and disclosures.
- 2) **Notification of Restrictions.** Notify the Contractor of any restriction to the use or disclosure of Department PHI that the Department has agreed to in accordance with 45 CFR Section 164.522, to the extent that such restriction may affect the Contractor's use or disclosure of PHI.
- 3) **Requests Conflicting with HIPAA Rules.** Not request the Contractor to use or disclose Department PHI in any manner that would not be permissible under the HIPAA regulations if done by the Department.
- 4) **Notice of Privacy Practices.** Provide Contractor with the web link to the Notice of Privacy Practices that DHCS produces in accordance with 45 CFR Section 164.520, as well as any changes to such notice. Visit the DHCS website to view the most current Notice of Privacy Practices at:
<http://www.dhcs.ca.gov/formsandpubs/laws/priv/Pages/NoticeofPrivacyPractices.aspx> or the DHCS website at www.dhcs.ca.gov (select "Privacy in the right column and "Notice of Privacy Practices" on the right side of the page).

F. Audits, Inspection and Enforcement.

If Contractor is the subject of an audit, compliance review, or complaint investigation by the Secretary or the Office for Civil Rights, U.S. Department of Health and Human Services, that is related to the performance of its obligations pursuant to this HIPAA Business Associate Exhibit F-1, Contractor shall immediately notify the Department. Upon request from the Department, Contractor shall provide the Department with a copy of any Department PHI that Contractor, as the Business Associate, provides to the Secretary or the Office of Civil Rights concurrently with providing such PHI to the Secretary. Contractor is responsible for any civil penalties assessed due to an audit or investigation of Contractor, in accordance with 42 U.S.C. Section 17934(c).

Exhibit F A1
Privacy and Information Security Provisions

G. Termination.

- 1) **Term.** The Term of this Exhibit F-1 shall extend beyond the termination of the Agreement and shall terminate when all Department PHI is destroyed or returned to the Department, in accordance with 45 CFR Section 164.504(e)(2)(ii)(J).
- 2) **Termination for Cause.** In accordance with 45 CFR Section 164.504(e)(1)(iii), upon the Department's knowledge of a material breach or violation of this Exhibit F-1 by Contractor, the Department shall:
 - a. Provide an opportunity for Contractor to cure the breach or end the violation and terminate this Agreement if Contractor does not cure the breach or end the violation within the time specified by the Department or
 - b. Immediately terminate this Agreement if Contractor has breached a material term of this Exhibit F-1 and cure is not possible.

**Exhibit F A1
Privacy and Information Security Provisions**

F-2

**Privacy and Security of Personal Information and Personally Identifiable
Information Not Subject to HIPAA**

1. Recitals.

- A. In addition to the Privacy and Security Rules under the Health Insurance Portability and Accountability Act of 1996 (HIPAA) the Department is subject to various other legal and contractual requirements with respect to the personal information (PI) and personally identifiable information (PII) it maintains. These include:
- 1) The California Information Practices Act of 1977 (California Civil Code §§1798 et seq.).
 - 2) Title 42 CFR, Chapter I, Subchapter A, Part 2.
- B. The purpose of this Exhibit F-2 is to set forth Contractor's privacy and security obligations with respect to PI and PII that Contractor may create, receive, maintain, use, or disclose for, or on behalf of Department, pursuant to this Agreement. Specifically this Exhibit applies to PI and PII which is not Protected Health Information (PHI) as defined by HIPAA and therefore is not addressed in Exhibit F-1 of this Agreement, the HIPAA Business Associate Addendum; however, to the extent that data is both PHI or ePHI and PII, both Exhibit F-1 and this Exhibit F-2 shall apply.
- C. The terms used in this Exhibit F-2, but not otherwise defined, shall have the same meanings as those terms have in the above referenced statute and Agreement. Any reference to statutory, regulatory, or contractual language shall be to such language as in effect or as amended.

2. Definitions.

- A. Breach shall have the meaning given to such term under HIPAA, the HITECH Act, the HIPAA regulations, and the Final Omnibus Rule.
- B. Business Associate shall have the meaning given to such term under HIPAA, the HITECH Act, the HIPAA regulations, and the final Omnibus Rule.
- C. Electronic Health Record shall have the meaning given to such term in the HITECH Act, including, but not limited to, 42 U.S.C Section 17921 and implementing regulations.
- D. Electronic Protected Health Information (ePHI) means individually identifiable health information transmitted by electronic media or

Exhibit F A1
Privacy and Information Security Provisions

maintained in electronic media, including but not limited to electronic media as set forth under 45 CFR section 160.103.

- E. Individually Identifiable Health Information means health information, including demographic information collected from an individual, that is created or received by a health care provider, health plan, employer or health care clearinghouse, and relates to the past, present or future physical or mental health or condition of an individual, the provision of health care to an individual, or the past, present, or future payment for the provision of health care to an individual, that identifies the individual or where there is a reasonable basis to believe the information can be used to identify the individual, as set forth under 45 CFR section 160.103.
- F. Privacy Rule shall mean the HIPAA Regulation that is found at 45 CFR Parts 160 and 164.
- G. Personal Information (PI) shall have the meaning given to such term in California Civil Code section 1798.29.
- H. Protected Health Information (PHI) means individually identifiable health information that is transmitted by electronic media, maintained in electronic media, or is transmitted or maintained in any other form or medium, as set forth under 45 CFR section 160.103.
- I. Required by law means a mandate contained in law that compels an entity to make a use or disclosure of PHI that is enforceable in a court of law. This includes, but is not limited to, court orders and court-ordered warrants, subpoenas or summons issued by a court, grand jury, a governmental or tribal inspector general, or an administrative body authorized to require the production of information, and a civil or an authorized investigative demand. It also includes Medicare conditions of participation with respect to health care providers participating in the program, and statutes or regulations that require the production of information, including statutes or regulations that require such information if payment is sought under a government program providing public benefits.
- J. Security Incident means the attempted or successful unauthorized access, use, disclosure, modification, or destruction of PHI or PI, or confidential data that is essential to the ongoing operation of the Business Associate's organization and intended for internal use; or interference with system operations in an information system.
- K. Security Rule shall mean the HIPAA regulation that is found at 45 CFR Parts 160 and 164.

**Exhibit F A1
Privacy and Information Security Provisions**

3. Terms of Agreement.

A. Permitted Uses and Disclosures of Department PI and PII by Contractor

Except as otherwise indicated in this Exhibit F-2, Contractor may use or disclose Department PI only to perform functions, activities or services for or on behalf of the Department pursuant to the terms of this Agreement provided that such use or disclosure would not violate the California Information Practices Act (CIPA) if done by the Department.

B. Responsibilities of Contractor

Contractor agrees:

- 1) **Nondisclosure.** Not to use or disclose Department PI or PII other than as permitted or required by this Agreement or as required by applicable state and Federal law.
- 2) **Safeguards.** To implement appropriate and reasonable administrative, technical, and physical safeguards to protect the security, confidentiality and integrity of Department PI and PII, to protect against anticipated threats or hazards to the security or integrity of Department PI and PII, and to prevent use or disclosure of Department PI or PII other than as provided for by this Agreement. Contractor shall develop and maintain a written information privacy and security program that include administrative, technical and physical safeguards appropriate to the size and complexity of Contractor's operations and the nature and scope of its activities, which incorporate the requirements of section 3, Security, below. Contractor will provide DHCS with its current policies upon request.
- 3) **Security.** Contractor shall take any and all steps necessary to ensure the continuous security of all computerized data systems containing PHI and/or PI, and to protect paper documents containing PHI and/or PI. These steps shall include, at a minimum:
 - a. Complying with all of the data system security precautions listed in Attachment A, Business Associate Data Security Requirements;
 - b. Providing a level and scope of security that is at least comparable to the level and scope of security established by

Exhibit F A1
Privacy and Information Security Provisions

the Office of Management and Budget in OMB Circular No. A-130, Appendix III- Security of Federal Automated Information Systems, which sets forth guidelines for automated information systems in Federal agencies.

- 4) **Mitigation of Harmful Effects.** To mitigate, to the extent practicable, any harmful effect that is known to Contractor of a use or disclosure of Department PI or PII by Contractor or its subcontractors in violation of this Exhibit F-2.
- 5) **Contractor's Agents and Subcontractors.** To impose the same restrictions and conditions set forth in this Exhibit F-2 on any subcontractors or other agents with whom Contractor subcontracts any activities under this Agreement that involve the disclosure of Department PI or PII to the subcontractor.
- 6) **Availability of Information to DHCS.** To make Department PI and PII available to the Department for purposes of oversight, inspection, amendment, and response to requests for records, injunctions, judgments, and orders for production of Department PI and PII. If Contractor receives Department PII, upon request by DHCS, Contractor shall provide DHCS with a list of all employees, contractors and agents who have access to Department PII, including employees, contractors and agents of its subcontractors and agents.
- 7) **Cooperation with DHCS.** With respect to Department PI, to cooperate with and assist the Department to the extent necessary to ensure the Department's compliance with the applicable terms of the CIPA including, but not limited to, accounting of disclosures of Department PI, correction of errors in Department PI, production of Department PI, disclosure of a security breach involving Department PI and notice of such breach to the affected individual(s).
- 8) **Confidentiality of Alcohol and Drug Abuse Patient Records.** Contractor agrees to comply with all confidentiality requirements set forth in Title 42 Code of Federal Regulations, Chapter I, Subchapter A, Part 2. Contractor is aware that criminal penalties may be imposed for a violation of these confidentiality requirements.
- 9) **Breaches and Security Incidents.** During the term of this Agreement, Contractor agrees to implement reasonable systems for the discovery and prompt reporting of any breach or security incident, and to take the following steps:

Exhibit F A1
Privacy and Information Security Provisions

- a. Initial Notice to the Department. (1) To notify the Department **immediately by telephone call or email or fax** upon the discovery of a breach of unsecured Department PI or PII in electronic media or in any other media if the PI or PII was, or is reasonably believed to have been, accessed or acquired by an unauthorized person, or upon discovery of a suspected security incident involving Department PII. (2) To notify the Department **within 24 hours by email or fax** of the discovery of any suspected security incident, intrusion or unauthorized access, use or disclosure of Department PI or PII in violation of this Agreement or this Exhibit F-1 or potential loss of confidential data affecting this Agreement. A breach shall be treated as discovered by Contractor as of the first day on which the breach is known, or by exercising reasonable diligence would have been known, to any person (other than the person committing the breach) who is an employee, officer or other agent of Contractor.

- b. Notice shall be provided to the Information Protection Unit, Office of HIPAA Compliance. If the incident occurs after business hours or on a weekend or holiday and involves electronic Department PI or PII, notice shall be provided by calling the Department Information Security Officer. Notice shall be made using the DHCS "Privacy Incident Report" form, including all information known at the time. Contractor shall use the most current version of this form, which is posted on the DHCS Information Security Officer website (www.dhcs.ca.gov, then select "Privacy" in the left column and then "Business Partner" near the middle of the page) or use this link:
<http://www.dhcs.ca.gov/formsandpubs/laws/priv/Pages/DHCSBusinessAssociatesOnly.aspx> .

- c. Upon discovery of a breach or suspected security incident, intrusion or unauthorized access, use or disclosure of Department PI or PII, Contractor shall take:
 - i. Prompt corrective action to mitigate any risks or damages involved with the breach and to protect the operating environment; and

Exhibit F A1

Privacy and Information Security Provisions

- ii. Any action pertaining to such unauthorized disclosure required by applicable Federal and State laws and regulations.

- d. **Investigation and Investigation Report.** To immediately investigate such suspected security incident, security incident, breach, or unauthorized access, use or disclosure of PHI. Within 72 hours of the discovery, Contractor shall submit an updated "Privacy Incident Report" containing the information marked with an asterisk and all other applicable information listed on the form, to the extent known at that time, to the Department Information Security Officer.

- e. **Complete Report.** To provide a complete report of the investigation to the Department Program Contract Manager and the Information Protection Unit within ten working days of the discovery of the breach or unauthorized use or disclosure. The report shall be submitted on the "Privacy Incident Report" form and shall include an assessment of all known factors relevant to a determination of whether a breach occurred. The report shall also include a full, detailed corrective action plan, including information on measures that were taken to halt and/or contain the improper use or disclosure. If the Department requests information in addition to that listed on the "Privacy Incident Report" form, Contractor shall make reasonable efforts to provide the Department with such information. If, because of the circumstances of the incident, Contractor needs more than ten working days from the discovery to submit a complete report, the Department may grant a reasonable extension of time, in which case Contractor shall submit periodic updates until the complete report is submitted. If necessary, a Supplemental Report may be used to submit revised or additional information after the completed report is submitted, by submitting the revised or additional information on an updated "Privacy Incident Report" form. The Department will review and approve the determination of whether a breach occurred and whether individual notifications and a corrective action plan are required.

- f. **Responsibility for Reporting of Breaches.** If the cause of a breach of Department PI or PII is attributable to Contractor or its agents, subcontractors or vendors, Contractor is

**Exhibit F A1
Privacy and Information Security Provisions**

responsible for all required reporting of the breach as specified in CIPA, section 1798.29. Contractor shall bear all costs of required notifications to individuals as well as any costs associated with the breach. The Privacy Officer shall approve the time, manner and content of any such notifications and their review and approval must be obtained before the notifications are made. The Department will provide its review and approval expeditiously and without unreasonable delay.

- g.** If Contractor has reason to believe that duplicate reporting of the same breach or incident may occur because its subcontractors, agents or vendors may report the breach or incident to the Department in addition to Contractor, Contractor shall notify the Department, and the Department and Contractor may take appropriate action to prevent duplicate reporting.

- h. Department Contact Information.** To direct communications to the above referenced Department staff, the Contractor shall initiate contact as indicated herein. The Department reserves the right to make changes to the contact information below by giving written notice to the Contractor. Said changes shall not require an amendment to this Addendum or the Agreement to which it is incorporated.

Department Program Contract Manager	DHCS Privacy Officer	DHCS Information Security Officer
See the Exhibit A, Scope of Work for Program Contract Manager information	Information Protection Unit c/o: Office of HIPAA Compliance Department of Health Care Services P.O. Box 997413, MS 4722 Sacramento, CA 95899-7413 (916) 445-4646 Email: privacyofficer@dhcs.ca.gov Telephone:(916) 445-4646 Fax: (916) 440-7680	Information Security Officer DHCS Information Security Office P.O. Box 997413, MS 6400 Sacramento, CA 95899-7413 Email: iso@dhcs.ca.gov Telephone: ITSD Service Desk (916) 440-7000 or (800) 579-0874 Fax: (916) 440-5537

Exhibit F A1
Privacy and Information Security Provisions

10) Designation of Individual Responsible for Security.

Contractor shall designate an individual, (e.g., Security Officer), to oversee its data security program who shall be responsible for carrying out the requirements of this Exhibit F-2 and for communicating on security matters with the Department.

Exhibit F A1
Privacy and Information Security Provisions

F-3

Miscellaneous Terms and Conditions

Applicable to Exhibit F

- 1) **Confidentiality of Alcohol and Drug Abuse Patient Records.** Contractor agrees to comply with all confidentiality requirements set forth in Title 42 Code of Federal Regulations, Chapter I, Subchapter A, Part 2. Contractor is aware that criminal penalties may be imposed for a violation of these confidentiality requirements.
- 2) **Disclaimer.** The Department makes no warranty or representation that compliance by Contractor with this Exhibit F, HIPAA or the HIPAA regulations will be adequate or satisfactory for Contractor's own purposes or that any information in Contractor's possession or control, or transmitted or received by Contractor, is or will be secure from unauthorized use or disclosure. Contractor is solely responsible for all decisions made by Contractor regarding the safeguarding of the Department PHI, PI and PII.
- 3) **Amendment.** The parties acknowledge that federal and state laws relating to electronic data security and privacy are rapidly evolving and that amendment of this Exhibit F may be required to provide for procedures to ensure compliance with such developments. The parties specifically agree to take such action as is necessary to implement the standards and requirements of HIPAA, the HITECH Act, and the HIPAA regulations, and other applicable state and Federal laws. Upon either party's request, the other party agrees to promptly enter into negotiations concerning an amendment to this Exhibit F embodying written assurances consistent with the standards and requirements of HIPAA, the HITECH Act, and the HIPAA regulations, and other applicable state and Federal laws. The Department may terminate this Agreement upon thirty (30) days written notice in the event:
 - A) Contractor does not promptly enter into negotiations to amend this Exhibit F when requested by the Department pursuant to this section; or
 - B) Contractor does not enter into an amendment providing assurances regarding the safeguarding of Department PHI that the Department deems is necessary to satisfy the standards and requirements of HIPAA and the HIPAA regulations.
- 4) **Judicial or Administrative Proceedings.** Contractor will notify the Department if it is named as a defendant in a criminal proceeding for a violation of HIPAA or other security or privacy law. The Department may terminate this Agreement if Contractor is found guilty of a criminal violation of HIPAA. The Department may terminate this Agreement if a finding or stipulation that the Contractor has violated any standard or requirement of

Exhibit F A1
Privacy and Information Security Provisions

HIPAA, or other security or privacy laws is made in any administrative or civil proceeding in which the Contractor is a party or has been joined. DHCS will consider the nature and seriousness of the violation in deciding whether or not to terminate the Agreement.

- 5) **Assistance in Litigation or Administrative Proceedings.** Contractor shall make itself and any subcontractors, employees, or agents assisting Contractor in the performance of its obligations under this Agreement, available to the Department at no cost to the Department to testify as witnesses, or otherwise, in the event of litigation or administrative proceedings being commenced against the Department, its directors, officers or employees based upon claimed violation of HIPAA, or the HIPAA regulations, which involves inactions or actions by the Contractor, except where Contractor or its subcontractor, employee or agent is a named adverse party.
- 6) **No Third-Party Beneficiaries.** Nothing expressed or implied in the terms and conditions of this Exhibit F is intended to confer, nor shall anything herein confer, upon any person other than the Department or Contractor and their respective successors or assignees, any rights, remedies, obligations or liabilities whatsoever.
- 7) **Interpretation.** The terms and conditions in this Exhibit F shall be interpreted as broadly as necessary to implement and comply with HIPAA, the HITECH Act, and the HIPAA regulations. The parties agree that any ambiguity in the terms and conditions of this Exhibit F shall be resolved in favor of a meaning that complies and is consistent with HIPAA, the HITECH Act and the HIPAA regulations, and, if applicable, any other relevant state and Federal laws.
- 8) **Conflict.** In case of a conflict between any applicable privacy or security rules, laws, regulations or standards the most stringent shall apply. The most stringent means that safeguard which provides the highest level of protection to PHI, PI and PII from unauthorized disclosure. Further, Contractor must comply within a reasonable period of time with changes to these standards that occur after the effective date of this Agreement.
- 9) **Regulatory References.** A reference in the terms and conditions of this Exhibit F to a section in the HIPAA regulations means the section as in effect or as amended.
- 10) **Survival.** The respective rights and obligations of Contractor under Section 3, Item D of Exhibit F-1, and Section 3, Item B of Exhibit F-2, Responsibilities of Contractor, shall survive the termination or expiration of this Agreement.

Exhibit F A1
Privacy and Information Security Provisions

- 11) **No Waiver of Obligations.** No change, waiver, or discharge of any liability or obligation hereunder on any one or more occasions shall be deemed a waiver of performance of any continuing or other obligation, or shall prohibit enforcement of any obligation, on any other occasion.
- 12) **Audits, Inspection and Enforcement.** From time to time, and subject to all applicable Federal and state privacy and security laws and regulations, the Department may conduct a reasonable inspection of the facilities, systems, books and records of Contractor to monitor compliance with this Exhibit F. Contractor shall promptly remedy any violation of any provision of this Exhibit F. The fact that the Department inspects, or fails to inspect, or has the right to inspect, Contractor's facilities, systems and procedures does not relieve Contractor of its responsibility to comply with this Exhibit F. The Department's failure to detect a non-compliant practice, or a failure to report a detected non-compliant practice to Contractor does not constitute acceptance of such practice or a waiver of the Department's enforcement rights under this Agreement, including this Exhibit F.
- 13) **Due Diligence.** Contractor shall exercise due diligence and shall take reasonable steps to ensure that it remains in compliance with this Exhibit F and is in compliance with applicable provisions of HIPAA, the HITECH Act and the HIPAA regulations, and other applicable state and Federal law, and that its agents, subcontractors and vendors are in compliance with their obligations as required by this Exhibit F.
- 14) **Term.** The Term of this Exhibit F-1 shall extend beyond the termination of the Agreement and shall terminate when all Department PHI is destroyed or returned to the Department, in accordance with 45 CFR Section 164.504(e)(2)(ii)(I), and when all Department PI and PII is destroyed in accordance with Attachment A.
- 15) **Effect of Termination.** Upon termination or expiration of this Agreement for any reason, Contractor shall return or destroy all Department PHI, PI and PII that Contractor still maintains in any form, and shall retain no copies of such PHI, PI or PII. If return or destruction is not feasible, Contractor shall notify the Department of the conditions that make the return or destruction infeasible, and the Department and Contractor shall determine the terms and conditions under which Contractor may retain the PHI, PI or PII. Contractor shall continue to extend the protections of this Exhibit F to such Department PHI, PI and PII, and shall limit further use of such data to those purposes that make the return or destruction of such data infeasible. This provision shall apply to Department PHI, PI and PII that is in the possession of subcontractors or agents of Contractor.

Exhibit F A1
Privacy and Information Security Provisions

Attachment I
Business Associate Data Security Requirements

I. Personnel Controls.

- A. *Employee Training.*** All workforce members who assist in the performance of functions or activities on behalf of DHCS, or access or disclose DHCS PHI or PI must complete information privacy and security training, at least annually, at Business Associate's expense. Each workforce member who receives information privacy and security training must sign a certification, indicating the member's name and the date on which the training was completed. These certifications must be retained for a period of six (6) years following contract termination.
- B. *Employee Discipline.*** Appropriate sanctions must be applied against workforce members who fail to comply with privacy policies and procedures or any provisions of these requirements, including termination of employment where appropriate.
- C. *Confidentiality Statement.*** All persons that will be working with DHCS PHI or PI must sign a confidentiality statement that includes, at a minimum, General Use, Security and Privacy Safeguards, Unacceptable Use, and Enforcement Policies. The statement must be signed by the workforce member prior to access to DHCS PHI or PI. The statement must be renewed annually. The Contractor shall retain each person's written confidentiality statement for DHCS inspection for a period of six (6) years following contract termination.
- D. *Background Check.*** Before a member of the workforce may access DHCS PHI or PI, a thorough background check of that worker must be conducted, with evaluation of the results to assure that there is no indication that the worker may present a risk to the security or integrity of confidential data or a risk for theft or misuse of confidential data. The Contractor shall retain each workforce member's background check documentation for a period of three (3) years following contract termination.

II. Technical Security Controls.

- A. *Workstation/Laptop encryption.*** All workstations and laptops that process and/or store DHCS PHI or PI must be encrypted using a FIPS 140-2 certified algorithm which is 128bit or higher, such as Advanced

Exhibit F A1
Privacy and Information Security Provisions

Encryption Standard (AES). The encryption solution must be full disk unless approved by the DHCS Information Security Office.

- B. *Server Security.*** Servers containing unencrypted DHCS PHI or PI must have sufficient administrative, physical, and technical controls in place to protect that data, based upon a risk assessment/system security review.
- C. *Minimum Necessary.*** Only the minimum necessary amount of DHCS PHI or PI required to perform necessary business functions may be copied, downloaded, or exported.
- D. *Removable media devices.*** All electronic files that contain DHCS PHI or PI data must be encrypted when stored on any removable media or portable device (i.e. USB thumb drives, floppies, CD/DVD, smartphones, backup tapes etc.). Encryption must be a FIPS 140-2 certified algorithm which is 128bit or higher, such as AES.
- E. *Antivirus software.*** All workstations, laptops and other systems that process and/or store DHCS PHI or PI must install and actively use comprehensive anti-virus software solution with automatic updates scheduled at least daily.
- F. *Patch Management.*** All workstations, laptops and other systems that process and/or store DHCS PHI or PI must have critical security patches applied, with system reboot if necessary. There must be a documented patch management process which determines installation timeframe based on risk assessment and vendor recommendations. At a maximum, all applicable patches must be installed within 30 days of vendor release.
- G. *User IDs and Password Controls.*** All users must be issued a unique user name for accessing DHCS PHI or PI. Username must be promptly disabled, deleted, or the password changed upon the transfer or termination of an employee with knowledge of the password, at maximum within 24 hours. Passwords are not to be shared. Passwords must be at least eight characters and must be a non-dictionary word. Passwords must not be stored in readable format on the computer. Passwords must be changed every 90 days, preferably every 60 days. Passwords must be changed if revealed or compromised. Passwords must be composed of characters from at least three of the following four groups from the standard keyboard:
- Upper case letters (A-Z)
 - Lower case letters (a-z)

Exhibit F A1
Privacy and Information Security Provisions

- Arabic numerals (0-9)
 - Non-alphanumeric characters (punctuation symbols)
- H. **Data Destruction.** When no longer needed, all DHCS PHI or PI must be cleared, purged, or destroyed consistent with NIST Special Publication 800-88, Guidelines for Media Sanitization such that the PHI or PI cannot be retrieved.
- I. **System Timeout.** The system providing access to DHCS PHI or PI must provide an automatic timeout, requiring re-authentication of the user session after no more than 20 minutes of inactivity.
- J. **Warning Banners.** All systems providing access to DHCS PHI or PI must display a warning banner stating that data is confidential, systems are logged, and system use is for business purposes only by authorized users. User must be directed to log off the system if they do not agree with these requirements.
- K. **System Logging.** The system must maintain an automated audit trail which can identify the user or system process which initiates a request for DHCS PHI or PI, or which alters DHCS PHI or PI. The audit trail must be date and time stamped, must log both successful and failed accesses, must be read only, and must be restricted to authorized users. If DHCS PHI or PI is stored in a database, database logging functionality must be enabled. Audit trail data must be archived for at least 3 years after occurrence.
- L. **Access Controls.** The system providing access to DHCS PHI or PI must use role based access controls for all user authentications, enforcing the principle of least privilege.
- M. **Transmission encryption.** All data transmissions of DHCS PHI or PI outside the secure internal network must be encrypted using a FIPS 140-2 certified algorithm which is 128bit or higher, such as AES. Encryption can be end to end at the network level, or the data files containing PHI can be encrypted. This requirement pertains to any type of PHI or PI in motion such as website access, file transfer, and E-Mail.
- N. **Intrusion Detection.** All systems involved in accessing, holding, transporting, and protecting DHCS PHI or PI that are accessible via the Internet must be protected by a comprehensive intrusion detection and prevention solution.

Exhibit F A1
Privacy and Information Security Provisions

III. Audit Controls.

- A. *System Security Review.*** All systems processing and/or storing DHCS PHI or PI must have at least an annual system risk assessment/security review which provides assurance that administrative, physical, and technical controls are functioning effectively and providing adequate levels of protection. Reviews should include vulnerability scanning tools.
- B. *Log Reviews.*** All systems processing and/or storing DHCS PHI or PI must have a routine procedure in place to review system logs for unauthorized access.
- C. *Change Control.*** All systems processing and/or storing DHCS PHI or PI must have a documented change control procedure that ensures separation of duties and protects the confidentiality, integrity and availability of data.

IV. Business Continuity / Disaster Recovery Controls

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

V. Paper Document Controls.

- A. *Supervision of Data.*** DHCS PHI or PI in paper form shall not be left unattended at any time, unless it is locked in a file cabinet, file room, desk or office. Unattended means that information is not being observed by an employee authorized to access the information. DHCS PHI or PI in paper form shall not be left unattended at any time in vehicles or planes and shall not be checked in baggage on commercial airplanes.

Exhibit F A1
Privacy and Information Security Provisions

- B. *Escorting Visitors.*** Visitors to areas where DHCS PHI or PI is contained shall be escorted and DHCS PHI or PI shall be kept out of sight while visitors are in the area.
- C. *Confidential Destruction.*** DHCS PHI or PI must be disposed of through confidential means, such as cross cut shredding and pulverizing.
- D. *Removal of Data.*** DHCS PHI or PI must not be removed from the premises of the Contractor except with express written permission of DHCS.
- E. *Faxing.*** Faxes containing DHCS PHI or PI shall not be left unattended and fax machines shall be in secure areas. Faxes shall contain a confidentiality statement notifying persons receiving faxes in error to destroy them. Fax numbers shall be verified with the intended recipient before sending the fax.
- F. *Mailing.*** Mailings of DHCS PHI or PI shall be sealed and secured from damage or inappropriate viewing of PHI or PI to the extent possible. Mailings which include 500 or more individually identifiable records of DHCS PHI or PI in a single package shall be sent using a tracked mailing method which includes verification of delivery and receipt, unless the prior written permission of DHCS to use another method is obtained.



AGENDA REQUEST FORM
BOARD OF SUPERVISORS
COUNTY OF INYO

- Consent Departmental Correspondence Action Public Hearing
 Schedule time for Closed Session Informational

For Clerk's Use
Only:

AGENDA NUMBER

18

FROM: Public Works Department

FOR THE BOARD MEETING OF: MARCH 19, 2019

SUBJECT: Approve resolution authorizing and approving the treasury loan to the Public Works Department for the Independence Water System

DEPARTMENTAL RECOMMENDATIONS: Request your Board to:

1. Approve resolution authorizing and approving the treasury loan to the Public Works Department for the Independence Water System in the amount of Seventy Eight Thousand dollars (\$78,000);
2. Authorize the Public Works Director accept the loan on behalf of the Public Works Department.

CAO RECOMMENDATION:

SUMMARY DISCUSSION:

In December of 2017 the Independence Water System (IWS) transmission main was facing imminent failure, with five significant leaks springing up simultaneously. The ductile iron pipe had been in place since 1928, and is estimated to have been ten to twenty years old at the time of installation. Efforts to repair the leaks were unsuccessful due to the deteriorated, fragile condition of the pipe. On December 19th, 2017 the Public Works Department received permission from the your Board to lease and install 2,840 feet of 12 inch High Density Poly-Ethylene (HDPE) pipe to act as the temporary transmission main while a permanent solution was pursued.

It was initially assumed that the permanent replacement would be ductile iron; however after an analysis of the benefits of ductile iron versus HDPE, the Public Works Department has determined that HDPE will be the best option for the Independence system.

Public Works proposes to purchase the pipe that is currently in place, and to install the pipe underground once the design process is complete. This will save the IWS the cost of a year or more of rental while the department pursues grant or long term low interest loan funding for the pipe installation. The IWS is currently paying \$4,019.73/month (\$48,236.76/year) for the lease of these materials. The purchase price from the rental company, HercRentals, for all pipe and fittings currently in place is \$78,646.55.

The treasury loan application was presented to the Inyo County Financial Advisory Committee and the Treasury Oversight Committee, and was approved by both entities.

ALTERNATIVES:

Your Board could choose not to approve treasury loan for IWS, and direct the Public Works Department to continue the rental agreement with HercRental until the IWS is ready for construction on the new transmission line or to determine a separate source of funding for the purchase of the pipe and fittings.

OTHER AGENCY INVOLVEMENT:

County Counsel to review and approve loan documents.

FINANCING: The loan payments will be paid through budget unit 152101: Independence Water System.

APPROVALS

COUNTY COUNSEL: AGREEMENTS, CONTRACTS AND ORDINANCES AND CLOSED SESSION AND RELATED ITEMS (Must be reviewed and approved by County Counsel prior to submission to the board clerk.)
Chuckla Approved: yes Date 3/11/19

AUDITOR/CONTROLLER ACCOUNTING/FINANCE AND RELATED ITEMS (Must be reviewed and approved by the auditor/controller prior to submission to the board clerk.)
[Signature] Approved: yes Date 3/12/2019

DEPARTMENT HEAD SIGNATURE:
(Not to be signed until all approvals are received) *[Signature]* Date: 2019.03.13

APPROVALS

COUNTY COUNSEL:

AGREEMENTS, CONTRACTS AND ORDINANCES AND CLOSED SESSION AND RELATED ITEMS (Must be reviewed and approved by County Counsel prior to submission to the board clerk.)

J. Church

Approved: yes

Date 3/11/11

AUDITOR/CONTROLLER

ACCOUNTING/FINANCE AND RELATED ITEMS (Must be reviewed and approved by the auditor/controller prior to submission to the board clerk.)

[Handwritten signature]

Approved: yes

Date 3/12/2011

DEPARTMENT HEAD SIGNATURE:

(Not to be signed until all approvals are received) _____ Date: _____

RESOLUTION NUMBER 2019-_____
A RESOLUTION OF THE INYO COUNTY BOARD OF SUPERVISORS
AUTHORIZING AND APPROVING AN
INYO COUNTY TREASURY LOAN TO
THE INYO COUNTY PUBLIC WORKS DEPARTMENT

WHEREAS, Government Code section 53601(e) and the Inyo County Investment Policy authorize the Treasurer-Tax Collector to purchase bonds, notes, warrants or other evidences of debt of any agency formed within Inyo County; and

WHEREAS, it has been determined by the Treasurer-Tax Collector that there are funds available in this investment category to provide short term, low interest treasury loans for local agencies (Treasury Loans);

WHEREAS, after the failure of the Independence water transmission main in December of 2017, the Inyo County Public Works Department (Public Works) received the approval of the Inyo County Board of Supervisors to rent and install 2840 feet of 12 inch high density polyethylene (HDPE) pipe and required fittings to serve as the temporary water main;

WHEREAS, Public Works has determined that said HDPE pipe is the preferred alternative to permanently replace the transmission main, and therefore wishes to purchase said pipe and fittings;

WHEREAS, the Inyo County Public Works Department submitted an application to the Treasurer-Tax Collector's Office for a five (5) year Seventy Eight Thousand Dollars (\$78,000.00) Treasury Loan (Application) from the Inyo County Treasury Pool's Local Debt Purchase Program to be used for the purchase of HDPE pipe to serve as the water transmission main for the Independence Water System.

WHEREAS, the Inyo County Treasury Oversight Committee reviewed the Application, determined the INYO COUNTY PUBLIC WORKS DEPARTMENT is a qualified local agency eligible for a Bridge Loan and submitted the Application to the Treasurer-Tax Collector for review with its recommendation for approval; and

WHEREAS, the Treasurer-Tax Collector has determined there are funds available to make a Bridge Loan to the INYO COUNTY PUBLIC WORKS DEPARTMENT pursuant to its Application; and

WHEREAS, the Treasurer-Tax Collector approved the Application subject to approval of the Board of Supervisors.

NOW THEREFORE BE IT RESOLVED

- A. The Inyo County Board of Supervisors approves and authorizes the INYO COUNTY PUBLIC WORKS DEPARTMENT to accept a loan in the amount of \$78,000 with interest accruing at the now current rate paid by LAIF plus one percent, 3.40% for a term of five (5) years from the Inyo County Treasury Pool's Local Debt Purchase Program (Loan) to provide funding for the Project; and
- B. The amount of the Loan will be paid in full, plus interest, under the terms and conditions of the Loan Agreement and Promissory Note collectively attached hereto as Attachment "1"; and

- C. The Inyo County Public Works Director is authorized to sign for the INYO COUNTY PUBLIC WORKS DEPARTMENT all documents needed to implement and carry out the purpose of this Resolution and to undertake all actions needed to undertake and complete the Project for which the Loan is intended.

PASSED AND ADOPTED THIS ____ DAY OF MARCH 2019 by the following vote:

AYES

NOES

ABSTENTION

Richard Pucci, Chair
INYO COUNTY BOARD OF SUPERVISORS

ATTEST:
CLINT QUILTER
CLERK OF THE BOARD

by _____
Darcy Ellis

ATTACHMENT 1

INYO COUNTY TREASURY LOAN AGREEMENT

This Loan Agreement (the "Agreement") by and between the INYO COUNTY TREASURY (the "Treasury") and the Board of Supervisors on behalf of Inyo County (the "Borrower"), all California public entities, is entered into as of the date set forth below. The Inyo County Treasurer (the "Treasurer") is the authorized representative for the Treasury.

1. STATUTORY AUTHORITY AND LOAN

- a. Following review and recommendation by the Inyo County Treasury Oversight Committee as allowed in California Government Code Section 53601(e) and the County of Inyo Statement of Investment Policy, the Treasurer approves the Borrower's loan application dated February 11, 2019, which is not attached but is expressly incorporated by reference herein.
- b. Subject to the terms, covenants, and conditions contained herein, the Treasury shall make a loan to the Borrower (the "Loan") in the amount of SEVENTY EIGHT THOUSAND DOLLARS (\$78,000.00) evidenced by a Promissory Note (the "Promissory Note"), for loan number 2019-04 for INDEPENDENCE WATER SYSTEM IMPROVEMENT ("Project"). A copy of the Promissory Note is attached hereto as Exhibit "A" and incorporated herein by this reference as though set forth fully.

2. PURPOSE

The Borrower agrees to expend all funds disbursed pursuant to this Agreement only for the purpose of completing the Project.

3. LOAN DISBURSEMENT

The Treasury agrees to disburse funds to the Borrower upon receipt of a Resolution authorizing and approving the Loan from the County of Inyo Board of Supervisors and the Borrower's execution of the Promissory Note.

4. LOAN REPAYMENT AND INTEREST

All funds disbursed hereunder, together with all interest payable thereon, shall be repaid to the Treasury in accordance with the terms of the Promissory Note. The loan shall bear simple interest at the annual rate set forth in the attached Promissory Note on the principal balance of Loan funds disbursed to the Borrower. Payment of said interest shall be due at the time of the quarterly scheduled Loan repayment

installments to the Treasury, Exhibit 1 to the Promissory Note, and interest shall accrue from the time of disbursement of funds to the Borrower until receipt of the full Loan repayment to the Treasury.

5. TERM

This Agreement shall commence on the date it has been executed by both parties, with the date being inserted by the final party to sign, and shall continue for five (5) years subject to the Treasury's right to terminate as discussed herein below in Paragraph 11.

6. PREPAYMENT

The Borrower shall have the right to prepay all or any part of this Loan at any time without penalty.

7. PROMISSORY NOTE

In order to evidence its debt to the Treasury hereunder, the Borrower agrees to, contemporaneously with the execution of this Agreement, execute and deliver to the Treasury the Promissory Note.

8. ACCOUNTS, AUDITS, AND RECORDS

- a. Borrower shall maintain any and all ledgers, books of account, invoices, vouchers, canceled checks, and other records or documents evidencing or relating to charges for services, or expenditures and disbursements charged against the Loan for a minimum period of three (3) years, or for any longer period required by law, from the date the loan obligation is satisfied.
- b. Borrower shall maintain all documents and records which demonstrate performance under this Agreement for a minimum period of three (3) years, or for any longer period required by law, from the date of termination or completion of this Agreement.
- c. Any records or documents required to be maintained pursuant to this Agreement shall be made available for inspection or audit at any time during regular business hours, upon written request by the Treasurer or other designated representative of the Treasury. Copies of such documents shall be provided to the Treasurer for inspection at the Treasurer's office unless it is impractical to do so; in which case the records shall be made available at Borrower's address indicated for receipt of notices in this Agreement.
- d. If requested by the Treasury the Borrower shall submit to an independent audit, at its expense.

9. SOURCE OF REPAYMENT

- a.** Annual payments due to the Treasury under this Agreement shall be made from such legally available funds as the Borrower chooses.
- b.** The Borrower agrees to take all action necessary to include all payments due hereunder in its annual budget and to make the necessary annual appropriations for all such payments.

10. DEFAULT

- a.** In the event of any default or breach of this Agreement by the Borrower, the Treasury, without limiting any of its other legal rights or remedies, may, to the extent permitted by law, declare the Promissory Note evidencing this Loan to be immediately due and payable.
- b.** Each of the following occurrences shall constitute an event of default:
 - 1. The Borrower's failure to comply with any of the terms of this Agreement;
 - 2. Failure of the Borrower to repay any principal or interest when due under the terms of this Promissory Note;
 - 3. Failure of the Borrower to undertake in a timely manner the express and implied activities for which this Loan Agreement has been executed;
 - 4. The occurrence of any of the following:
 - (i) The Borrower becoming insolvent or bankrupt or being unable or admitting in writing its inability to pay its debts as they mature or making a general assignment for benefit of or entering into any composition or arrangement with creditors;
 - (ii) Proceedings for the appointment of a receiver, trustee, or liquidator of the assets of the Borrower or a substantial part thereof, being authorized by or against the Borrower; or
 - (iii) Proceedings under any bankruptcy, reorganization, readjustment of debt, insolvency, dissolution, liquidation or other similar law, or any jurisdiction being authorized against the Borrower.
- (iv) Reorganization of the Borrower in a manner that reduces the tax base from which payments are due as determined in the discretion of the Treasurer.

11. TERMINATION

In the event of default or any breach by the Borrower of the conditions set forth in this Agreement, the Treasury may, without prejudice to any of its legal remedies, terminate this Agreement for cause upon five (5) days written notice to the Borrower.

12. GENERAL TERMS

- a. Independent Capacity. The Borrower, and the agents and employees of the Borrower, in the performance of this Agreement, shall act in an independent capacity and not as agents of the Treasury.
- b. Assignment. This Agreement is not assignable or transferable by the Borrower either in whole or in part.
- c. Time is of the Essence. Time is of the essence in this Agreement. Borrower is required to take timely actions which, taken collectively, move to the completion of the purpose for which this Loan was awarded. If the Treasurer determines that the Borrower is not progressing toward completion within one (1) year after the effective date of this Agreement, The Treasurer may, without penalty or prejudice to any of the Treasury's other remedies, terminate this Agreement.
- d. Entire Agreement: This Agreement constitutes the complete and exclusive statement of Agreement between the Treasury and Borrower. All prior written and oral communications, including correspondence, drafts, memoranda, and representations, are superseded in total by this Agreement.
- e. Amendment. No amendment or variation of the terms of this Agreement shall be valid unless made in writing and signed by the parties hereto, and no oral understanding or agreement not incorporated herein shall be binding on any of the parties hereto.
- f. Severability. In the event that any provision of this Agreement is unenforceable or held to be unenforceable, then the parties agree that all other provisions of this Agreement have force and effect and shall not be effected thereby.
- g. Governing Law and Venue. This Agreement is governed by and shall be interpreted in accordance with the laws of the State of California. Venue shall be in Inyo County.
- h. Borrower Authorization. The Borrower certifies that it has full power and authority to enter into this Agreement, and this Agreement has been duly authorized, executed and delivered by the Borrower. The Borrower acknowledges that the Resolution of its governing body or other official action authorizing it to enter into this Agreement also authorizes such further acts as

are necessary, including execution of the Promissory Note, to implement and further the intent of this Agreement.

- i. **Waiver:** No failure on the part of either party to exercise any right or remedy hereunder shall operate as a waiver of any other right or remedy that party may have hereunder.

13. NOTICE

- a. Any notice, demand, request, consent, approval or communication that either party desires or is required to give to the other party shall be in writing and either served personally or sent prepaid, first class mail U.S. mail, overnight mail, or personal delivery, providing evidence of receipt.
- b. Any such notice, demand, etc., shall be addressed/delivered to the other party at the address, set forth herein below. Either party may change its address by notifying the other party of the change of address. Notice shall be deemed communicated within 48 hours from the time of mailing if mailed as provided in this section or on receipt.

If to the TREASURY : Inyo County Treasurer-Tax Collector
Attn: Debt Purchase Program
P.O. Drawer O
Independence, CA 93526

If to BORROWER: County of Inyo
Attn: Chief Administrative Officer
PO Drawer N
Independence, CA 93526

- c. Delivery by fax or e-mail is not considered notice for the purposes of this Agreement.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed on _____, 20__.

TREASURY

BORROWER

Alisha McMurtrie
TREASURER

Richard Pucci
CHAIRMAN

APPROVED AS TO FORM:

ATTEST:
Board Clerk



Counsel

By _____

Exhibit A

PROMISSORY NOTE

LOAN NUMBER: 2019-04
PRINCIPAL AMOUNT: \$78,000.00
INTEREST RATE: 3.40%

1. For value received, the undersigned, (herein after referred to as the "Borrower"), promises to pay to the order of the Inyo County Treasury (herein after referred to as the "Treasury"), at its principal place of business at 168 N. Edwards Street, Independence CA 93526-0614, or at such other places as the Treasury may designate the principal sum of SEVENTY EIGHT THOUSAND DOLLARS and 00/100 (\$78,000.00) or such lesser amount as shall equal the aggregate amount disbursed to the Borrower by the Treasury pursuant to the Inyo County Treasury Loan Agreement (the "Loan Agreement") between the Borrower and the Treasury, together with interest thereon at the rate of 3.40 percent per annum on the unpaid principal. Principal, together with interest thereon, is due and payable in quarterly installments as specified in the Estimated Amortizations Schedule, attached hereto as Exhibit "1," beginning on 20 and continuing thereafter on each Month/Day until said principal and interest shall be paid in full.
2. Payments received will be first applied to billed interest, if any, and the balance, if any, to principal. If all principal is repaid, the balance is applied to accrued interest.
3. Payments of any scheduled installment received within thirty (30) days of the due date shall be considered to have been received on the due date. Interest on the principal portion of the payment shall accrue through the due date.
4. Payment of any scheduled installment received more than thirty (30) days after the due date shall be considered late. Interest on the principal portion of the payment shall accrue through the actual date payment is received.
5. If any installment is not paid within thirty (30) days after its due date, The Treasury, at its option, may require the Borrower to pay a late charge equal to one percent (1%) of the amount of the installment.
6. The Borrower may prepay this Promissory Note in full or in part, without penalty.
7. The Borrower agrees to take such action as may be necessary to include all payments due herein in its annual budget and to make the necessary annual appropriations for all such payments.
8. On the occurrence of any event of default, the Treasury, at its sole election and without limiting any of its other legal rights or remedies, may, to the extent permitted by law,

declare all or any portion of the principal and accrued interest on this Promissory Note to be immediately due and payable and may proceed at once without further notice to enforce this Promissory Note according to law.

9. Each of the following occurrences shall constitute an event of default:
 - A. Failure of the Borrower to comply with any of the terms of the Agreement.
 - B. Failure of the Borrower to repay any principal or interest when due under the terms of this Promissory Note;
 - C. Termination of the Loan Agreement pursuant to the terms thereof or breach by the Borrower of any terms of said Loan Agreement;
 - D. Failure of the Borrower to undertake in a timely manner the express and implied activities for which said Loan Agreement has been executed;
 - E. The occurrence of any of the following:
 1. (1)the Borrower becoming insolvent or bankrupt or being unable or admitting in writing its inability to pay its debts as they mature or making a general assignment for benefit of or entering into any composition or arrangement with creditors;
 2. Proceedings for the appointment of a receiver, trustee, or liquidator of the assets of the Borrower or a substantial part thereof, being authorized by or against the Borrower; or
 3. Proceedings under any bankruptcy, reorganization, readjustment of debt, insolvency, dissolution, liquidation or other similar law, or any jurisdiction being authorized against the Borrower.
 4. Reorganization of the Borrower in a manner that the Treasurer in the exercise of discretion concludes reduces the tax base from which payment is to be made.
10. No delay or failure of the Treasury in the exercise of any right or remedy hereunder or under any other agreement which secures or is related hereto shall affect any such right or remedy, and no single or partial exercise of any such right or remedy shall preclude any further exercise thereof, and no action taken or omitted by the Treasury shall be deemed a waiver of any such right or remedy.
11. Any notice to the Borrower provided for in this Promissory Note shall be given by mailing such notice by certified mail, return receipt requested, addressed to the Borrower at the address stated in the Loan Agreement, or to such other address as the Borrower may designate by notice to the Treasury. Any notice to the Treasury shall be given by mailing certified mail, return receipt requested, to the Treasury at the address stated in the Loan Agreement, or at such other address as may have been designated by notice to the Borrower.

12. If suit is brought to collect any part of this Promissory Note, the Treasury shall be entitled to collect all reasonable costs and expenses of said suit and any appeal there from, including reasonable attorney's fees.
13. This Promissory Note shall be binding upon the Borrower and its permitted successors and assigns and upon the Treasury and its permitted successor and assigns. This Promissory Note is not assignable nor transferrable by the Borrower.
14. This Promissory Note shall be construed and enforced in accordance with the laws of the State of California, with venue in the County of Inyo.

COUNTY OF INYO

Richard Pucci
Chairman

DATE

EXHIBIT "1"
AMORTIZATION SCHEDULE
LOAN #2019-04

	PRINCIPAL	\$ 78,000.00
3.40%	TOTAL INTEREST	\$ 7,148.00
	TOTAL COST	\$ 85,148.00

PAYMENT NUMBER	PAYMENT AMOUNT	PRINCIPAL AMOUNT	INTEREST AMOUNT	PRINCIPAL BALANCE OWED
1	\$ 4,257.40	\$ 3,594.40	\$ 663.00	\$ 74,405.60
2	\$ 4,257.40	\$ 3,624.95	\$ 632.45	\$ 70,780.65
3	\$ 4,257.40	\$ 3,655.76	\$ 601.64	\$ 67,124.89
4	\$ 4,257.40	\$ 3,686.84	\$ 570.56	\$ 63,438.05
5	\$ 4,257.40	\$ 3,718.18	\$ 539.22	\$ 59,719.87
6	\$ 4,257.40	\$ 3,749.78	\$ 507.62	\$ 55,970.09
7	\$ 4,257.40	\$ 3,781.65	\$ 475.75	\$ 52,188.44
8	\$ 4,257.40	\$ 3,813.80	\$ 443.60	\$ 48,374.64
9	\$ 4,257.40	\$ 3,846.22	\$ 411.18	\$ 44,528.42
10	\$ 4,257.40	\$ 3,878.91	\$ 378.49	\$ 40,649.51
11	\$ 4,257.40	\$ 3,911.88	\$ 345.52	\$ 36,737.63
12	\$ 4,257.40	\$ 3,945.13	\$ 312.27	\$ 32,792.50
13	\$ 4,257.40	\$ 3,978.66	\$ 278.74	\$ 28,813.84
14	\$ 4,257.40	\$ 4,012.48	\$ 244.92	\$ 24,801.36
15	\$ 4,257.40	\$ 4,046.59	\$ 210.81	\$ 20,754.77
16	\$ 4,257.40	\$ 4,080.98	\$ 176.42	\$ 16,673.79
17	\$ 4,257.40	\$ 4,115.67	\$ 141.73	\$ 12,558.12
18	\$ 4,257.40	\$ 4,150.66	\$ 106.74	\$ 8,407.46
19	\$ 4,257.40	\$ 4,185.94	\$ 71.46	\$ 4,221.52
20	\$ 4,257.40	\$ 4,221.52	\$ 35.88	\$ -
	\$ 85,148.00	\$ 78,000.00	\$ 7,148.00	\$ 85,148.00



AGENDA REQUEST FORM
BOARD OF SUPERVISORS
COUNTY OF INYO

- Consent Departmental Correspondence Action Public Hearing
- Schedule time for Closed Session Informational

For Clerk's Use Only:
AGENDA NUMBER
19

FROM: Public Works Department

FOR THE BOARD MEETING OF: MAR 19 2018

SUBJECT: Approve the purchase order for HercRental for the purchase of HDPE pipe for the Independence Water System transmission main

DEPARTMENTAL RECOMMENDATIONS: Request your Board to:

1. Declare HercRental as a sole source provider for the supply of 2840 feet of 12 inch HDPE pipe and fittings;
2. Approve the purchase order for HercRental in the amount of \$78,646.55;
3. Amend the Independence Water System budget (152101) by:
 - a. Increase appropriations in object code 4990: Loan Proceeds by \$78,000.00 (4/5's vote required);
 - b. Decrease appropriations in object code 5281: Rents and Leases of Equipment by \$647.00 (4/5's vote required);
 - c. Increase appropriations in object code 5620: Infrastructure by \$78,647.00 (4/5's vote required).

CAO RECOMMENDATION:

SUMMARY DISCUSSION: In December of 2017 the Independence Water System (IWS) transmission main was facing imminent failure, with five significant leaks springing up simultaneously. The ductile iron pipe had been in place since 1928, and is estimated to have been ten to twenty years old at the time of installation. Efforts to repair the leaks were unsuccessful due to the deteriorated, fragile condition of the pipe. On December 19th, 2017 the Public Works Department received permission from the your Board to lease and install 2,840 feet of 12 inch High Density Poly-Ethylene (HDPE) pipe to act as the temporary transmission main while a permanent solution was pursued.

It was initially assumed that the permanent replacement would be ductile iron; however after an analysis of the benefits of ductile iron versus HDPE, the Public Works Department has determined that HDPE will be the best option for the Independence system.

Public Works proposes to purchase the pipe that is currently in place, and to install the pipe underground once the design process is complete. This will save the IWS the cost of a year or more of rental while the department pursues grant or long term low interest loan funding for the pipe installation. The IWS is currently paying \$4,019.73/month (\$48,236.76/year) for the lease of these materials. The purchase price from the rental company, HercRentals, for all pipe and fittings currently in place is \$78,646.55.

ALTERNATIVES:

Your Board could choose not to approve the sole source and purchase order, and direct the Public Works Department to continue the rental agreement with HercRental until the IWS is ready for construction on the new transmission line.

OTHER AGENCY INVOLVEMENT:

Purchasing department to issue a purchase order once approved.

FINANCING: The purchase will be paid through budget unit 152101: Independence Water System, object code 5620: Infrastructure.

APPROVALS

COUNTY COUNSEL:

J. Church

AGREEMENTS, CONTRACTS AND ORDINANCES AND CLOSED SESSION AND RELATED ITEMS (Must be reviewed and approved by County Counsel prior to submission to the board clerk.)

Approved: yes

Date 3/4/19

AUDITOR/CONTROLLER

[Signature]

ACCOUNTING/FINANCE AND RELATED ITEMS (Must be reviewed and approved by the auditor/controller prior to submission to the board clerk.)

[Signature]

Approved: yes

Date 3/9/19

DEPARTMENT HEAD SIGNATURE:

(Not to be signed until all approvals are received)

[Signature]

Date: 2019.03.11

BUDGET OFFICER SIGNATURE:

(Not to be signed until all approvals are received)

[Signature]

Date: 3/14/19



2160 SATURN COURT
 BAKERSFIELD, CA 93308
 661-399-2463

Please make check payable to:
 HERC Exchange LLC
 Remit To:
 PO BOX 936257
 ATLANTA, GA 31193
 800-654-4740

Job Site:
 INTERM TRANSMISSION MAIN
 600 BLOCK OF EDWARDS STREET
 INDEPENDENCE, CA 93526

 C#: 760-873-7857 J#: 760-937-2315

EQUIPMENT SALE QUOTE

Customer: 2956685
 INYO COUNTY WATER SYSTEMS
 PO BOX Q
 INDEPENDENCE, CA 93526

Invoice #... 51970720
 Invoice date 12/21/18 15:02
 Employee....
 Quote date..
 Job Loc.....
 Job No..... INTERM TRANS. MAIN
 P.O. #..... 12" TRANSFER WATER L
 ORDERED BY: ASHLEY HELM
 Terms..... Due Upon Receipt
 Est# Days: 0 / 0

Qty	Equipment #	Price	Amount
2	9212025 CC: 921-2025 BACK UP RING F/HDPE FLANGE ADAPTER 12	27.00	54.00
2	9212024 CC: 921-2024 HDPE FLANGE ADAPTER 12	45.00	90.00
2840	9211818 CC: 921-1818 FT OF FUSEABLE HDPE PIPE 12	24.49	69551.60
2	9212228 CC: 921-2228 HDPE FITTING 12X90 DEG	192.25	384.50
5	9212314 CC: 921-2314 TAPPING SADDLE F/HDPE PIPE 12	650.00	3250.00
Taxable Sub-total: 938.74			
			Sub-total: 73330.10
			Tax: 5316.45
			Total: 78646.55

Herc Rentals Inc. does hereby transfer, set aside and assign all of its rights, (but not its obligations), to sell the equipment described in this quote, to HERC Exchange LLC pursuant to the HERC/HERC Exchange LLC Master Exchange Agreement. Notice is hereby given that all of HERC's rights, (but not its obligations), to sell the equipment described in this quote, have been assigned to HERC Exchange LLC pursuant to the HERC/HERC Exchange LLC Master Exchange Agreement.

Print Customer Name _____ Title _____
 Customer Signature _____ Date _____

Carefully read the terms and conditions on reverse side of this page



AGENDA REQUEST FORM
BOARD OF SUPERVISORS
COUNTY OF INYO

For Clerk's Use
 Only:
AGENDA NUMBER
 20

- Consent Departmental Correspondence Action
 Public Hearing Schedule time for Closed Session Informational

FROM: Public works

FOR THE BOARD MEETING OF: MAR 19 2019

SUBJECT: Road Closure on North Round Valley Road between Pine Creek Road and Vanadium Ranch Road in Round Valley on Friday, May 31, 2019, between the hours of 8:00 AM and 10:30 AM.

DEPARTMENTAL RECOMMENDATIONS:

Request your Board approve the closure of a portion of Round Valley Road during the morning of May 31st, 2019 for the purpose of the annual Round Valley Jog-a-thon. The closure is shown in the attached drawing.

CAO RECOMMENDATIONS:

SUMMARY DISCUSSION:

The Round Valley Joint Elementary School District has submitted a Special Event Permit Application and is requesting permission to close N. Round Valley Road as depicted in the attached map for the annual Round Valley Jog-a-thon. There are alternate routes for the travelling public to take in order to avoid the half-mile closure and public outreach is not warranted given the location and duration of the closure, and the close proximity of alternate routes (Pine Creek Road and Vanadium Ranch Road).

ALTERNATIVES:

The Board could choose not to approve the Road Closure and the Round Valley Joint Elementary School District could proceed with its event using intermittent traffic control. This is not recommended as this event is an elementary school function and a road closure will decrease the risks of having students jogging on/near the roadway.

OTHER AGENCY INVOLVEMENT:

FINANCING:

Not Applicable

APPROVALS

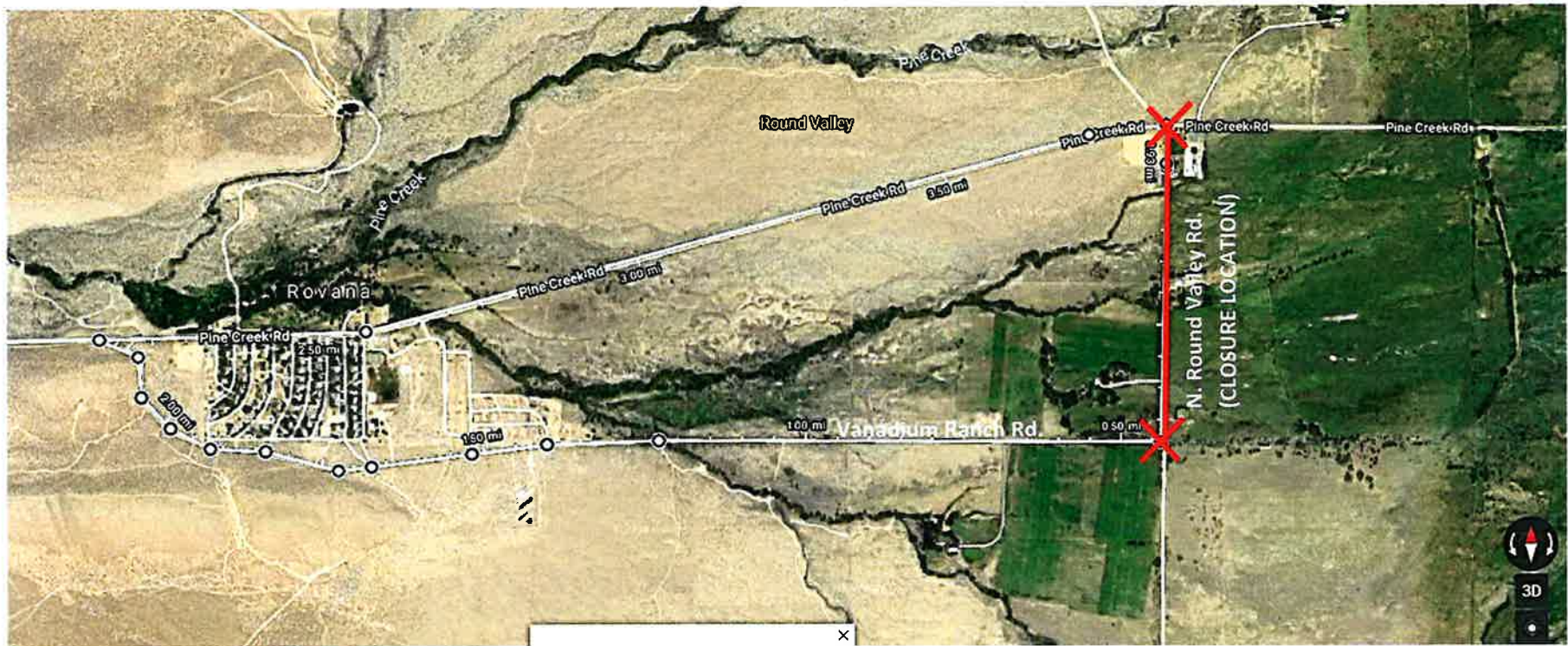
COUNTY COUNSEL: N/A	AGREEMENTS, CONTRACTS AND ORDINANCES AND CLOSED SESSION AND RELATED ITEMS (Must be reviewed and approved by County Counsel prior to submission to the board clerk.) Approved: _____ Date _____
AUDITOR/CONTROLLER N/A	ACCOUNTING/FINANCE AND RELATED ITEMS (Must be reviewed and approved by the auditor/controller prior to submission to the board clerk.) Approved: _____ Date _____
PERSONNEL DIRECTOR N/A	PERSONNEL AND RELATED ITEMS (Must be reviewed and approved by the director of personnel services prior to submission to the board clerk.) Approved: _____ Date _____

DEPARTMENT HEAD SIGNATURE:

(Not to be signed until all approvals are received)

[Handwritten Signature]

Date: 3-6-19



Round Valley Jog-a-thon Route and Road Closure Location



AGENDA REQUEST FORM
BOARD OF SUPERVISORS
COUNTY OF INYO

For Clerk's Use Only:
AGENDA NUMBER
21

- Consent Departmental Correspondence Action Public Hearing
 Scheduled Time for Closed Session Informational

FROM: Nathan D. Reade, Agricultural Commissioner

FOR THE BOARD MEETING OF: March 19, 2019

SUBJECT: Commercial Cannabis Business License Workshop

DEPARTMENTAL RECOMMENDATION:

Request your Board conduct a workshop to discuss and provide direction to staff on several aspects of Inyo County's Commercial Cannabis Permitting Program in anticipation of forthcoming license issuance.

CAO RECOMMENDATION:

SUMMARY DISCUSSION:

The first commercial cannabis business licensing period is completed. During the first review and issuance period, staff kept a list of questions received from applicants as well as issues encountered by staff with the goal of improving the commercial cannabis business license application process for future applications windows.

Today's workshop is intended to present several minor recommended code amendments and process changes to your board for discussion and staff direction. Information will also be provided that summarizes the results of the initial application window to help provide context. The workshop will also include discussion of potential new license types and existing license allocation. Feedback received from your board on the topic discussed today will inform an ordinance to be brought for your consideration during a future board meeting.

Specific recommended code and process changes are outlined in the attached presentation.

ALTERNATIVES:

Your board could choose to not consider this workshop and leave current processes in place.

OTHER AGENCY INVOLVEMENT:

FINANCING:

This item has no financial impact to the county outside of staff time.

DEPARTMENT HEAD SIGNATURE:
(Not to be signed until all approvals are received)

Date: 3-6-19



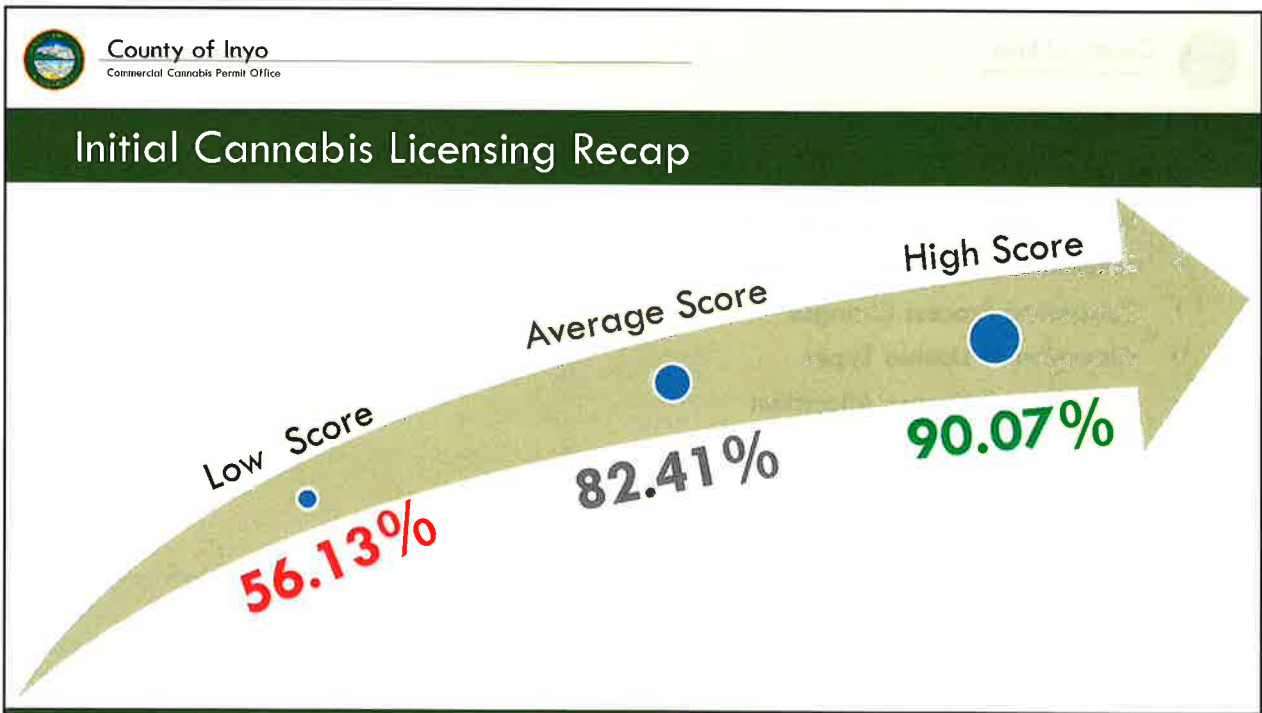
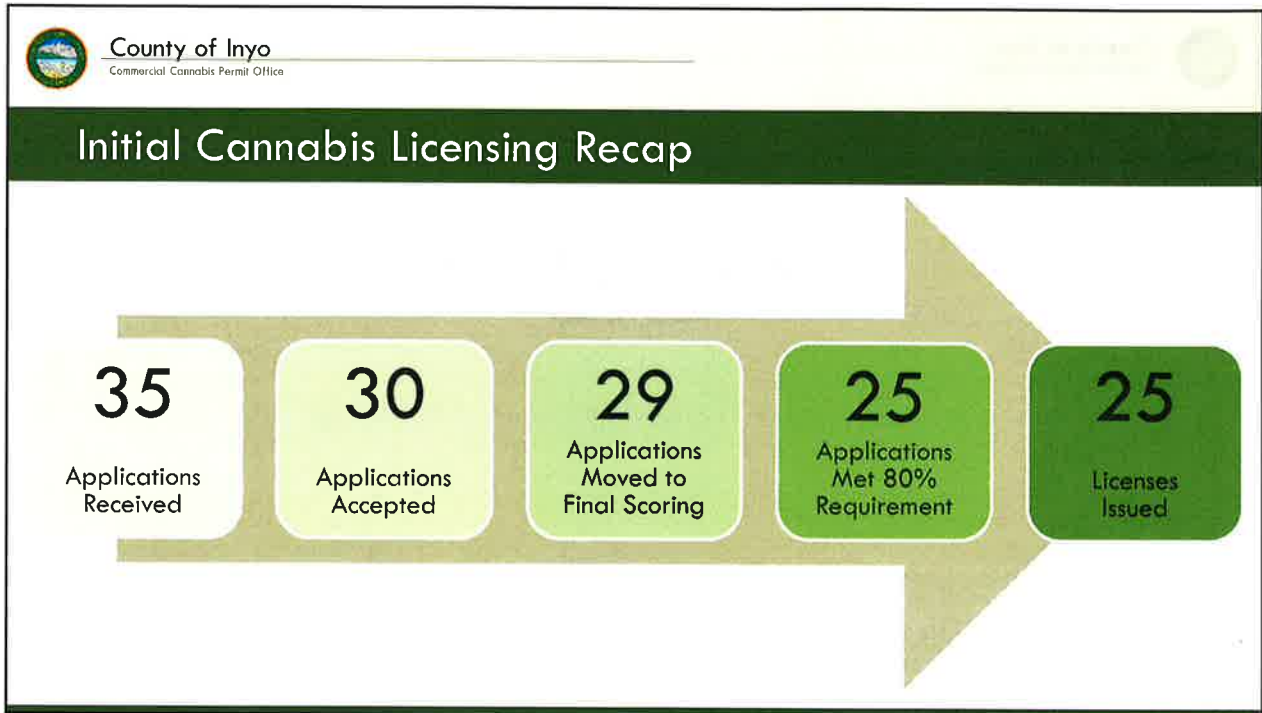
Board Workshop

March 19, 2019



Workshop Summary

- Initial Cannabis Licensing Recap
- Recommended Code Amendments
- Suggested Process Changes
- Discussion of License Types
- Discussion of License Allocation





County of Inyo
Commercial Cannabis Permit Office

Initial Cannabis Licensing Recap

License Numbers by Zone and Type (Current licenses in parenthesis, blue indicates approved, gray indicates denied)

Zone	Major Communities	Cultivation <5,000 sq. ft.	Cultivation >5,000 sq. ft.	Manufacturing Level 1	Manufacturing Level 2	Testing Lab	Retailer	Distributor	Microbusiness
1	Round Valley, Mustang Mesa, Dixon Lane, Meadowcreek	2		1	0	1	2 (2)(2)	1	1
2	Lavis	2			2	1	0	1	0
3	West Bishop	No Licenses Authorized In Zone 3							
4	Wilkinson, Big Pine, Independence	2		1	0	0	0	1	1
5A	Lone Pine, Alabama Hills	2		1	0	1	0	1	1
5B	Olancho, Cartago	No Licenses Authorized In Zone 5B							
5C	W. Sage Flat Road, Coso Junction, Pearsonville	5 (8 on 5 parcels)		1	0	1	1 (1)(1)	1	1 (1)(1)
5D	Keeler, Darwin	2		1	0	0	0	1	1
5E	Trona Area, Homewood Canyon	5		2	1	1	1	2	1
5F	Tecopa	5	5 (1)		10 (1)	1	1	2	2
5G	Stewart Valley, Charleston View, Sandy Valley	10 (2)	5 (9)(1)		10 (2)	1	1 (1)	2	2 (1)
License Type		All Cultivation		All Manufacturing		Testing	Retailer	Distributor	Microbusiness
Total Number		45 (13)(1)		30 (3)		7	6 (4)(3)	12	10 (2)(1)

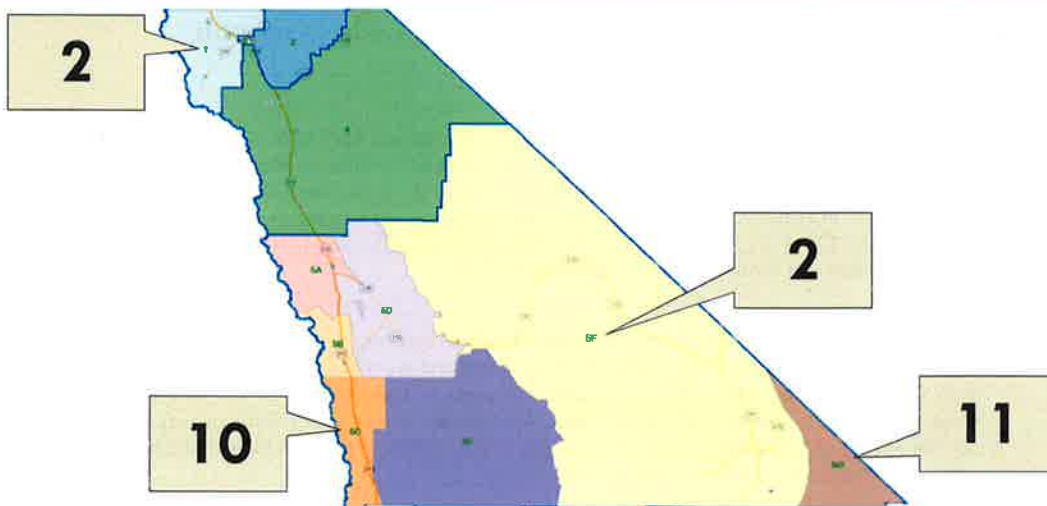
The 30 viable applications received included:

- Cultivation – 57%
- Manufacturing – 10%
- Testing – 0%
- Retail – 23%
- Distribution – 0%
- Microbusiness – 10%



County of Inyo
Commercial Cannabis Permit Office

Initial Cannabis Licensing Recap





Initial Cannabis Licensing Recap

License Numbers by Zone and Type – Spring 2019

Zone	Major Communities	Cultivation <5,000 sq. ft.	Cultivation >5,000 sq. ft.	Manufacturing Level 1	Manufacturing Level 2	Testing Lab	Retailer	Distributor	Microbusiness
1	Round Valley, Mustang Mesa, Dixon Lane, Meadowcreek	2		1	0	1	0	1	1
2	Laws	2		2		1	0	1	0
3	West Bishop	No Licenses Authorized In Zone 3							
4	Wilkerson, Big Pine, Independence	2		1	0	0	0	1	1
5A	Lone Pine, Alabama Hills	2		1	0	1	0	1	1
5B	Olandia, Cartago	No Licenses Authorized In Zone 5B							
5C	W. Sage Flat Road, Coso Junction, Pearsonville	0		1	0	1	0	1	0
5D	Keeler, Darwin	2		1	0	0	0	1	1
5E	Trona Area, Homewood Canyon	5		2	1	1	1	2	1
5F	Tecopa	5	4	9		1	1	2	2
5G	Stewart Valley, Charleston View, Sandy Valley	8	0	8		1	0	2	1
License Type		All Cultivation		All Manufacturing		Testing	Retailer	Distributor	Microbusiness
Total Number		32		27		7	2	12	8



Recommended Code Amendments

- Alignment of Tax, Cannabis Business License, Zoning Code, "Cannabis"
 - Tax and business license:

"Cannabis" means all parts of the plant *Cannabis sativa* Linnaeus, *Cannabis indica*, or *Cannabis ruderalis*, whether growing or not; the seeds thereof; the resin, whether crude or purified, extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant; its seeds, or resin. "Cannabis" also means the separated resin, whether crude or purified, obtained from cannabis. "Cannabis" also means marijuana as defined by Section 11018 of the California Health and Safety Code and is not limited to medical cannabis.
 - Zoning:

"Cannabis" means all parts of the plant *Cannabis sativa* Linnaeus., whether growing or not; the seeds thereof; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds or resin. It does not include (1) industrial hemp, as defined in Section 11018.5 of the California Health and Safety Code as may be amended; or (2) The weight of any other ingredient combined with cannabis to prepare topical or oral administrations, food, drink, or other product.



Recommended Code Amendments

- Alignment of Tax, Cannabis Business License, Zoning Code
 - Recommended "Cannabis" definition:

"Cannabis" means all parts of the plant Cannabis sativa Linnaeus, Cannabis indica, or Cannabis ruderalis, whether growing or not; the seeds thereof; the resin, whether crude or purified, extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or resin. "Cannabis" also means the separated resin, whether crude or purified, obtained from cannabis. "Cannabis" does not include the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks (except the resin extracted therefrom), fiber, oil, or cake, or the sterilized seed of the plant which is incapable of germination. For the purpose of this division, "cannabis" does not mean "industrial hemp" as defined by Section 11018.5 of the Health and Safety Code.



Recommended Code Amendments

- Alignment of Tax, Cannabis Business License, Zoning Code, "Cannabis Product"
 - Tax and business license:

"Cannabis product" means raw cannabis that has undergone a process whereby the raw agricultural product has been transformed into a concentrate, an edible product, or a topical product. "Cannabis product" also means marijuana products as defined by Section 11018.1 of the California Health and Safety Code and is not limited to medical cannabis products.
 - Zoning:

"Cannabis products" means cannabis that has undergone a process whereby the plant material has been transformed into a concentrate, including, but not limited to, concentrated cannabis, or an edible or topical product containing cannabis or concentrated cannabis and other ingredients.



Recommended Code Amendments

- Alignment of Tax, Cannabis Business License, Zoning Code
 - Recommended "Cannabis Product" definition:
"Cannabis product" means cannabis that has undergone a process whereby the plant material has been transformed into a concentrate, including, but not limited to, concentrated cannabis, or an edible or topical product containing cannabis or concentrated cannabis and other ingredients.



Recommended Code Amendments

- "Commercial cannabis business license" Definition
 - Recommended:
"Commercial cannabis business license" means the license issued pursuant to this chapter, which is required for all commercial cannabis business that is taxed pursuant to Inyo County Code Chapter 3.50 and California Revenue and Taxation Section 7284, and independent of any Conditional Use Permit that may be required to conduct a commercial cannabis business at a specific location. The word "license" is interchangeable with the word "permit."



Recommended Code Amendments

- “Indoor” Definition
 - Recommended:

“Indoor” means within a fully enclosed permanent building (e.g., not a “hoop house”) constructed in such a manner that does not allow perceptible odor to escape to the exterior of the structure.

- “Premises” Definition
 - Recommended:

“Premises” means the designated structure or structures and/or land specified in the application for a commercial cannabis business license that is owned, leased, or otherwise held under the control of the applicant or licensee where the commercial cannabis business will be or is conducted. A premises is not necessarily a parcel and one or more licenses may be required or issued per parcel. A premises cannot span across multiple parcels.



Recommended Code Amendments

- 5.40.060 ~~Time of~~ Procurement, ~~and~~ term, and renewal
 - (B) All Commercial Cannabis Business Licenses are subject to an annual renewal. The renewal period shall begin May 1 and end July 1 of each year. The C3PO shall inform each Commercial Cannabis Business License holder of the requirements of the requirements to renew their license.
 - (C) As part of the annual renewal process, the county, acting through the board of supervisors at a public hearing noticed at least ten days in advance, may:
 - ~~(3) Choose to reduce the numbers of classification(s) of commercial cannabis business licenses available in a specific zone described in Section 5.40.070 of this chapter following the county's ordinance amendment process. If the numbers of a classification of commercial cannabis business license are reduced in a zone during the renewal period, all existing licensees must re-apply for a commercial cannabis business license pursuant to Section 5.40.090 of this chapter. If necessary and appropriate in the county's sole discretion, the county may grant a temporary extension to any affected existing license to prevent it from expiring during the application process specified by Section 5.40.090~~
 - (D) ~~(B)~~ Operators who fail to annually renew their Commercial Cannabis Business License prior to ~~the anniversary date on which the license was issued~~ July 1 each year will be required to submit a new application, obtain all appropriate approvals, and pay the application and license fees in addition to any previous penalties due.



Recommended Code Amendments

- 5.40.070

(A.) The number of Commercial Cannabis Business Licenses available for each class of commercial cannabis activity, as set forth in Inyo County Code Section 18.06.182, shall be limited by zone as described below, and as shown for convenience purposes on the maps attached herewith as Exhibit 1. ~~Any amendment of this Ordinance further limiting the number of Commercial Cannabis Business Licenses shall not result in the revocation of any Commercial Cannabis Business License existing and in good standing at the time of such a reduction.~~ The number of available licenses shall be as set forth below, provided however that only one license-classification per parcel shall count toward the applicable limit:



Recommended Code Amendments

- 5.40.070

(C.) The Board of Supervisors may reduce the number of Classification(s) of Commercial Cannabis Business Licenses available in a specific Zone following the County's Ordinance amendment process. Any amendment of this Ordinance reducing the number of Commercial Cannabis Business Licenses available shall not result in the revocation of any Commercial Cannabis Business License existing and in good standing at the time of such a reduction. If, however, the numbers of a Classification of Commercial Cannabis Business License are reduced in a given Zone, all existing licensees in any such Zone must re-apply for a Commercial Cannabis Business License during the renewal period for that year, or if already passed the following year, pursuant to section 5.40.090. If necessary and appropriate in the County's sole discretion, the County may grant a temporary extension to any affected existing license to prevent it from expiring during the application process specified by section 5.40.090.



Recommended Code Amendments

- 5.40.080
 - (C) Every application for a commercial cannabis business license and/or renewal required by this chapter shall be signed by the applicant under penalty of perjury on a form required for such application and shall include, but is not limited to, the following information:
 - ~~(8) A copy of all applicable permits or licenses required by the state of California. If required licenses or permits have not been issued by the state of California pending issuance of a commercial cannabis business license required by this chapter, a copy of the draft or actual application(s) for all permits or licenses required by the state of California.~~



Recommended Code Amendments

- 5.40.090
 - (D) Initial Application Evaluation
 - (2) First Rejection. If the C3PO rejects an application, the office shall specify in writing the reasons for the decision and, except for an application that was previously rejected for any of the same reason(s), notify the applicant that the decision shall become final unless the applicant files an amended application within fourteen business days of the date that the applicant received the C3PO mailed notice of the rejection notice via certified mail. Only one amended application shall be allowed per review period. If, after 30 calendar days from the mailing of the letter of first rejection no delivery confirmation has been obtained, the application will receive a final score based on the information contained in the initial application submission.



Recommended Code Amendments

- 5.40.090
 - (H) An application for a commercial cannabis business license must achieve a score of at least eighty percent of the total possible points on the final application scoring approval evaluation approved by the board of supervisors in order to be awarded a commercial cannabis business license.
- 86% of all final round applications met the 80% requirement
 - High score = 90.07%
 - Average score = 82.41%
 - Low score = 56.13%



Recommended Code Amendments

- 5.40.140
 - (A) Any of the following shall be grounds for revocation of a Commercial Cannabis Business License:
 - (5) The conviction of any person who is listed in the Application as required by this chapter of a felony while holding a Commercial Cannabis Business License during the previous three years. A conviction within the meaning of this section means a plea or verdict of guilty or a conviction following a plea of nolo contendere.
 - B. Notwithstanding any provision in the Inyo County Code to the contrary, if the C3PO intends to revoke a commercial cannabis business license, the C3PO or any other county officer charged with the administration of the provisions of this chapter shall specify in writing the reasons for the decision and notify the applicant that the decision shall become final unless the applicant seeks an appeal pursuant to Section 5.40.150. ~~of this chapter within ten calendar days of the date of service of the written decision of the C3PO or any other county officer charged with the administration of the provisions of this chapter.~~ The notice shall specify whether the revocation is immediately imposed for public health or safety reasons or shall be effective following the hearing. The notice of the decision shall be served or mailed to the applicant at the address indicated on the application.




Recommended Code Amendments

- 5.40.150
 - (A) Any applicant ~~aggrieved by any decision of~~ who alleges an error by the C3PO with respect to any second rejection of an application for a second time shall, within five (5) business days of the date the rejection notice was mailed, make application in writing to the county administrative officer, or designee, for a hearing on the decision.



Recommended Code Amendments

- 5.40.150
 - (B) Any ~~applicant~~ Commercial Cannabis License holder aggrieved by any decision of the C3PO with respect to the revocation a commercial cannabis business license shall, within ten (10) business days of the date of service of the written decision of the C3PO or any other county officer charged with the administration of the provisions of this chapter, make application in writing to the county administrative officer, or designee, for a hearing on the decision before the board of supervisors.
 - (D) If such application is made within the prescribed time period, the county administrative officer, or designee, shall give no fewer than five (5) business days written notice to the applicant to show cause at a hearing at a time and place fixed in the notice why the decision should not be upheld.
 - (E) At the hearing, the applicant may appear and offer evidence why such decision should be vacated. Within sixty (60) calendar days after the hearing, the county administrative officer, or designee, shall determine if the decision shall be upheld and shall thereafter give written notice to the applicant. The decision of the county administrative officer, or designee, shall be final and not subject to further administrative appeal.


 **County of Inyo**
Commercial Cannabis Permit Office

Suggested Process Changes - Application

- Add tax registration form to application packet
- Minor changes to language to better specify requirements

Attach map of business location and floorplans for any buildings to application as Attachment 3, with the following information indicated if applicable:

<ul style="list-style-type: none"> • Outline of parcel to be used for proposed business • Roads • Buildings • Any easements on the property • Cultivation canopy perimeter and setback measurements • Hazardous materials storage by type and location • Areas to be used for cannabis storage, sorting, trimming, cutting, grading, drying and any other processing • Areas to be used for cannabis waste 	<ul style="list-style-type: none"> • Locations pertinent to security such as camera locations, entry points, areas to be patrolled by security and fencing • Well and septic locations • Water storage locations • Stream diversion locations • Water sources for cannabis cultivation or manufacturing. • Access points for emergency personnel such as law enforcement and fire • Natural waterways, wetlands, springs or ponds • Composting area
--	---

 **County of Inyo**
Commercial Cannabis Permit Office

Suggested Process Changes - Application

- Add tax registration form to application packet
- Minor changes to language to better specify requirements

Attach map, site plan, floorplans of business location and any buildings to application as Attachment 3. The following information MUST be indicated at a minimum, if applicable:

<ul style="list-style-type: none"> • Outline of parcel to be used for proposed business • Roads • Buildings • Any easements on the property • Cultivation canopy perimeter and setback measurements • Hazardous materials storage by type and location • Areas to be used for cannabis storage, sorting, trimming, cutting, grading, drying and any other processing • Areas to be used for cannabis waste 	<ul style="list-style-type: none"> • Lighting locations • Locations pertinent to security such as camera locations, entry points, areas to be patrolled by security and fencing • Well and septic locations • Water storage locations • Stream diversion locations • Water sources for cannabis cultivation or manufacturing. • Access points for emergency personnel such as law enforcement and fire • Natural waterways, wetlands, springs or ponds • Composting area
--	---



Suggested Process Changes - Application

- Section 4 – Security
 - Added question on lighting:

"Describe facility lighting and explain how it will help provide security, taking into account maintaining consistency with Inyo County General Plan requirements for lighting."



Suggested Process Changes - Application

- Section 5 – Operations Plan
 - Added question on weighmaster requirements, removed a question that was redundant with Section 7 – Community Mitigation Measures:

"List equipment that will be used to measure or weight cannabis products for sale. If weighmaster laws apply to your business, indicate how you will conform to state laws and regulations."

~~*"Describe any measures you intend to implement that would avoid impacts to fire and law enforcement agencies and reduce callouts from these entities."*~~



Suggested Process Changes - Application

- Section 7 – Community Mitigation Measures
 - Added two questions to better guide responses, refined the original question:

"Describe any measures you intend to implement that would avoid impacts to fire and law enforcement agencies and reduce callouts from these entities."

"Explain what your business intends to do to minimize other types of impacts on surrounding communities."

"Describe any arrangements or agreements reached with ~~the local fire and/or Sheriff's Office~~ local agencies, service districts, nongovernmental groups, or other community related groups to minimize impacts to the local community. Attach copies of any agreements. If no written agreement(s) exists, indicate what benefits you are committing to provide."



Suggested Process Changes - Application

- Section 9 – Community Benefit Plan
 - Added a question regarding local employment and recruitment

"Describe your strategies to recruit and hire local employees."



Suggested Process Changes - Scoring

- Most suggested changes are meant to clarify and assist in scoring process
 - Created separate pages for each section and added the questions from the application
- Specific scoring changes include:
 - Security scoring adjustment to accommodate the extra question on lighting
 - Operations plan scoring adjustment to make up for removed question

Cultivation Permits			Non-Cultivation Permits		
Section	Point Value	Percentage	Section	Point Value	Percentage
Security Plan	175 180	11% 11%	Security Plan	175 180	13% 13%
Operations Plan	280 270	18% 17%	Operations Plan	280 270	20% 20%
Cultivation Plan	210	13%			
Community Impact Mitigation	180	11%	Community Impact Mitigation	180	13%
Environmental Considerations	360	23%	Environmental Considerations	360	26%
Community Benefit Plan	380	24%	Community Benefit Plan	380	28%



Discussion of Potential License Types

- Infusion
 - This license type would allow infusion of cannabis oil into edible products similar to a bakery or candy making operation. This would align with General Commercial, Light Industrial, General Industrial, and Heavy Commercial zonings.
- Non-storefront retail
 - This license type would include delivery-only retail businesses. Businesses of this type would be permitted in the same zoning types that traditional retail is permitted but they would not be allowed to sell products to customers on site.



County of Inyo
Commercial Cannabis Permit Office

Discussion of License Allocation

License Numbers by Zone and Type – Spring 2019

Zone	Major Communities	Cultivation <5,000 sq. ft.	Cultivation >5,000 sq. ft.	Manufacturing Level 1	Manufacturing Level 2	Testing Lab	Retailer	Distributor	Microbusiness
1	Round Valley, Mustang Mesa, Dixon Lane, Meadowcreek	2		1	0	1	0	1	1
2	Lows	2		2		1	0	1	0
3	West Bishop	No Licenses Authorized In Zone 3							
4	Wilkerson, Big Pine, Independence	2		1	0	0	0	1	1
5A	Lone Pine, Alabama Hills	2		1	0	1	0	1	1
5B	Olancho, Cartago	No Licenses Authorized In Zone 5B							
5C	W. Sage Flat Road, Coso Junction, Pearsonville	0		1	0	1	0	1	0
5D	Keeler, Darwin	2		1	0	0	0	1	1
5E	Trona Area, Homewood Canyon	5		2	1	1	1	2	1
5F	Teacopa	5	4	9		1	1	2	2
5G	Stewart Valley, Charleston View, Sandy Valley	8	0	8		1	0	2	1
License Type		All Cultivation		All Manufacturing		Testing	Retailer	Distributor	Microbusiness
Total Number		32		27		7	2	12	8