



# AGENDA

## BOARD OF SUPERVISORS, COUNTY OF MONO STATE OF CALIFORNIA

Regular Meetings: The First, Second, And Third Tuesday of each month. Location of meeting is specified at far right.

### Regular Meeting

MEETING LOCATION Board Chambers, 2nd Fl., County Courthouse, 278 Main St., Bridgeport, CA 93517

June 4, 2013

**TELECONFERENCE LOCATIONS:** 1) First and Second Meetings of Each Month: Mammoth Lakes CAO Conference Room, 3rd Floor Sierra Center Mall, 452 Old Mammoth Road, Mammoth Lakes, California, 93546; 2) Third Meeting of Each Month: Mono County Courthouse, 278 Main, 2nd Floor Board Chambers, Bridgeport, CA 93517. Board Members may participate from a teleconference location. Note: Members of the public may attend the open-session portion of the meeting from a teleconference location, and may address the board during any one of the opportunities provided on the agenda under Opportunity for the Public to Address the Board.

**NOTE:** 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) 932-5534. Notification 48 hours prior to the meeting will enable the County to make reasonable arrangements to ensure accessibility to this meeting (See 42 USCS 12132, 28CFR 35.130).

Full agenda packets are available for the public to review in the Office of the Clerk of the Board (Annex I - 74 North School Street, Bridgeport, CA 93517), and in the County Offices located in Minaret Mall, 2nd Floor (437 Old Mammoth Road, Mammoth Lakes CA 93546). Any writing distributed less than 72 hours prior to the meeting will be available for public inspection in the Office of the Clerk of the Board (Annex I - 74 North School Street, Bridgeport, CA 93517). **ON THE WEB:** You can view the upcoming agenda at [www.monocounty.ca.gov](http://www.monocounty.ca.gov). If you would like to receive an automatic copy of this agenda by email, please send your request to Lynda Roberts, Clerk of the Board : [lroberts@mono.ca.gov](mailto:lroberts@mono.ca.gov).

**UNLESS OTHERWISE SPECIFIED BY TIME, ITEMS SCHEDULED FOR EITHER THE MORNING OR AFTERNOON SESSIONS WILL BE HEARD ACCORDING TO AVAILABLE TIME AND PRESENCE OF INTERESTED PERSONS. PUBLIC MAY COMMENT ON AGENDA ITEMS AT THE TIME THE ITEM IS HEARD.**

9:00 AM

Call meeting to Order

Pledge of Allegiance

**OPPORTUNITY FOR THE PUBLIC TO ADDRESS THE BOARD** on items of public interest that are within the subject matter jurisdiction of the Board. (Speakers may be limited in speaking time dependent upon the press of business and number of persons wishing to address the Board.)

Approximately thru **CLOSED SESSION**  
10:30 a.m.

### **BOARD OF SUPERVISORS**

- 1a) **Closed Session - CAO Position** - PUBLIC EMPLOYMENT. Government Code section 54957. Title: County Administrative Officer.
- 1b) **Closed Session - Conference with Legal Counsel** - CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION. Significant exposure to litigation pursuant to paragraph (2) of subdivision (d) of Government Code section 54956.9. Number of potential cases: one. Facts and circumstances: claim for damages presented by Joel Yanez.
- 1c) **Closed Session - Conference with Legal Counsel** - CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION. Significant exposure to litigation pursuant to paragraph (2) of subdivision (d) of Government Code section 54956.9. Number of potential cases: one. Facts and circumstances: claim for damages presented by Harold Mark Huddleston.
- 1d) **Closed Session - Conference with Real Property Negotiators** - CONFERENCE WITH REAL PROPERTY NEGOTIATORS. Government Code section 54956.8. Property: APN: 015-010-065 ("Rodeo Grounds"). Agency negotiators: Supervisors Johnston and Alpers. Negotiating parties: Mono County and Intrawest. Under negotiation: price and terms of payment.
- 1e) **Closed Session - Conference with Real Property Negotiators** - CONFERENCE WITH REAL PROPERTY NEGOTIATORS. Government Code section 54956.8. Property: Sierra Center Mall (452 Old Mammoth Rd., Mammoth Lakes). Agency negotiators: Marshall Rudolph, Byng Hunt, Larry Johnston, Roberta Reed, Leslie Chapman, and Vianey White. Negotiating parties: Mono County and 452 OM RD LLC, and Highmark Advisors. Under negotiation: price and terms.
- 1f) **Closed Session - Public Employment** - PUBLIC EMPLOYMENT. Government Code section 54957. Title: Associate Planner.
- 1g) **Closed Session--Human Resources** - CONFERENCE WITH LABOR NEGOTIATORS. Government Code Section 54957.6. Agency designated representative(s): Marshall Rudolph. Employee Organization(s): Mono County Sheriff's Officers Association (aka Deputy Sheriff's Association), Local 39--majority representative of Mono County Public Employees (MCPE) and Deputy Probation Officers Unit (DPOU), Mono County Paramedic Rescue Association (PARA), Mono County Public Safety Officers Association (PSO), and Mono County Sheriff Department's Management Association (SO Mgmt). Unrepresented employees: All.

**OPPORTUNITY FOR THE PUBLIC TO ADDRESS THE BOARD** on items of public interest that are within the subject matter jurisdiction of the Board. (Speakers may be limited in speaking time dependent upon the press of business and number of persons wishing to address the Board.)

### **2) APPROVAL OF MINUTES**

**A. Approve minutes of the Regular Meeting held on May 14, 2013.**

### **3) BOARD MEMBER REPORTS**

The Board may, if time permits, take Board Reports at any time during the meeting and not at a specific time.

### Approximately 10 Minutes **COUNTY ADMINISTRATIVE OFFICE**

- 4) CAO Report regarding Board Assignments  
Receive brief oral report by County Administrative Officer (CAO) regarding work activities.

### 10:30 a.m. **DEPARTMENT REPORTS/EMERGING ISSUES** Approximately 15 minutes (PLEASE LIMIT COMMENTS TO FIVE MINUTES EACH)

Approximately 5 minutes for Consent Items

## **CONSENT AGENDA**

*(All matters on the consent agenda are to be approved on one motion unless a board member requests separate action on a specific item.)*

## COUNTY COUNSEL

- 5a) Amendment to Boardman Employment Agreement** - Proposed resolution approving an agreement and first amendment to the employment agreement of Nancy Boardman. The amendment will simply extend the agreement's expiration date until June 30, 2013, at which point Ms. Boardman will retire.
- Recommended Action:** Adopt proposed resolution #R13-\_\_\_\_\_, approving an agreement and first amendment to the employment agreement of Nancy Boardman.
- Fiscal Impact:** Minor extension of current contract terms, which are included in the current budget.
- 5b) Amendment to McCammond employment Agreement** - Resolution approving an agreement and first amendment to the employment agreement of Wade McCammond. The amendment will simply extend the agreement's expiration date until September 30, 2013.
- Recommended Action:** Adopt proposed resolution #R13-\_\_\_\_\_, approving an agreement and first amendment to the employment agreement of Wade McCammond.
- Fiscal Impact:** Minor extension of current contract terms, which are included in the current budget and in the forecast for 2013-14 budget.
- 5c) Amendment to Neely Employment Agreement** - Proposed resolution approving an agreement and first amendment to the employment agreement of Clay Neely. The amendment would simply extend the agreement's expiration date until June 30, 2013, at which point Mr. Neely will retire.
- Recommended Action:** Adopt proposed resolution #R13-\_\_\_\_\_, approving an agreement and first amendment to the employment agreement of Clay Neely.
- Fiscal Impact:** No impact to the budget since this is an extension of an existing contract, which is in the current budget.
- 5d) Reed Employment Agreement Amendment** - Proposed resolution approving an agreement and first amendment to the employment agreement of Roberta Reed. The amendment would simply extend the agreement's expiration date until September 30, 2013.
- Recommended Action:** Adopt proposed resolution #R13-\_\_\_\_\_, approving an agreement and first amendment to the employment agreement of Roberta Reed.
- Fiscal Impact:** Minor extension of current contract terms, which are included in the current budget and in the forecast for 2013-14 budget.
- 5e) Roberts Employment Agreement Amendment** - Proposed resolution approving an agreement and second amendment to the employment agreement of Lynda Roberts. The amendment will simply extend the agreement's expiration date until September 30, 2013.
- Recommended Action:** Adopt proposed resolution #R13-\_\_\_\_\_, approving an agreement and second amendment to the employment agreement of Lynda Roberts.
- Fiscal Impact:** Minor extension of current contract terms, which are included in the current budget and in the forecast for 2013-14 budget.
- 5f) Salcido Employment Agreement Amendment** - Proposed resolution approving an agreement and third amendment to the employment agreement of Lynda Salcido. The amendment will simply extend the agreement's expiration date until September 30, 2013.
- Recommended Action:** Adopt proposed resolution #R13-\_\_\_\_\_, approving an agreement and third amendment to the employment agreement of Lynda Salcido.
- Fiscal Impact:** Minor extension of current contract terms, which are included in the current budget and in the forecast for 2013-14 budget.

## CLERK OF THE BOARD

- 6a) Appointment of Mary DeForrest to the Lee Vining Fire Protection District** - Appointment of Mary DeForrest to the Lee Vining Fire Protection District pursuant to two recent vacancies on the District. There is currently only one Commissioner on this Board and as such, they have no quorum and cannot conduct everyday business. This will fill an existing term (vacated by Nick Dondero) that will expire on

021/31/2014. Supervisor Stump asked that this item be put onto the agenda.

**Recommended Action:** Appoint Mary DeForrest to the Lee Vining Fire Protection District, filling one of two open vacancies that exist.

**Fiscal Impact:** None.

#### COMMUNITY DEVELOPMENT - PLANNING DIVISION

- 7a) **Resource Efficiency Plan Contract** - Proposed contract with Pacific Municipal Consultants (PMC) to prepare Resource Efficiency Plan.

**Recommended Action:** Approve the attached contract with Pacific Municipal Consultants (PMC) for a not-to-exceed amount of \$80,915.00 for consulting services.

**Fiscal Impact:** No General Fund impact. The not-to-exceed contract cost of \$80,915.00 and associated staff time to manage/complete this work is entirely funded by the Sustainable Communities Planning Grant.

#### SOCIAL SERVICES

- 8a) **Resolution Opposing Governor's Proposed Redirection of County Health Realignment Funds to the State** - Proposed resolution opposing the Governor's proposed redirection of County Health Realignment funds to the State for FY 2013-14 and FY 2014-15.

**Recommended Action:** Adopt proposed resolution #R13-\_\_\_\_\_, opposing Governor's proposed redirection of County Health Realignment funds to the State for FY 2013-14 and FY 2014-15. Provide any desired direction to staff.

**Fiscal Impact:** Redirecting County Health Realignment funding may force cuts to safety net services, including essential public health programs.

### REGULAR AGENDA

#### CORRESPONDENCE RECEIVED (INFORMATIONAL)

All items listed are available for review and are located in the Office of the Clerk of the Board

#### CLERK OF THE BOARD

- 9a) **Department of Water and Power** - Letter dated May 13, 2013 from the L.A. Department of Water and Power regarding Compliance with State Water Resources Control Board Order Nos. 98-05 and 98-07. Electronic copies of all reports referred to are available for review in the Clerk's office.
- 9b) **Keller Letter Regarding Paramedics** - Correspondence dated May 14, 2013 from Christopher M. Keller, second home owner in Virginia Lakes, who was in town for the Fishing opener and required medical attention when he became very ill on April 28, 2013. This letter is to commend and support the Mono County Paramedics who were dispatched to his home where he received excellent care prior to being transported to Mammoth Hospital.
- 9c) **Department of Fish and Wildlife** - Letter dated March 16, 2013 from Craig Stowers, Manager of the Wildlife Branch at the Department of Fish and Wildlife regarding CEQA documents in relation to a project to modify existing hunting regulations for migratory game birds. The draft of the Environmental Document is available for review in the clerk's office. For information only.

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#### BOARD OF SUPERVISORS

- 10a) **Resolution recognizing Clay Neely for his years of service with Mono County** (Byng Hunt, Chair)  
- Resolution of Appreciation recognizing Clay Neely for his years of service with Mono County.

5 minutes

**Recommended Action:** Approve proposed resolution. Provide any desired direction to staff.

**Fiscal Impact:** None.

#### MENTAL HEALTH

**11a)** **Approve the Amendment to the Joint Exercise of Powers Agreement** (Robin Roberts) - Second amended and restated Joint Exercise of Powers Agreement that governs operations of the California Mental Health Services Authority (CalMHSA).  
10 minutes

**Recommended Action:** Approve County entry into second amended and restated Joint Exercise of Powers Agreement that governs operations of the California Mental Health Services Authority (CalMHSA), and authorize the Behavioral Health Director to sign said amended agreement on behalf of the County. Provide any desired direction to staff.

**Fiscal Impact:** None.

**PUBLIC WORKS - ENGINEERING DIVISION**

**12a)** **Contract Amendment with Sierra Geotechnical Services for Geotechnical Engineering and Quality Assurance Services** (Garrett Higerd) - Road rehabilitation projects require quality assurance testing of all asphalt and concrete materials before the work can be accepted. This contract will provide these services for street rehabilitation projects constructed over the next three years including projects in Lee Vining, Bridgeport, Chalfant, and June Lake.  
5 minutes

**Recommended Action:** Amend "as-needed" contract with Sierra Geotechnical Services for geotechnical engineering and quality assurance testing services to increase the contract limit from \$183,000 to \$250,000 for services provided over the next three years and to eliminate the annual dollar limit. Authorize the Public Works Director, in consultation with County Counsel, to administer that contract, including making minor amendments to said contract from time to time as the Public Works Director may deem necessary, provided such amendments do not cause spending on any project to exceed the budgeted authority.

**Fiscal Impact:** Projects requiring these services are generally road projects funded by the State Transportation Improvement Program (STIP), Proposition 1B, or a zone of benefit. Contractor payments will not impact the General Fund.

**MENTAL HEALTH**

**13a)** **Renewal of Department of Health Care Services Contract** (Robin Roberts) - Proposed multi year contract with Department of Health Care Services with Mono County Behavioral Health for terms and conditions regarding Medi-Cal Managed Care for behavioral health services.  
10 minutes

**Recommended Action:** Approve County entry into proposed contract and authorize Robin K. Roberts, MFT to execute said contract on behalf of the County. Authorize the MCBH Director to sign any future amendments of the proposed contract to account for the infill allocation of Medi-Cal Managed Care funds available to Mono County in FY's 13-18. Provide any desired direction to staff.

**Fiscal Impact:** Contract is with DHCS to assure payments from the MediCal Managed Care System to MCBH. There will be a potential increase in revenue for MCBH due to the changes we will see from the Affordable Care Act given the State projections of our increase in Medi-Cal eligible residents. All of this will be covered by the maximum amount allotted in the contract. There is no impact to the General Fund.

**COUNTY ADMINISTRATIVE OFFICE**

**Additional Departments:** County Counsel

**14a)** **Special Event Ordinance - First Reading** (Sarah Messerlian) - First Reading of the proposed Ordinance of the Mono County Board of Supervisors Creating Chapter 5.50 of the Mono County Code Pertaining to Special Events.  
20 minutes

**Recommended Action:** Introduce, read title, and waive further reading of proposed ordinance. Provide any desired direction to staff.

**Fiscal Impact:** None at this time.

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## BOARD OF SUPERVISORS

**Additional Departments:** CAO, County Counsel

- 15a)** **Jim Leddy Employment Contract** (Marshall Rudolph) - Proposed Resolution approving an employment agreement with James Leddy and prescribing the compensation, appointment, and conditions of said employment. The Resolution provides for Mr. Leddy's appointment as County Administrator under a two-year, at-will employment contract. His first date of employment will be June 10, 2013.

10 minutes

**Recommended Action:** Adopt proposed resolution #R13-\_\_\_\_\_, approving an employment agreement with James Leddy and prescribing the compensation, appointment, and conditions of said employment. Provide any desired direction to staff.

**Fiscal Impact:**

\$15,591.91 for Fiscal Year 2012-13 (one month); \$244,127.70 for Fiscal Year 2013-14, consisting of \$160,000 in salary, \$32,012 in PERS contributions, and \$52,115.70 in other benefits and employment-related costs to the County.

## COUNTY COUNSEL

- 16a)** **Housing Mitigation Ordinance Suspension** (Marshall Rudolph) - Proposed ordinance amending section \_\_\_\_ of the Mono County Code in order to extend an existing suspension of chapter \_\_\_\_ of the County Code pertaining to housing mitigation.

5 minutes

**Recommended Action:** Introduce, read title, and waive further reading of proposed ordinance. Provide any desired direction to staff.

**Fiscal Impact:** None, other than foregone mitigation fee revenue in an unknown amount during the suspension.

- 16b)** **Aquaculture Plan Consulting Contract** (Marshall Rudolph) - Consulting Contract with Professional Aquaculture Services (Tony Vaught) for Conway Ranch Aquaculture and Interpretive Site Evaluation and Planning Services.

5 minutes

**Recommended Action:** Authorize County Administrator to negotiate and enter into a consulting contract with Professional Aquaculture Services (Tony Vaught) for Conway Ranch Aquaculture and Interpretive Site Evaluation and Planning Services, in an amount of \$15,000 plus travel and lodging expenses (not to exceed a combined total of \$20,000). Authorize payment for said contract from the Fish Enhancement Fund increase the fish-enhancement line item within the Economic Development budget by said amount.

**Fiscal Impact:** \$15,000 plus travel and lodging expenses (not to exceed a combined total of \$20,000) in available fish enhancement funds. This will require a budget amendment (4/5ths vote required)

- 16c)** **Claim for Damages Presented by Harold Mark Huddleston** (Marshall Rudolph) - Claim for damages presented by Harold Mark Huddleston.

5 minutes

**Recommended Action:** Reject claim in its entirety and direct county counsel to notify claimant of the Board's action.

**Fiscal Impact:** None if the claim is rejected as recommended.

- 16d)** **Claim for Damages Presented by Joel Yanez** (Marshall Rudolph) - Claim For Damages presented by Joel Yanez.

5 minutes

**Recommended Action:** Reject said claim in its entirety and direct County Counsel to notify the claimant of the Board's action.

**Fiscal Impact:** None if the claim is rejected as recommended.

## COMMUNITY DEVELOPMENT - PLANNING DIVISION

- 17a)** **Mono County Community Trails Workshop** (Heather deBethizy) - Presentation by Heather deBethizy regarding existing community trails planning efforts and discussion on construction and long-term maintenance of trail projects.

20 minutes

**Recommended Action:** Conduct workshop and provide any desired direction to staff.

**Fiscal Impact:** None at this time. Trails planning efforts are supported through a variety of grants, including Local Transportation Commission and National Scenic Byway grants, and staffing contributions provided by the National Park Service Rivers, Trails, Conservation Program grant, and Sierra Nevada Conservancy AmeriCorps staff. Mono County's current budget includes \$5,000 for related Friends of the Inyo land stewardship services.

**ELECTIONS**

**18a)**

30 minutes

**Election Planning Workshop** (Lynda Roberts) - Discussion with the Board of Supervisors about planning for the purchase of a new voting system, possibly within the next two years.

**Recommended Action:** Review the future of election logistics and discuss various options. Provide direction to staff.

**Fiscal Impact:** None.

**ADJOURNMENT**

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OFFICE OF THE CLERK  
OF THE BOARD OF SUPERVISORS

## REGULAR AGENDA REQUEST

Print

<b>MEETING DATE</b>	June 4, 2013	<b>DEPARTMENT</b>	Board of Supervisors
<b>ADDITIONAL DEPARTMENTS</b>			
<b>TIME REQUIRED</b>		<b>PERSONS APPEARING BEFORE THE BOARD</b>	
<b>SUBJECT</b>	Closed Session - CAO Position		

### AGENDA DESCRIPTION:

(A brief general description of what the Board will hear, discuss, consider, or act upon)

PUBLIC EMPLOYMENT. Government Code section 54957. Title: County Administrative Officer.

### RECOMMENDED ACTION:

### FISCAL IMPACT:

### CONTACT NAME:

PHONE/EMAIL: /

SUBMIT THE ORIGINAL DOCUMENT WITH  
ATTACHMENTS TO THE OFFICE OF  
THE COUNTY ADMINISTRATOR  
**PRIOR TO 5:00 P.M. ON THE FRIDAY**  
**32 DAYS PRECEDING THE BOARD MEETING**

### SEND COPIES TO:

### MINUTE ORDER REQUESTED:

YES  NO

### ATTACHMENTS:

[Click to download](#)

No Attachments Available

#### History

Time	Who	Approval
5/29/2013 2:29 PM	County Administrative Office	Yes
5/29/2013 1:30 PM	County Counsel	Yes
5/15/2013 9:54 AM	Finance	Yes



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<b>SUBJECT</b>	Closed Session - Conference with Legal Counsel		

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(A brief general description of what the Board will hear, discuss, consider, or act upon)

CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION. Significant exposure to litigation pursuant to paragraph (2) of subdivision (d) of Government Code section 54956.9. Number of potential cases: one. Facts and circumstances: claim for damages presented by Joel Yanez.

**RECOMMENDED ACTION:**

**FISCAL IMPACT:**

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5/29/2013 2:29 PM	County Administrative Office	Yes
5/29/2013 1:59 PM	County Counsel	Yes
5/29/2013 5:25 PM	Finance	Yes



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<b>SUBJECT</b>	Closed Session - Conference with Real Property Negotiators		

**AGENDA DESCRIPTION:**

(A brief general description of what the Board will hear, discuss, consider, or act upon)

CONFERENCE WITH REAL PROPERTY NEGOTIATORS. Government Code section 54956.8. Property: APN: 015-010-065 ("Rodeo Grounds"). Agency negotiators: Supervisors Johnston and Alpers. Negotiating parties: Mono County and Intrawest. Under negotiation: price and terms of payment.

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No Attachments Available

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Time	Who	Approval
5/29/2013 2:30 PM	County Administrative Office	Yes
5/29/2013 1:38 PM	County Counsel	Yes
5/28/2013 1:35 PM	Finance	Yes



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<b>SUBJECT</b>	Closed Session - Conference with Real Property Negotiators		

**AGENDA DESCRIPTION:**

(A brief general description of what the Board will hear, discuss, consider, or act upon)

CONFERENCE WITH REAL PROPERTY NEGOTIATORS. Government Code section 54956.8. Property: Sierra Center Mall (452 Old Mammoth Rd., Mammoth Lakes). Agency negotiators: Marshall Rudolph, Byng Hunt, Larry Johnston, Roberta Reed, Leslie Chapman, and Vianey White. Negotiating parties: Mono County and 452 OM RD LLC, and Highmark Advisors. Under negotiation: price and terms.

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5/29/2013 1:40 PM	County Counsel	Yes
5/28/2013 5:31 PM	Finance	Yes



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<b>SUBJECT</b>	Closed Session - Public Employment		

**AGENDA DESCRIPTION:**

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PUBLIC EMPLOYMENT. Government Code section 54957. Title: Associate Planner.

**RECOMMENDED ACTION:**

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<b>SUBJECT</b>	Closed Session--Human Resources		

### AGENDA DESCRIPTION:

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CONFERENCE WITH LABOR NEGOTIATORS. Government Code Section 54957.6. Agency designated representative(s): Marshall Rudolph. Employee Organization(s): Mono County Sheriff's Officers Association (aka Deputy Sheriff's Association), Local 39--majority representative of Mono County Public Employees (MCPE) and Deputy Probation Officers Unit (DPOU), Mono County Paramedic Rescue Association (PARA), Mono County Public Safety Officers Association (PSO), and Mono County Sheriff Department's Management Association (SO Mgmt). Unrepresented employees: All.

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<b>ADDITIONAL DEPARTMENTS</b>			
<b>TIME REQUIRED</b>		<b>PERSONS APPEARING BEFORE THE BOARD</b>	
<b>SUBJECT</b>	Board Minutes		

**AGENDA DESCRIPTION:**

(A brief general description of what the Board will hear, discuss, consider, or act upon)

A. Approve minutes of the Regular Meeting held on May 14, 2013.

**RECOMMENDED ACTION:**

**FISCAL IMPACT:**

**CONTACT NAME:** Shannon Kendall  
**PHONE/EMAIL:** x5533 / skendall@mono.ca.gov

SUBMIT THE ORIGINAL DOCUMENT WITH ATTACHMENTS TO THE OFFICE OF THE COUNTY ADMINISTRATOR **PRIOR TO 5:00 P.M. ON THE FRIDAY 32 DAYS PRECEDING THE BOARD MEETING**

**SEND COPIES TO:**

**MINUTE ORDER REQUESTED:**

YES  NO

**ATTACHMENTS:**

Click to download  
 [05/1/13 Draft mins](#)

**History**

Time	Who	Approval
5/29/2013 2:28 PM	County Administrative Office	Yes
5/29/2013 1:32 PM	County Counsel	Yes
5/28/2013 1:24 PM	Finance	Yes



DRAFT MEETING MINUTES  
BOARD OF SUPERVISORS, COUNTY OF MONO  
STATE OF CALIFORNIA

Regular Meetings: The First, Second, and Third Tuesday of each month. Location of meeting is specified at far right.

Regular Meeting

MEETING LOCATION  
Board Chambers, 2nd Fl., County Courthouse, 278 Main St., Bridgeport, CA 93517

May 14, 2013

<b>Flash Drive</b>	<b>#1010</b>
<b>Minute Orders</b>	<b>M13-109 to M13-114</b>
<b>Resolutions</b>	<b>R13-27 NOT USED</b>
<b>Ordinance</b>	<b>Ord13-02 – NOT USED</b>

9:01 AM Meeting Called to Order by Chairman Hunt.

*Supervisors present: Alpers, Fesko, Hunt, Johnston and Stump.  
Supervisors absent: None.*

Pledge of Allegiance led by Sheriff Obenberger.

**OPPORTUNITY FOR THE PUBLIC TO ADDRESS THE BOARD**

*No one spoke.*

*Closed Session: 9:02 a.m.*

*Break: 10:30 a.m.*

*Reconvene: 10:40 a.m.*

*Lunch: 12:17 p.m.*

*Reconvene: 1:20 p.m.*

*Break: 2:55 p.m.*

*Reconvene: 3:05 p.m.*

*Break: 4:53 p.m.*

*Reconvene: 5:00 p.m.*

*Closed Session: 5:10 p.m.*

*Adjourn: 6:10 p.m.*

**CLOSED SESSION**

*There was nothing to report out of closed session.*

**BOARD OF SUPERVISORS**

- 1a) Closed Session - Animal Control Director - PUBLIC EMPLOYMENT. Government Code Section 54957. Title: Animal Control Director.
- 1b) Closed Session - CAO Position - PUBLIC EMPLOYMENT. Government Code section 54957. Title: County Administrative Officer.

**Note**

These draft meeting minutes have not yet been approved by the Mono County Board of Supervisors

- 1c) Closed Session - Conference with Real Property Negotiators - CONFERENCE WITH REAL PROPERTY NEGOTIATORS. Government Code section 54956.8. Property: APN: 015-010-065 ("Rodeo Grounds"). Agency negotiators: Supervisors Johnston and Alpers. Negotiating parties: Mono County and Intrawest. Under negotiation: price and terms of payment.
- 1d) Closed Session--Human Resources - CONFERENCE WITH LABOR NEGOTIATORS. Government Code Section 54957.6. Agency designated representative(s): Marshall Rudolph and Lynda Salcido. Employee Organization(s): Mono County Sheriff's Officers Association (aka Deputy Sheriff's Association), Local 39--majority representative of Mono County Public Employees (MCPE) and Deputy Probation Officers Unit (DPOU), Mono County Paramedic Rescue Association (PARA), Mono County Public Safety Officers Association (PSO), and Mono County Sheriff Department's Management Association (SO Mgmt). Unrepresented employees: All.

### **OPPORTUNITY FOR THE PUBLIC TO ADDRESS THE BOARD**

#### **Tom Hallenbeck (Caltrans):**

- Update on big rig accident at the sound end of Bridgeport.
- Highway is closed until situation can be assessed.
- Bridge took a big hit, no lasting damage – mostly cosmetic.
- Once wreckage is cleared, will get road open, hopefully by end of today.
- Will do temporary fix of the situation; should not need structural repairs.
- May need to replace both railings, they are substandard rails.
- They will do repairs in a way to lend to future needs of town, citizens.

### 2) APPROVAL OF MINUTES

**M13-109 Action:** Approve minutes of the Special Meeting held on May 2, 2013.  
**Johnston moved; Stump seconded**  
**Vote: 5 yes; 0 no**

**M13-110 Action:** Approve minutes of the Special Meeting held on May 3, 2013.  
**Johnston moved; Fesko seconded**  
**Vote: 5 yes; 0 no**

### 3) BOARD MEMBER REPORTS

#### **Supervisor Alpers:**

- Majority of report deferred.
- Before opening of Fishing Season, gave resolution to Bart Hall. He was overcome with emotion.
- Also met with Chuck Bonham, Director of the Calif. Dept. of Fish and Wildlife.

#### **Supervisor Fesko:**

- Report deferred.
- Asked for 30 minutes of closed session time; board agrees.

#### **Supervisor Hunt:**

- Report deferred.

#### **Supervisor Johnston:**

- Majority of report deferred.
- Mojave last Thursday, met with Water Commissioners. Working on litigation

#### **Note**

**These draft meeting minutes have not yet been approved by the Mono County Board of Supervisors**

plan.

**Supervisor Stump:**

- Majority of report deferred.
- Benton Saturday 11:00 a.m. – 2:00 p.m. BBQ at park.

**COUNTY ADMINISTRATIVE OFFICE**

4)

**CAO Report regarding Board Assignments**

Receive brief oral report by County Administrative Officer (CAO) regarding work activities.

**Marshall Rudolph (Acting CAO):**

- Tomorrow through Friday to Modoc for Trindell meeting.
- Lynda Salcido is due to return to Mono County tomorrow. She still has a long road to recovery; will not be working anytime soon.

**DEPARTMENT REPORTS/EMERGING ISSUES**

(PLEASE LIMIT COMMENTS TO FIVE MINUTES EACH)

**Sheriff Obenberger:**

- Update on hiring: three PSO applications that they are doing backgrounds on. They have two current openings, anticipate one more.
- Patrol side: one in backgrounds; one also just sworn in (a former MLPD officer).
- Deputy Brown retiring in five weeks.
- Traffic collision south of town: bridge inspection team has been called by Caltrans. Trying to get a big rig tow truck to get truck out of the way. One fatality.

**Mary Booher:**

- Regarding consent item on waiver of fees for BPUD: will have to be backfilled to road fund by the general fund.

**Lynda Roberts:**

- Is working on procedure for appointments to committees/commissions. Will be brought back to Board.
- Supervisor Johnston: original question was about committees making recommendations themselves.

**Scott Burns:**

- Update on draft resolution received from the Public Utilities Commission. Since previous comments apply to the new resolution, probably just need a cover letter to accompany this?
- Supervisor Fesko: were new poles installed in doing this?

**Tony Dublino:**

- Pumice Valley landfill update: After Planning Commission meeting last week, Department of water and power is not willing to sign a lease document to expand pumice valley landfill. We are going to need to time to complete planning process.
- Should he draft letter for next week to formally request additional time? Could be a consent item?
- Supervisor Stump: preferred alternative? (Tony – we have met our obligations, but what they are requesting now isn't possible with time constraints – not unreasonable for us to request additional time. But, we shouldn't throw out existing document).
- Supervisor Johnston: What is logic in denying lease? (Tony: they don't believe expansion is justified).
- Tony to put on regular agenda for next week.

**CONSENT AGENDA**

(All matters on the consent agenda are to be approved on one motion unless a board member requests separate action on a specific item.)

**Note**

**These draft meeting minutes have not yet been approved by the Mono County Board of Supervisors**

CLERK OF THE BOARD

- 5a) Bridgeport PUD Request for Waiver of Fees - The Bridgeport Public Utility District has discovered a break in the district sewer pipe joint on Bryant Street. This needs to be repaired. The District has been informed that the county permitting fee is \$520.00. Additionally, the District will be required to have signage at the work area. Supervisor Fesko has agreed to sponsor this item.

**M13-111 Action:** Authorize the Board of Supervisors to waive permitting fees for the Bridgeport Utility District for work to be done on the Bryant Street sewer line and allow the District to borrow the necessary signs from the County to place at the work site as required to meet safety standards.  
**Fesko moved; stump seconded**  
**Vote: 5 yes; 0 no**

CLERK-RECORDER

- 6a) Senate Bill 391, California Homes and Jobs Act of 2013 - If passed, Senate Bill 391 will impose an additional \$75 fee on recorded documents, except those recorded in connection with a real estate purchase or transfer. The \$75 fee would impact a variety of documents, including those recorded for refinancing transactions, affidavits of death, and liens.

**M13-112 Action:** Approve a letter of opposition to Senate Bill 391.  
**Johnston moved; Alpers seconded**  
**Vote 5 yes; 0 no**  
**Supervisor Johnston pulled from consent:**

- Clarified fee being opposed.

REGULAR AGENDA

CORRESPONDENCE RECEIVED (INFORMATIONAL)

All items listed are available for review and are located in the Office of the Clerk of the Board

CLERK OF THE BOARD

- 7a) Sharon Clark Concerns about MMSA and USFS Land Swap - Letter dated April 27, 2013 from Sharon Clark of Mammoth Lakes, expressing concern about the possible Land Swap between Mammoth Lakes Ski Area and the US Forest Service. This is informational only.
- 7b) Nancy Boardman Resignation Letter - Correspondence from Nancy Boardman, Animal Control Director, dated 04/23/13 announcing her resignation from her position effective 06/30/13.

\*\*\*\*\*

*The Board acknowledged receipt of the correspondence.*

COUNTY COUNSEL

**Additional Departments:** Economic Development

**Note**

These draft meeting minutes have not yet been approved by the Mono County Board of Supervisors

- 8a) Caltrans MOU (Marshall Rudolph) - Proposed Memorandum of Understanding (MOU) between the California Department of Transportation (Caltrans) and Mono County. The MOU would potentially resolve certain issues that have arisen between the parties regarding current and future uses of the Conway Ranch property, particularly with respect to fish-rearing on the property.

**M13-113 Action:** Approve County entry into proposed MOU and authorize the Board Chair to sign said MOU on behalf of the County.

**Johnston moved; Fesko seconded**

**Vote: 5 yes; 0 no**

**Marshall Rudolph:**

- Introduced item; explained individuals involved, several of which are present today.
- Board is well aware of this item.
- Involves County repaying a portion of the grant, at end of day certain restrictions of grant would not apply.
- Conservation easement concept – no new restrictions or requirements but to reiterate current restrictions.
- For Caltrans, this deals with their administered grant.
- Preserve, protect, habitat – we need something in writing with other agencies. Not sure if other agencies will follow suit with Caltrans.
- MOU is end of settlement discussion but the beginning of its implementation including developing conservation easement. This will take some time.
- 180 day time frame is allowed in MOU.
- Might need to hire consultant to address the 75 acres.
- This will need to come back to the Board at a future point.

**Supervisor Stump:**

- Prior to payment being paid to Caltrans and Eastern Sierra Land Trust, would we add documentation from other agencies? (Marshall: yes, that's where we need to go next. We'd need something definitive.)
- Commitment to people involved.

**Supervisor Fesko:**

- This is going to eventually allow Mono County to take control of its destiny; his hat is off to all involved.
- With 180 day time plan, what does that cover?

**Supervisor Alpers:**

- In regards to process, how we've gone out to RPACS and other agencies to get this out in the community has been very positive.
- Also done in a short period of time, very admirable.

**Supervisor Johnston:**

- Could be a Specific Plan Amendment down the road?
- Recognized Chairman Hunt and Rotary Commission.

## FINANCE

- 9a) March 2013 Quarterly Investment Report (Rosemary Glazier) - Report on quarterly investment activity for quarter ending 3-31-2013. Report March 3-2013 treasury transactions.

**Action:** None.

**Rose Glazier:**

- Explained item; went over reports; gave various figures to Board.

### Note

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- We are still getting a great deal at Oak Valley; they keep charges way down for most of our business.
- Handed out historical information (clerk to post online).
- Cash flow is about the same as last year.
- Transaction Report handed out for March and April (to be posted online).

**Supervisor Fesko:**

- Asked about \$5 million at Oak Valley – how does insurance work? (Rose explained insurance policy.)

**Supervisor Stump:**

- Asked about conference in Vegas and information about future impacts? (Rose: nothing will move anytime soon.)
- Consequences of rates moving? (Rose: higher yield.)

**Supervisor Johnston:**

- Is this a good time to borrow money for any purpose? (Rose: yes, interest rate is about as low as we've seen it.)
- Different investment opportunities, some short, some longer term? (Rose: can go out a maximum of five years.)

**Supervisor Hunt:**

- Any negative cash flow problems? (Rose: no, everything is kept pretty liquid.)

## COMMUNITY DEVELOPMENT - PLANNING DIVISION

### **Additional Departments:** Public Works, Finance

- 10a) Bridgeport Facilities Plan (Wendy Sugimura) - Presentation by Wendy Sugimura regarding County facilities report for Bridgeport.

**Action:** None.

**Wendy Sugimura:**

- This was a challenging project.
- The purpose of this report was to get all Bridgeport Facilities under "one roof".
  1. Do we even need new facilities? Is Main Street an appropriate use?
    - What are staffing needs now and what will we need for space in the future?
    - If we use existing space more efficiently, we probably don't need to acquire additional space.
    - Main Street could be an appropriate use if done correctly.
  2. How does a multi-agency visitor's center and/or office complex fit with County facilities?
    - Parties involved in discussion are very interested in this.
    - They have enough of a concept to see it taking shape. It's kind of separate from facility space, but would still be worthwhile.
    - Only caveat might be medical clinic? Where would it be placed? In the visitor's center?
  3. What foreseeable space needs to exist to deliver high quality services and be compliant?
    - Comparing older TRG report and current needs is what's documented in data section of report.
    - Customer service as a more universal theme.
    - ADA compliance issues.
  4. Options for accommodating identified space needs?
    - Space needs are: Jail, Probation Office and the Clinic. Visitor's center running on separate track.
    - Options for expanding jail: build a second jail in south county (doubles operating expenses); keep in Bridgeport in one building and expand to include more beds (horizontally or vertically).

**Note**

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- Medical Clinic: a very small portion of building currently being used, costs a lot to run it.
  - Probation Office: there are a number of deficiencies from a legal standpoint.
5. How should County facilities integrate with and support the local community?

**RECOMMENDATIONS:**

- If we retain existing buildings, things need to move around.
- Old hospital building most likely needs to come down.
- Medical clinic could go there in new space, other departments and storage.
- Jail: Mono County Office of Education is supportive of possibly moving. That could give us space to construct "new" jail and maybe use the old building for something else. Old jail building would be very hard to repurpose.
- Probation office – redesigning existing building? Expanding could bring wetland's issues.
- General maintenance and space needs.
- Energy efficiency improvements.
- Multi agency offices –bring back to board for separate discussion.
- Bridgeport Rehab project will incorporate additional designs.
- Storage space, customer service, need to consider building maintenance for additional buildings.
- Staff really needs a structured process for this as we move forward.

**Supervisor Stump:**

- Saving a part of the hospital building? (Asbestos issues).

**Supervisor Hunt:**

- We need to make sure all new management is involved. Items will need to be agendaized and brought to the board.
- Very general recommendations to staff at this point.
- He feels staff needs to keep moving forward with all recommendations.

**Supervisor Johnston:**

- This stemmed out of desire to purchase property in Bridgeport but the last Board expressed interest in figuring out our needs first.
- In witnessing other communities, they have a campus feel for making everything user friendly for staff and public.
- He doesn't think we achieve the campus approach with different buildings.
- Rather have a long term plan instead of a quick fix.
- He'd like to see some graphics.

**Supervisor Fesko:**

- Echoes Supervisor Johnston that the concept of one campus is preferable.
- We need to begin looking at a 25 year plan.
- Hospital building needs to be taken down.
- What services does Bridgeport need? He's against additional services moving down south.

**Supervisor Alpers:**

- Thanked Wendy for thought-provoking report.

**PUBLIC WORKS - FACILITIES DIVISION**

**Additional Departments:** Community Development

- 11a) Workshop Projects Process (Joe Blanchard, Mary Booher) - Presentation by Joe Blanchard, Mary Booher regarding the identification of a Board approved process for projects to progress from a concept to a project.

**Action:** None.

**Note**

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**Joe Blanchard:**

- Went over staff report; explained item.
- Referenced flow chart (included with packet); this is an example of how they'd like the projects process to go.

**Mary Booher:**

- An actual policy will come back to the board for approval.
- As we move into budget development time, this is important to address.
- They'd like guidance on specifics as to what gets presented.
- Should County projects require a building permit? Needs to be formalized.
- Would like guidelines on CIP limits vs. Joe's budget.
- Soft costs vs. hard costs.
- Some costs cannot be run through the CIP budget.
- Need a percentage departments can safely go over a budget without further approval.
- If project amount is going to go over what was approved, it *has* to come back to the board.
- Recommended standardized form with hard and soft costs.
- Feels she has enough guidance to draft a policy, have CAO review and bring back to the Board.

**Supervisor Fesko:**

- He wants to know exactly how much money a project will cost; no hidden costs. Contingency needs to be built in and be flexible if necessary.
- He's glad this flow chart was created; agrees with the need for a process.
- From day one, this board has wanted to be transparent. This new policy will start this.

**Supervisor Hunt:**

- Agrees that contingency should be built into the estimate.

**Supervisor Stump:**

- Appreciates work done on this.
- Likes flow chart and prioritization.
- Will keep it from being arbitrarily changed depending on who the Board is and who the CAO is.
- Agrees with the need to know implemental costs up front.
- As policy evolves, we'll find more on-target projections.

**Supervisor Johnston:**

- Likes work done; thinks new CAO should have an opportunity to review.
- Clarification on building permit discussion.
- He's mostly concerned about going over the approved amount.

**Supervisor Alpers:**

- If you start adding on percentages over the amount approved, it wasn't planned properly to begin with.

**Leslie Chapman:**

- Mary was saying overage would be built into "not to exceed" on the project, just wanted clarification.

**Garrett Higerd:**

- For big projects, there are competitive bids, not an estimation. With these, they list not to exceed price and ask that PW director can make change orders within guidelines that are there. Also have language that says, "will not exceed budgeted amount".

\*\*\*\*\*

LUNCH

\*\*\*\*\*

**Note**

**These draft meeting minutes have not yet been approved by the Mono County Board of Supervisors**

## OPPORTUNITY FOR THE PUBLIC TO ADDRESS THE BOARD

### Jeff Walters:

- Regarding this morning's accident: asked that Public Works be allowed to assist with extraction of truck. Acting CAO gave permission for county to assist if needed.

## PUBLIC WORKS - ROAD DIVISION

- 12a) Re-allocation of Capital Improvement Project funds (Jeff Walters and Mary Booher) - The Lower Rock Creek Road Guard Rail project in Paradise will require approximately \$30,000 to construct. Another Capital Improvement Project, the Mono General Hospital Boiler Replacement in Bridgeport, originally budgeted at \$125,000 has been completed for \$63,062. Sufficient funds remain from this Capital Project to cover the costs expected on the Guardrail Project. This action requires a 4/5 vote.

**M13-114 Action:** The Board of Supervisors authorize the closure of the Boiler Replacement Capital Improvement Project; reallocate \$30,000 of the funds to a new CIP project for the Lower Rock Creek Road Guard Rail and reallocate the balance of \$31,938 back to the contingency fund in the General Fund.

**Stump moved; Alpers seconded**

**Vote: 4 yes; 0 no; 1 abstain: Johnston**

*Taken directly after lunch.*

*Supervisor Johnston asked to abstain from this vote.*

### Mary Booher:

- Came at the request of Supervisor Stump; there was a demand for this guardrail project at Rock Creek.
- Asking that \$30,000 be allocated and the balance of \$31,938 go back to the contingency fund in the General Fund.
- Still need 4/5 vote.

### Liz O'Sullivan (Paradise Estates):

- Thanked the county for being proactive on this issue.
- Thanked Supervisor Stump.

## COUNTY ADMINISTRATIVE OFFICE

**Additional Departments:** County Counsel; Community Development

- 13a) Special Event Ordinance Workshop (Sarah Messerlian) - Presentation by Sarah Messerlian regarding Special Event Ordinance.

**Action:** None.

**Sarah Messerlian (Power point, to be added to website):**

### SPECIAL EVENT ORDINANCE WORKSHOP:

- Background
- Purpose
- Definitions – section .020
- When is a Permit Required – section .030?
- Exempt Events – section .040
- General Requirements – section .050

### Note

These draft meeting minutes have not yet been approved by the Mono County Board of Supervisors

- Applying for a Special Event Permit
- Issuance of a Special Event Permit.
- Additional Considerations – Waiving of Mono County Business Licenses (July 4<sup>th</sup> vendors).
- Summary – first reading in June 2013? Will add that the county must respond within ten working days of received application; allow permit to be issued 180 vs. 120 days before event.

**ADDITIONAL INFORMATION:**

- There is currently no ordinance in place. This is what she's proposing.
- Chamber is event organizer for the 4<sup>th</sup> of July.
- Suggests a 75-attendee threshold to trigger Special Events Permits.
- Events ending at 10:00 p.m. and not before 7:00 a.m. This can be extended by Board approval by resolution.

**John Vallejo:**

- Went over section in Ordinance where it states who is required to get business license. This is part of ordinance that needs direction from the board.
- Trying to make this a one stop shop; need to have it streamlined.
- Needs to be formalized; leaves to much discretion in staff's hands.
- Staff doesn't want to be in a position of having a lot of discretion; this would be much easier with perimeters.
- Add an exemption for non-profit entities?
- How to modify time period for events? There is a section regarding exempt events.

**Supervisor Stump:**

- Is this what is already in place or what's proposed?
- He thinks a trigger is needed for county response time so that event planner has a set amount of time to meet requirements.
- Appreciates it being under one umbrella but still feels it needs to be streamlined.

**Supervisor Hunt:**

- He sees a business license as an annual thing for business doing business every year all the time in Mono County.
- We need to encourage people to come to our area and special events; these people don't need more guidelines and restrictions.

**Supervisor Fesko:**

- Permits should be able to be issued at least 180 days prior to the event.
- Discussed business license requirements for people making profit, not making profit or special considerations.
- No business licenses for anyone.

**Supervisor Johnston:**

- Only thing needing clarification is the special permit process?
- Not fair to leave people hanging, waiting for county response.

**Louis Molina:**

- From his standpoint, the ordinance points are already being implemented and it's a good procedure; it gives him a head's up.
- This is merely more of a formal process to what's already being done.

**BOARD OF SUPERVISORS**

- 14a) Board of Supervisors Planning Workshop (Board of Supervisors) - The Board of Supervisors will hold a workshop to continue their strategic planning process by prioritizing their projects list. This item was requested by Supervisor Hunt.

**Action:** None.

**Note**

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## DEFERRED UNTIL NEXT WEEK.

### **Supervisor Hunt:**

- Need to schedule workshops specific to certain things.
- Provide a spreadsheet to all Department Heads in connection with budget preparation.
- Suggested we defer this until next week.
- Priorities need to be readdressed and maybe a few things to add?

### **Scott Burns:**

- Has additional information (to be added to website and to chart).
- Add to matrix, attach to the table?
- Board agreed to just attach to table.

## AMBULANCE PARAMEDICS

15a)

Mono County Paramedic Fire Rescue Association Workshop (Rick Mitchell, President, Alex Johnson, Secretary/Treasurer, Jim DeGraffenreid, Steward) - Educational workshop about the Mono County EMS program, and discussion by the Paramedic Association about the future of the EMS program. At the regular meeting of February 19, 2013, members of the Board of Supervisors invited the Paramedic Association to schedule this workshop.

### **Action: None.**

#### **Rick Mitchell (President, Paramedic Association)**

- Jim DeGraffenreid and Alex Johnson also here to help present item.
- They'd like to leave with some momentum.
- Would like to look forward to a structured plan.
- Need to have agreement that these discussions will continue.

#### **POWERPOINT:**

##### Section 1 – Historical Review of Program

- Short History of Paramedic Program.
- T.O.T. Voter Initiative Drive.
- Additional T.O.T. Changes.

##### Section 2 – Cost Reduction Options

- A-87 Indirect Costs.
- First Responder Funds.
- Fitch Consultants.

##### Section 3 – Revenue Enhancements

- Revenue Subscription Service.
- Substantial Service Fees Currently Not Billed.
- Calif. Prop. 172 Funding Permanent Sales Tax Increase for First Responder Services.
- Mental Health Transfers Requiring Ambulance Transport.
- Optional EURO Style Daily Ski Area Subscription Fee, Given Facts for Analysis, Revenue Estimates.
- Increase in Ambulance Fees.

##### Section 4 – Structural, Service, Admin

- Ambulance Fees Received From the Transport of Patients.
- Mammoth Hospital Ambulance.
- Operational Possibilities.
- Douglas County Model.
- Where/How to Start?

#### **Note**

**These draft meeting minutes have not yet been approved by the Mono County Board of Supervisors**

- Areas Outside a Fire District?
- Other Considerations and Benefits.
- Other Benefits.
- Conclusion.

**Supervisor Fesko:**

- Likes the Subscription Fee idea; has seen this work for other people.
- Why would D.A. get first responder money?
- County contracts out with separate company for mental health transfers when we have medics?
- Mammoth Hospital doesn't use ambulances do they?
- He commends medics for creative revenue ideas.

**Supervisor Johnston:**

- The subscription fee idea has been vetted before, when? He's never heard of it.
- You could also do an add-on to a wilderness permit. For climbing?
- Doesn't like sending money out of the county for billing. Can't the county do this?

**Supervisor Hunt:**

- Wouldn't there be operating costs with the subscription fee idea?
- Very aware of services they currently provide.

**Supervisor Stump:**

- Asked for explanation of when the medics bill.
- The County could enter into various agreements with Fire people to allow for basic framework and for charges to be billed.
- He suggested 20% increase in Sales Tax (Prop 172).
- Pre-Prop 13 Districts vs. Post-Prop 13 Districts – gave explanation.
- Some of the proposed ideas today may or may not be possible.
- In our long range planning discussion in January, four Supervisors identified the Paramedic Program as a priority.
- The request was to come forth with ideas and that's exactly what you've done.

**Leslie Chapman:**

- Percentages set at the time the legislation came about.
- What is percentage rate on deductible?
- Medic billing currently being discussed. If we can do heavy lifting, why can't we do billing?

**Marshall Rudolph:**

- There are reasons the mental health transports are contracted out. Not to say it shouldn't be revisited again since we have new management, new Board.

ADJOURN: 6:10 p.m.

ATTEST:

---

BYNG HUNT  
CHAIR

---

SHANNON KENDALL  
SR. DEPUTY CLERK OF THE BOARD

§§§§§

**Note**

**These draft meeting minutes have not yet been approved by the Mono County Board of Supervisors**



OFFICE OF THE CLERK  
OF THE BOARD OF SUPERVISORS

## REGULAR AGENDA REQUEST

Print

<b>MEETING DATE</b>	June 4, 2013	<b>DEPARTMENT</b>	County Counsel
<b>ADDITIONAL DEPARTMENTS</b>			
<b>TIME REQUIRED</b>		<b>PERSONS APPEARING BEFORE THE BOARD</b>	
<b>SUBJECT</b>	Amendment to Boardman Employment Agreement		

### AGENDA DESCRIPTION:

(A brief general description of what the Board will hear, discuss, consider, or act upon)

Proposed resolution approving an agreement and first amendment to the employment agreement of Nancy Boardman. The amendment will simply extend the agreement's expiration date until June 30, 2013, at which point Ms. Boardman will retire.

### RECOMMENDED ACTION:

Adopt proposed resolution #R13-\_\_\_\_\_, approving an agreement and first amendment to the employment agreement of Nancy Boardman.

### FISCAL IMPACT:

Minor extension of current contract terms, which are included in the current budget.

**CONTACT NAME:** Marshall Rudolph

**PHONE/EMAIL:** (760) 924-1707 / mrudolph@mono.ca.gov

SUBMIT THE ORIGINAL DOCUMENT WITH  
ATTACHMENTS TO THE OFFICE OF  
THE COUNTY ADMINISTRATOR  
**PRIOR TO 5:00 P.M. ON THE FRIDAY**  
**32 DAYS PRECEDING THE BOARD MEETING**

### SEND COPIES TO:

### MINUTE ORDER REQUESTED:

YES  NO

### ATTACHMENTS:

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- [Boardman staff](#)
- [Boardman resolution](#)
- [Boardman contract](#)

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**History**

<b>Time</b>	<b>Who</b>	<b>Approval</b>
5/30/2013 11:26 AM	County Administrative Office	Yes
5/30/2013 11:10 AM	County Counsel	Yes
5/29/2013 6:42 PM	Finance	Yes

**County Counsel**  
Marshall Rudolph

**Assistant County Counsel**  
Stacey Simon

**Deputy County Counsels**  
John-Carl Vallejo

**OFFICE OF THE  
COUNTY COUNSEL**

*Mono County*  
South County Offices  
P.O. BOX 2415  
MAMMOTH LAKES, CALIFORNIA 93546

**Telephone**  
760-924-1700  
**Facsimile**  
760-924-1701

**Legal Assistant**  
Jennifer Senior

TO: Board of Supervisors

FROM: Marshall Rudolph

DATE: June 4, 2013

RE: Resolution approving Agreement and First Amendment to Agreement re  
Employment of Nancy Boardman

**Recommendation:**

Adopt proposed resolution.

**Fiscal/Mandates Impact:**

None.

**Discussion:**

The proposed agreement and first amendment is self-explanatory and would effectuate an extension of Ms. Boardman's current contract until June 30, 2013.

Please contact me with any questions or comments.



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**RESOLUTION NO. R13-**

**A RESOLUTION OF THE MONO COUNTY BOARD OF SUPERVISORS APPROVING AN AGREEMENT AND FIRST AMENDMENT TO AGREEMENT RE EMPLOYMENT OF NANCY BOARDMAN**

**WHEREAS**, the Mono County Board of Supervisors has the authority under Section 25300 of the Government Code to prescribe the compensation, appointment, and conditions of employment of County employees;

**NOW, THEREFORE, BE IT RESOLVED** by the Mono County Board of Supervisors, that the Agreement and First Amendment to Agreement re Employment of Nancy Boardman, a copy of which is attached hereto as an exhibit and incorporated herein by this reference as though fully set forth, is hereby approved and the compensation, appointment, and other terms and conditions of employment set forth in that amended Agreement are hereby prescribed and shall govern the employment of Ms. Boardman. The Chairman of the Board of Supervisors shall execute said Agreement on behalf of the County.

PASSED AND ADOPTED this \_\_\_\_ day of \_\_\_\_\_, 2013, by the following vote:

AYES :  
NOES :  
ABSTAIN :  
ABSENT :

ATTEST: \_\_\_\_\_  
Clerk of the Board

\_\_\_\_\_  
Byng Hunt, Chair  
Board of Supervisors

APPROVED AS TO FORM:

COUNTY COUNSEL

**AGREEMENT AND FIRST AMENDMENT TO  
AGREEMENT RE EMPLOYMENT  
OF NANCY BOARDMAN**

This Agreement and First Amendment is entered into this 4th day of June, 2013, by and between Nancy Boardman and the County of Mono (sometimes referred to herein collectively as "the parties") for the purpose of amending that certain Agreement re Employment of Nancy Boardman.

**I. RECITALS**

- A. The County currently employs Nancy Boardman in accordance with an employment agreement entered into on or about May 11, 2010, which would expire on June 13, 2013 (referred to herein as "the Agreement").
- B. Ms. Boardman wishes to retire on June 30, 2013. Thus, the parties wish to amend the Agreement to extend the Agreement's expiration date until June 30, 2013, which will be Ms. Boardman's last date of employment.

**II. AGREEMENT**

NOW, THEREFORE, the parties agree as follows:

- 1. Section 1 of the Agreement is amended to read as follows: "The term of this Agreement shall be May 11, 2010, until June 30, 2013, unless earlier terminated by either party in accordance with this Agreement."
- 2. All other provisions of the Agreement not hereby amended shall remain in full force and effect.

**III. EXECUTION:**

The parties hereby execute this Agreement and First Amendment as of the date first written above.

NANCY BOARDMAN

THE COUNTY OF MONO

\_\_\_\_\_

\_\_\_\_\_

By: Byng Hunt, Chair  
Board of Supervisors

APPROVED AS TO FORM:

\_\_\_\_\_  
County Counsel



OFFICE OF THE CLERK  
OF THE BOARD OF SUPERVISORS

## REGULAR AGENDA REQUEST

Print

<b>MEETING DATE</b>	June 4, 2013	<b>DEPARTMENT</b>	County Counsel
<b>ADDITIONAL DEPARTMENTS</b>			
<b>TIME REQUIRED</b>		<b>PERSONS APPEARING BEFORE THE BOARD</b>	
<b>SUBJECT</b>	Amendment to McCammond employment Agreement		

### AGENDA DESCRIPTION:

(A brief general description of what the Board will hear, discuss, consider, or act upon)

Resolution approving an agreement and first amendment to the employment agreement of Wade McCammond. The amendment will simply extend the agreement's expiration date until September 30, 2013.

### RECOMMENDED ACTION:

Adopt proposed resolution #R13-\_\_\_\_\_, approving an agreement and first amendment to the employment agreement of Wade McCammond.

### FISCAL IMPACT:

Minor extension of current contract terms, which are included in the current budget and in the forecast for 2013-14 budget.

**CONTACT NAME:** Marshall Rudolph

**PHONE/EMAIL:** (760) 924-1707 / mrudolph@mono.ca.gov

SUBMIT THE ORIGINAL DOCUMENT WITH  
ATTACHMENTS TO THE OFFICE OF  
THE COUNTY ADMINISTRATOR  
**PRIOR TO 5:00 P.M. ON THE FRIDAY**  
**32 DAYS PRECEDING THE BOARD MEETING**

### SEND COPIES TO:

### MINUTE ORDER REQUESTED:

YES  NO

### ATTACHMENTS:

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- [McCammond staff report](#)
- [McCammond resolution](#)
- [McCammond amendment](#)

---

**History**

<b>Time</b>	<b>Who</b>	<b>Approval</b>
5/30/2013 11:27 AM	County Administrative Office	Yes
5/30/2013 10:55 AM	County Counsel	Yes
5/29/2013 6:38 PM	Finance	Yes

**County Counsel**  
Marshall Rudolph

**Assistant County Counsel**  
Stacey Simon

**Deputy County Counsels**  
John-Carl Vallejo

**OFFICE OF THE  
COUNTY COUNSEL**

*Mono County*  
South County Offices  
P.O. BOX 2415

MAMMOTH LAKES, CALIFORNIA 93546

**Telephone**  
760-924-1700  
**Facsimile**  
760-924-1701

**Legal Assistant**  
Jennifer Senior

TO: Board of Supervisors

FROM: Marshall Rudolph

DATE: June 4, 2013

RE: Resolution approving Agreement and First Amendment to Agreement re  
Employment of Wade McCammond

**Recommendation:**

Adopt proposed resolution.

**Fiscal/Mandates Impact:**

None.

**Discussion:**

The proposed agreement and first amendment is self-explanatory and would effectuate an extension of Mr. McCammond's current contract until September 30, 2013.

Please contact me with any questions or comments.



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**RESOLUTION NO. R13-**

**A RESOLUTION OF THE MONO COUNTY  
BOARD OF SUPERVISORS APPROVING AN  
AGREEMENT AND FIRST AMENDMENT TO AGREEMENT  
RE EMPLOYMENT OF WADE McCAMMOND**

**WHEREAS**, the Mono County Board of Supervisors has the authority under Section 25300 of the Government Code to prescribe the compensation, appointment, and conditions of employment of County employees;

**NOW, THEREFORE, BE IT RESOLVED** by the Mono County Board of Supervisors, that the Agreement and First Amendment to Agreement re Employment of Wade McCammond, a copy of which is attached hereto as an exhibit and incorporated herein by this reference as though fully set forth, is hereby approved and the compensation, appointment, and other terms and conditions of employment set forth in that amended Agreement are hereby prescribed and shall govern the employment of Mr. McCammond. The Chairman of the Board of Supervisors shall execute said Agreement on behalf of the County.

PASSED AND ADOPTED this \_\_\_\_ day of \_\_\_\_\_, 2013, by the following vote:

AYES :  
NOES :  
ABSTAIN :  
ABSENT :

ATTEST: \_\_\_\_\_  
Clerk of the Board

\_\_\_\_\_  
Byng Hunt, Chair  
Board of Supervisors

APPROVED AS TO FORM:

COUNTY COUNSEL

**AGREEMENT AND FIRST AMENDMENT TO  
AGREEMENT RE EMPLOYMENT  
OF WADE MCCAMMOND**

This Agreement and First Amendment is entered into this 4th day of June, 2013, by and between Wade McCammond and the County of Mono (sometimes referred to herein collectively as "the parties") for the purpose of amending that certain Agreement re Employment of Wade McCammond.

**I. RECITALS**

- A. The County currently employs Wade McCammond in accordance with an employment agreement entered into on or about June 15, 2010, which would expire on June 15, 2013 (referred to herein as "the Agreement").
- B. The parties wish to amend the Agreement to extend the Agreement's expiration date until September 30, 2013.

**II. AGREEMENT**

NOW, THEREFORE, the parties agree as follows:

- 1. The first sentence of Section 1 of the Agreement is amended to read as follows: "The term of this Agreement shall be June 15, 2010, until September 30, 2013, unless earlier terminated by either party in accordance with this Agreement."
- 2. All other provisions of the Agreement not hereby amended shall remain in full force and effect.

**III. EXECUTION:**

The parties hereby execute this Agreement and First Amendment as of the date first written above.

WADE MCCAMMOND

THE COUNTY OF MONO

\_\_\_\_\_

\_\_\_\_\_

By: Byng Hunt, Chair  
Board of Supervisors

APPROVED AS TO FORM:

\_\_\_\_\_  
County Counsel



OFFICE OF THE CLERK  
OF THE BOARD OF SUPERVISORS

## REGULAR AGENDA REQUEST

Print

<b>MEETING DATE</b>	June 4, 2013	<b>DEPARTMENT</b>	County Counsel
<b>ADDITIONAL DEPARTMENTS</b>			
<b>TIME REQUIRED</b>		<b>PERSONS APPEARING BEFORE THE BOARD</b>	
<b>SUBJECT</b>	Amendment to Neely Employment Agreement		

### AGENDA DESCRIPTION:

(A brief general description of what the Board will hear, discuss, consider, or act upon)

Proposed resolution approving an agreement and first amendment to the employment agreement of Clay Neely. The amendment would simply extend the agreement's expiration date until June 30, 2013, at which point Mr. Neely will retire.

### RECOMMENDED ACTION:

Adopt proposed resolution #R13-\_\_\_\_\_, approving an agreement and first amendment to the employment agreement of Clay Neely.

### FISCAL IMPACT:

No impact to the budget since this is an extension of an existing contract, which is in the current budget.

**CONTACT NAME:** Marshall Rudolph

**PHONE/EMAIL:** (760) 924-1707 / mrudolph@mono.ca.gov

SUBMIT THE ORIGINAL DOCUMENT WITH  
ATTACHMENTS TO THE OFFICE OF  
THE COUNTY ADMINISTRATOR  
**PRIOR TO 5:00 P.M. ON THE FRIDAY**  
**32 DAYS PRECEDING THE BOARD MEETING**

### SEND COPIES TO:

### MINUTE ORDER REQUESTED:

YES  NO

### ATTACHMENTS:

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- [Neely staff](#)
- [Neely resolution](#)
- [Neely amendment](#)

---

**History**

<b>Time</b>	<b>Who</b>	<b>Approval</b>
5/30/2013 11:27 AM	County Administrative Office	Yes
5/30/2013 11:21 AM	County Counsel	Yes
5/29/2013 6:42 PM	Finance	Yes

**County Counsel**  
Marshall Rudolph

**Assistant County Counsel**  
Stacey Simon

**Deputy County Counsels**  
John-Carl Vallejo

**OFFICE OF THE  
COUNTY COUNSEL**

*Mono County*  
South County Offices  
P.O. BOX 2415

MAMMOTH LAKES, CALIFORNIA 93546

**Telephone**  
760-924-1700

**Facsimile**  
760-924-1701

**Legal Assistant**  
Jennifer Senior

TO: Board of Supervisors

FROM: Marshall Rudolph

DATE: June 4, 2013

RE: Resolution approving Agreement and First Amendment to Agreement re  
Employment of Clay Neely

**Recommendation:**

Adopt proposed resolution.

**Fiscal/Mandates Impact:**

None.

**Discussion:**

The proposed agreement and first amendment is self-explanatory and would effectuate an extension of Mr. Neely's current contract until June 30, 2013.

Please contact me with any questions or comments.



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**RESOLUTION NO. R13-**

**A RESOLUTION OF THE MONO COUNTY  
BOARD OF SUPERVISORS APPROVING AN  
AGREEMENT AND FIRST AMENDMENT TO AGREEMENT  
RE EMPLOYMENT OF CLAY NEELY**

**WHEREAS**, the Mono County Board of Supervisors has the authority under Section 25300 of the Government Code to prescribe the compensation, appointment, and conditions of employment of County employees;

**NOW, THEREFORE, BE IT RESOLVED** by the Mono County Board of Supervisors, that the Agreement and First Amendment to Agreement re Employment of Clay Neely, a copy of which is attached hereto as an exhibit and incorporated herein by this reference as though fully set forth, is hereby approved and the compensation, appointment, and other terms and conditions of employment set forth in that amended Agreement are hereby prescribed and shall govern the employment of Mr. Neely. The Chairman of the Board of Supervisors shall execute said Agreement on behalf of the County.

PASSED AND ADOPTED this \_\_\_\_ day of \_\_\_\_\_, 2013, by the following vote:

AYES :  
NOES :  
ABSTAIN :  
ABSENT :

ATTEST: \_\_\_\_\_  
Clerk of the Board

\_\_\_\_\_  
Byng Hunt, Chair  
Board of Supervisors

APPROVED AS TO FORM:

COUNTY COUNSEL

**AGREEMENT AND FIRST AMENDMENT TO  
AGREEMENT RE EMPLOYMENT  
OF CLAY NEELY**

This Agreement and First Amendment is entered into this 4th day of June, 2013, by and between Clay Neely and the County of Mono (sometimes referred to herein collectively as "the parties") for the purpose of amending that certain Agreement re Employment of Clay Neely.

**I. RECITALS**

- A. The County currently employs Clay Neely in accordance with an employment agreement entered into on or about June 15, 2010, which would expire on June 15, 2013 (referred to herein as "the Agreement").
- B. Mr. Neely wishes to retire on June 30, 2013. Thus, the parties wish to amend the Agreement to extend the Agreement's expiration date until June 30, 2013, which will be Mr. Neely's last date of employment.

**II. AGREEMENT**

NOW, THEREFORE, the parties agree as follows:

- 1. Section 1 of the Agreement is amended to read as follows: "The term of this Agreement shall be June 15, 2010, until June 30, 2013, unless earlier terminated by either party in accordance with this Agreement."
- 2. All other provisions of the Agreement not hereby amended shall remain in full force and effect.

**III. EXECUTION:**

The parties hereby execute this Agreement and First Amendment as of the date first written above.

CLAY NEELY

THE COUNTY OF MONO

\_\_\_\_\_

\_\_\_\_\_

By: Byng Hunt, Chair  
Board of Supervisors

APPROVED AS TO FORM:

\_\_\_\_\_  
County Counsel



OFFICE OF THE CLERK  
OF THE BOARD OF SUPERVISORS

## REGULAR AGENDA REQUEST

Print

<b>MEETING DATE</b>	June 4, 2013	<b>DEPARTMENT</b>	County Counsel
<b>ADDITIONAL DEPARTMENTS</b>			
<b>TIME REQUIRED</b>		<b>PERSONS APPEARING BEFORE THE BOARD</b>	
<b>SUBJECT</b>	Reed Employment Agreement Amendment		

### AGENDA DESCRIPTION:

(A brief general description of what the Board will hear, discuss, consider, or act upon)

Proposed resolution approving an agreement and first amendment to the employment agreement of Roberta Reed. The amendment would simply extend the agreement's expiration date until September 30, 2013.

### RECOMMENDED ACTION:

Adopt proposed resolution #R13-\_\_\_\_\_, approving an agreement and first amendment to the employment agreement of Roberta Reed.

### FISCAL IMPACT:

Minor extension of current contract terms, which are included in the current budget and in the forecast for 2013-14 budget.

**CONTACT NAME:** Marshall Rudolph

**PHONE/EMAIL:** (760) 924-1707 / mrudolph@mono.ca.gov

SUBMIT THE ORIGINAL DOCUMENT WITH  
ATTACHMENTS TO THE OFFICE OF  
THE COUNTY ADMINISTRATOR  
**PRIOR TO 5:00 P.M. ON THE FRIDAY**  
**32 DAYS PRECEDING THE BOARD MEETING**

### SEND COPIES TO:

### MINUTE ORDER REQUESTED:

YES  NO

### ATTACHMENTS:

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- [Reed staff report](#)
- [Reed resolution](#)
- [Reed amendment](#)

---

**History**

<b>Time</b>	<b>Who</b>	<b>Approval</b>
5/30/2013 11:28 AM	County Administrative Office	Yes
5/30/2013 10:58 AM	County Counsel	Yes
5/29/2013 6:39 PM	Finance	Yes

**County Counsel**  
Marshall Rudolph

**Assistant County Counsel**  
Stacey Simon

**Deputy County Counsels**  
John-Carl Vallejo

**OFFICE OF THE  
COUNTY COUNSEL**

*Mono County*  
South County Offices  
P.O. BOX 2415  
MAMMOTH LAKES, CALIFORNIA 93546

**Telephone**  
760-924-1700  
**Facsimile**  
760-924-1701

**Legal Assistant**  
Jennifer Senior

TO: Board of Supervisors

FROM: Marshall Rudolph

DATE: June 4, 2013

RE: Resolution approving Agreement and First Amendment to Agreement re  
Employment of Roberta Reed

**Recommendation:**

Adopt proposed resolution.

**Fiscal/Mandates Impact:**

None.

**Discussion:**

The proposed agreement and first amendment is self-explanatory and would effectuate an extension of Ms. Reed's current contract until September 30, 2013.

Please contact me with any questions or comments.



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**RESOLUTION NO. R13-**

**A RESOLUTION OF THE MONO COUNTY  
BOARD OF SUPERVISORS APPROVING AN  
AGREEMENT AND FIRST AMENDMENT TO AGREEMENT  
RE EMPLOYMENT OF ROBERTA REED**

**WHEREAS**, the Mono County Board of Supervisors has the authority under Section 25300 of the Government Code to prescribe the compensation, appointment, and conditions of employment of County employees;

**NOW, THEREFORE, BE IT RESOLVED** by the Mono County Board of Supervisors, that the Agreement and First Amendment to Agreement re Employment of Roberta Reed, a copy of which is attached hereto as an exhibit and incorporated herein by this reference as though fully set forth, is hereby approved and the compensation, appointment, and other terms and conditions of employment set forth in that amended Agreement are hereby prescribed and shall govern the employment of Ms. Reed. The Chairman of the Board of Supervisors shall execute said Agreement on behalf of the County.

PASSED AND ADOPTED this \_\_\_\_ day of \_\_\_\_\_, 2013, by the following vote:

AYES :  
NOES :  
ABSTAIN :  
ABSENT :

ATTEST: \_\_\_\_\_  
Clerk of the Board

\_\_\_\_\_  
Byng Hunt, Chair  
Board of Supervisors

APPROVED AS TO FORM:

COUNTY COUNSEL

**AGREEMENT AND FIRST AMENDMENT TO  
AGREEMENT RE EMPLOYMENT  
OF ROBERTA REED**

This Agreement and First Amendment is entered into this 4th day of June, 2013, by and between Roberta Reed and the County of Mono (sometimes referred to herein collectively as "the parties") for the purpose of amending that certain Agreement re Employment of Roberta Reed.

**I. RECITALS**

- A. The County currently employs Roberta Reed in accordance with an employment agreement entered into on or about June 15, 2010, which would expire on June 15, 2013 (referred to herein as "the Agreement").
- B. The parties wish to amend the Agreement to extend the Agreement's expiration date until September 30, 2013.

**II. AGREEMENT**

NOW, THEREFORE, the parties agree as follows:

- 1. The first sentence of Section 1 of the Agreement is amended to read as follows: "The term of this Agreement shall be June 15, 2010, until September 30, 2013, unless earlier terminated by either party in accordance with this Agreement."
- 2. All other provisions of the Agreement not hereby amended shall remain in full force and effect.

**III. EXECUTION:**

The parties hereby execute this Agreement and First Amendment as of the date first written above.

ROBERTA REED

THE COUNTY OF MONO

\_\_\_\_\_

\_\_\_\_\_

By: Byng Hunt, Chair  
Board of Supervisors

APPROVED AS TO FORM:

\_\_\_\_\_  
County Counsel



OFFICE OF THE CLERK  
OF THE BOARD OF SUPERVISORS

## REGULAR AGENDA REQUEST

Print

<b>MEETING DATE</b>	June 4, 2013	<b>DEPARTMENT</b>	County Counsel
<b>ADDITIONAL DEPARTMENTS</b>			
<b>TIME REQUIRED</b>		<b>PERSONS APPEARING BEFORE THE BOARD</b>	
<b>SUBJECT</b>	Roberts Employment Agreement Amendment		

### AGENDA DESCRIPTION:

(A brief general description of what the Board will hear, discuss, consider, or act upon)

Proposed resolution approving an agreement and second amendment to the employment agreement of Lynda Roberts. The amendment will simply extend the agreement's expiration date until September 30, 2013.

### RECOMMENDED ACTION:

Adopt proposed resolution #R13-\_\_\_\_\_, approving an agreement and second amendment to the employment agreement of Lynda Roberts.

### FISCAL IMPACT:

Minor extension of current contract terms, which are included in the current budget and in the forecast for 2013-14 budget.

**CONTACT NAME:** Marshall Rudolph

**PHONE/EMAIL:** (760) 924-1707 / mrudolph@mono.ca.gov

SUBMIT THE ORIGINAL DOCUMENT WITH  
ATTACHMENTS TO THE OFFICE OF  
THE COUNTY ADMINISTRATOR  
**PRIOR TO 5:00 P.M. ON THE FRIDAY**  
**32 DAYS PRECEDING THE BOARD MEETING**

### SEND COPIES TO:

### MINUTE ORDER REQUESTED:

YES  NO

### ATTACHMENTS:

Click to download

- [Roberts staff report](#)
- [Roberts Resolution](#)
- [Roberts amendment](#)

---

**History**

<b>Time</b>	<b>Who</b>	<b>Approval</b>
5/30/2013 11:28 AM	County Administrative Office	Yes
5/30/2013 11:01 AM	County Counsel	Yes
5/29/2013 6:40 PM	Finance	Yes

**County Counsel**  
Marshall Rudolph

**Assistant County Counsel**  
Stacey Simon

**Deputy County Counsels**  
John-Carl Vallejo

**OFFICE OF THE  
COUNTY COUNSEL**

*Mono County*  
South County Offices  
P.O. BOX 2415

MAMMOTH LAKES, CALIFORNIA 93546

**Telephone**  
760-924-1700  
**Facsimile**  
760-924-1701

**Legal Assistant**  
Jennifer Senior

TO: Board of Supervisors

FROM: Marshall Rudolph

DATE: June 4, 2013

RE: Resolution approving Agreement and Second Amendment to Agreement  
re Employment of Lynda Roberts

**Recommendation:**

Adopt proposed resolution.

**Fiscal/Mandates Impact:**

None.

**Discussion:**

The proposed agreement and second amendment is self-explanatory and would effectuate an extension of Ms. Roberts' current contract until September 30, 2013.

Please contact me with any questions or comments.



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**RESOLUTION NO. R13-**

**A RESOLUTION OF THE MONO COUNTY BOARD OF SUPERVISORS APPROVING AN AGREEMENT AND SECOND AMENDMENT TO AGREEMENT RE EMPLOYMENT OF LYNDA ROBERTS**

**WHEREAS**, the Mono County Board of Supervisors has the authority under Section 25300 of the Government Code to prescribe the compensation, appointment, and conditions of employment of County employees;

**NOW, THEREFORE, BE IT RESOLVED** by the Mono County Board of Supervisors, that the Agreement and Second Amendment to Agreement re Employment of Lynda Roberts, a copy of which is attached hereto as an exhibit and incorporated herein by this reference as though fully set forth, is hereby approved and the compensation, appointment, and other terms and conditions of employment set forth in that amended Agreement are hereby prescribed and shall govern the employment of Ms. Roberts. The Chairman of the Board of Supervisors shall execute said Agreement on behalf of the County.

PASSED AND ADOPTED this \_\_\_\_ day of \_\_\_\_\_, 2013, by the following vote:

AYES :  
NOES :  
ABSTAIN :  
ABSENT :

ATTEST: \_\_\_\_\_  
Clerk of the Board

\_\_\_\_\_  
Byng Hunt, Chair  
Board of Supervisors

APPROVED AS TO FORM:

COUNTY COUNSEL

**AGREEMENT AND SECOND AMENDMENT TO  
AGREEMENT RE EMPLOYMENT  
OF LYNDA ROBERTS**

This Agreement and Second Amendment is entered into this 4th day of June, 2013, by and between Lynda Roberts and the County of Mono (sometimes referred to herein collectively as "the parties") for the purpose of amending that certain Agreement re Employment of Lynda Roberts (previously amended on April 16, 2013).

**I. RECITALS**

- A. The County currently employs Lynda Roberts in accordance with an employment agreement entered into on or about May 4, 2010, which would expire on June 30, 2013 (referred to herein as "the Agreement").
- B. The parties wish to amend the Agreement to extend the Agreement's expiration date until September 30, 2013.

**II. AGREEMENT**

NOW, THEREFORE, the parties agree as follows:

- 1. The first sentence of Section 1 of the Agreement is amended to read as follows: "The term of this Agreement shall be May 4, 2010, until September 30, 2013, unless earlier terminated by either party in accordance with this Agreement."
- 2. All other provisions of the Agreement not hereby amended shall remain in full force and effect.

**III. EXECUTION:**

The parties hereby execute this Agreement and Second Amendment as of the date first written above.

LYNDA ROBERTS

THE COUNTY OF MONO

\_\_\_\_\_

\_\_\_\_\_

By: Byng Hunt, Chair  
Board of Supervisors

APPROVED AS TO FORM:

\_\_\_\_\_  
County Counsel



OFFICE OF THE CLERK  
OF THE BOARD OF SUPERVISORS

## REGULAR AGENDA REQUEST

Print

<b>MEETING DATE</b>	June 4, 2013	<b>DEPARTMENT</b>	County Counsel
<b>ADDITIONAL DEPARTMENTS</b>			
<b>TIME REQUIRED</b>		<b>PERSONS APPEARING BEFORE THE BOARD</b>	
<b>SUBJECT</b>	Salcido Employment Agreement Amendment		

### AGENDA DESCRIPTION:

(A brief general description of what the Board will hear, discuss, consider, or act upon)

Proposed resolution approving an agreement and third amendment to the employment agreement of Lynda Salcido. The amendment will simply extend the agreement's expiration date until September 30, 2013.

### RECOMMENDED ACTION:

Adopt proposed resolution #R13-\_\_\_\_\_, approving an agreement and third amendment to the employment agreement of Lynda Salcido.

### FISCAL IMPACT:

Minor extension of current contract terms, which are included in the current budget and in the forecast for 2013-14 budget.

**CONTACT NAME:** Marshall Rudolph

**PHONE/EMAIL:** (760) 924-1707 / mrudolph@mono.ca.gov

SUBMIT THE ORIGINAL DOCUMENT WITH  
ATTACHMENTS TO THE OFFICE OF  
THE COUNTY ADMINISTRATOR  
**PRIOR TO 5:00 P.M. ON THE FRIDAY**  
**32 DAYS PRECEDING THE BOARD MEETING**

### SEND COPIES TO:

### MINUTE ORDER REQUESTED:

YES  NO

### ATTACHMENTS:

Click to download

- [Salcido staff](#)
- [Salcido resolution](#)
- [Salcido contract](#)

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**History**

<b>Time</b>	<b>Who</b>	<b>Approval</b>
5/30/2013 11:28 AM	County Administrative Office	Yes
5/30/2013 11:06 AM	County Counsel	Yes
5/29/2013 6:39 PM	Finance	Yes

**County Counsel**  
Marshall Rudolph

**Assistant County Counsel**  
Stacey Simon

**Deputy County Counsel**  
John-Carl Vallejo

**OFFICE OF THE  
COUNTY COUNSEL**

*Mono County*  
South County Offices  
P.O. BOX 2415

MAMMOTH LAKES, CALIFORNIA 93546

**Telephone**  
760-924-1700  
**Facsimile**  
760-924-1701

**Legal Assistant**  
Jennifer Senior

TO: Board of Supervisors

FROM: Marshall Rudolph

DATE: June 4, 2013

RE: Resolution approving Agreement and Third Amendment to Agreement re  
Employment of Lynda Salcido

**Recommendation:**

Adopt proposed resolution.

**Fiscal/Mandates Impact:**

None.

**Discussion:**

The proposed agreement and third amendment is self-explanatory and would effectuate an extension of Ms. Salcido's current contract until September 30, 2013.

Please contact me with any questions or comments.



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**RESOLUTION NO. R13-**

**A RESOLUTION OF THE MONO COUNTY BOARD OF SUPERVISORS APPROVING AN AGREEMENT AND THIRD AMENDMENT TO AGREEMENT RE EMPLOYMENT OF LYNDA SALCIDO**

**WHEREAS**, the Mono County Board of Supervisors has the authority under Section 25300 of the Government Code to prescribe the compensation, appointment, and conditions of employment of County employees;

**NOW, THEREFORE, BE IT RESOLVED** by the Mono County Board of Supervisors, that the Agreement and Third Amendment to Agreement re Employment of Lynda Salcido, a copy of which is attached hereto as an exhibit and incorporated herein by this reference as though fully set forth, is hereby approved and the compensation, appointment, and other terms and conditions of employment set forth in that amended Agreement are hereby prescribed and shall govern the employment of Ms. Salcido. The Chairman of the Board of Supervisors shall execute said Agreement on behalf of the County.

PASSED AND ADOPTED this \_\_\_\_ day of \_\_\_\_\_, 2013, by the following vote:

AYES :  
NOES :  
ABSTAIN :  
ABSENT :

ATTEST: \_\_\_\_\_  
Clerk of the Board

\_\_\_\_\_  
Byng Hunt, Chair  
Board of Supervisors

APPROVED AS TO FORM:

COUNTY COUNSEL

**AGREEMENT AND THIRD AMENDMENT TO  
AGREEMENT RE EMPLOYMENT  
OF LYNDA SALCIDO**

This Agreement and Third Amendment is entered into this 4th day of June, 2013, by and between Lynda Salcido and the County of Mono (sometimes referred to herein collectively as "the parties") for the purpose of amending that certain Agreement re Employment of Lynda Salcido (last amended on or about March 5, 2012).

**I. RECITALS**

- A. The County currently employs Lynda Salcido in accordance with an amended employment agreement entered into on or about February 9, 2010, which would expire on June 30, 2013 (referred to herein as "the Agreement").
- B. The parties wish to amend the Agreement to extend the Agreement's expiration date until September 30, 2013.

**II. AGREEMENT**

NOW, THEREFORE, the parties agree as follows:

- 1. The first sentence of Section 1 of the Agreement is amended to read as follows: "The term of this Agreement shall be February 9, 2010, until September 30, 2013, unless earlier terminated by either party in accordance with this Agreement."
- 2. All other provisions of the Agreement not hereby amended shall remain in full force and effect.

**III. EXECUTION:**

The parties hereby execute this Agreement and Third Amendment as of the date first written above.

LYNDA SALCIDO

THE COUNTY OF MONO

\_\_\_\_\_

\_\_\_\_\_

By: Byng Hunt, Chair  
Board of Supervisors

APPROVED AS TO FORM:

\_\_\_\_\_  
County Counsel



OFFICE OF THE CLERK  
OF THE BOARD OF SUPERVISORS

## REGULAR AGENDA REQUEST

Print

<b>MEETING DATE</b>	June 4, 2013	<b>DEPARTMENT</b>	Clerk of the Board
<b>ADDITIONAL DEPARTMENTS</b>			
<b>TIME REQUIRED</b>		<b>PERSONS APPEARING BEFORE THE BOARD</b>	
<b>SUBJECT</b>	Appointment of Mary DeForrest to the Lee Vining Fire Protection District		

### AGENDA DESCRIPTION:

(A brief general description of what the Board will hear, discuss, consider, or act upon)

Appointment of Mary DeForrest to the Lee Vining Fire Protection District pursuant to two recent vacancies on the District. There is currently only one Commissioner on this Board and as such, they have no quorum and cannot conduct everyday business. This will fill an existing term (vacated by Nick Dondero) that will expire on 02/31/2014. Supervisor Stump asked that this item be put onto the agenda.

### RECOMMENDED ACTION:

Appoint Mary DeForrest to the Lee Vining Fire Protection District, filling one of two open vacancies that exist.

### FISCAL IMPACT:

None.

**CONTACT NAME:** Shannon Kendall

**PHONE/EMAIL:** x5533 / skendall@mono.ca.gov

SUBMIT THE ORIGINAL DOCUMENT WITH  
ATTACHMENTS TO THE OFFICE OF  
THE COUNTY ADMINISTRATOR  
**PRIOR TO 5:00 P.M. ON THE FRIDAY**  
**32 DAYS PRECEDING THE BOARD MEETING**

### SEND COPIES TO:

### MINUTE ORDER REQUESTED:

YES  NO

### ATTACHMENTS:

Click to download

[Attachments LVFPD](#)

**History**

<b>Time</b>	<b>Who</b>	<b>Approval</b>
5/29/2013 2:28 PM	County Administrative Office	Yes
5/29/2013 1:36 PM	County Counsel	Yes
5/28/2013 1:35 PM	Finance	Yes

*Lee Vining Fire Protection District*  
*P. O. Box 246, Lee Vining, California 93541*

To: Honorable Board of Supervisors  
and Lynda Roberts

From: LVVFD Fire Commissioner  
Shanda Duro

Date: May 29, 2013

This letter is to request the Board of Supervisors to appoint Mary De Forrest as a commissioner for the Lee Vining Fire Department.

Ms. De Forrest will be filling the term of Nick Dondero, which will terminate at the end of 2014.

Thank You for your consideration,

Shanda Duro



LVVFD Commissioner

**MONO COUNTY  
APPLICATION FOR APPOINTMENT  
TO BOARDS/COMMISSIONS/COMMITTEES**

DATE	5-29-13	
NAME	Mary DeForrest	
	POSITION APPLIED FOR:	
RESIDENCE ADDRESS	276 B Vista Pt	Lee Vining CA 93541
PHONE	760-937-2639	
BUSINESS ADDRESS	51710 Hwy 395	Lee Vining CA 93541
PHONE	760-647-6366	
OCCUPATION	High School Secretary	

How did you learn of the opening? Board member

Please state briefly any experience of which you feel will be helpful when you serve in this appointment: Former Sec'y to Board for Chalfant Valley Fire Dept.

Other information may be submitted by resume if desired.

Summary of background and skills: Former EMT, Firefighter, and Engineer for Volunteer Fire Dept. Served on Board. CPR Cert.

Professional experience: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Education: AA Degree in Human Resource Mgt.

Professional and/or community organizations: CVFD for 8 1/2 yrs.  
Board Sec'y for 2 yrs

Personal interests and hobbies: traveling

Have you ever been convicted of a felony, which would disqualify you from appointment? If you are appointed and cannot be bonded as required, your appointment will be revoked.

If you desire a personal interview or wish to address the Board, you may contact the Board of Supervisor's Office directly at (760) 932-5533.

Please return application to: Clerk of the Board  
County of Mono  
P. O. Box 715  
Bridgeport, CA 93517

Mary DeForrest  
Signature

5-29-13  
Date



OFFICE OF THE CLERK  
OF THE BOARD OF SUPERVISORS

## REGULAR AGENDA REQUEST

Print

<b>MEETING DATE</b>	June 4, 2013	<b>DEPARTMENT</b>	Community Development - Planning Division
<b>ADDITIONAL DEPARTMENTS</b>			
<b>TIME REQUIRED</b>		<b>PERSONS APPEARING BEFORE THE BOARD</b>	
<b>SUBJECT</b>	Resource Efficiency Plan Contract		

### AGENDA DESCRIPTION:

(A brief general description of what the Board will hear, discuss, consider, or act upon)

Proposed contract with Pacific Municipal Consultants (PMC) to prepare Resource Efficiency Plan.

### RECOMMENDED ACTION:

Approve the attached contract with Pacific Municipal Consultants (PMC) for a not-to-exceed amount of \$80,915.00 for consulting services.

### FISCAL IMPACT:

No General Fund impact. The not-to-exceed contract cost of \$80,915.00 and associated staff time to manage/complete this work is entirely funded by the Sustainable Communities Planning Grant.

**CONTACT NAME:** Wendy Sugumura, Scott Burns

**PHONE/EMAIL:** 924-1814; 924-1807 / wsugimura@mono.ca.gov; sburns@mono.ca.gov

SUBMIT THE ORIGINAL DOCUMENT WITH  
ATTACHMENTS TO THE OFFICE OF  
THE COUNTY ADMINISTRATOR  
**PRIOR TO 5:00 P.M. ON THE FRIDAY**  
**32 DAYS PRECEDING THE BOARD MEETING**

### SEND COPIES TO:

### MINUTE ORDER REQUESTED:

YES  NO

### ATTACHMENTS:

Click to download

[Staff Report](#)

[Proposed Contract](#)

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**History**

<b>Time</b>	<b>Who</b>	<b>Approval</b>
5/29/2013 2:33 PM	County Administrative Office	Yes
5/29/2013 4:52 PM	County Counsel	Yes
5/28/2013 11:35 AM	Finance	Yes

# Mono County Community Development Department

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P.O. Box 347  
Mammoth Lakes, CA 93546  
(760) 924-1800, fax 924-1801  
commdev@mono.ca.gov

Planning Division

P.O. Box 8  
Bridgeport, CA 93517  
(760) 932-5420, fax 932-5431  
[www.monocounty.ca.gov](http://www.monocounty.ca.gov)

June 4, 2013

**To: Mono County Board of Supervisors**

**From: Wendy Sugimura, Associate Analyst  
Scott Burns, Director**

**Re: Contract with PMC for the Resource Efficiency Plan**

## **Action Requested**

Approve the attached contract with Pacific Municipal Consultants (PMC) for a not-to-exceed amount of \$80,915.00 for consulting services.

## **Background**

At the January 21 meeting, the Board of Supervisors approved a contract with the California Department of Conservation for a Sustainable Communities Planning Grant for a comprehensive General Plan Update. The approved scope of work includes the Resource Efficiency Plan.

At the May 14 meeting, the Board of Supervisors directed staff to continue exploring energy efficiency and utility cost reduction measures through the development of the Resource Efficiency Plan, in addition to the ongoing solarization effort.

## **Fiscal Impact**

The not-to-exceed contract cost of \$80,915.00 and associated staff time to manage/complete this work is entirely funded by the Sustainable Communities Planning Grant, resulting in no impact to the General Fund.

## **Discussion**

The Resource Efficiency Plan is intended function in the same manner as the more commonly known Climate Action Plan, but is focused more specifically on meeting the requirements of a Greenhouse Gas Emissions Reduction Plan as set forth in the California Environmental Quality Act (CEQA) §15183.5. The County's main goals would be to 1) meet CEQA requirements for the General Plan Update, 2) provide a robust enough GHG analysis and set of mitigation measures to enable tiering and/or CEQA streamlining by future development projects, and 3) identify, prioritize, and economically demonstrate GHG reduction mitigation measures that result in cost savings and/or a high return on investment for community residents and/or government operations in addition to reducing emissions. The components of the Resource Efficiency Plan will be incorporated into the General Plan Update and supporting Environmental Impact Report.

## **Attachments:**

1. Agreement between the County of Mono and Pacific Municipal Consultants (PMC) for the provision of consulting services.

**AGREEMENT BETWEEN THE COUNTY OF MONO AND  
PACIFIC MUNICIPAL CONSULTANTS FOR THE PREPARATION OF  
A RESOURCE EFFICIENCY PLAN FOR GREENHOUSE GAS EMISSIONS**

WHEREAS, the County of Mono, a political subdivision of the State of California (hereinafter referred to as "the County"), has the need for the consulting services of Pacific Municipal Consultants (PMC) of Rancho Cordova, California (hereinafter referred to as "Consultant"), and in consideration of the mutual promises, covenants, terms and conditions hereinafter contained, the parties hereby agree as follows:

**TERMS AND CONDITIONS**

**1. SCOPE OF WORK**

Consultant shall furnish the services, perform the work, and provide the associated materials and equipment for the County described in the Scope of Work provided as Attachment A.

All requests to Consultant for services and work to be performed under this Agreement shall be based upon the County's need for such services or work. By this Agreement the County incurs no obligation or requirement to request from Consultant the performance of any services or work at all, even if the County should have some need for such services or work during the term of this Agreement.

Services and work provided at the County's request by Consultant under this Agreement will be performed in a manner consistent with the requirements and standards established by applicable federal, state, and County laws, ordinances, regulations, and resolutions. Such laws, ordinances, regulations, and resolutions include, but are not limited to, those to which reference is made in this Agreement. If Consultant becomes aware of conflicting applicable federal, state, and/or County laws, ordinances and/or resolutions, Consultant will contact the County in writing and seek direction prior to proceeding with the work in question.

**2. TERM**

The term of this Agreement shall be from June 4, 2013 to October 30, 2014. The County reserves the right to terminate, at any time during the term hereof and without cause, this Agreement as provided in paragraph 15.

**3. CONSIDERATION**

- A. Compensation. The County shall pay Consultant in accordance with the fee schedule and budget provided in Attachment B.
- B. Travel and Per Diem. Except as expressly stated in Attachment A: Scope of Work of this Agreement, Consultant will not be paid or reimbursed for travel expenses or per diem

which Consultant incurs in providing services and work requested by the County under this Agreement.

- C. No Additional Consideration. Except as expressly provided in this Agreement, Consultant shall not be entitled to, nor receive from the County, any additional consideration, compensation, salary, wages, or other type of remuneration for services or work rendered under this Agreement. Specifically, Consultant shall not be entitled, by virtue of this Agreement, to consideration in the form of overtime, health insurance benefits, retirement benefits, disability retirement benefits, sick leave, vacation time, paid holidays, or other paid leaves of absence of any type or kind whatsoever.
- D. Limit Upon Amount Payable Under Agreement. The total sum of all payments made by the County to Consultant for services and work performed pursuant to the Scope of Work in Attachment A and identified in the budget in Attachment B shall not exceed \$69,595.00 unless optional elements are approved by the Community Development Director in writing, in which case the total sum of all payments shall not exceed \$80,915.00 while this Agreement remains in effect (hereinafter referred to as "contract limit"). The County expressly reserves the right to deny any payment or reimbursement requested by Consultant for services or work performed which is in excess of the contract limit.
- E. Billing and Payment. Consultant shall submit to the County, on a monthly basis, separate itemized statements of all services and work described in Attachment A (Scope of Work) which were done at the County's request. The statement to be submitted will cover the period from the first day of the preceding month through and including the last day of the preceding month. Alternatively, Consultant may submit a single request for payment at the conclusion of the services or work. All statements submitted in request for payment shall identify the date on which the services and work were performed and describe the nature of the services and work which were performed on each day; the statements shall also describe all requested reimbursement or payment for travel expenses and per diem, if such reimbursement is authorized by this Agreement. Invoicing shall be informative but concise regarding services and work performed during that billing period. Upon finding that Consultant has completed the work in accordance with this Agreement and performed the services as requested, the County shall make payment to Consultant within 30 days of its receipt of the itemized statement. Should the County determine the services or work have not been completed or performed as set forth in Attachment A and/or should Consultant produce an incorrect statement, the County shall withhold payment on any disputed amounts until the services and work are completed or performed in accordance with this Agreement and/or the statement is corrected and resubmitted.
- F. Federal and State Taxes.
  - (1) Except as provided in subparagraph (2) below, the County will not withhold any federal or state income taxes or social security from any payments made by the County to Consultant under the terms and conditions of this Agreement.

- (2) The County shall withhold California State income taxes from payments made under this Agreement to non-California resident independent Consultants when it is anticipated that total annual payments to Consultant under this Agreement will exceed one-thousand four-hundred ninety-nine dollars (\$1,499.00).
- (3) Except as set forth above, the County has no obligation to withhold any taxes or payments from sums paid by the County to Consultant under this Agreement. Payment of all taxes and other assessments on such sums is the sole responsibility of Consultant. The County has no responsibility or liability for payment of Consultant's taxes or assessments.
- (4) The total amounts paid by the County to Consultant, and taxes withheld from payments to non-California residents, if any, will be reported annually to the Internal Revenue Service and the State Franchise Tax Board.

#### **4. WORK SCHEDULE**

Consultant's obligation is to perform, in a timely manner, the services and work identified in the Scope of Work in Attachment A. It is understood by Consultant that its performance of those services and work will require a varied schedule. Consultant, in arranging its own schedule, will coordinate with the County to ensure that all services and work requested by the County will be performed within the time frame set forth in the Scope of Work. County will provide, in a timely manner, responses to Consultant's requests for information, data, and County comments to draft work product. Neither party shall be held responsible for delays which are outside their reasonable control.

#### **5. REQUIRED LICENSES, CERTIFICATES, AND PERMITS**

Any licenses, certificates, or permits which it is reasonably foreseeable will be required by federal, state, County, or municipal governments for Consultant to provide services and work pursuant to this Agreement must be procured by Consultant and be valid at the time Consultant enters into this Agreement. Further, during the term of this Agreement, Consultant must maintain such licenses, certificates, and permits in full force and effect. Licenses, certificates, and permits may include, but are not limited to, driver's licenses, professional licenses or certificates, Consultant's licenses, and business licenses. Such licenses, certificates, and permits will be procured and maintained in force by Consultant at no expense to the County. Consultant will provide the County, upon execution of this Agreement, with evidence of current and valid licenses, certificates and permits which are required to perform the services and work contemplated by this Agreement. If there is a disagreement between Consultant and the County as to what licenses, certificates, and permits are required to perform the services and work contemplated by this Agreement, the County reserves and shall have the right to make such determinations for purposes of this Agreement.

## **6. OFFICE SPACE, SUPPLIES, EQUIPMENT, ETC.**

Consultant shall provide such office space, supplies, equipment, vehicles, reference materials, support services, and telephone service as is necessary for Consultant to provide the services and work identified contemplated by this Agreement. The County is not obligated to reimburse or pay Consultant for any expense or cost incurred by Consultant in procuring or maintaining such items. The costs and expenses incurred by Consultant in providing and maintaining such items is the sole responsibility and obligation of Consultant. Project meetings may be held at County offices upon approval of County's project representative.

## **7. COUNTY PROPERTY**

- A. Personal Property of the County. Any personal property such as, but not limited to, protective or safety devices, badges, identification cards, keys, uniforms, etc., provided to Consultant by the County pursuant to this Agreement are, and at the termination of this Agreement remain, the sole and exclusive property of the County. Consultant will use reasonable care to protect, safeguard, and maintain such items while they are in Consultant's possession. Consultant will be financially responsible for any loss or damage to such items, partial or total, which is the result of Consultant's negligence.
- B. Products of Consultant's Services and Work. 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, product, or manifestation of, Consultant'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, Consultant will convey possession and title to all such properties to the County. Consultant shall not be held liable for any modification or reuse of the County-owned work product for purposes outside this Agreement.

## **8. WORKERS' COMPENSATION**

Consultant shall provide workers' compensation insurance coverage, in the legally required amount, for all Consultant's employees utilized in providing services and work pursuant to this Agreement. By executing a copy of this Agreement, Consultant acknowledges its obligations and responsibilities to its employees under the California Labor Code, and warrants that Consultant has complied and will comply during the term of this Agreement with all provisions of the California Labor Code with regard to its employees. Consultant, at the time of execution of this Agreement, will provide the County with evidence of the required workers' compensation insurance coverage.

## 9. INSURANCE

Insurance requirements, which may include but not be limited to minimum coverage levels and type, are subject to change by the County based on the scope of services and work that may be requested.

- A. **General Liability.** Consultant shall procure, and maintain during the entire term of this Agreement, a policy of general liability insurance which covers all the services and work to be performed by Consultant under this Agreement. Such policy shall have a per occurrence combined single limit coverage of not less than one million dollars (\$1,000,000). Such policy shall not exclude or except from coverage any of the services and work required to be performed by Consultant under this Agreement and shall contain a provision prohibiting the modification of said policy. The required policy of insurance shall be issued by an insurer authorized to sell such insurance by the State of California, and have at least a "Best's" policyholder's rating of "A" or "A+". Prior to commencing any work under this Agreement, Consultant shall provide the County: 1) a certificate of insurance documenting evidence of the required coverage; 2) an additional insured endorsement applying to the County of Mono, its agents, officers and employees; and, 3) a notice of cancellation endorsement indicating that the policy will not be terminated or canceled without 30 days' written notice to the County, Notwithstanding the foregoing, in the event of cancellation due to non-payment of premium, 10 days' advance written notice will be provided.
- B. **Business Vehicle.** Consultant shall procure and maintain in force throughout the duration of this Agreement, a business auto liability insurance policy with minimum coverage levels of one million dollars (\$1,000,000) per occurrence, combined single limit for bodily injury liability and property damage liability. The coverage shall include all vehicles employed by the Consultant in the performance of the services and work requested by the County. A certificate of insurance shall be provided to the County by Consultant prior to commencing any work under this Agreement. The policy shall maintain a provision prohibiting the cancellation or modification of said policy except upon 30 days' prior written notice to the County, except in the event of cancellation due to non-payment of premium, 10days' written notice shall be provided.
- C. **Professional Errors and Omissions Liability Insurance.** Consultant shall provide professional errors and omission liability insurance in an amount of not less than one million dollars (\$1,000,000) per occurrence and one million dollars (\$1,000,000) policy aggregate. A certificate of insurance shall be provided to the County by Consultant prior to commencing any work under this Agreement. If professional liability coverage is written on a claims-made form: 1) the "retro date" must be shown and must be before the date of this Agreement or prior to commencing services and work requested by the County under this Agreement; 2) insurance must be maintained and evidence of insurance must be provided for at least five years after completion of services and work performed under this Agreement; and, 3) if coverage is cancelled or non-renewed and not replaced with another claims-made policy form with a "retro date" that is prior to the date of this Agreement, Consultant must purchase "extended reporting" coverage for a

minimum of five years after the completion of services and work performed under this Agreement.

- D. Deductibles and Self-Insured Retentions. Any deductibles or self-insured retentions shall be declared by Consultant and must be approved by the County prior to Consultant commencing services and work requested by the County under this Agreement. If possible, the insurer shall reduce or eliminate such deductibles or self-insured retentions with respect to the County, its officials, officers, employees, and designated volunteers, or Consultant shall provide evidence satisfactory to the County guaranteeing payment of losses and related investigations, claim administration, and defense expenses.
- E. Sub-consultants. Consultant shall include all sub-consultants as insureds under its policies or shall furnish separate certificates and endorsements for each sub-consultant. All coverages for sub-consultants shall be subject to all of the requirements stated herein for Consultant.
- F. Unemployment, Disability, and Liability Insurance. Consultant shall maintain, if so required by law, unemployment, disability and liability insurance in an amount to be determined by the State which is reasonable to compensate any person, firm, or corporation who may be injured or damaged by the Consultant in performing work associated with this Agreement.

## 10. STATUS OF CONSULTANT

All acts of Consultant, its agents, officers, employees, and sub-consultants relating to the performance of this Agreement, shall be performed by independent Consultants, and not as agents, officers, or employees of the County. Consultant, by virtue of this Agreement, has no authority to bind or incur any obligation on behalf of, or exercise any right or power vested in, the County. No agent, officer, or employee of the County is to be considered an employee of Consultant. It is understood by both Consultant and the County that this Agreement shall not under any circumstances be construed or considered to create an employer-employee relationship or a joint venture. As an independent Consultant:

- A. Consultant (unless otherwise specified herein) shall determine the method, details, and means of performing the services and work to be provided by Consultant under this Agreement.
- B. Consultant shall be responsible to the County only for the requirements and results specified in this Agreement and, except as expressly provided in this Agreement, shall not be subjected to the County's control with respect to the physical action or activities of Consultant in fulfillment of this Agreement.
- C. Consultant, its agents, officers and employees are, and at all times during the term of this Agreement, shall represent and conduct themselves as independent Consultants, and not as employees of the County.

- D. It is agreed that Consultant's employees are not "employees-for-hire" but are provided as a part of professional services to serve a specific purpose for a temporary period. Should the County wish to hire for permanent employment an employee of Consultant within this Agreement period or for a period of one year after services are completed, County shall contact Consultant in writing and make such a request. Consultant shall work with County regarding equitable compensation for the hiring away of said employee, however nothing in this paragraph shall preclude County from publishing or otherwise distributing applications and information about job openings where such publication or distribution is directed to the general public. The intent of this paragraph is that Consultant's employees are not actively solicited for hire by County.

## 11. DEFENSE AND INDEMNIFICATION

Consultant shall defend, indemnify, and hold harmless the County, its agents, officers, and employees from and against all claims, damages, losses, judgments, liabilities, expenses, and other costs, including litigation costs and reasonable attorney's fees, to the extent caused by any negligent acts, errors or omissions in the performance of this Agreement by Consultant, or Consultant's agents, officers, employees, or sub-consultants. Consultant's obligation to defend, indemnify, and hold the County, its agents, officers, and employees harmless applies to any actual or alleged personal injury, death, or damage or destruction to tangible or intangible property, including the loss of use. Consultant's obligation under this paragraph extends to any claim, damage, loss, liability, expense, or other cost that to the extent is caused in whole or in part by any negligent act or omission of Consultant, its agents, employees, suppliers, or anyone directly or indirectly employed by any of them, or anyone for whose acts or omissions any of them may be liable. Consultant's obligation to defend, indemnify, and hold the County, its agents, officers, and employees harmless under the provisions of this paragraph is not limited to, or restricted by, any requirement in this Agreement for Consultant to procure and maintain a policy of insurance.

County shall defend, indemnify, and hold harmless Consultant, its agents, officers, employees and subconsultants from and against all claims, damages, losses, judgments, liabilities, expenses, and other costs, including litigation costs and reasonable attorney's fees, to the extent caused by any negligent acts, errors or omissions in performance of this Agreement by County, or County's agents, officers, or employees. County's obligation to defend, indemnify, and hold the Consultant, its agents, officers, employees and subconsultants harmless applies to any actual or alleged personal injury, death, or damage or destruction to tangible or intangible property, including the loss of use. County's obligation under this paragraph extends to any claim, damage, loss, liability, expense, or other cost that to the extent is caused in whole or in part by any negligent act or omission of County, its agents, officers, employees, or anyone directly or indirectly employed by any of them, or anyone for whose acts or omissions any of them may be liable.

To the extent that work or services provided pursuant to this Agreement constitute design professional services as defined in California Civil Code Section 2782.8, the limitations of that section shall apply.

## 12. RECORDS AND AUDIT

- A. Records. Consultant shall prepare and maintain all records required by the various provisions of this Agreement, and federal, state, County, and municipal law, ordinances, regulations, and directions. Consultant shall maintain these records for a minimum of four years from the termination or completion of this Agreement. Consultant may fulfill its obligation to maintain records as required by this paragraph by substitute photographs, micrographs, or other authentic reproduction of such records.
- B. Inspections and Audits. Any authorized representative of the County shall have access to any books, documents, papers, records, including, but not limited to, financial records of Consultant, which the County determines to be pertinent to this Agreement, for the purposes of making audit, evaluation, examination, excerpts, and transcripts during the period such records are to be maintained by Consultant. Further, the County has the right, at all reasonable times, to audit, inspect, or otherwise evaluate the work performed or being performed under this Agreement.

## 13. NON-DISCRIMINATION

During the performance of this Agreement, Consultant, its agents, officers, employees, and sub-consultants shall not unlawfully discriminate in violation of any federal, state, or local law, against any employee, or applicant for employment, or person receiving services under this Agreement, because of race, religion, color, ancestry, national origin, physical handicap, medical condition, marital status, age, sexual orientation, or sex. Consultant and its agents, officers, employees, and sub-consultants shall comply with the provisions of the Fair Employment and Housing Act (Government Code section 12900, et seq.), and the applicable regulations promulgated thereunder in the California Code of Regulations. Consultant shall also abide by the Federal Civil Rights Act of 1964 (P.L. 88-352) and all amendments thereto, and all administrative rules and regulations issued pursuant to said act.

## 14. TERMINATION AND CANCELLATION

This Agreement may be terminated by the County without cause, and at will, for any reason by giving to Consultant 15 days' written notice of such intent to cancel. Consultant may cancel this Agreement for nonpayment by County or for failure by the County to provide any information or materials requested by Consultant and necessary for the performance of this Agreement, by giving County 15 days' written notice of such intent to cancel. If County corrects the failure within the cancellation period, then this Agreement shall not be terminated. The County shall pay Consultant for services and work performed in accordance with this Agreement by Consultant before the date of delivery of the County's termination or cancellation notice.

## 15. ASSIGNMENT

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

the express written consent of the County. Further, Consultant shall not assign any monies due or to become due under this Agreement without the prior written consent of the County.

## **16. DEFAULT**

If Consultant abandons the work, or fails to proceed with the services and work requested by the County in a timely manner, or fails in any way as required to conduct the services and work as required by the County, the County may declare Consultant in default and terminate this Agreement upon five days' written notice to Consultant. Upon such termination by default, the County will pay to Consultant all amounts owing to Consultant for services and work performed in accordance to this Agreement to the date of termination.

## **17. WAIVER OF DEFAULT**

Waiver of any default by either party to this Agreement shall not be deemed to be a waiver of any subsequent default. Waiver or breach of any provision of this Agreement shall not be deemed to be a waiver of any other or subsequent breach, and shall not be construed to be a modification of the terms of this Agreement unless this Agreement is modified as provided in paragraph 24 below.

## **18. CONFIDENTIALITY**

Consultant agrees to comply with various provisions of the federal, state, and County laws, regulations, and ordinances providing that information and records kept, maintained, or accessible by Consultant in the course of providing services and work under this Agreement, shall be privileged, restricted, or confidential. Consultant agrees to keep confidential all such privileged, restricted or confidential information and records. Disclosure of such information or records shall be made by Consultant only with the express written consent of the County.

## **19. CONFLICTS**

Consultant agrees that it has no interest, and shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance of the services and work under this Agreement. Consultant agrees to complete and file a conflict of interest statement.

## **20. POST-AGREEMENT COVENANT**

Consultant 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, Consultant 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, Consultant by virtue of this Agreement has gained access to the County's confidential, privileged, protected, or proprietary information.

**21. SEVERABILITY**

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

**22. FUNDING LIMITATION**

The ability of the County to enter into this Agreement is based upon available funding from various sources. In the event that such funding fails, is reduced, or is modified, from one or more sources, the County has the option to terminate, reduce, or modify this Agreement, or any of its terms, within 10 days of its notifying Consultant of the termination, reduction, or modification of available funding. Any reduction or modification of this Agreement made pursuant to this provision must comply with the requirements (except the requirement of mutual consent) of paragraph 24 below.

**23. VENUE**

This Agreement shall be governed under the laws of the State of California and venue for any litigation under this Agreement shall be the County of Mono, State of California.

**24. AMENDMENT**

This Agreement may be extended, 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.

**25. NOTICE**

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

County of Mono:  
Wendy Sugimura, Associate Analyst  
Community Development Department  
PO Box 347  
Mammoth Lakes, California 93546  
760.924.1814

Consultant:  
Philip O. Carter, President

PMC  
2729 Prospect Park Drive, Suite 220  
Rancho Cordova, CA 95670  
916.361.8384

**26. 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 is in writing executed by the parties hereto.

IN WITNESS THEREOF, THE PARTIES HERE TO SET THEIR HANDS AND SEALS THIS \_\_\_\_\_ DAY OF \_\_\_\_\_ 2013.

**COUNTY OF MONO**

**CONSULTANT**

By: \_\_\_\_\_  
Byng Hunt  
Mono County Board of Supervisors, Chair

By: \_\_\_\_\_  
Philip O. Carter, President  
PMC

Taxpayer's Identification or Social Security  
Number: 68-0348252

APPROVED AS TO FORM & INSURANCE:

\_\_\_\_\_  
County Counsel

**ATTACHMENT A**  
**AGREEMENT BETWEEN THE COUNTY OF MONO AND**  
**PACIFIC MUNICIPAL CONSULTANTS FOR THE PREPARATION OF**  
**A RESOURCE EFFICIENCY PLAN FOR GREEN HOUSE GAS EMISSIONS**

**TERM:**

FROM: June 4, 2013

TO: October 30, 2014

**SCOPE OF WORK:**

Summary: PMC will prepare a Resource Efficiency Plan which functions in the same manner as the more commonly known "Climate Action Plan," providing an inventory of greenhouse gas emissions and sources; a forecast and reduction target; emissions reduction measures, performance standards, and resource/cost-saving measures; and an emissions monitoring tool. The resulting Plan and shall directly support the development of policies and actions for the update of the County's General Plan, serve as a technical study for future California Environmental Quality Act (CEQA) documentation, and meet the requirements of a Greenhouse Gas Emissions Reduction Plan as set forth in the CEQA Guidelines (14 CCR § 15183.5).

**A. PROJECT KICKOFF, MANAGEMENT, AND MEETINGS**

PMC will provide project management and administrative services throughout the project to track progress, maintain the schedule and budget, and respond to requests for information.

PMC will attend a kickoff meeting with County staff to confirm project objectives, expectations, work program milestones, and schedules. PMC will provide an agenda and data collection questionnaires to support the greenhouse gas (GHG) inventory. PMC will provide a meeting summary following the meeting.

Over the course of the project, PMC will conduct up to twenty (20) conference calls approximately every other week with County staff. PMC staff will attend one (1) Planning Commission hearing or study session and one (1) Board of Supervisors hearing or study session to support preparation of the Resource Efficiency Plan.

Direct costs identified in the budget detail provided in Attachment B of this agreement are intended to apply to auto and air travel, lodging, and meal expenses associated with travel from PMC office locations to Mono County facilities for the kickoff meeting, Planning Commission hearing or study session, and Board of Supervisors hearing or study session identified within this task. The intent of this paragraph is to explicitly identify such expenses for reimbursement, as required by Section 3.B of the Terms and Conditions of this Agreement.

**B. PREPARE BASELINE EMISSIONS INVENTORY**

The GHG emissions inventory will serve as the foundation for the technical analysis involved in each subsequent task. PMC will prepare a baseline GHG emissions inventory for Mono County for both community-wide and government operations emissions. PMC will work with County staff to identify a baseline year that is defensible and likely to result in the maximum amount and quality of available data to conduct a complete inventory. For example, although Assembly Bill (AB) 32 describes a 1990 emissions scenario, most jurisdictions are unlikely to have complete records from that year. By contrast,

most jurisdictions in the state that have completed inventories have identified years between 2005 and 2010 as their baseline. A similar baseline year will be used for this analysis.

The baseline inventory for the County will adhere to established protocols, including but not limited to the California Air Resources Board (ARB) Local Government Operations Protocol (LGOP), ICLEI methodologies and protocols, and methodologies recommended by The Climate Registry. PMC will work with County staff to ensure that sectors not always included in GHG emissions inventories (e.g., propane, septic, wood-burning stoves, wells, agriculture, forestry, biomass facilities) are considered. To address transportation sector emissions, PMC will rely on vehicle miles traveled (VMT) data available from either the Caltrans Highway Performance Monitoring System or the Local Transportation Commission's Regional Transportation Plan.

PMC will prepare a quantitative inventory analysis using Microsoft Excel, summarize results in a draft technical memorandum, and review in detail with County staff. Upon receiving feedback from County staff, PMC will incorporate County comments into the final technical memorandum.

### **C. PREPARE EMISSIONS FORECASTS AND REDUCTION TARGETS**

PMC will work with County staff to identify key socioeconomic, land use, and growth assumptions to forecast future year emissions. PMC will develop business-as-usual (BAU) emissions forecasts for 2020 and for the General Plan horizon year across all sectors contained in the inventory. These forecasts will allow the County to demonstrate consistency with AB 32 (by 2020) and can support preparation of the GHG section of the General Plan Environmental Impact Report (EIR). Unique considerations in Mono County that will influence projecting GHG emissions include accounting for the seasonal influx of population and the known, likely projects anticipated in the county in the future.

PMC will prepare adjusted business-as-usual forecasts that account for the local benefits of statewide GHG reduction programs and regulations, including renewable energy portfolio standards, vehicle fuel efficiency and fuel carbon standards, current and future building energy efficiency standards, appliance efficiency standards, federal and state lighting efficiency standards, and state water conservation mandates.

PMC will also recommend feasible GHG reduction targets that respond to the emissions profiles identified in the inventory and forecasts. The targets will reflect guidance from the General Plan, ARB, the Great Basin Unified Air Pollution Control District, the AB 32 Guidelines and Scoping Plan, and California Environmental Quality Act (CEQA) Guidelines Section 15183.5.

PMC will prepare a quantitative inventory analysis using Microsoft Excel, summarize results in a draft technical memorandum, , and review in detail with County staff. Upon receiving feedback from County staff, PMC will incorporate County comments into the final technical memorandum.

### **D. DEVELOP EMISSIONS REDUCTION MEASURES, PERFORMANCE STANDARDS, AND RESOURCE/COST-SAVING MEASURES**

PMC will meet with County staff to identify and review existing (since the inventory year) accomplishments to reduce GHG emissions. Utilizing the GHG emissions inventory and projections and the County's existing accomplishments as a foundation, PMC will work with staff and local stakeholders to identify a range of appropriate measures to be considered in the Resource Efficiency Plan. These measures will be further refined as the GHG reduction benefit, relative costs or savings, and feasibility of implementation are evaluated for each measure. Measures will outline steps the County can take to address GHG emissions from both the existing built community and future projects. Understanding the character of proposed development in Mono County, the Resource Efficiency Plan will identify measures specifically to address GHG emissions from future projects in the following categories:

- Residential subdivisions/specific plans
- Resort/recreational projects
- Landfill/water projects
- Trails and biological conservation plans/studies
- Transportation corridor projects
- Energy facilities
- County facilities and operations

PMC will work with County staff to prioritize measures and develop an implementation timeline that allows the County to meet long-term emissions targets. PMC will develop action steps for each measure identifying performance metrics, responsible parties, and time frames. PMC will organize and present emissions reduction measures, performance standards, and resource savings for each of the topics identified above using a matrix, allowing for easy presentation to stakeholders or decision-makers, and to assist with integration into the General Plan.

PMC will review the draft matrix in detail with County staff, and upon receiving feedback, will incorporate County comments into a final matrix.

#### **E. ESTABLISH EMISSIONS MONITORING TOOL**

PMC will develop an implementation and monitoring tool that County staff can use to monitor the annual progress toward achieving resource efficiency goals, track the sustainability indicators identified as part of the Strategic Growth Council (SGC) grant, and work with project applicants to demonstrate project consistency with the Resource Efficiency Plan. This easy-to-use and intuitive Microsoft Excel tool will identify major implementation milestones, and the staff person assigned to regular reporting on the measures, progress, and completion. PMC will facilitate a webinar to train County staff to use the draft monitoring tool. Upon receiving feedback from County staff, PMC will incorporate county comments into a final monitoring tool.

#### **F. PREPARE RESOURCE EFFICIENCY PLAN**

This task outlines a process whereby PMC would prepare a Resource Efficiency Plan that the County can use as a foundational document for the General Plan update. Based on the final deliverables from Tasks B, C, D and E, and with guidance from County staff, PMC will prepare a Resource Efficiency Plan that proposes General Plan policies implemented through the reduction measures, actions, and performance metrics identified in Task D, with the intent that these policies and programs would be directly incorporated into the General Plan and that the GHG analysis would serve as a technical study to inform the development of future CEQA documentation. We anticipate that the Resource Efficiency Plan would be organized as follows:

- Scope, Purpose, and Intent
- Emissions Sources, Forecasts, and Targets
- Resource Efficiency Measures
  - Land Use
  - Circulation and Mobility
  - Energy and Water Conservation

- Public Safety
- Implementation

The subsections in the Resource Efficiency Measures section generally correspond to General Plan elements the County is updating using the SGC grant. Measures and actions proposed in each subsection would be incorporated in the corresponding General Plan element.

PMC will prepare a draft Resource Efficiency Plan using simple language, graphics, and other features that make the document easy to read and accessible. The document will convey reduction measures along with associated costs, benefits, implementation strategies, and forecast reductions, incorporating only a minimal amount of background information.

PMC will review the draft Resource Efficiency Plan with County staff in detail. Upon receiving feedback from County staff, PMC will incorporate County comments into the draft plan to produce a final Resource Efficiency Plan that the County can use as a basis for the General Plan update and future development of CEQA documentation.

#### **G. OPTIONAL: PREPARE RESOURCE EFFICIENCY PLAN PRESENTATION (POWERPOINT)**

As an optional task, PMC would prepare a traditional PowerPoint presentation designed to be 10 minutes in length. This presentation would be used to kick off community and stakeholder meetings and for access on the project website. Following one initial strategy meeting, via phone, with County staff, PMC would prepare a draft PowerPoint design, draft PowerPoint content, and accompanying script with key talking points for staff review. PMC would present the PowerPoint in a subsequent phone meeting, then incorporate comments and return a final presentation and script to County staff for use on the website and in meetings. Optional elements shall only be performed if authorized in writing by the Community Development Director.

#### **H. OPTIONAL: ADDITIONAL IN-PERSON MEETINGS**

Upon the County's request, PMC will attend up to two (2) additional in-person meetings with staff at the County offices. These meetings would be held at key points throughout the project to collaborate on the work products and identify key upcoming deliverables and meetings. Optional elements shall only be performed if authorized in writing by the Community Development Director.

Direct costs identified in the budget detail provided in Attachment B of this agreement are intended to apply to auto and air travel, lodging, and meal expenses associated with travel from PMC office locations to Mono County facilities for the two additional in-person meetings identified within this task. The intent of this paragraph is to explicitly identify such expenses for reimbursement, as required by Section 3.B of the Terms and Conditions of this Agreement.

#### **I. OPTIONAL: COORDINATION FOR ENERGY AUDITS OF COUNTY FACILITIES**

As an optional task, PMC would assist County staff to coordinate energy audits of two to four County facilities to be performed by a third-party contractor hired directly by the County. Following completion of the government operations inventory, PMC would prepare a memorandum identifying facilities that would most benefit from an energy audit and the general scope for the audit for each facility. The County would then hire a qualified contractor to perform the audits. Following the audits, PMC would review the audit reports and prepare a memorandum with comments on each report for County staff. Optional elements shall only be performed if authorized in writing by the Community Development Director.

**LIST OF DELIVERABLES**

<b>Task A. Project Kickoff, Management, and Meetings</b>
<ul style="list-style-type: none"> <li>• Kickoff meeting (including travel, lodging, and meals)</li> <li>• One (1) Planning Commission meeting or study session (including travel, lodging, and meals)</li> <li>• One (1) Board of Supervisors meeting or study session (including travel, lodging, and meals)</li> <li>• Conference calls (up to 20)</li> <li>• Ongoing project management and administration</li> </ul>
<b>Task B. Prepare Baseline Emissions Inventory</b>
<ul style="list-style-type: none"> <li>• Draft Baseline GHG Emissions Inventory Memorandum (MS Office and PDF)</li> <li>• Final Baseline GHG Emissions Inventory Memorandum (MS Office and PDF)</li> <li>• Final GHG Emissions Inventory Workbook (MS Excel)</li> </ul>
<b>Task C. Prepare Emissions Forecasts and Reduction Targets</b>
<ul style="list-style-type: none"> <li>• Draft Emissions Forecasts and Reduction Targets Memorandum (MS Office and PDF)</li> <li>• Final Emissions Forecasts and Reduction Targets Memorandum (MS Office and PDF)</li> </ul>
<b>Task D. Develop Emissions Reduction Measures, Performance Standards, and Resource/Cost-Saving Measures</b>
<ul style="list-style-type: none"> <li>• Draft Quantified Measures and Performance Standards Matrix (MS Excel and PDF)</li> <li>• Final Quantified Measures and Performance Standards Matrix (MS Excel and PDF)</li> </ul>
<b>Task E. Establish Emissions Monitoring Tool</b>
<ul style="list-style-type: none"> <li>• Draft Monitoring and Reporting Tool and Users Guide (MS Excel and PDF)</li> <li>• Final Monitoring and Reporting Tool and Users Guide (MS Excel and PDF)</li> </ul>
<b>Task F. Prepare Resource Efficiency Plan</b>
<ul style="list-style-type: none"> <li>• Draft Resource Efficiency Plan (MS Word and PDF)</li> <li>• Final Resource Efficiency Plan (MS Word and PDF)</li> </ul>
<b>Task G. Optional: Prepare Resource Efficiency Plan Presentation (PowerPoint)</b>
<ul style="list-style-type: none"> <li>• Draft PowerPoint presentation and script (PPT and MS Word)</li> <li>• Final PowerPoint presentation and script (PPT and MS Word)</li> </ul>
<b>Task H. Optional: Additional In-Person Meetings</b>
<ul style="list-style-type: none"> <li>• Two (2) additional in-person meetings (including travel, lodging, and meals)</li> </ul>
<b>Task I. Optional: Coordination for Energy Audits of County Facilities</b>
<ul style="list-style-type: none"> <li>• County facility energy audit recommendations memorandum (PDF)</li> <li>• County facility energy audit comments memorandum (PDF)</li> </ul>

**SCHEDULE**

The tasks identified in this work program shall be completed by December 31, 2013, based on a mutually agreeable schedule to be defined at project kickoff. Project kickoff shall occur within three weeks of contract approval.

**ATTACHMENT B**  
**AGREEMENT BETWEEN THE COUNTY OF MONO AND**  
**PACIFIC MUNICIPAL CONSULTANTS FOR THE PREPARATION OF**  
**A RESOURCE EFFICIENCY PLAN FOR GREENHOUSE GAS EMISSIONS**

**TERM:**  
FROM: June 4, 2013  
TO: October 30, 2014

**SCHEDULE OF FEES:**

Each task identified in the Scope of Work (Attachment A) will be billed on a percent-complete, fixed-fee basis. Optional elements shall only be performed if authorized in writing by the Community Development Director. The budget detail identifies team member levels, hourly rates, estimated hours per task, and total number of hours and cost, and is summarized as follows:

<b>Required Tasks</b>	<b>Optional Tasks</b>	<b>Total</b>
\$69,595	\$11,320	\$80,915

The budget detail follows below:

## BUDGET DETAIL

Tasks		Project Director	Project Manager	Outreach Specialist	Sr. GHG Analyst	Associate Planner	Assistant Planner	Graphics, GIS, Tech Review	Admin Support	Total PMC Hours	Total PMC Labor	PMC Direct Costs	Total Budget
		\$175	\$160	\$140	\$110	\$95	\$85	\$85	\$65				
A	Project Kickoff, Management, and Meetings	8	40			16			4	68	\$9,580	\$3,000	\$12,580
B	Prepare Baseline Emissions Inventory		12		20	20	70	3	2	127	\$12,355		\$12,355
C	Prepare Emissions Forecasts and Reduction Targets	2	4		8	2	10	1	1	28	\$3,060		\$3,060
D	Develop Emissions Reduction Measures, Performance Standards, and Resource/Cost-Saving Measures	4	24		12	50	60	8	3	161	\$16,585		\$16,585
E	Establish Emissions Monitoring Tool	2	8		20	12	40	8	4	94	\$9,310		\$9,310
F	Prepare Resource Efficiency Plan	5	26			50	50	12	10	153	\$15,705		\$15,705
<b>Total Required Tasks</b>		<b>21</b>	<b>114</b>		<b>60</b>	<b>150</b>	<b>230</b>	<b>32</b>	<b>24</b>	<b>631</b>	<b>\$66,595</b>	<b>\$3,000</b>	<b>\$69,595</b>
<b>Optional Tasks:</b>													
G	Prepare Resource Management Plan Presentation (Powerpoint)	1	2	4		3	10	8	2	30	\$3,000		\$3,000
H	Additional In-Person Meetings (2)	8	16			8				32	\$4,720	\$1,600	\$6,320
I	Coordination for Energy Audits	2	1			13	3			19	\$2,000		\$2,000
<b>Total Optional Tasks</b>		<b>11</b>	<b>19</b>	<b>4</b>		<b>24</b>	<b>13</b>	<b>8</b>	<b>2</b>	<b>81</b>	<b>\$9,720</b>	<b>\$1,600</b>	<b>\$11,320</b>
<b>Grand Total Including Optional Tasks</b>		<b>32</b>	<b>133</b>	<b>4</b>	<b>60</b>	<b>174</b>	<b>243</b>	<b>40</b>	<b>26</b>	<b>712</b>	<b>\$76,315</b>	<b>\$4,600</b>	<b>\$80,915</b>

The above per task costs are based upon our best estimate of time needed. Actual time spent on individual tasks may not meet or may exceed such estimates. PMC reserves the right to transfer unused budget from one task to another if necessary. The total estimated budget will not be exceeded without proper authorization from the client.



OFFICE OF THE CLERK  
OF THE BOARD OF SUPERVISORS

## REGULAR AGENDA REQUEST

Print

<b>MEETING DATE</b>	June 4, 2013	<b>DEPARTMENT</b>	Social Services
<b>ADDITIONAL DEPARTMENTS</b>			
<b>TIME REQUIRED</b>		<b>PERSONS APPEARING BEFORE THE BOARD</b>	
<b>SUBJECT</b>	Resolution Opposing Governor's Proposed Redirection of County Health Realignment Funds to the State		

### AGENDA DESCRIPTION:

(A brief general description of what the Board will hear, discuss, consider, or act upon)

Proposed resolution opposing the Governor's proposed redirection of County Health Realignment funds to the State for FY 2013-14 and FY 2014-15.

### RECOMMENDED ACTION:

Adopt proposed resolution #R13-\_\_\_\_\_, opposing Governor's proposed redirection of County Health Realignment funds to the State for FY 2013-14 and FY 2014-15. Provide any desired direction to staff.

### FISCAL IMPACT:

Redirecting County Health Realignment funding may force cuts to safety net services, including essential public health programs.

**CONTACT NAME:** Kathy Peterson

**PHONE/EMAIL:** 760-924-1763 / kpeterson@mono.ca.gov

SUBMIT THE ORIGINAL DOCUMENT WITH  
ATTACHMENTS TO THE OFFICE OF  
THE COUNTY ADMINISTRATOR  
**PRIOR TO 5:00 P.M. ON THE FRIDAY**  
**32 DAYS PRECEDING THE BOARD MEETING**

### SEND COPIES TO:

Kathy Peterson, Social Services Director

### MINUTE ORDER REQUESTED:

YES  NO

### ATTACHMENTS:

Click to download

[Staff Report Resolution Opposing Realignment Funds Raid](#)

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**History**

<b>Time</b>	<b>Who</b>	<b>Approval</b>
5/29/2013 2:32 PM	County Administrative Office	Yes
5/29/2013 1:51 PM	County Counsel	Yes
5/28/2013 5:22 PM	Finance	Yes



Office of the ... DEPARTMENT OF SOCIAL SERVICES

C O U N T Y O F M O N O

P.O. Box 576 • Bridgeport • California • 93517-0576

JULIE TIEDE  
*Director*

BRIDGEPORT OFFICE  
(760) 932-5600  
FAX (760) 932-5287

MAMMOTH LAKES OFFICE  
(760) 924-1770  
FAX (760) 924-5431



To: Honorable Board of Supervisors

From: Kathy Peterson, Social Services Director 

Date: June 4, 2013

Re: **Resolution opposing the Governor's proposed redirection of County Health Realignment funds to the State.**

**Recommended Action:**

Adopt proposed resolution. Provide any desired direction to staff.

**Fiscal Impact:**

Redirecting thousands of dollars in County Health Realignment funding may force cuts to safety net services, including essential public health programs.

**Discussion:**

In his May Revision to the proposed FY 2013-14 State Budget, the Governor proposed a redirection of County Health Realignment funding from counties to the State beginning in FY 2013-14. Under this proposal, \$300 million would be redirected in FY 2013-14; \$900 million would be redirected in FY 2014-15; and, \$1.3 billion would be redirected in FY 2015-16.

The CMSP (County Medical Services Program) Governing Board, in conjunction with CSAC, has taken the position that CMSP Counties should be treated as a group and that County Health Realignment funds contributed to the State by CMSP Counties and the CMSP Governing Board should be limited. Further, County Health Realignment funding provided to CMSP counties for county public health services and County Health Realignment funding for coverage of remaining low income uninsured populations by the CMSP Governing Board must be protected.

The CMSP Governing Board asks that our County Board of Supervisors immediately place on its agenda the attached Resolution in opposition to the Governor's proposed raid on County Health Realignment funds and offer the alternative described in the Resolution.

Time is of the essence. The Legislature's budget subcommittees are working to close out this and related Health Realignment issues over the next week.

Please don't hesitate to call me with questions about this issue.



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**RESOLUTION NO. R13-          
BOARD OF SUPERVISORS, COUNTY OF MONO**

**WHEREAS**, this County participates in the County Medical Services Program ("CMSP") which provides health coverage to low income uninsured adults.

**WHEREAS**, since 1983, the low income uninsured populations of this County and other small and rural counties participating in CMSP ("CMSP Counties") have benefited from the provision of reliable health coverage.

**WHEREAS**, maintaining and strengthening the health care safety-net of this County and other CMSP Counties is important for three reasons: 1) to assure continued provision of health care services to low income uninsured populations following implementation of the federal Affordable Care Act; 2) to promote development and strength of the health care and behavioral health provider networks needed for delivery of health care services to safety-net populations; and, 3) to promote community health through continued support of essential public health infrastructure.

**WHEREAS**, this County seeks to assure that County Health Realignment funding for county public health services is protected to meet essential public health responsibilities of this County and other CMSP Counties.

**WHEREAS**, this County seeks to assure that County Health Realignment funding for county public health services is protected to meet essential public health responsibilities of this County and other CMSP Counties.



1  
2           **RESOLVED**, that the Board of Supervisors of Mono County hereby takes the following  
3 position on the Governor's proposed redirection of County Health Realignment funds to the  
4 State beginning in FY 2013-14:

- 5  
6
- 7 1. This County opposes the Governor's proposed redirection of County Health Realignment  
8 funds to the State for FY 2013-14 and FY 2014-15. During these fiscal years, no County  
9 Health Realignment funds payable to this County or other CMSP Counties shall be paid  
10 by these Counties to the State.
  - 11 2. For FY 2013-14 and FY 2014-15, no County Health Realignment funds payable to the  
12 CMSP Governing Board shall be paid by the CMSP Governing Board to the State.
  - 13  
14 3. For 2015-16 and each fiscal year thereafter, the contribution of County Health  
15 Realignment funds to the State by this County and any other CMSP County shall be  
16 limited to the amounts these Counties would otherwise pay to participate in CMSP  
17 pursuant to Welfare and Institutions Code Section 16809(j)(2). For this County, this  
18 amount is \$369,309. No other County Health Realignment funds or any other funds shall  
19 be paid to the State from this County or any other CMSP County.
  - 20  
21 4. For 2015-16 and each fiscal year thereafter, the CMSP Governing Board shall retain  
22 sufficient County Health Realignment funds to provide health benefit coverage to  
23 remaining low income uninsured populations in this County and other CMSP Counties  
24 and provide for needed reinvestment in the health care, behavioral health and public  
25 health infrastructures in this County and other CMSP counties.
  - 26  
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**APPROVED AND ADOPTED** this 4<sup>th</sup> day of June, 2013, by the following vote of the Board of Supervisors, County of Mono:

**AYES** :  
**NOES** :  
**ABSENT** :  
**ABSTAIN** :

\_\_\_\_\_  
**BYNG HUNT, CHAIRMAN  
BOARD OF SUPERVISORS  
COUNTY OF MONO**

**ATTEST:**

**APPROVED AS TO FORM:**

\_\_\_\_\_  
**LYNDA ROBERTS  
CLERK OF THE BOARD**

\_\_\_\_\_  
**MARSHALL RUDOLPH  
COUNTY COUNSEL**



OFFICE OF THE CLERK  
OF THE BOARD OF SUPERVISORS

## REGULAR AGENDA REQUEST

Print

<b>MEETING DATE</b>	June 4, 2013	<b>DEPARTMENT</b>	Clerk of the Board
<b>ADDITIONAL DEPARTMENTS</b>			
<b>TIME REQUIRED</b>		<b>PERSONS APPEARING BEFORE THE BOARD</b>	
<b>SUBJECT</b>	Department of Water and Power		

### AGENDA DESCRIPTION:

(A brief general description of what the Board will hear, discuss, consider, or act upon)

Letter dated May 13, 2013 from the L.A. Department of Water and Power regarding Compliance with State Water Resources Control Board Order Nos. 98-05 and 98-07. Electronic copies of all reports referred to are available for review in the Clerk's office.

### RECOMMENDED ACTION:

### FISCAL IMPACT:

### CONTACT NAME:

PHONE/EMAIL: /

SUBMIT THE ORIGINAL DOCUMENT WITH  
ATTACHMENTS TO THE OFFICE OF  
THE COUNTY ADMINISTRATOR  
**PRIOR TO 5:00 P.M. ON THE FRIDAY**  
**32 DAYS PRECEDING THE BOARD MEETING**

### SEND COPIES TO:

### MINUTE ORDER REQUESTED:

YES  NO

### ATTACHMENTS:

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[DWP](#)

### History

Time	Who	Approval
5/20/2013 10:27 AM	Clerk of the Board	Yes



ANTONIO R. VILLARAIGOSA  
Mayor

Commission  
THOMAS S. SAYLES, *President*  
ERIC HOLOMAN, *Vice President*  
RICHARD F. MOSS  
CHRISTINA E. NOONAN  
JONATHAN PARFREY  
BARBARA E. MOSCHOS, *Secretary*

RONALD O. NICHOLS  
General Manager

May 13, 2013

RECEIVED

MAY 16 2013

Ms. Barbara Evoy, Chief  
Division of Water Rights  
State Water Resources Control Board  
1001 I Street, 14<sup>th</sup> Floor  
Sacramento, California 95814

OFFICE OF THE CLERK

Dear Ms. Evoy:

Subject: Compliance with State Water Resources Control Board Order  
Nos. 98-05 and 98-07

Pursuant to the State Water Resources Control Board (SWRCB) Decision 1631 and Order Nos. 98-05 and 98-07 (Orders), and in accordance with the terms and conditions of the Los Angeles Department of Water and Power (LADWP) Mono Basin Water Right License Nos. 10191 and 10192, enclosed is a submittal entitled "Compliance Reporting", which contains the following four reports required by the Orders. The reports are as follows:

- Mono Basin Operations: Runoff Year (RY) 2012-2013 and planned operations for RY 2013-2014
- Mono Basin Fisheries Monitoring Report: Rush, Lee Vining, Parker, and Walker creeks for RY 2012-2013
- Mono Basin Tributaries Monitoring Report: Rush, Lee Vining, Parker, and Walker creeks for RY 2012-2013
- Mono Basin Waterfowl Habitat and Population Monitoring for RY 2012-2013

In addition to these reports, the submittal also includes Section 1: the RY 2012-2013 Status of Restoration Compliance Report (SORC Report) which summarizes the status of LADWP's compliance activities in the Mono Basin to date and planned activities for the upcoming runoff year.

**Water and Power Conservation ... a way of life**

111 North Hope Street, Los Angeles, California 90012-2607 Mailing address: Box 51111, Los Angeles 90051-5700  
Telephone: (213) 367-4211 Cable address: DEWAPOLA

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Ms. Barbara Evoy  
Page 2  
May 13, 2013

The filing of these reports, along with the restoration and monitoring performed by LADWP in the Mono Basin, fulfills LADWP's requirements for RY 2012-2013 as set forth in Decision 1631 and the Orders.

Electronic copies of the report, on compact disc, will be provided to the interested parties listed on the enclosed mailing list. Hard copies of the report for you and your staff will be mailed shortly.

If you have any questions, please contact Mr. Bruk Moges, Contract Administrator, at (213) 367-1792.

Sincerely,



Martin L. Adams  
Director of Water Operations

BWM:jmm  
Enclosure  
c/enc: Enclosed Mailing List  
Mr. Bruk Moges

**Mono Basin Distribution List**  
**Runoff Year 2012-2013**

Ms. Barbara Evoy, Chief Division of Water Rights State Water Resources Control Board 1001 I Street, 14th Floor Sacramento, CA 95814	Ms. Lisa Cutting Mono Lake Committee P.O. Box 29 Lee Vining, CA 93541
Ms. Katherine Mrowka Division of Water Rights State Water Resources Control Board 1001 I Street, 14th Floor Sacramento, CA 95814	Mr. Scott Feierabend California Trout Inc. 870 Market Street #528 San Francisco, CA 94102
Mr. Greg Brown Division of Water Rights State Water Resources Control Board 1001 I Street, 14th Floor Sacramento, CA 95814	Mr. Mark Drew California Trout Inc. P.O. Box 3442 Mammoth Lakes, CA 93546
Dr. William Trush McBain & Trush P.O. Box 663 Arcata, CA 95518	Board of Supervisors Mono County P.O. Box 715 Bridgeport, CA 93517
Mr. Ross Taylor 1254 Quail Run Court McKinleyville, CA 95519	Mr. Marshall S. Rudolph Mono County Counsel P.O. Box 2415 Mammoth Lakes, CA 93546
Mr. Jon C. Regelbrugge USDA Forest Service P.O. Box 148 Mammoth Lakes, CA 93546	Mr. Steve Parmenter Department of Fish and Game 407 West Line Street, #8 Bishop, CA 93514
Ms. Tamara Sasaki California Department of Parks and Recreation P.O. Box 266 Tahoma, CA 96142	Mr. Doug Smith Grant Lake Reservoir Marina P.O. Box 21 June Lake, CA 93529
Mr. Matthew Green State Parks 3415 Hot Springs Rd. Markleeville, CA 96120	



**OFFICE OF THE CLERK  
OF THE BOARD OF SUPERVISORS**

**REGULAR AGENDA REQUEST**

Print

<b>MEETING DATE</b>	June 4, 2013	<b>DEPARTMENT</b>	Clerk of the Board
<b>ADDITIONAL DEPARTMENTS</b>			
<b>TIME REQUIRED</b>		<b>PERSONS APPEARING BEFORE THE BOARD</b>	
<b>SUBJECT</b>	Keller Letter Regarding Paramedics		

**AGENDA DESCRIPTION:**

(A brief general description of what the Board will hear, discuss, consider, or act upon)

Correspondence dated May 14, 2013 from Christopher M. Keller, second home owner in Virginia Lakes, who was in town for the Fishing opener and required medical attention when he became very ill on April 28, 2013. This letter is to commend and support the Mono County Paramedics who were dispatched to his home where he received excellent care prior to being transported to Mammoth Hospital.

**RECOMMENDED ACTION:**

**FISCAL IMPACT:**

**CONTACT NAME:**

**PHONE/EMAIL:** /

SUBMIT THE ORIGINAL DOCUMENT WITH ATTACHMENTS TO THE OFFICE OF THE COUNTY ADMINISTRATOR  
***PRIOR TO 5:00 P.M. ON THE FRIDAY  
32 DAYS PRECEDING THE BOARD MEETING***

**SEND COPIES TO:**

**MINUTE ORDER REQUESTED:**

YES  NO

**ATTACHMENTS:**

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[Keller](#)

**History**

<b>Time</b>	<b>Who</b>	<b>Approval</b>
5/21/2013 10:52 AM	Clerk of the Board	Yes

Christopher M. Keller  
1117 Blue Drive  
West Covina, CA 91790  
(Summit Drive – Virginia Lakes)  
626-919-0910  
May 14, 2013

RECEIVED

MAY 21 2013

OFFICE OF THE CLERK

Mono County Supervisor Tim Fesko  
C/O Clerk of the Board  
PO Box 715  
Bridgeport, CA 93517

/Stump

Dear Sir,

I am taking a few minutes to write to you to praise the service I received from the Mono County Paramedics on April 28, 2013. First, let me briefly introduce myself. I own property in the Virginia Lakes Subdivision as do several other family members. Between family members, we own two cabins and three lots. My family have been property owners since 1969.

I was in Virginia Lakes for the trout opener when I became very ill early Sunday morning. I was sharing a cabin with a friend, the friend is a retired Fire Paramedic (I am a retired law enforcement officer). I became so ill that my friend called 911 at about 4:30 AM and within thirty minutes, two paramedics and a volunteer firefighter arrived.

I could not have asked for better or more professional service from the medics. I ended up being transported to Mammoth Lakes Hospital. At the ER I received first class treatment and attention.

I am embarrassed to admit that I remember the first name of only one of the fine professionals who came to my aide. You may appreciate that I was under considerable stress at the time.

I remember Paramedic "Brian," his partner and a young woman who was the volunteer Firefighter. I hope that your staff can check the records and accord the second Paramedic and the Firefighter the recognition they all deserve.

I understand that the County is now in budget negotiations that may result in a reduction of this fine service. That would be a terrible mistake. Many owners and residents of the Virginia Lakes Subdivision are retired and are senior citizens.

In the many years that my family has owned property in Virginia Lakes we have often felt ignored by Mono County Government. There is a common feeling shared with others who own property in Virginia Lakes. The feeling is often that County only wants our taxes and fees with little interest in providing service to the Community.

The availability of the fine paramedic service is a vital concern to our Community. I urge you and your fellow supervisors to sustain this emergency service and not reduce it.

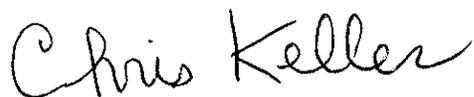
Perhaps you can show me that I am wrong to believe that residents of our Virginia Lakes Community are only a source for taxes for the County. Perhaps you can show me that the needs of our community are important?

I will be registering to vote in Mono County this summer (as I am a property owner) and I will urge others in my Community to do so.

In any case, please extend my grateful thanks to the Paramedics and Firefighter who gave me such wonderful service in my time of great need.

I also want to thank-you for taking the time to read my letter.

Sincerely,

A handwritten signature in black ink that reads "Chris Keller". The signature is written in a cursive, flowing style.

Chris Keller

Cc:

Supervisor Larry Johnston

Supervisor Fred Stump

Supervisor Tim Alpers

Supervisor Byng Hunt



**OFFICE OF THE CLERK  
OF THE BOARD OF SUPERVISORS**

**REGULAR AGENDA REQUEST**

Print

<b>MEETING DATE</b>	June 4, 2013	<b>DEPARTMENT</b>	Clerk of the Board
<b>ADDITIONAL DEPARTMENTS</b>			
<b>TIME REQUIRED</b>		<b>PERSONS APPEARING BEFORE THE BOARD</b>	
<b>SUBJECT</b>	Department of Fish and Wildlife		

**AGENDA DESCRIPTION:**

(A brief general description of what the Board will hear, discuss, consider, or act upon)

Letter dated March 16, 2013 from Craig Stowers, Manager of the Wildlife Branch at the Department of Fish and Wildlife regarding CEQA documents in relation to a project to modify existing hunting regulations for migratory game birds. The draft of the Environmental Document is available for review in the clerk's office. For information only.

\*\*\*\*\*

**RECOMMENDED ACTION:**

**FISCAL IMPACT:**

**CONTACT NAME:**

**PHONE/EMAIL: /**

SUBMIT THE ORIGINAL DOCUMENT WITH ATTACHMENTS TO THE OFFICE OF THE COUNTY ADMINISTRATOR **PRIOR TO 5:00 P.M. ON THE FRIDAY 32 DAYS PRECEDING THE BOARD MEETING**

**SEND COPIES TO:**

**MINUTE ORDER REQUESTED:**

YES  NO

**ATTACHMENTS:**

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[Dept Fish Wildlife](#)

**History**

Time	Who	Approval
5/20/2013 10:35 AM	Clerk of the Board	Yes



State of California – Natural Resources Agency  
DEPARTMENT OF FISH AND WILDLIFE  
Wildlife Branch-Waterfowl Program  
1812 Ninth Street  
Sacramento, CA 95811  
[www.wildlife.ca.gov](http://www.wildlife.ca.gov)

EDMUND G. BROWN JR., Governor  
CHARLTON H. BONHAM, Director



RECEIVED

MAY 17 2013

OFFICE OF THE CLERK

Attention: Government Documents Section

The California Fish and Game Commission is the lead agency for a project to modify existing hunting regulations for migratory game birds. The Department of Fish and Wildlife has prepared a draft environmental document pursuant to the California Environmental Quality Act ;(CEQA)

CEQA §15087 (g) provides direction to lead agencies to deliver draft environmental documents to the public library system servicing the area involved in the proposed project. Because hunting regulations are statewide, the public in virtually all counties should have access to the review and analysis of the proposed project.

Enclosed is a copy of the Draft Environmental Document Regarding Migratory Game Bird Hunting (Waterfowl, Coots, Moorhens) prepared by the California Department of Fish and Wildlife in compliance with CEQA.

To provide the public with an opportunity to review and comment on the proposals contained in this document, please make it available for public review until **July 2, 2013**.

If you have any questions regarding this request, please contact me at the letterhead address or by telephone at (916) 445-3553.

Sincerely,

Craig Stowers, Manager  
Game Conservation Program  
Wildlife Branch

AVAILABLE FOR REVIEW IN CLERKS OFFICE

Enclosure



OFFICE OF THE CLERK  
OF THE BOARD OF SUPERVISORS

## REGULAR AGENDA REQUEST

Print

<b>MEETING DATE</b>	June 4, 2013	<b>DEPARTMENT</b>	Board of Supervisors
<b>ADDITIONAL DEPARTMENTS</b>			
<b>TIME REQUIRED</b>	5 minutes	<b>PERSONS APPEARING BEFORE THE BOARD</b>	Byng Hunt, Chair
<b>SUBJECT</b>	Resolution recognizing Clay Neely for his years of service with Mono County		

### AGENDA DESCRIPTION:

(A brief general description of what the Board will hear, discuss, consider, or act upon)

Resolution of Appreciation recognizing Clay Neely for his years of service with Mono County.

### RECOMMENDED ACTION:

Approve proposed resolution. Provide any desired direction to staff.

### FISCAL IMPACT:

None.

**CONTACT NAME:** Nate Greenberg

**PHONE/EMAIL:** (760) 924-1819 / [ngreenberg@mono.ca.gov](mailto:ngreenberg@mono.ca.gov)

SUBMIT THE ORIGINAL DOCUMENT WITH  
ATTACHMENTS TO THE OFFICE OF  
THE COUNTY ADMINISTRATOR  
**PRIOR TO 5:00 P.M. ON THE FRIDAY**  
**32 DAYS PRECEDING THE BOARD MEETING**

### SEND COPIES TO:

### MINUTE ORDER REQUESTED:

YES  NO

### ATTACHMENTS:

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[Clay Neely Resolution](#)

History

Time

Who

Approval

5/29/2013 2:32 PM	County Administrative Office	Yes
5/29/2013 1:31 PM	County Counsel	Yes
5/28/2013 8:57 AM	Finance	Yes

**A RESOLUTION OF APPRECIATION RECOGNIZING CLAY NEELY  
FOR HIS YEARS OF SERVICE WITH MONO COUNTY**

**WHEREAS**, Clay began his career in Information Technology with Western Data Associates in 1968 serving as a Systems Analyst and Data Processing Manager; and

**WHEREAS**, Clay's experience with data processing and management led him to subsequent positions with Washington County, Oregon and the Kenai Peninsula Borough School District in Alaska before landing him with the Unisys Corporation in Portland, Oregon in 1987; and

**WHEREAS**, Clay's tenure with Unisys Corporation ultimately brought him to Mono County as an Information Systems Consultant in 1994 when the County purchased its first PC and Clay designed and built the County's finance system; and

**WHEREAS**, in the early 2000s Mono County had very limited use of technology, no coordinated management of technology, and only two IT Specialists who were part of the Auditor's Office; and

**WHEREAS**, in July 2002, Clay became Mono County's first Director of Information Technology and formally established the Department of Information Technology; and

**WHEREAS**, in the years since, Clay developed, improved, and maintained many other critical information systems for the County, including the tax, HR, and finance systems, and supported the development of County's Geographic Information System; and

**WHEREAS**, Clay developed the County network, implemented the phone and email system, built a server room, and centralized IT operations with well-defined policies, centralized purchasing, managed software licensing, a help desk, and work order tracking; and

**WHEREAS**, his thoughtful, professional, and easy-going personality and management style created a positive work environment for a staff of nine who have collectively developed a modern and sophisticated IT infrastructure that consists of over 60 servers and 350+ computing devices, virtualization technology, and well integrated systems; and

**WHEREAS**, Clay's groundwork and leadership has forged a path to the future and set a high bar for success which will foster continued adoption and development of technology to improve the quality of life for the staff and citizens of Mono County, and

**WHEREAS**, his bright spirit and positive attitude will be sorely missed in the County, but we wish him the best of luck and hope he finds much happiness in his retirement, with time to spend with family, friends, and his many hobbies and projects.

**NOW, THEREFORE, BE IT RESOLVED** that the Mono County Board of Supervisors sincerely thanks Clay Neely and commends him for his years of valuable service to Mono County and its citizens.

**APPROVED AND ADOPTED** this 4<sup>th</sup> day of June, 2013, by the Board of Supervisors, County of Mono.

---

Larry Johnston, Supervisor District #1

---

Fred Stump, Supervisor District #2

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Tim Alpers, Supervisor District #3

---

Timothy Fesko, Supervisor District #4

---

Byng Hunt, Supervisor District #5



OFFICE OF THE CLERK  
OF THE BOARD OF SUPERVISORS

## REGULAR AGENDA REQUEST

Print

<b>MEETING DATE</b>	June 4, 2013	<b>DEPARTMENT</b>	Mental Health
<b>ADDITIONAL DEPARTMENTS</b>			
<b>TIME REQUIRED</b>	10 minutes	<b>PERSONS APPEARING BEFORE THE BOARD</b>	Robin Roberts
<b>SUBJECT</b>	Approve the Amendment to the Joint Exercise of Powers Agreement		

### AGENDA DESCRIPTION:

(A brief general description of what the Board will hear, discuss, consider, or act upon)

Second amended and restated Joint Exercise of Powers Agreement that governs operations of the California Mental Health Services Authority (CalMHSA).

### RECOMMENDED ACTION:

Approve County entry into second amended and restated Joint Exercise of Powers Agreement that governs operations of the California Mental Health Services Authority (CalMHSA), and authorize the Behavioral Health Director to sign said amended agreement on behalf of the County. Provide any desired direction to staff.

### FISCAL IMPACT:

None.

**CONTACT NAME:** Robin Roberts

**PHONE/EMAIL:** 760.924.1740 / rroberts@mono.ca.gov

SUBMIT THE ORIGINAL DOCUMENT WITH  
ATTACHMENTS TO THE OFFICE OF  
THE COUNTY ADMINISTRATOR  
**PRIOR TO 5:00 P.M. ON THE FRIDAY**  
**32 DAYS PRECEDING THE BOARD MEETING**

### SEND COPIES TO:

### MINUTE ORDER REQUESTED:

YES  NO

### ATTACHMENTS:

Click to download

[JPA Staff](#)

[JPA](#)

---

**History**

<b>Time</b>	<b>Who</b>	<b>Approval</b>
5/30/2013 11:27 AM	County Administrative Office	Yes
5/30/2013 11:13 AM	County Counsel	Yes
5/30/2013 12:05 PM	Finance	Yes



Office Of The . . .

MONO COUNTY MENTAL HEALTH, ALCOHOL AND DRUG PROGRAMS

**COUNTY OF MONO**

P.O. BOX 2619 • MAMMOTH LAKES, CA 93546 (760) 924-1740 • FAX (760) 924-1741

Date: May 29, 2013

To: Honorable Chair and Members of the Board of Supervisors

From: Robin K. Roberts, MFT, Behavioral Health Director

Subject: Staff report for the amendment to the Joint Powers Agreement that governs operations of the California Health Services Authority (CalMHSA)

**Recommended action:** approve of the amendment to the Joint Exercise of Powers Agreement that governs operations of the California Mental Health Services Authority (CalMHSA).

**Fiscal Impact:** None

**Discussion:**

The California Mental Health Directors Association (CMHDA) had for some time contemplated sponsoring the formation of a joint powers authority to facilitate joint county mental health programs. This idea was ultimately acted upon with the 2009 formation of CalMHSA. Counties saw the value of acting together, as a JPA, to effectuate Statewide Prevention and Early Intervention projects funded under Prop 63, the Mental Health Services Act. Consequently, the Joint Exercise of Powers Agreement for CalMHSA focused on those projects. Now that the Statewide PEI projects have been launched successfully and the value of a JPA recognized, and are in progress, CMHDA and the member Counties want CalMHSA to take on other roles as initially contemplated. As such, the existing Agreement may be too narrowly drafted. In particular, counties have sought to negotiate and contract jointly through CalMHSA with the California Department of State Hospitals for civil commitment (LPS) beds, as provided for in WIC 4330 to 4335, but CDSH has stated the Agreement does not specifically authorize CalMHSA to do so under its existing agreement.

Accordingly, the amendments for which your approval is requested are focused primarily on broadening CalMHSA's breadth of programs to include all mental and/or behavioral health programs, as requested by the CalMHSA Board and CMHDA. The recommended changes reflect anticipated potential areas for counties to act jointly:

- Incorporate into the Recitals additional statutory bases for Counties to act together through CalMHSA.
- Broaden the described Purpose of CalMHSA to expressly embrace mental and behavioral health programs including joint contracting for state hospital beds; joint administration of other state or federal programs such as the Drug Medi-Cal Treatment Program, managed mental health care for Medi-Cal beneficiaries, and specialty mental health services; operation of program risk pools; provision of fiscal or administrative services useful to the Members; and research, development and execution of policy requests from CMHDA and/or CSAC.

- Clarify that the Board exercises the powers and conducts the business of CalMHSA.
- Expressly incorporate reference to matters provided for more specifically in the Bylaws including election of officers by the Board, creation of and delegation to committees, and authority for the Executive Committee to act in the absence of a quorum of the Board.
- Clarify which Government Code provision regarding treasurers is utilized by CalMHSA.
- Clarify termination and disposition procedures.
- Clarify the amendment procedure.
- Clarify the definition of Member and expansion of the definition of Program to include behavioral health programs as well as mental health programs.

Mono County Behavioral Health joined this JPA in 2012 in order to better serve the constituents of the County regarding Stigma Reduction, Suicide Prevention and mental health prevention and assessment in our schools.

Questions: Please contact Robin K. Roberts, Behavioral Health, 760.924.1740

**SECOND AMENDED AND RESTATED JOINT EXERCISE OF POWERS AGREEMENT**  
**CALIFORNIA MENTAL HEALTH SERVICES AUTHORITY**

This **Agreement** is executed in the State of California by and among those **Members**, organized and existing under the Constitution of the State of California, which are parties signatory to this **Agreement**. All such **Members** shall be listed in Appendix A, which shall be attached hereto and made a part hereof.

**RECITALS**

**WHEREAS**, Article 1, Chapter 5, Division 7, Title 1 of the California **Government Code** (the "Joint Exercise of Powers Act," **Government Code** section 6500 *et seq.*) permits two or more public agencies by **Agreement** to exercise jointly powers common to the contracting parties; and

**WHEREAS**, various provisions of the California Welfare and Institutions Code allow California counties to jointly conduct or administer mental and/or behavioral health programs; and

**WHEREAS**, counties are authorized to jointly contract for state hospital beds (WIC § 4330 *et seq.*); and

**WHEREAS**, Division 5 of the Welfare and Institutions Code authorizes counties to jointly implement various mental health services governed by that division (including but not limited to §5600 *et seq.*, §5800 *et seq.*, §5840 *et seq.* and §5850 *et seq.*); and

**WHEREAS**, Chapter 6.3 of Division 3 of Title 3 of the Government Code authorizes joint county contracts with the state for administration of programs, services, or activities including the Drug Medi-Cal Treatment Program (GC §30029.7); and

**WHEREAS**, Division 9 of the Welfare and Institutions Code (including but not limited to WIC §14712) authorizes joint county implementation of managed mental health care for Medi-Cal beneficiaries and joint county delivery of specialty mental health services; and

**WHEREAS**, statewide program risk pools for mental health plan (MHP) services are authorized under Division 9 of the Welfare and Institutions Code (including but not limited to WIC § 14718); and

**WHEREAS**, the **Members** executing this **Agreement** desire to join together for the purpose of jointly exercising their powers under any or all of the statutes referenced above, or any other statute governing county provision of mental and/or behavioral health programs, services or activities.

**NOW THEREFORE**, the parties agree as follows:

## **ARTICLE 1**

### **PURPOSES**

This **Agreement** is entered into by the **Members** in order to create a separate public entity to provide administrative and fiscal services in support of the Members' Mental/Behavioral Health Departments acting alone or in collaboration with other such Departments, which may include operation of Programs to:

- (a) Administer prevention and early intervention services under the Mental Health Services Act;
- (b) Contract and/or negotiate with the State or other providers of mental hospital beds and similar or related services;
- (c) Contract and/or negotiate with the State or federal government for administration of mental health services, programs or activities including but not limited to the Drug Medi-Cal Treatment Program, managed mental health care, delivery of specialty mental health services;
- (d) Operate program risk pools;
- (e) Provide any other similar or related fiscal or administrative services that would be of value to Members such as group purchasing, contract management,

research and development, data management, maintenance of a research depository, training, technical assistance, capacity building, education and training; and

- (f) Research, develop, and execute any appropriate policy requests from the the California State Association of Counties (“CSAC”) or its affiliates.

It shall be the intent of the **Authority** that all such **Programs** are fiscally self-contained requiring no additional funding from **Members**. Accordingly, no **Member** shall be obligated to fund the **Authority** or any **Program** in an amount greater than the amount to which the **Member** has previously agreed. The indirect costs to operate the **Authority** shall be allocated to each of the **Programs** operated by the **Authority** as directed by its **Members**.

## ARTICLE 2

### PARTIES TO THE AGREEMENT

Each **Member**, as a party to this **Agreement**, certifies that it intends to and does contract with all other **Members** as parties to this **Agreement** and, with such other **Members** as may later be added as parties to this **Agreement**. Each **Member** also certifies that the withdrawal, expulsion, or other removal of any party from this **Agreement** shall not terminate this **Agreement** or the **Member’s** obligations hereunder.

## ARTICLE 3

### CREATION OF THE AUTHORITY

Pursuant to the Joint Powers Act, there is hereby created a public entity separate and apart from the parties, hereto, to be known as the California Mental Health Services Authority, with such powers as are hereinafter set forth.

Pursuant to the Government Code, Section 6508.1, the assets, debts, liabilities, and obligations of the **Authority** shall not constitute assets, debts, liabilities, or obligations of any

party to this **Agreement**. However, a party to the Agreement may separately contract for, or assume responsibility for, specific debts, liabilities, or obligations of the **Authority**.

#### **ARTICLE 4**

#### **POWERS OF THE AUTHORITY**

The **Authority** shall have all of the powers common to General Law counties in California and all additional powers set forth in the Article 1, Chapter 5, Division 7, Title 1 of the California **Government Code** (beginning with Section 6500), and is hereby authorized to do all acts necessary for the exercise of said powers. Such powers include, but are not limited to, the following:

- (a) To make and enter into contracts.
- (b) To incur debts, liabilities, and obligations.
- (c) To acquire, hold, or dispose of property, contributions and donations of property, funds, services, and other forms of assistance from persons, firms, corporations, and government entities.
- (d) To sue and be sued in its own name, and to settle any claim against it.
- (e) To receive and use contributions and advances from **Members** as provided in **Government Code** Section 6504, including contributions or advances of personnel, equipment, or property.
- (f) To invest any money in its treasury that is not required for its immediate necessities, pursuant to **Government Code** Section 6509.5.
- (g) To carry out all provisions of this **Agreement**.
- (h) To define fiscal and **Program** participation and withdrawal provisions of **Members**.
- (i) Said powers shall be exercised pursuant to the terms hereof and in the manner provided by law.

**ARTICLE 5**  
**TERM OF THE AGREEMENT**

This **Agreement** shall become effective on July 1, 2009. This Agreement shall continue in effect until lawfully terminated as provided herein and in Bylaws.

**ARTICLE 6**  
**BOARD OF DIRECTORS**

The **Authority** shall be governed by the **Board of Directors**, which shall be composed of the local county or city mental health director from each **Member**, appointed or designated, and acknowledged in writing, by the **Member** governing body and serving at the pleasure of that body. Each director shall also designate an alternate director who shall have the authority to attend, participate in and vote at any meeting of the **Board** when the director is absent. A Director or alternate director, upon termination of office or employment with the county, shall automatically terminate membership on the **Board**.

The **Board** shall exercise all powers and conduct all business of the **Authority**, either directly or by delegation except to the extent prohibited by this **Agreement**, the Bylaws, or applicable law.

The **Board** shall elect officers, consisting of a president, vice-president, treasurer, and secretary, according to procedures specified in Bylaws. The **Board** may create committees, including an **Executive Committee**, consistent with the procedures set forth in Bylaws.

To adhere to the regulations of the Fair Political Practices Commission (Title 2, Division 6, California Code of Regulations), each Director and alternate shall file with the **Authority** the required Fair Political Practices Commission (FPPC) forms upon assuming office, during office, and upon termination of office.

Any vacancy in a director position shall be filled by the appointing governing body, subject to the provisions of this Article.

The presence of a majority of the membership of the Board shall constitute a quorum for the transaction of business. Following the establishment of a quorum, measures may normally be passed by a simple majority of **Members** present and voting. As to an action that affects only one of the **Authority's Programs**, only those **Members** who represent counties participating in that **Program** will be counted in determining whether there is a quorum and whether there is approval by a majority.

Notwithstanding the preceding paragraph, upon the motion of any Board **Member**, seconded by another, passage of a measure by the Board will require approval through a weighted voting procedure. For weighted voting purposes there shall be a total of 75 votes. Each **Member** shall have one vote. The remaining votes shall be allocated among the **Members** based on the most recent census. This calculation shall be performed and reviewed annually in June, prior to the next fiscal year. Any weighted vote will be a roll call vote. Weighted votes must be cast in whole by the voting county and may not be split.

At any meeting at which a quorum is initially present, the **Board** may continue to transact business notwithstanding the withdrawal of enough **Members** to leave less than a quorum, provided that each action is approved by at least a majority of the number required to constitute a quorum, and is taken subject to the above-stated proviso concerning actions restricted to one **Program** and to special voting requirements, if any, stated elsewhere in this **Agreement**. If a quorum of the **Board** is not present, the **Executive Committee** may act in the **Board's** stead if a quorum of the **Executive Committee** is present, except as to those actions listed in the Bylaws as requiring action of the full **Board**.

## ARTICLE 7

### ACCOUNTS AND RECORDS

- (a) Annual Budget. The **Authority** shall annually adopt an operating budget which shall include a separate budget for each **Program** under development or adopted and implemented by the **Authority**.

- (b) Funds and Accounts. The **Authority** shall establish and maintain such funds and accounts as may be required by Generally Accepted Accounting Principles, or by any provision of law or any resolution of the **Authority**. Books and records of the **Authority** shall be open to inspection at all reasonable times by authorized representatives of **Members**. Additionally, the **Authority** shall adhere to the standard of strict accountability for funds set forth in **Government Code** Section 6505.
- (c) Annual Audit. Pursuant to **Government Code** Section 6505, the **Authority** shall either make or contract with a certified public accountant to make an annual **Fiscal Year** audit of all accounts and records of the **Authority**, conforming in all respects with the requirements of that section. By unanimous request of the Board, the audit may be biennial as permitted by Government Code section 6505, subdivision (f). A report of the audit shall be filed as a public record with each of the **Members** and also with the county auditor of the county where the home office of the **Authority** is located and shall be sent to any public agency or person in California that submits a written request to the **Authority**. The report shall be filed within twelve months of the end of the **Fiscal Year** or years under examination. Costs of the audit shall be considered a general expense of the **Authority**.

## ARTICLE 8

### RESPONSIBILITIES FOR FUNDS AND PROPERTY

The Treasurer of the **Board** shall have the custody of and disburse the **Authority's** funds. He or she may delegate disbursing authority to such persons as may be authorized by the **Board** of Directors to perform that function consistent with **Government Code** Section 6505.6, subject to the requirements of (b) below.

Pursuant to **Government Code** Section 6505.5, the Treasurer of the **Board** shall:

- (a) Receive and acknowledge receipt for all funds of the **Authority** and place them in the treasury so designated by the Treasurer of the **Board** to the credit of the **Authority**.
- (b) Be responsible upon his or her official bond for the safekeeping and disbursements of all **Authority** funds so held by him or her.
- (c) Be responsible for oversight of payment, when due, out of money of the **Authority** so held, all sums payable by the **Authority**. The **Board** of Directors may delegate authority to anybody or person to make such payments from **Authority** funds.
- (d) Verify and report in writing to the **Authority** and to **Members**, as of the first day of each quarter of the **Fiscal Year**, the amount of money then held for the **Authority**, the amount of receipts since the last report, and the amount paid out since the last report.

Pursuant to **Government Code** Section 6505.1, the **Authority** shall designate the public office or officers or person(s) who shall have charge of, handle, and have access to the property of the **Authority** and shall require such officer(s) or person(s) to file an official bond in amount fixed by the contracting parties.

## ARTICLE 9

### WITHDRAWAL

- a) A **Member** may withdraw as a party to this **Agreement** upon written notice no later than December 31 of the **Fiscal Year**, effective the end of the **Fiscal Year**, to the **Authority** if it has never become a participant in any **Program** or if it has previously withdrawn from all **Programs** in which it was a participant.
- b) A **Member** Withdrawal from **Programs** will be defined in the specific **Program** Bylaws.

## ARTICLE 10

### EXPULSION

Notwithstanding the provisions of Article 8, the **Board** of Directors may:

- (a) Expel any **Member** from this **Agreement** and membership in the **Authority**, on a two-thirds (2/3) vote of the **Board Members** present and voting. Such action shall have the effect of terminating the **Member's** participation in all **Programs** of the **Authority** as of the date that its membership is terminated.
- (b) Expel any **Member** from participation in a **Program** of the **Authority**, without expelling the **Member** from the **Authority** or participation in other **Programs**, on a majority vote of the **Board Members** present and voting who represent participants in the **Program**.

The **Board** shall give sixty (60) days advance written notice of the effective date for any expulsion under the foregoing provisions. Upon such effective date, the **Member** shall be treated the same as if it had voluntarily withdrawn from this **Agreement**, or from the **Program**, as the case may be.

## ARTICLE 11

### EFFECT OF WITHDRAWAL OR EXPULSION

Except as provided below, a **Member** who withdraws or is expelled from this **Agreement** and membership in the **Authority**, or from any **Program** of the **Authority**, shall not be entitled to the return of any payment to the **Authority**, or of any property contributed to the **Authority**.

A **Member** that has withdrawn from a **Program** pursuant to Article 9 or that has been expelled from a **Program** pursuant to Article 10 shall be obligated for its prorata share of expenses incurred during the **Member's** participation in any **Program**, including any expenses

unavoidably incurred thereafter. The **Authority** will return any contribution made by the **Member** that exceeds the expenses allocated to that **Member**.

In the event of termination of this **Agreement**, a withdrawn or expelled **Member** may share in the distribution of assets of the **Authority** to the extent provided in Article 12.

## ARTICLE 12

### TERMINATION AND DISTRIBUTION OF ASSETS

A two-thirds vote of the total voting membership of the **Authority**, consisting of **Members**, acting through their governing bodies and the voting **Board Members** from the **Member** public entities, is required to terminate this **Agreement**; provided, however, that this **Agreement** and the **Authority** shall continue to exist after such election for the purpose of disposing of all claims, distributing all assets, and performing all other functions necessary to conclude the affairs of the **Authority**.

Upon termination of this **Agreement** and following disposition of all claims against and obligations of the **Authority**, all remaining assets of the **Authority** in each **Program** shall be distributed among those **Members** who participated in that **Program** in proportion to their cash contributions and property contributed (at market value when contributed). The **Board** of Directors shall determine such distribution within six (6) months after disposal of the last pending claim or other liability covered by the **Program**.

## ARTICLE 13

### LIABILITY OF BOARD OF DIRECTORS, OFFICER, COMMITTEE MEMBERS AND ADVISORS

The **Members** of the **Board** of Directors, Officers, committee members and advisors to any **Board** or committees of the **Authority** shall use ordinary care and reasonable diligence in the exercise of their powers and in the performance of their duties pursuant to this **Agreement**.

They shall not be liable for any mistake of judgment or any other action made, taken or omitted by them in good faith, nor for any action taken or omitted by the agent, employee or independent contractor selected with reasonable care, nor for loss incurred through investment of **Authority** funds, or failure to invest.

No Director, Officer, committee member or advisor to any **Board** member, Officer or committee member shall be responsible for any action taken or omitted by any other Director, Officer, committee member, or advisor to any committee. No Director, Officer, committee member or advisor to any committees shall be required to give a bond or other security to guarantee the faithful performance of their duties pursuant to this **Agreement**.

The funds of the **Authority** shall be used to defend, indemnify and hold harmless the **Authority** and any Director, Officer, committee member or advisor to any committee for their actions taken within the scope of the **Authority**. Nothing herein shall limit the right of the **Authority** to purchase insurance to provide such coverage as is hereinabove set forth.

#### **ARTICLE 14**

##### **BYLAWS**

The **Board** shall adopt Bylaws consistent with this **Agreement** which shall provide for the administration and management of the **Authority**.

#### **ARTICLE 15**

##### **NOTICES**

The **Authority** shall address notices, billings and other communications to a **Member** as directed by the **Member**. Each **Member** shall provide the **Authority** with the address to which communications are to be sent. **Members** shall address notices and other communications to the **Authority** to the Executive Director of the **Authority**, at the office address of the **Authority** as set for in the Bylaws.

## ARTICLE 16

### AMENDMENT

Adoption of any amendment to this **Agreement** requires approval by the **Board**, followed by ratification of the amendment by the governing boards of two-thirds of the **Members**. Such **Agreement** shall become effective upon ratification by governing boards of the requisite number of **Members**.

## ARTICLE 17

### PROHIBITION AGAINST ASSIGNMENT

No **Member** may assign any right, claim or interest it may have under this **Agreement**, and no creditor, assignee or third party beneficiary of any **Member** shall have any right, claim or title to any part, share, interest, fund, or asset of the **Authority**.

## ARTICLE 18

### DISPUTE RESOLUTION

When a dispute arises between the **Authority** and the **Member**, the following procedures are to be followed:

- (a) Request for Reconsideration. The **Member** will make a written request to the **Authority** for the appropriate committee to reconsider their position, citing the arguments in favor of the **Member** and any applicable case law that applies. The **Member** can also request a personal presentation to the governing body, if it so desires.

- (b) **Committee Appeal.** The committee responsible for the **Program** having jurisdiction over the decision in question will review the matter and reconsider the **Authority's** position. This committee appeal process is an opportunity for both sides to discuss and substantiate their positions based upon legal arguments and the most complete information available. If the **Member** requesting reconsideration is represented on the committee having jurisdiction, the committee member shall be deemed to have a conflict and shall be excluded from any vote.
- (c) **Executive Committee Appeal.** If the **Member** is not satisfied with the outcome of the committee appeal, the matter will be brought to the **Executive Committee** for reconsideration upon request of the **Member**. If the **Member** requesting reconsideration is represented on the **Executive Committee**, that **Executive Committee** member shall be deemed to have a conflict and shall be excluded from any vote.
- (d) **Arbitration.** If the **Member** is not satisfied with the outcome of the **Executive Committee** appeal, the next step in the appeal process is arbitration. The arbitration, whether binding or non-binding, is to be mutually agreed upon by the parties. The matter will be submitted to a mutually agreed arbitrator or panel of arbitrators for the determination. If binding arbitration is selected, then of course the decision of the arbitrator is final, and both sides agree to abide by the decision of the arbitrator. The cost of arbitration will be shared equally by the involved **Member** and the **Authority**.
- (e) **Litigation.** If, after the following the dispute resolution procedures above either party is not satisfied with the outcome of the non-binding arbitration process, either party may consider litigation as possible means of seeking a remedy to the dispute.

## ARTICLE 19

### DEFINITIONS

“**Agreement**” shall mean the Joint Powers **Agreement** of the California Mental Health Services **Authority**”

“**Authority**” shall mean the California Mental Health Services **Authority** created by this **Agreement**.

“**Board of Directors**” or “**Board**” shall mean the governing body of the **Authority**.

**Authority** “**Fiscal Year**” shall mean that period of twelve months which is established by the **Board** of Directors as the **Fiscal Year** of the **Authority**.

“**Government Code**” shall mean the California **Government Code**.

“**Executive Committee**” shall be defined by the bylaws, as to composition, powers, and terms.

“**Joint Powers Act**” shall mean the Joint Exercise of Powers Act, set forth at Article 1, Chapter 5, Division 7, Title 1 (commencing with section 6500) of the **Government Code**.

“**Member**” shall mean any county or city operating a mental health program which, through the membership of its Director of Mental Health as appointed by the governing body (pursuant to Welfare & Institutions Code Section 5751) has executed this **Agreement** and become a **Member** of the **Authority**.

“**Program**” shall mean the mental and/or behavioral health initiatives, but not limited to, that are described in this **Agreement**. The **Board** of Directors or the **Executive Committee** may determine applicable criteria for determining **Member’s** eligibility in any **Program**, as well as establishing **Program** policies and procedures.

## ARTICLE 20

### AGREEMENT COMPLETE

This **Agreement** constitutes the full and complete **Agreement** of the parties.

CaSonya Thomas San Bernardino County	Date	Halsey Simmons Solano County	Date
Dr. Wayne Clark Monterey County	Date	Michael Laffin Colusa County	Date
Dr. Karen Baylor San Luis Obispo County	Date	Dr. Madelyn Schlaepfer Stanislaus County	Date
Dr. Brad Luz Sutter/Yuba County	Date	Michael Kennedy Sonoma County	Date
Dr. Marvin J. Southard Los Angeles County	Date	Noel O'Neill Trinity County	Date
Anne Robin, MFT Butte County	Date	Rama Khalsa Santa Cruz County	Date
Scott Gruendl Glenn County	Date	Kristy Kelly Lake County	Date
Dr. Karen Stockton Modoc County	Date	Meloney A. Roy Ventura County	Date
Maureen F. Bauman Placer County	Date	Kim Suderman Yolo County	Date
Mary Ann Carrasco Sacramento County	Date	Nancy Pena Santa Clara County	Date
Donna Taylor Fresno County	Date	Mary Hale Orange County	Date

Jerry Wengerd Riverside County	Date	Mary Roy Contra Costa County	Date
Van Do-Reynoso Madera County	Date	Stephen Kaplan San Mateo County	Date
Michael W. Horn Imperial County	Date	Daniel Nielson El Dorado County	Date
Stacey Cryer Mendocino County	Date	Dr. James A. Waterman Kern County	Date
Jo Robinson San Francisco City and County	Date	Margaret Kisliuk Marin County	Date
Alfredo Aguirre San Diego County	Date	Michael Noda Siskiyou County	Date
Barbara LaHaie Humboldt County	Date	Barbara Pierson Lassen County	Date
James Rydingsword Mariposa County	Date	Jaye Vanderhurst Napa County	Date
Alan Yamamoto San Benito County	Date	Rita Austin Tuolumne County	Date
Jesse H. Duff Tri-City Mental Health Center	Date	Gary R. Blatnick Del Norte County	Date
Donnell Ewert Shasta County	Date	Dr. Timothy Durick Tulare County	Date

Michael Heggarty Nevada County	Date	Robin Roberts Mono County	Date
Victor Singh San Joaquin County	Date	Dr. Gail Zwier Inyo County	Date
Mary Anne Ford Sherman Kings County	Date	Dr. Karyn Tribble City of Berkeley	Date

**Date Adopted:** July 1, 2009  
**Amended Effective:** June 10, 2010  
**Amended Effective:** July 1, 2013

# APPENDIX A

**CALIFORNIA MENTAL HEALTH SERVICES AUTHORITY  
BOARD OF DIRECTORS AND MEMBER LISTING**

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Manager

City of Berkeley Mental Health Division

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**TBD**

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OFFICE OF THE CLERK  
OF THE BOARD OF SUPERVISORS

## REGULAR AGENDA REQUEST

Print

<b>MEETING DATE</b>	June 4, 2013	<b>DEPARTMENT</b>	Public Works - Engineering Division
<b>ADDITIONAL DEPARTMENTS</b>			
<b>TIME REQUIRED</b>	5 minutes	<b>PERSONS APPEARING BEFORE THE BOARD</b>	Garrett Higerd
<b>SUBJECT</b>	Contract Amendment with Sierra Geotechnical Services for Geotechnical Engineering and Quality Assurance Services		

### AGENDA DESCRIPTION:

(A brief general description of what the Board will hear, discuss, consider, or act upon)

Road rehabilitation projects require quality assurance testing of all asphalt and concrete materials before the work can be accepted. This contract will provide these services for street rehabilitation projects constructed over the next three years including projects in Lee Vining, Bridgeport, Chalfant, and June Lake.

### RECOMMENDED ACTION:

Amend "as-needed" contract with Sierra Geotechnical Services for geotechnical engineering and quality assurance testing services to increase the contract limit from \$183,000 to \$250,000 for services provided over the next three years and to eliminate the annual dollar limit. Authorize the Public Works Director, in consultation with County Counsel, to administer that contract, including making minor amendments to said contract from time to time as the Public Works Director may deem necessary, provided such amendments do not cause spending on any project to exceed the budgeted authority.

### FISCAL IMPACT:

Projects requiring these services are generally road projects funded by the State Transportation Improvement Program (STIP), Proposition 1B, or a zone of benefit. Contractor payments will not impact the General Fund.

**CONTACT NAME:** Garrett Higerd

**PHONE/EMAIL:** 760.932.5457 / ghigerd@mono.ca.gov

SUBMIT THE ORIGINAL DOCUMENT WITH  
ATTACHMENTS TO THE OFFICE OF  
THE COUNTY ADMINISTRATOR  
**PRIOR TO 5:00 P.M. ON THE FRIDAY**  
**32 DAYS PRECEDING THE BOARD MEETING**

### SEND COPIES TO:

### MINUTE ORDER REQUESTED:

YES  NO

### ATTACHMENTS:

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 [Staff Report and Contract Amendment](#)

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**History**

<b>Time</b>	<b>Who</b>	<b>Approval</b>
5/29/2013 2:30 PM	County Administrative Office	Yes
5/29/2013 4:55 PM	County Counsel	Yes
5/28/2013 1:28 PM	Finance	Yes



# MONO COUNTY DEPARTMENT OF PUBLIC WORKS

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POST OFFICE BOX 457 • 74 NORTH SCHOOL STREET • BRIDGEPORT, CALIFORNIA 93517  
760.932.5440 • Fax 760.932.5441 • [monopw@mono.ca.gov](mailto:monopw@mono.ca.gov) • [www.monocounty.ca.gov](http://www.monocounty.ca.gov)

**Date:** June 4, 2013  
**To:** Honorable Chair and Members of the Board of Supervisors  
**From:** Garrett Higerd, Senior Engineer  
**Re:** Contract Amendment with Sierra Geotechnical Services for Geotechnical Engineering and Quality Assurance Services

**Recommended Action:**

Amend “as-needed” contract with Sierra Geotechnical Services for geotechnical engineering and quality assurance testing services to increase the contract limit from \$183,000 to \$250,000 for services provided over the next three years and to eliminate the annual dollar limit. Authorize the Public Works Director, in consultation with County Counsel, to administer that contract, including making minor amendments to said contract from time to time as the Public Works Director may deem necessary, provided such amendments do not cause spending on any project to exceed the budgeted authority.

**Fiscal Impact:**

Projects requiring these services are generally road projects funded by the State Transportation Improvement Program (STIP), Proposition 1B, or a zone of benefit. Contractor payments will not impact the General Fund.

**Background:**

Road rehabilitation projects require quality assurance testing of all asphalt and concrete materials before the work can be accepted. This spring the Department of Public Works issued a Request for Qualifications for these services for road rehabilitation projects scheduled over the next three years. These projects include street rehabilitation projects in Lee Vining, Bridgeport, Chalfant, and June Lake. Statements of Qualifications were reviewed from several interested firms and Sierra Geotechnical Services was selected as the highest qualified firm. A scope of work letter has been issued and work has commenced on the Lee Vining Streets project. An additional scope of work letter is required for quality assurance testing on the Bridgeport Streets project. However, because the cumulative contract limit exceeds the maximum annual amount (\$61,000) allowable in the previously-approved contract, Board approval is required. Staff recommends that the Board of Supervisors approve the contract amendment attached as Exhibit 1.

Please contact me at 760.932.5457 or by email at [ghigerd@mono.ca.gov](mailto:ghigerd@mono.ca.gov) if you have any questions regarding this matter.

Respectfully submitted,

Garrett Higerd, PE  
Senior Engineer

Attachments: Exhibit 1 – Contract Amendment

# EXHIBIT 1

## AGREEMENT AND FIRST AMENDMENT TO THE AGREEMENT BETWEEN THE COUNTY OF MONO AND SIERRA GEOTECHNICAL SERVICES, INC. FOR THE PROVISION OF GEOTECHNICAL ENGINEERING AND QUALITY ASSURANCE TESTING SERVICES ON AN AS-NEEDED BASIS

This Agreement and First Amendment is entered into June 4, 2013, by and between the County of Mono (hereinafter, "County"), a political subdivision of the State of California, and Sierra Geotechnical Services, Inc., of Mammoth Lakes, California (hereinafter, "Contractor"), for the purposes of amending that certain Agreement between the County and Contractor, and signed by Contractor on May 9, 2013, providing for engineering design services. The County and Contractor are sometimes referred to herein collectively as "the parties."

NOW, THEREFORE, the parties agree as follows:

1. Subsection 3.D. of the Agreement, entitled LIMIT UPON AMOUNT PAYABLE UNDER AGREEMENT, is hereby replaced in its entirety with the following language:

"The total sum of all payments made by the County to Contractor for services and work performed under this Agreement shall not exceed **two hundred and fifty thousand dollars (\$250,000)** (hereinafter referred to as "contract limit"). The County expressly reserves the right to deny any payment or reimbursement requested by Contractor for services or work performed which is in excess of the contract limit."

2. All other terms and conditions of the Agreement not expressly amended shall remain in full force and effect.

**IN WITNESS THEREOF, THE PARTIES HERETO HAVE SET THEIR HANDS AND SEALS AS SET FORTH BELOW.**

**COUNTY OF MONO:**

**CONTRACTOR:**

\_\_\_\_\_  
Byng Hunt, Chair

\_\_\_\_\_  
Joe Adler, President

Mono County Board of Supervisors

Sierra Geotechnical Services, Inc.

Approved as to Form:

\_\_\_\_\_  
Stacey Simon, Deputy County Counsel



OFFICE OF THE CLERK  
OF THE BOARD OF SUPERVISORS

## REGULAR AGENDA REQUEST

Print

<b>MEETING DATE</b>	June 4, 2013	<b>DEPARTMENT</b>	Mental Health
<b>ADDITIONAL DEPARTMENTS</b>			
<b>TIME REQUIRED</b>	10 minutes	<b>PERSONS APPEARING BEFORE THE BOARD</b>	Robin Roberts
<b>SUBJECT</b>	Renewal of Department of Health Care Services Contract		

### AGENDA DESCRIPTION:

(A brief general description of what the Board will hear, discuss, consider, or act upon)

Proposed multi year contract with Department of Health Care Services with Mono County Behavioral Health for terms and conditions regarding Medi-Cal Managed Care for behavioral health services.

### RECOMMENDED ACTION:

Approve County entry into proposed contract and authorize Robin K. Roberts, MFT to execute said contract on behalf of the County. Authorize the MCBH Director to sign any future amendments of the proposed contract to account for the infill allocation of Medi-Cal Managed Care funds available to Mono County in FY's 13-18. Provide any desired direction to staff.

### FISCAL IMPACT:

Contract is with DHCS to assure payments from the MediCal Managed Care System to MCBH. There will be a potential increase in revenue for MCBH due to the changes we will see from the Affordable Care Act given the State projections of our increase in Medi-Cal eligible residents. All of this will be covered by the maximum amount allotted in the contract. There is no impact to the General Fund.

**CONTACT NAME:** Robin Roberts

**PHONE/EMAIL:** 760.924.1740 / rroberts@mono.ca.gov

SUBMIT THE ORIGINAL DOCUMENT WITH  
ATTACHMENTS TO THE OFFICE OF  
THE COUNTY ADMINISTRATOR  
**PRIOR TO 5:00 P.M. ON THE FRIDAY**  
**32 DAYS PRECEDING THE BOARD MEETING**

### SEND COPIES TO:

### MINUTE ORDER REQUESTED:

YES  NO

### ATTACHMENTS:

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- [📄 Staff Report DHCS Contract](#)
- [📄 Stand Agreement from DHCS](#)
- [📄 Contract](#)
- [📄 Exhibit](#)
- [📄 Exhibit 2](#)

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**History**

<b>Time</b>	<b>Who</b>	<b>Approval</b>
5/29/2013 2:31 PM	County Administrative Office	Yes
5/29/2013 1:25 PM	County Counsel	Yes
4/30/2013 12:23 PM	Finance	Yes

April 17, 2013

**To: Honorable Board of Supervisors**

**From: Robin K. Roberts, MFT, Director of Behavioral Health**

**Subject: Five year contract with DHCS for Realigned MHP funds**

**Recommended Action:**

- 1.) Approve the proposed multi-year Department of Health Services contract and authorize the Behavioral Health Director to sign said contract on behalf of Mono County.
- 2.) Authorize the Behavioral Health Director (MCBH) to sign any future amendments of the proposed contract to account for the final allocation of Medi-Cal Managed Care funds available to Mono County in FYs 13-18

**Discussion:**

The Department of Health Care Services (DHCS) contract specifies the terms and conditions for Mono County Behavioral Health to be recognized as a Medi-Cal Managed Care Plan for behavioral health services. Mono County is fully in compliance with the new Federal Medicaid regulations that were promulgated during fiscal years 03-04 and 04-05 to include Standards of Care, Compliance Procedures, and Performance Improvement Projects. We are subject to annual visits from the External Quality Review Organization (EQRO) that is contracted to visit every county in California and assess compliance with Federal Medicaid regulations. Our next EQRO audit occurs in May 2013.

**Fiscal Impact:**

The annual amount fluctuates slightly from year to year and is reflective of available funds statewide and relative numbers of Medi-Cal beneficiaries in Mono County. Due to Re-alignment and the potential increase in Medi-Cal eligible County residents due to the changes we will see with the Affordable Care Act, it is likely that Mono County Behavioral Health will see an increase in revenue. The amount indicated by DHCS on the contract, \$8,113,337,000. is the ceiling designated for the entire State of California's mental health system of which MCBH will receive its portion of funding.

There is no impact to the general fund.

**Review:**

This contract has been reviewed by the County Counsel. Please call Robin K. Roberts with any questions, 760.924.1740

STATE OF CALIFORNIA  
**STANDARD AGREEMENT**  
 STD 213\_DHCS (Rev. 01/13)

REGISTRATION NUMBER	AGREEMENT NUMBER 12-89378
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- This Agreement is entered into between the State Agency and the Contractor named below:  

STATE AGENCY'S NAME Department of Health Care Services	(Also known as DHCS, CDHS, DHS or the State)
CONTRACTOR'S NAME Mono County Behavioral Health	(Also referred to as Contractor)
- The term of this Agreement is: May 1, 2013  
through June 30, 2018
- The maximum amount of this Agreement is: \$ 8,113,337,000  
Eight billion, one hundred thirteen million, three hundred thirty-seven thousand dollars.
- The parties agree to comply with the terms and conditions of the following exhibits, which are by this reference made a part of this Agreement.

Exhibit A – Scope of Work	2 pages
Exhibit A Attachment I – Service, Administrative and Operational Requirements	56 pages
Exhibit A Attachment II – Definitions	2 pages
Exhibit B – Budget Detail and Payment Provisions	6 pages
Exhibit C * – General Terms and Conditions	<u>GTC 610</u>
Exhibit D (F) – Special Terms and Conditions (Attached hereto as part of this agreement) Notwithstanding Provisions 2, 3, 4, 6, 8, 12, 14, 22, 25, 29, and 30 which do not apply to this agreement.	26 pages
Exhibit E – Additional Provisions	11 pages
Exhibit F – Privacy and Information Security Provisions	28 pages

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

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

<b>CONTRACTOR</b>		<b>California Department of          General Services Use Only</b>
CONTRACTOR'S NAME (if other than an individual, state whether a corporation, partnership, etc.) Mono County Behavioral Health		
BY (Authorized Signature) 	DATE SIGNED (Do not type)	
PRINTED NAME AND TITLE OF PERSON SIGNING Robin Roberts, Director		
ADDRESS P.O. Box 2619 Mammoth Lakes, CA 93546		
<b>STATE OF CALIFORNIA</b>		
AGENCY NAME Department of Health Care Services		<input checked="" type="checkbox"/> Exempt per. W&I Code § 14703
BY (Authorized Signature) 	DATE SIGNED (Do not type)	
PRINTED NAME AND TITLE OF PERSON SIGNING Andrew Young, Chief, Contract Management Unit		
ADDRESS 1501 Capitol Avenue, Suite 71.5195, MS 1403, P.O. Box 997413, Sacramento, CA 95899-7413		

**Exhibit A**  
Scope of Work

**1. Service Overview**

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

The Contractor will provide or arrange for the provision of specialty mental health services to eligible Medi-Cal beneficiaries of Mono County within the scope of services defined in this contract.

**2. Project Representatives**

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

<b>Department of Health Care Services</b>	<b>Mono County Behavioral Health</b>
Erika Cristo Telephone: (916) 650-0486 Fax: (916) 440-7620 Email: <a href="mailto:Erika.Cristo@dhcs.ca.gov">Erika.Cristo@dhcs.ca.gov</a>	Robin Roberts, Director Telephone: (760) 924-1740 Fax: (760) 924-1741 Email: <a href="mailto:rroberts@mono.ca.gov">rroberts@mono.ca.gov</a>

B. Direct all inquiries to:

<b>Department of Health Care Services</b>	<b>Mono County Behavioral Health</b>
Mental Health Services Division/Program Policy Unit Attention: Dee Taylor 1500 Capitol Avenue, MS 2702 P.O. Box Number 997413 Sacramento, CA, 95899-7413 Telephone: (916) 552-9536 Fax: (916) 440-7620 Email: <a href="mailto:Dee.Taylor@dhcs.ca.gov">Dee.Taylor@dhcs.ca.gov</a>	Attention: Robin Roberts P.O. Box 2619 Mammoth Lakes, CA, 93546  Telephone: (760) 924-1740 Fax: (760) 924-1741 Email: <a href="mailto:rroberts@mono.ca.gov">rroberts@mono.ca.gov</a>

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

**3. General Authority**

This Contract is entered into in accordance with the Welfare and Institutions (Welf. & Inst.) Code § 14680 through §14726. Welf. & Inst. Code § 14712 directs the California Department of Health Care Services (Department) to implement and administer Managed Mental Health Care for Medi-Cal eligible residents of this state through contracts with mental health plans. The Department and Mono County Behavioral Health agrees to operate the Mental Health Plan (MHP) for Mono County. No provision of this contract is intended to obviate or waive any requirements of applicable law or regulation, in particular, the provisions noted above. In the event a provision of this contract is open to

**Exhibit A**  
Scope of Work

varying interpretations, the contract provision shall be interpreted in a manner that is consistent with applicable law and regulation.

4. See the following pages for a detailed description of the services to be performed.

**Exhibit A Attachment I**  
Service, Administrative and Operational Requirements

**1. Provision of Services**

- A. The Contractor shall provide, or arrange and pay for, all medically necessary covered Specialty Mental Health Services to beneficiaries, as defined for the purposes of this contract, of Mono County.
- B. The Contractor shall ensure that all medically necessary covered Specialty Mental Health Services are sufficient in amount, duration, or scope to reasonably be expected to achieve the purpose for which the services are furnished. The Contractor shall not arbitrarily deny or reduce the amount, duration, or scope of a medically necessary covered Specialty Mental Health Service solely because of diagnosis, type of illness, or condition of the beneficiary except as specifically provided in the medical necessity criteria applicable to the situation as provided in the California Code of Regulations (Cal. Code Regs.), title (tit.) 9, §§1820.205, 1830.205, and 1830.210.
- C. The Contractor shall make all medically necessary covered Specialty Mental Health Services available in accordance with Cal. Code Regs., tit. 9, §§ 1810.345 and 1810.405, and 42 Code of Federal Regulations (C.F.R.) § 438.210 and shall ensure:
  - 1) The availability of services to address beneficiaries' emergency psychiatric conditions 24 hours a day, 7 days a week.
  - 2) The availability of services to address beneficiaries' urgent conditions as defined in Cal. Code Regs., tit. 9, §1810.253, 24 hours a day, and 7 days a week.
  - 3) Timely access to routine services determined by the Contractor to be required to meet beneficiaries' needs.
- D. The Contractor shall provide second opinions in accordance with Cal. Code Regs., tit. 9, § 1810. 405(e).
- E. The Contractor shall provide out-of-plan services in accordance with Cal. Code Regs., tit. 9, §§1830.220 and 1810.365. The timeliness standards specified in Cal. Code Regs., tit. 9, 1810.405 apply to out-of-plan services, as well as in-plan services.
- F. The Contractor shall provide a beneficiary's choice of the person providing services to the extent feasible in accordance with Cal. Code Regs., tit. 9, §1830.225 and 42 C.F.R. § 438.6(m).
- G. In determining whether a service is covered under this contract based on the diagnosis of the beneficiary, the Contractor shall not exclude a beneficiary solely on the ground that the provider making the diagnosis has used the International

**Exhibit A Attachment I**  
 Service, Administrative and Operational Requirements

Classification of Diseases (ICD) diagnosis system rather than the system contained in the Diagnostic and Statistical Manual (DSM) of the American Psychiatric Association.

- H. For services provided pursuant to Section 3 of this Attachment, entitled “Emergency Psychiatric Condition Reimbursement”, the Contractor shall consider the following ICD-9 diagnosis codes as included. For any other service, the Contractor may consider these codes as included or may require the provider to use DSM IV coding.

Table 1 - Included ICD-9 Diagnoses - All Places of Services except Hospital Inpatient

295.00 – 298.9	302.8 - 302.9	311 - 313.82
299.1 – 300.89	307.1	313.89 – 314.9
301.0 – 301.6	307.3	332.1 – 333.99*
301.8 – 301.9	307.5 - 307.89	787.6
302.1 – 302.6	308.0 - 309.9	

\*Note: Treatment of diagnoses 332.1 - 333.99, Medication Induced Movement Disorders, is a covered service only when the Medication Induced Movement Disorder is related to one or more included diagnoses.

Table 2 - Included ICD-9 Diagnoses - Hospital Inpatient Place of Service

290.12 – 290.21	299.10 - 300.15	308.0 – 309.9
290.42 – 290.43	300.2 - 300.89	311 – 312.23
291.3	301.0 - 301.5	312.33 - 312.35
291.5 - 291.89	301.59 - 301.9	312.4 – 313.23
292.1 - 292.12	307.1	313.8 – 313.82
292.84 – 292.89	307.20 - 307.3	313.89 - 314.9
295.00 – 299.00	307.5 - 307.89	787.6

**2. Availability and Accessibility of Service**

**Availability of Services**

- A. Pursuant to 42 C.F.R. § 438.206(a) and (b), the Contractor shall ensure the availability and accessibility of adequate numbers and types of providers of medically necessary services. At a minimum, the Contractor shall meet the following requirements:

### **Exhibit A Attachment I**

#### Service, Administrative and Operational Requirements

- 1) Maintain and monitor a network of appropriate providers that is supported by written agreements for subcontractors and that is sufficient to provide adequate access to all services covered under this contract. In establishing and monitoring the network, the Contractor must consider the following:
  - a) The anticipated number of Medi-Cal eligible clients.
  - b) The expected utilization of services, taking into account the characteristics and mental health needs of beneficiaries.
  - c) The expected number and types of providers in terms of training and experience needed to meet expected utilization.
  - d) The numbers of network providers who are not accepting new beneficiaries.
  - e) The geographic location of providers and their accessibility to beneficiaries, considering distance, travel time, means of transportation ordinarily used by Medi-Cal beneficiaries, and physical access for disabled beneficiaries.
  - f) To the extent required by Cal. Code Regs., tit. 9, §1830.220, for inpatient services, if the Contractor is unable to provide necessary medical services covered under the contract to a particular beneficiary, the Contractor must adequately and timely cover these services out of network for the beneficiary, for as long as the Contractor is unable to provide them.
  - g) Pursuant to 42 C.F.R. § 438.206(b)(5) and consistent with Cal. Code Regs., tit. 9, §1830.220, the Contractor shall require that out-of-network providers coordinate authorization and payment with the Contractor. As is consistent with Cal. Code Regs., tit. 9, §1810.365, the Contractor must ensure that the cost to the beneficiary for services provided out of network pursuant to an authorization is no greater than it would be if the services were furnished within the Contractor's network.
  - h) The Contractor shall demonstrate that its providers are credentialed as required by 42 C.F.R. § 438.214.

#### **Access to Services**

- B. Timely Access. In accordance with 42 C.F.R. § 438.206(c)(1), the Contractor shall comply with the requirements set forth in Cal. Code Cal. Code Regs., tit. 9, §1810.405, including the following:

### **Exhibit A Attachment I**

#### **Service, Administrative and Operational Requirements**

- 1) Meet and require its providers to meet Department standards for timely access to care and services, taking into account the urgency of need for services.
- 2) Require subcontracted providers to have hours of operation during which services are provided to Medi-Cal beneficiaries that are no less than the hours of operation during which the provider offers services to non-Medi-Cal beneficiaries. If the provider only serves Medi-Cal beneficiaries, the Contractor shall require that hours of operation are comparable to the hours the provider makes available for Medi-Cal services that are not covered by the Contractor, or another Mental Health Plan.
- 3) Make services available to beneficiaries 24 hours a day, 7 days a week, when medically necessary.
- 4) Establish mechanisms to ensure that network providers comply with the timely access requirements;
- 5) Monitor network providers regularly to determine compliance with timely access requirements;
- 6) Take corrective action if there is a failure to comply with timely access requirements.

#### **Adequate Capacity and Standards**

- C. Documentation of adequate capacity and services. Pursuant to 42 C.F.R. § 438.207(b), the Contractor must, when requested by the Department, submit documentation to the Department, in a format specified by the Department, and after receiving reasonable advance notice of its obligation, to demonstrate that the Contractor:
  - 1) Offers an appropriate range of specialty mental health services that is adequate for the anticipated number of beneficiaries for the service area.
  - 2) Maintains a network of providers that is sufficient in number, mix, and geographic distribution to meet the needs of the anticipated number of beneficiaries in the service area.
- D. Consistent with 42 C.F.R. § 438.207(c)(2), whenever there is a change in the Contractor's operation that would cause a decrease of 25 percent or more in services or providers available to beneficiaries, the Contractor shall report this to the Department, including details regarding the change and plans to maintain adequate services and providers available to beneficiaries.

#### **Coordination and Continuity of Care**

**Exhibit A Attachment I**  
Service, Administrative and Operational Requirements

- E. Coordination of health care services. The Contractor must implement procedures to:
- 1) Coordinate the services that the Contractor either furnishes or arranges to be furnished to the beneficiary with services that the beneficiary receives from any other Medi-Cal managed care plan or MHP in accordance with Cal. Code Regs., tit. 9 §1810.425.
  - 2) Ensure that, in the course of coordinating care, each beneficiary's privacy is protected in accordance with all federal and state privacy laws, including but not limited to 45 C.F.R. § 160 and § 164, to the extent that such provisions are applicable.
  - 3) Enter into a Memorandum of Understanding (MOU) with any Medi-Cal managed care plan serving the Contractor's beneficiaries in accordance with Cal. Code Regs., tit. 9, § 1810.370. The Contractor shall notify the Department in writing if the Contractor is unable to enter into an MOU or if an MOU is terminated, providing a description of the Contractor's good faith efforts to enter into or maintain the MOU. The MHP shall monitor the effectiveness of its MOU with Physical Health Care Plans.

**Authorization of Services**

- F. Pursuant to 42 C.F.R. § 438.210(b), the Contractor shall implement mechanisms to assure authorization decision standards are met. The Contractor shall:
- 1) Have in place, and follow, written policies and procedures for processing requests for initial and continuing authorizations of services.
  - 2) Have mechanisms in effect to ensure consistent application of review criteria for authorization decisions, and shall consult with the requesting provider when appropriate.
  - 3) Have any decision to deny a service authorization request or to authorize a service in an amount, duration, or scope that is less than requested be made by a health care professional who has appropriate clinical expertise in treating the beneficiary's condition or disease.
  - 4) Have decisions made within the timeframes outlined for service authorizations in 42 C.F.R. § 438.210(d), and notices of action related to such decisions provided within the timeframes set forth in 42 C.F.R. § 438.404(c).
  - 5) Provide that compensation to individuals or entities that conduct utilization management activities must not be structured so as to provide incentives for the individual or entity to deny, limit, or discontinue medically necessary services to any beneficiary.

**Exhibit A Attachment I**  
Service, Administrative and Operational Requirements

- G. The Contractor shall act on an authorization request for treatment for urgent conditions within one hour of the request per Cal. Code Regs., tit. 9, § Cal. Code Regs., tit. 9, § 1810.405(c).
- H. Pursuant to 42 C.F.R. § 431.201, the Contractor shall define service authorization request in a manner that at least includes a beneficiary's request for the provision of a service.

**3. Emergency Psychiatric Condition Reimbursement**

- A. The Contractor shall pay for services for emergency psychiatric conditions received by a beneficiary from providers, whether or not the provider has a subcontract with the Contractor. Such services shall not be subject to prior authorization.
- B. "Post-stabilization care services" means covered services related to an emergency medical condition that are provided after a beneficiary is stabilized in order to maintain the stabilized condition.
- C. The Contractor shall comply with 42 C.F.R. § 438.114, regarding emergency, post stabilization services. For purposes of this section, emergency and post stabilization services includes acute psychiatric inpatient hospital professional services (as defined in Cal. Code Regs., tit. 9, § Section 1810.237.1) which are related to an emergency medical condition or post-stabilization care. The Contractor shall apply the definitions contained in 42 C.F.R. § 438.114. To the extent that there is a conflict between the definitions in 42 C.F.R. § 438.114, and the Contractor's obligations as described in this section, the federal regulation shall prevail.
  - 1) If an emergency room provider, hospital or fiscal agent of a provider or hospital does not notify the Contractor of the beneficiary's screening and treatment, the Contractor must allow a minimum of ten calendar days after the beneficiary presents for emergency services or acute psychiatric inpatient hospital professional services before refusing to cover emergency services or acute psychiatric inpatient hospital professional services for this reason.
  - 2) A beneficiary who has an emergency medical condition may not be held liable for payment of subsequent screening and treatment needed to diagnose the specific condition or stabilize the patient.
  - 3) The Contractor may not limit what constitutes an emergency medical condition on the basis of lists of diagnoses or symptoms.
  - 4) The attending emergency physician, or the provider actually treating the beneficiary, is responsible for determining when the beneficiary is

**Exhibit A Attachment I**  
Service, Administrative and Operational Requirements

sufficiently stabilized for transfer or discharge, and that determination is binding on the Contractor.

- D. The Contractor shall comply with 42 C.F.R. § 438.114(d)(ii,) and Cal. Code Regs., tit. 9, § Cal. Code Regs., tit. 9, §1820.225, regarding prior payment authorization for an emergency admission, whether voluntary or involuntary.
- E. The Contractor shall comply with Cal. Code Regs., tit. 9, § 1830.215, regarding payment authorizations.

**4. Provider Selection and Certification**

- A. The Contractor shall comply with Cal. Code Regs., tit. 9, § 1810.435, in the selection of providers and shall review its providers for continued compliance with standards at least once every three years.
- B. The Contractor shall comply with the provisions of 42 C.F.R. §§ 455.104, 455.105, 1002.203, 1002.3, which relate to the provision of information about provider business transactions and provider ownership and control, prior to entering into a contract and during certification or re-certification of the provider.
- C. "Satellite site" means a site owned, leased or operated by an organizational provider at which specialty mental health services are delivered to beneficiaries fewer than 20 hours per week, or, if located at a multiagency site at which specialty mental health services are delivered by no more than two employees or contractors of the provider.
- D. Pursuant to 42 C.F.R. § 438.12(a)(1), the Contractor may not discriminate in the selection, reimbursement, or indemnification of any provider who is acting within the scope of his or her license or certification under applicable state law, solely on the basis of that license or certification.
- E. Pursuant to 42 C.F.R. § 438.12(a)(2), in all contracts with providers the Contractor must comply with the requirements in 42 C.F.R. § 438.214.
- F. The Contractor shall give practitioners or groups of practitioners who apply to be MHP contract providers and with whom the MHP decides not to contract written notice of the reason for a decision not to contract;
- G. Contractor shall only use licensed, registered, or waived providers acting within their scope of practice for services which require a license, waiver, or registration, consistent with Welfare and Institutions Code Section 5751.2 and Cal. Code Regs., tit. 9, § 1840.314(d).
- H. Consistent with 42 C.F.R. § 438.214, the contractor shall have written policies and procedures for selection, retention, credentialing and recredentialing of providers; the provider selection policies and procedures must not discriminate against

**Exhibit A Attachment I**  
Service, Administrative and Operational Requirements

particular providers that serve high-risk populations or specialize in conditions that require costly treatment.

- I. The Contractor shall certify, or use another mental health plan's certification documents to certify, the organizational providers that subcontract with the Contractor to provide covered services in accordance with Cal. Code Regs., tit. 9, §1810.435, and the requirements specified prior to the date on which the provider begins to deliver services under the contract, and once every three years after that date. The on-site review required by Cal. Code Regs., tit. 9, § 1810.435(d), as a part of the certification process, shall be made of any site owned, leased, or operated by the provider and used to deliver covered services to beneficiaries, except that on-site review is not required for public school or satellite sites.
- J. The Contractor may allow an organizational provider to begin delivering covered services to beneficiaries at a site subject to on-site review prior to the date of the on-site review, provided the site is operational and has any required fire clearances. The earliest date the provider may begin delivering covered services at a site subject to on-site review is the latest of these three (3) dates: 1) the date the provider's request for certification is received by the Department in accordance with the Contractor's certification procedures; 2) the date the site was operational; or 3) the date a required fire clearance was obtained. The Contractor shall complete any required on-site review of a provider's sites within six months of the date the provider begins delivering covered services to beneficiaries at the site.
- K. The Contractor may allow an organizational provider to continue delivering covered services to beneficiaries at a site subject to on-site review as part of the recertification process prior to the date of the on-site review, provided the site is operational and has any required fire clearances. The Contractor shall complete any required on-site review of a provider's sites within six months of the date the recertification of the provider is due.
- L. The Contractor and/or the Department shall each verify through an on-site review that:
  - 1) The organizational provider possesses the necessary license to operate, if applicable, and any required certification.
  - 2) The space owned, leased or operated by the provider and used for services or staff meets local fire codes.
  - 3) The physical plant of any site owned, leased, or operated by the provider and used for services or staff is clean, sanitary, and in good repair.
  - 4) The organizational provider establishes and implements maintenance policies for any site owned, leased, or operated by the provider and used for services or staff to ensure the safety and well-being of beneficiaries and

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staff.

- 5) The organizational provider has a current administrative manual which includes: personnel policies and procedures, general operating procedures, service delivery policies, any required state or federal notices (DRA), and procedures for reporting unusual occurrences relating to health and safety issues.
- 6) The organizational provider maintains client records in a manner that meets the requirements of the Contractor, the requirements of Section 14 of this Attachment, and applicable state and federal standards.
- 7) The organizational provider has sufficient staff to allow the Contractor to claim federal financial participation (FFP) for the services that the organizational provider delivers to beneficiaries, as described in Cal. Code Regs., tit. 9, § 1840.344 through § 1840.358, as appropriate and applicable.
- 8) The organizational provider has written procedures for referring individuals to a psychiatrist when necessary, or to a physician, if a psychiatrist is not available.
- 9) The organizational provider's head of service, as defined Cal. Code Regs., tit. 9, § 622 through § 630, is a licensed mental health professional or other appropriate individual as described in these sections.
- 10) For organizational providers that provide or store medications, the provider stores and dispenses medications in compliance with all pertinent state and federal standards. In particular:
  - a) All drugs obtained by prescription are labeled in compliance with federal and state laws. Prescription labels are altered only by persons legally authorized to do so.
  - b) Drugs intended for external use only and food stuffs are stored separately from drugs intended for internal use.
  - c) All drugs are stored at proper temperatures: room temperature drugs at 59-86 degrees Fahrenheit and refrigerated drugs at 36-46 degrees Fahrenheit.
  - d) Drugs are stored in a locked area with access limited to those medical personnel authorized to prescribe, dispense or administer medication.
  - e) Drugs are not retained after the expiration date. Intramuscular multi-dose vials are dated and initialed when opened.

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- f) A drug log is maintained to ensure the provider disposes of expired, contaminated, deteriorated and abandoned drugs in a manner consistent with state and federal laws.
  - g) Policies and procedures are in place for dispensing, administering and storing medications.
- M. For organizational providers that provide day treatment intensive or day rehabilitation, the provider has a written description of the day treatment intensive and/or day rehabilitation program that complies with Section 8 of this exhibit.
- N. When an on-site review of an organizational provider would not otherwise be required and the provider offers day treatment intensive and/or day rehabilitation, the Contractor or the Department, as applicable, shall, at a minimum, review the provider's written program description for compliance with the requirements of Section 8 of this exhibit.
- O. On-site review is not required for hospital outpatient departments which are operating under the license of the hospital. Services provided by hospital outpatient departments may be provided either on the premises or off-site.
- P. On-site review is not required for primary care and psychological clinics, as defined in the Health and Safety (Health & Saf.) Code section 1204.1 and licensed under the Health and Saf. Code. Services provided by the clinics may be provided on the premises in accordance with the conditions of the clinic's license.
- Q. When on-site review of an organizational provider is required, the Contractor or the Department, as applicable, shall conduct an on-site review at least once every three years. Additional certification reviews of organizational providers may be conducted by the Contractor or Department, as applicable, at its discretion, if:
- 1) The provider makes major staffing changes.
  - 2) The provider makes organizational and/or corporate structure changes (example: conversion to non-profit status).
  - 3) The provider adds day treatment or medication support services when medications are administered or dispensed from the provider site.
  - 4) There are significant changes in the physical plant of the provider site (some physical plant changes could require a new fire clearance).
  - 5) There is a change of ownership or location.
  - 6) There are complaints regarding the provider.

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- 7) There are unusual events, accidents, or injuries requiring medical treatment for clients, staff or members of the community.
  
- R. The Contractor shall monitor the performance of its subcontractors on an ongoing basis for compliance with the terms of this contract and shall subject the subcontractors' performance to periodic formal review, at a minimum in accordance with the recertification requirements. If the Contractor identifies deficiencies or areas for improvement, the Contractor and the subcontractor shall take corrective action.

**5. Recovery from Other Sources or Providers**

- A. The Contractor shall recover the value of covered services rendered to beneficiaries whenever the beneficiaries are covered for the same services, either fully or partially, under any other state or federal medical care program or under other contractual or legal entitlement including, but not limited to, a private group or indemnification program, but excluding instances of the tort liability of a third party or casualty liability insurance.
  
- B. The monies recovered are retained by the Contractor. However, Contractor's claims for FFP for services provided to beneficiaries under this contract shall be reduced by the amount recovered.
  
- C. The Contractor shall maintain accurate records of monies recovered from other sources.
  
- D. Nothing in this section supersedes the Contractor's obligation to follow federal requirements for claiming FFP for services provided to beneficiaries with other coverage under this contract.

**6. Subrogation**

In the event a beneficiary is injured by the act or omission of a third party, or has a potential or existing claim for a workers' compensation award, or a claim/recovery through uninsured motorist coverage, the right to pursue subrogation and the receipt of payments shall be as follows:

- A. Contractor may submit to the Department claims for Medi-Cal covered services rendered, but Contractor shall not make claims to or attempt to recoup the value of these services from the above-referenced entities.
  
- B. Contractor shall notify the Department within 10 days of discovery of all cases that could reasonably result in recovery by the beneficiary of funds from a third party, third party insurance carrier, workers' compensation award, and/or uninsured motorist coverage.

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- C. If the Contractor receives any requests by subpoena from attorneys, insurers, or beneficiaries for copies of bills, the Contractor shall provide the Department with a copy of any document released as a result of such request. Additionally, the Contractor shall provide the name, address and telephone number of the requesting party.
- D. The Contractor also agrees to assist the Department, upon request, to provide within thirty (30) days, payment information and copies of paid invoices/claims for covered services.
- E. The value of the covered services shall be calculated as the usual, customary and reasonable charge made to the general public for similar services or the amount to subcontracted providers or out-of-plan providers for similar services.
- F. The information provided to the Department shall include the following data:
  - 1) Beneficiary name;
  - 2) 14-digit Medi-Cal number;
  - 3) Social security number or Client Identification Number (CIN);
  - 4) Date of birth;
  - 5) Contractor name;
  - 6) Provider name (if different from Contractor);
  - 7) Dates of service;
  - 8) Diagnosis code and/or description of illness;
  - 9) Procedure code and/or description of services rendered;
  - 10) Amount billed by a Subcontractor or out-of-plan provider to the Contractor (if applicable);
  - 11) Amount paid by other health insurance to the Contractor or Subcontractor;
  - 12) Amount and date paid by the Contractor to subcontractor or out-of-plan provider (if applicable); and
  - 13) Date of denial and reasons (if applicable).

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- G. The Contractor shall also provide the Department with the name, address, and telephone number of the person responsible for receiving and complying with requests for mandatory and/or optional at-risk service information.
- H. Information sent to the Department, pursuant to this section, shall be sent to: State Department of Health Care Services, Third Party Liability Branch, 1500 Capitol Ave., Suite 320, Sacramento, CA 95814.

**7. Beneficiary Brochure and Provider List**

- A. The Contractor shall be responsible for the production and update of its booklet section(s) and provider list in accordance with 42 C.F.R. § 438.10 and Cal. Code Regs., tit. 9, §1810.360. The Contractor shall establish criteria to update its booklet and provider list.

Pursuant to 42 C.F.R. § 438.10, the Contractor shall:

- 1) Notify all beneficiaries of their right to change providers;
- 2) Notify all beneficiaries of their right to request and obtain the following information:
  - a) Names, locations, telephone numbers of, and non-English languages spoken by current contracted providers in the beneficiary's service area, including identification of providers that are not accepting new patients.
  - b) Any restrictions on the beneficiary's freedom of choice among network providers.
  - c) Beneficiary rights and protections, as specified in 42 CFR § 438.100.
  - d) The amount, duration, and scope of benefits available under this Contract in sufficient detail to ensure that beneficiaries understand the benefits to which they are entitled.
  - e) Procedures for obtaining benefits, including authorization requirements.
  - f) The extent to which, and how, beneficiaries may obtain benefits from out-of-network providers.
  - g) The extent to which, and how, after-hours and emergency coverage are provided, including:

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- i. What constitutes an emergency medical condition, emergency services, and post-stabilization services, with reference to the definitions in 42 C.F.R. § 438.114(a).
  - ii. The fact that prior authorization is not required for emergency services.
  - iii. The process and procedures for obtaining emergency services, including use of the 911-telephone system or its local equivalent.
  - iv. The locations of any emergency settings and other locations at which providers and hospitals furnish emergency services and post-stabilization services covered under the contract.
  - v. The fact that, subject to the provisions of 42 C.F.R. § 438.10(f)(6), the beneficiary has a right to use any hospital or other setting for emergency care.
  - vi. The post-stabilization care services rules set forth in 42 C.F.R. § 422.113(c).
- h) Cost sharing, if any.
- i) How and where to access any benefits that are available under the State Plan but are not covered under this Contract, including any cost sharing, and how any necessary transportation is provided. Pursuant to 42 C.F.R. § 438.102(a)(2), for a counseling or referral service that the Contractor does not cover because of moral or religious objections, the Contractor need not furnish information on how and where to obtain the service. Pursuant to 42 C.F.R. § 438.102(b)(1), the Contractor must provide information about the services it does not cover on moral or religious grounds.
- B. The Contractor shall ensure that the general program literature it uses to assist beneficiaries in accessing services including, but not limited to, the booklet required by Cal. Code Regs., tit. 9, § 1810.360, materials explaining the beneficiary problem resolution and fair hearing processes required by Cal. Code Regs., tit. 9, § 1850.205(c)(1), and mental health education materials used by the Contractor, are available in the threshold languages of the County in compliance with 42 C.F.R. § 438.10(c)(3).
- C. Pursuant to 42 C.F.R. § 438.10(c)(4) and (5) and Cal. Code Regs., tit. 9, § 1810.410, the Contractor must make oral interpretation and sign language services available free of charge to each beneficiary. This applies to all non-English languages and not just those identified as prevalent. The Contractor must notify

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beneficiaries that oral interpretation is available for any language and written information is available in prevalent languages and how to access those services.

- D. Pursuant to 42 C.F.R. § 438.10(g) and Cal. Code Regs., tit. 9, § 1850.205(c)(1), the booklet shall include grievance, appeal and fair hearing procedures and timeframes, as provided in 42 C.F.R. §§ 438.400 through 438.424, using a Department-developed or Department-approved description that must include the following:
- 1) For State Fair Hearing
    - a) The right to hearing;
    - b) The method for obtaining a hearing; and
    - c) The rules that govern representation at the hearing.
  - 2) The right to file grievances and appeals.
  - 3) The requirements and timeframes for filing a grievance or appeal
  - 4) The availability of assistance in the filing process.
  - 5) The toll-free numbers that the beneficiary can use to file a grievance or an appeal by phone.
  - 6) The fact that, when requested by the beneficiary:
    - a) Benefits will continue if the beneficiary files an appeal or a request for State Fair Hearing within the timeframes specified for filing.
  - 7) The appeal rights that the Department has chosen to make available to providers in Cal. Code Regs., tit. 9, § 1850.315, to challenge the Contractor's failure to cover a service.
  - 8) Advance Directives, as set forth in 42 C.F.R. § 438.6(i)(22).
  - 9) Additional information that is available upon request, includes the following:
    - a) Information on the structure and operation of the Contractor.
    - b) Physician incentive plans as set forth in 42 C.F.R. § 438.6(h).
- E. The Contractor shall provide beneficiaries with a copy of the booklet and provider list when the beneficiary first accesses services and thereafter upon request in accordance with Cal. Code Regs., tit. 9, § 1810.360.

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- F. The Contractor shall not make changes to any of the content in the statewide section of the booklet unless directed to do so, in writing, by the Department.
- G. The Contractor shall ensure any changes to the English version of the booklet are also included in the county's threshold languages and made available in alternate formats appropriate to the beneficiary population.
- H. The Contractor shall ensure written materials are produced in a format that is easily understood and available in alternative formats and in an appropriate manner that takes into consideration the special needs of those who, for example, are visually limited or have limited reading proficiency as required by 42 C.F.R. § 438.10(d)(1). Pursuant to 42 C.F.R. § 438.10(d)(2), the Contractor shall inform beneficiaries that information is available in alternate formats and how to access those formats.
- I. The Contractor shall ensure that the booklet above includes the current toll-free telephone number(s) that provides information in threshold languages and is available twenty-four hours a day, seven days a week.
- J. The Contractor shall ensure that provider directories:
  - 1) Include information on the category or categories of services available from each provider;
  - 2) Contain the names, locations, and telephone numbers of current contracted providers by category;
  - 3) Identify options for services in languages other than English and services that are designed to address cultural differences and;
  - 4) Provide a means by which a beneficiary can identify which providers are not accepting new beneficiaries.
- K. As required by 42 C.F.R. § 438.10(f)(4), when there is a change that the State defines as significant in the scope of specialty mental health services covered by the Contractor, the update, in the form of a booklet insert, shall be provided to beneficiaries at least 30 days prior to the change.
- L. Consistent with 42 C.F.R. § 438.10(f)(5), the Contractor must make a good faith effort to give written notice of termination of a contracted provider, within 15 days after receipt or issuance of the termination notice, to each beneficiary who was seen on a regular basis by the terminated provider.

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**8. Requirements for Day Treatment Intensive and Day Rehabilitation**

- A. The Contractor shall require providers to request payment authorization for day treatment intensive and day rehabilitation services:
- 1) In advance of service delivery when day treatment intensive or day rehabilitation will be provided for more than five days per week.
  - 2) At least every three months for continuation of day treatment intensive.
  - 3) At least every six months for continuation of day rehabilitation.
  - 4) Contractor shall also require providers to request authorization for mental health services, as defined in Cal. Code Regs., tit. 9, § 1810.227, provided concurrently with day treatment intensive or day rehabilitation, excluding services to treat emergency and urgent conditions as defined in Cal. Code Regs., tit. 9, §1810.216 and § 1810.253. These services shall be authorized with the same frequency as the concurrent day treatment intensive or day rehabilitation services.
- B. The Contractor shall not delegate the payment authorization function to providers. When the Contractor is the day treatment intensive or day rehabilitation provider, the Contractor shall assure that the payment authorization function does not include staff involved in the provision of day treatment intensive, day rehabilitation services, or mental health services provided concurrent to day treatment intensive or day rehabilitation services.
- C. The Contractor shall require that providers of day treatment intensive and day rehabilitation meet the requirements of Cal. Code Regs., tit. 9, §§ 1840.318, 1840.328, 1840.330, 1840.350 and 1840.352.
- D. The Contractor shall require that providers include, at a minimum, the following day treatment intensive and day rehabilitation service components:
- 1) Community meetings. These meetings shall occur at least once a day to address issues pertaining to the continuity and effectiveness of the therapeutic milieu, and shall actively involve staff and beneficiaries. Relevant discussion items include, but are not limited to: the day's schedule, any current event, individual issues that beneficiaries or staff wish to discuss to elicit support of the group and conflict resolution. Community meetings shall:
    - a) For day treatment intensive, include a staff person whose scope of practice includes psychotherapy.
    - b) For day rehabilitation, include a staff person who is a physician, a licensed/waivered/registered psychologist, clinical social worker, or

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marriage and family therapist; and a registered nurse, psychiatric technician, licensed vocational nurse, or mental health rehabilitation specialist.

- 2) Therapeutic milieu. This component must include process groups and skill-building groups. Specific activities shall be performed by identified staff and take place during the scheduled hours of operation of the program. The goal of the therapeutic milieu is to teach, model, and reinforce constructive interactions by involving beneficiaries in the overall program. For example, beneficiaries are provided with opportunities to lead community meetings and to provide feedback to peers. The program includes behavior management interventions that focus on teaching self-management skills that children, youth, adults and older adults may use to control their own lives, to deal effectively with present and future problems, and to function well with minimal or no additional therapeutic intervention. Activities include, but are not limited to, staff feedback to beneficiaries on strategies for symptom reduction, increasing adaptive behaviors, and reducing subjective distress.
- 3) Process groups. These groups, facilitated by staff, shall assist each beneficiary to develop necessary skills to deal with his/her problems and issues. The group process shall utilize peer interaction and feedback in developing problem-solving strategies to resolve behavioral and emotional problems. Day rehabilitation may include psychotherapy instead of process groups, or in addition to process groups.
- 4) Skill-building groups. In these groups, staff shall help beneficiaries identify barriers related to their psychiatric and psychological experiences. Through the course of group interaction, beneficiaries identify skills that address symptoms and increase adaptive behaviors.
- 5) Adjunctive therapies. These are therapies in which both staff and beneficiaries participate. These therapies may utilize self-expression, such as art, recreation, dance, or music as the therapeutic intervention. Participants do not need to have any level of skill in the area of self-expression, but rather be able utilize the modality to develop or enhance skills directed toward achieving beneficiary plan goals. Adjunctive therapies assist the beneficiary in attaining or restoring skills which enhance community functioning including problem solving, organization of thoughts and materials, and verbalization of ideas and feelings. Adjunctive therapies provided as a component of day rehabilitation or day treatment intensive are used in conjunction with other mental health services in order to improve the outcome of those services consistent with the beneficiary's needs identified in the client plan.

E. Day treatment intensive shall additionally include:

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- 1) Psychotherapy. Psychotherapy means the use of psychological methods within a professional relationship to assist the beneficiary or beneficiaries to achieve a better psychosocial adaptation, to acquire a greater human realization of psychosocial potential and adaptation, to modify internal and external conditions that affect individual, groups, or communities in respect to behavior, emotions and thinking, in respect to their intrapersonal and interpersonal processes. Psychotherapy shall be provided by licensed, registered, or waived staff practicing within their scope of practice. Psychotherapy does not include physiological interventions, including medication intervention.
  - 2) Mental Health Crisis Protocol. The Contractor shall ensure that there is an established protocol for responding to beneficiaries experiencing a mental health crisis. The protocol shall assure the availability of appropriately trained and qualified staff and include agreed upon procedures for addressing crisis situations. The protocol may include referrals for crisis intervention, crisis stabilization, or other specialty mental health services necessary to address the beneficiary's urgent or emergency psychiatric condition (crisis services). If the protocol includes referrals, the day treatment intensive or day rehabilitation program staff shall have the capacity to handle the crisis until the beneficiary is linked to an outside crisis service.
  - 3) Written Weekly Schedule. The Contractor shall ensure that a weekly detailed schedule is available to beneficiaries and as appropriate to their families, caregivers or significant support persons and identifies when and where the service components of the program will be provided and by whom. The written weekly schedule will specify the program staff, their qualifications, and the scope of their services.
- F. Staffing Requirements. Staffing ratios shall be consistent with the requirements in Cal. Code Regs., tit. 9, § 1840.350, for day treatment intensive, and Cal. Code Regs., tit. 9, § 1840.352 for day rehabilitation. For day treatment intensive, staff shall include at least one staff person whose scope of practice includes psychotherapy.
- 1) Program staff may be required to spend time on day treatment intensive and day rehabilitation activities outside the hours of operation and therapeutic program (e.g., time for travel, documentation, and caregiver contacts).
  - 2) The Contractor shall require that at least one staff person be present and available to the group in the therapeutic milieu for all scheduled hours of operation.
  - 3) The Contractor shall require day treatment intensive and day rehabilitation programs to maintain documentation that enables

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Contractor and the Department to audit the program if it uses day treatment intensive or day rehabilitation staff who are also staff with other responsibilities (e.g., as staff of a group home, a school, or another mental health treatment program). The Contractor shall require that there is documentation of the scope of responsibilities for these staff and the specific times in which day treatment intensive or day rehabilitation activities are being performed exclusive of other activities.

- G. If a beneficiary is unavoidably absent and does not attend all of the scheduled hours of the day rehabilitation or day treatment intensive program, the Contractor shall ensure that the provider receives Medi-Cal reimbursement only if the beneficiary is present for at least 50 percent of scheduled hours of operation for that day. The Contractor shall require that a separate entry be entered in the beneficiary record documenting the reason for the unavoidable absence and the total time (number of hours and minutes) the beneficiary actually attended the program that day. In cases where absences are frequent, it is the responsibility of the Contractor to ensure that the provider re-evaluates the beneficiary's need for the day rehabilitation or day treatment intensive program and takes appropriate action.
- H. Documentation Standards. The Contractor shall ensure day treatment intensive and day rehabilitation documentation meets the documentation standards described in Section 11 of this exhibit. The documentation shall include the date(s) of service, signature of the person providing the service (or electronic equivalent), the person's type of professional degree, licensure or job title, date of signature and the total number of minutes/hours the beneficiary actually attended the program. For day treatment intensive these standards include daily progress notes on activities and a weekly clinical summary reviewed and signed by a physician, a licensed/waivered/registered psychologist, clinical social worker, or marriage and family therapist, or a registered nurse who is either staff to the day treatment intensive program or the person directing the services.
- I. The Contractor shall ensure that day treatment intensive and day rehabilitation have at least one contact per month with a family member, caregiver or other significant support person identified by an adult beneficiary, or one contact per month with the legally responsible adult for a beneficiary who is a minor. This contact may be face-to-face, or by an alternative method (e.g., e-mail, telephone, etc.). Adult beneficiaries may decline this service component. The contacts should focus on the role of the support person in supporting the beneficiary's community reintegration. The Contractor shall ensure that this contact occurs outside hours of operation and outside the therapeutic program for day treatment intensive and day rehabilitation.
- J. Written Program Description. The Contractor shall ensure there is a written program description for day treatment intensive and day rehabilitation. The written program description must describe the specific activities of each service and reflects each of the required components of the services as described in this

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section. The Contractor shall review the written program description for compliance with this section with prior to the date the provider begins delivering day treatment intensive or day rehabilitation.

- K. Additional higher or more specific standards. The Contractor shall retain the authority to set additional higher or more specific standards than those set forth in this contract, provided the Contractor's standards are consistent with applicable state and federal laws and regulations and do not prevent the delivery of medically necessary day treatment intensive and day rehabilitation.
- L. Continuous Hours of Operation. The Contractor shall ensure that the provider applies the following when claiming for day treatment intensive and day rehabilitation services:
- 1) A half day shall be billed for each day in which the beneficiary receives face-to-face services in a program with services available four hours or less per day. Services must be available a minimum of three hours each day the program is open.
  - 2) A full-day shall be billed for each day in which the beneficiary receives face-to-face services in a program with services available more than four hours per day.
  - 3) Although the beneficiary must receive face to face services on any full-day or half-day claimed, all service activities during that day are not required to be face-to-face with the beneficiary.
  - 4) The requirement for continuous hours or operation does not preclude short breaks (for example, a school recess period) between activities. A lunch or dinner may also be appropriate depending on the program's schedule. The Contractor shall not conduct these breaks toward the total hours of operation of the day program for purposes of determining minimum hours of service.

**9. Therapeutic Behavioral Services**

Therapeutic Behavioral Services (TBS) are supplemental specialty mental health services covered under the Early and Periodic Screening, Diagnosis and Treatment (EPSDT) benefit as defined in Cal. Code Regs., tit. 9, § 1810.215. TBS are intensive, one-to-one services designed to help beneficiaries and their parents/caregivers manage specific behaviors using short-term measurable goals based on the beneficiary's needs. TBS are available to beneficiaries in accordance with the Department of Mental Health Information Notice 08-38, the TBS Coordination of Care Best Practices Manual, version 2 (October 2010), and the TBS Documentation Manual, version 2 (October 2009).

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**10. Procedures for Serving Child Beneficiaries Placed Out-of-County**

- A. In accordance with Cal. Code Regs., tit. 9, § 1830.220, the Contractor in the child's county of origin shall provide or arrange for medically necessary specialty mental health services for children in a foster care aid code residing outside their counties of origin.
- B. The Contractor shall use the standard forms issued by the Department, or the electronic equivalent of those forms generated from the Contractor's Electronic Health Record System, when a child in a foster care aid code is placed outside of his/her county of origin. The standard forms are:
  - 1) Client Assessment,
  - 2) Client Plan,
  - 3) Service Authorization Request,
  - 4) Client Assessment Update,
  - 5) Progress Notes – Day Treatment Intensive Services,
  - 6) Progress Notes – Day Rehabilitation Services,
  - 7) Organizational Provider Agreement (Standard Contract).
- C. The Contractor may request an exemption from using the standard documents if the Contractor is subject to an externally placed requirement, such as a federal integrity agreement, that prevents the use of the standardized forms. The Contractor shall request this exemption from the Department in writing.
- D. The Contractor shall ensure that the MHP in the child's adoptive parents' county of residence provides medically necessary specialty mental health services to a child in an Adoption Assistance Program (AAP) aid code residing outside his or her county of origin in the same way as the MHP would provide services to an in-county child for whom the MHP is listed as the county of responsibility on the Medi-Cal Eligibility Data System (MEDS).
- E. The MHP in the child's legal guardians' county of residence shall provide medically necessary specialty mental health services to a child in a Kin-GAP aid code residing outside his or her county of origin in the same way that it would provide services to any other child for whom the MHP is listed as the county of responsibility in MEDS.
- F. The Contractor shall comply with timelines specified in Cal. Code Regs., tit. 9, § 1830.220(b)(4)(A)(1-3), when processing or submitting authorization requests for

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children in a foster care, AAP, or Kinship Guardian Assistance Payment (Kin-GAP) aid code living outside his or her county of origin.

- G. The Contractor shall submit changes to its procedures for serving beneficiaries placed outside their counties of origin pursuant to Welf. & Inst. Code § 14716 when those changes affect 25 percent or more of the Contractor's beneficiaries placed out of county. The Contractor's submission shall also include significant changes in the description of the Contractor's procedures for providing out-of-plan services in accordance with Cal. Code Regs., tit. 9, § 1830.220, when a beneficiary requires services or is placed in a county not covered by the Contractor's normal procedures.

**11. Documentation Standards**

The Contractor shall set standards and implement processes that will support understanding of, and compliance with, documentation standards set forth in this section and any standards set by the Contractor. The Contractor may monitor performance so that the documentation of care provided will satisfy the requirements set forth below. The documentation standards for beneficiary care are minimum standards to support claims for the delivery of specialty mental health services. All standards shall be addressed in the beneficiary record; however, there is no requirement that the records have a specific document or section addressing these topics.

A. Assessment

- 1) The Contractor shall ensure that the following areas are included, as appropriate, as part of a comprehensive beneficiary record when an assessment has been performed. For children or certain other beneficiaries unable to provide a history, this information may be obtained from the parents/care-givers, etc.
  - a) Presenting Problem. The beneficiary's chief complaint, history of the presenting problem(s), including current level of functioning, relevant family history and current family information;
  - b) Relevant conditions and psychosocial factors affecting the beneficiary's physical health and mental health; including, as applicable, living situation, daily activities, social support, cultural and linguistic factors and history of trauma or exposure to trauma;
  - c) Mental Health History. Previous treatment, including providers, therapeutic modality (e.g., medications, psychosocial treatments) and response, and inpatient admissions. If possible, include information from other sources of clinical data, such as previous mental health records, and relevant psychological testing or consultation reports;

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- d) Medical History. Relevant physical health conditions reported by the beneficiary or a significant support person. Include name and address of current source of medical treatment. For children and adolescents, the history must include prenatal and perinatal events and relevant/significant developmental history. If possible, include other medical information from medical records or relevant consultation reports;
  - e) Medications. Information about medications the beneficiary has received, or is receiving, to treat mental health and medical conditions, including duration of medical treatment. The assessment shall include documentation of the absence or presence of allergies or adverse reactions to medications, and documentation of an informed consent for medications;
  - f) Substance Exposure/Substance Use. Past and present use of tobacco, alcohol, caffeine, CAM (complementary and alternative medications) and over-the-counter, and illicit drugs;
  - g) Client Strengths. Documentation of the beneficiary's strengths in achieving client plan goals related to the beneficiary's mental health needs and functional impairments as a result of the mental health diagnosis;
  - h) Risks. Situations that present a risk to the beneficiary and/or others, including past or current trauma;
  - i) A mental status examination;
  - j) A complete five-axis diagnosis from the most current DSM, or a diagnosis from the most current ICD-code shall be documented, consistent with the presenting problems, history, mental status examination and/or other clinical data; and,
  - k) Additional clarifying formulation information, as needed.
- 2) Timeliness/Frequency Standard for Assessment. The Contractor shall establish written standards for timeliness and frequency for the elements identified in item A of this section.

#### **B. Client Plans**

- 1) The Contractor shall ensure that Client Plans:
  - a) Have specific observable and/or specific quantifiable goals/treatment objectives related to the beneficiary's mental health needs and functional impairments as a result of the mental health diagnosis;

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- b) Identify the proposed type(s) of intervention/modality including a detailed description of the intervention to be provided;
- c) Have a proposed frequency and duration of intervention(s);
- d) Have interventions that focus and address the identified functional impairments as a result of the mental disorder (from Cal. Code Regs., tit. 9, § 1830.205(b)); have interventions that are consistent with the client plan goal;
- e) Be consistent with the qualifying diagnoses;
- f) Be signed (or electronic equivalent) by:
  - i. The person providing the service(s), or,
  - ii. A person representing a team or program providing services, or
  - iii. A person representing the Contractor providing services; or
  - iv. By one of the following as a co-signer, if the client plan is used to establish that services are provided under the direction of an approved category of staff, and if the signing staff is not of the approved category:
    - a) A physician,
    - b) A licensed/waivered psychologist,
    - c) A licensed/registered/waivered social worker,
    - d) A licensed/registered/waivered marriage and family therapist, or
    - e) A registered nurse, including but not limited to nurse practitioners, and clinical nurse specialists.
- g) Include documentation of the beneficiary's participation in and agreement with the client plan, as described in Cal. Code Regs., tit. 9, § 1810.440(c)(2)(A)(B).
  - i. Examples of acceptable documentation include, but are not limited to, reference to the beneficiary's participation and agreement in the body of the plan, beneficiary signature on the

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- plan, or a description of the beneficiary's participation and agreement in the client record;
- ii. The beneficiary's signature or the signature of the beneficiary's legal representative is required on the client plan when:
    - a) The beneficiary is expected to be in long term treatment as determined by the MHP and,
    - b) The client plan provides that the beneficiary will be receiving more than one type of specialty mental health service;
  - iii. When the beneficiary's signature or the signature of the beneficiary's legal representative is required on the client plan and the beneficiary refuses or is unavailable for signature, the client plan shall include a written explanation of the refusal or unavailability.
- 2) There shall be documentation in the client plan that a copy of the client plan was offered to the beneficiary.
- 3) The client plan shall be updated at least annually, or when there are significant changes in the beneficiary's condition.

A. Progress Notes

- 1) The Contractor shall ensure that progress notes describe how services provided reduced impairment, restored functioning, or prevented significant deterioration in an important area of life functioning outlined in the client plan. Items that shall be contained in the client record related to the beneficiary's progress in treatment include:
- a) Timely documentation of relevant aspects of beneficiary care, including documentation of medical necessity;
  - b) Documentation of beneficiary encounters, including relevant clinical decisions, when decisions are made, alternative approaches for future interventions;
  - c) Interventions applied, beneficiary's response to the interventions and the location of the interventions;
  - d) The date the services were provided;

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- e) Documentation of referrals to community resources and other agencies, when appropriate;
  - f) Documentation of follow-up care, or as appropriate, a discharge summary; and
  - g) The amount of time taken to provide services; and
  - h) The signature of the person providing the service (or electronic equivalent); the person's type of professional degree, licensure, or job title.
- 2) Timeliness/Frequency of Progress Notes. Progress notes shall be documented at the frequency by type of service indicated below:
- a) Every Service Contact:
    - i. Mental Health Services;
    - ii. Medication Support Services;
    - iii. Crisis Intervention;
    - iv. Targeted Case Management;
  - b) Daily:
    - i. Crisis Residential;
    - ii. Crisis Stabilization (1x/23hr);
    - iii. Day Treatment Intensive; and
  - c) Weekly:
    - i. Day Treatment Intensive: a clinical summary reviewed and signed by a physician, a licensed/waivered psychologist, clinical social worker, or marriage and family therapist; or a registered nurse who is either staff to the day treatment intensive program or the person directing the service;
    - ii. Day Rehabilitation;
    - iii. Adult Residential.

#### B. Other

- 1) All entries to the beneficiary record shall be legible.

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- 2) All entries in the beneficiary record shall include:
  - a) The date of service;
  - b) The signature of the person providing the service (or electronic equivalent); the person's type of professional degree, licensure or job title; and the relevant identification number, if applicable.
  - c) The date the documentation was entered in the beneficiary record.
- 3) The Contractor shall have a written definition of what constitutes a long term care beneficiary.
- 4) Contractor shall require providers to obtain and retain a written medication consent form signed by the beneficiary agreeing to the administration of psychiatric medication. This documentation shall include, but not be limited to, the reasons for taking such medications; reasonable alternative treatments available, if any; the type, range of frequency and amount, method (oral or injection), and duration of taking the medication; probable side effects; possible additional side effects which may occur to beneficiaries taking such medication beyond three (3) months; and that the consent, once given, may be withdrawn at any time by the beneficiary.

**12. Cultural Competence Plan**

The Contractor shall comply with the provisions of the Contractor's Cultural Competence Plan submitted in accordance with Cal. Code Regs., tit. 9, § 1810.410, and approved by the Department. The Contractor shall update the Cultural Competence Plan and submit these updates to the Department for review and approval annually.

**13. Implementation Plan**

The Contractor shall comply with the provisions of the Contractor's Implementation Plan pursuant to Cal. Code Regs., tit. 9, § 1810.310 as approved by the Department, including the administration of beneficiary problem resolution processes as required by Cal. Code Regs., tit. 9, § 1850.205 through § 1850.208. The Contractor shall obtain written approval by the Department prior to making any changes to the Implementation Plan as approved by the Department. The Contractor may implement the changes after thirty (30) calendar days if the Department does not respond in writing within thirty calendar (30) days as provided in Cal. Code Regs., tit. 9, § 1810.310.

**14. Additional Provisions**

A. Books and Records

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This provision is a supplement to provision number seven (Audit and Record Retention) in Exhibit D(F) which is attached hereto as part of this agreement.

The Contractor shall maintain such books and records as are necessary to disclose how the Contractor discharged its obligations under this contract. These books and records shall identify the quantity of covered services provided under this contract, the quality of those services, the manner and amount of payment made for those services, the beneficiaries who received covered services, the manner in which the Contractor administered the provision of specialty mental health services and the cost thereof.

Such books and records shall include, but are not limited to, all physical records originated or prepared pursuant to performance under this contract including: working papers, reports submitted to the Department, financial records, all medical and treatment records, medical charts and prescription files, and other documentation pertaining to services rendered to beneficiaries. These books and records shall be maintained for a minimum of three years after the final payment is made and all pending matters closed, or, in the event the Contractor has been notified that the Department, HHS, or the Comptroller General of the United States, or their duly authorized representatives, have commenced an audit or investigation of the contract, until such time as the matter under audit or investigation has been resolved, including the exhaustion of all legal remedies, whichever is later.

The Contractor agrees to include in any subcontract for a sum in excess of \$10,000 which utilizes state funds, a provision that states: "The contracting parties shall be subject to the examination and audit of the Department or Auditor General for a period of three years after final payment under contract (Government Code § 8546.7)." The Contractor shall also be subject to the examination and audit of the Department and the State Auditor General for a period of three years after final payment under contract (Government Code § 8546.7).

B. Transfer of Care

Prior to the termination or expiration of this contract, and upon request by the Department, the Contractor shall assist the State in the orderly transfer of mental health care for beneficiaries in Mono County. In doing this, the Contractor shall make available to the Department copies of medical records, patient files, and any other pertinent information, including information maintained by any subcontractor that is necessary for efficient case management of beneficiaries, as determined by the Department. Costs of reproduction shall be borne by the Department. In no circumstances shall a beneficiary be billed for this service.

C. Department Policy Letters

The Contractor shall comply with all policy letters issued by the Department. The Contractor shall also comply with Department of Mental Health (DMH) Letters and Information Notices issued to all Mental Health Plans as defined in Cal. Code

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Regs., tit. 9, § 1810.226 as such DMH Letters and Information Notices remain in effect unless amended, repealed, or readopted by the Department. DMH letters and Information Notices shall provide specific details of procedures established for performance of contract terms when procedures not covered in this agreement are determined to be necessary for performance under this agreement, but are not intended to change the basis and general terms of the contract.

**15. Beneficiary Problem Resolution Processes**

A. General Provisions

The Contractor shall represent the Contractor's position in fair hearings, as defined in Cal. Code Regs., tit. 9, § 1810.216.6, dealing with beneficiaries' appeals of denials, modifications, deferrals or terminations of covered services. The Contractor shall carry out the final decisions of the fair hearing process with respect to issues within the scope of the Contractor's responsibilities under this contract. Nothing in this section is intended to prevent the Contractor from pursuing any options available for appealing a fair hearing decision.

- 1) Pursuant to 42 C.F.R. § 438.228 and Cal. Code Regs., tit. 9, § 1850.205, the Contractor shall develop problem resolution processes that enable beneficiary to request and receive review of a problem or concern he or she has about any issue related to the Contractor's performance of its duties, including the delivery of specialty mental health services.
- 2) The Contractor's beneficiary problem resolution processes shall include:
  - a) A grievance process;
  - b) An appeal process; and,
  - c) An expedited appeal process.
- 3) For the grievance, appeal, and expedited appeal processes, described in 42 C.F.R. 438 Subpart F and Cal. Code Regs., tit. 9, §§ 1850.206, 1850.207 and 1850.208 respectively, the Contractor shall comply with all of the following requirements:
  - a) Assure that each beneficiary has adequate information about the Contractor's problem resolution processes by taking at least the following actions:
    - i. Including information describing the grievance, appeal, and expedited appeal processes in the Contractor's beneficiary booklet and providing the beneficiary booklet to beneficiaries as described in Section 7 of this contract.

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- ii. Posting notices explaining grievance, appeal, and expedited appeal process procedures in locations at all Contractor provider sites. Notices shall be sufficient to ensure that the information is readily available to both beneficiaries and provider staff. The posted notice shall also explain the availability of fair hearings after the exhaustion of an appeal or expedited appeal process, including information that a fair hearing may be requested whether or not the beneficiary has received a notice of action pursuant to Cal. Code Regs., tit. 9, § 1850.210. For the purposes of this Section, a Contractor provider site means any office or facility owned or operated by the Contractor or a provider contracting with the Contractor at which beneficiaries may obtain specialty mental health services.
  - iii. Pursuant to Cal. Code Regs., tit. 9, § 1850.205(c)(1)(C), making available forms that may be used to file grievances, appeals, and expedited appeals and self-addressed envelopes that beneficiaries can access at all Contractor provider sites without having to make a verbal or written request to anyone.
  - iv. Pursuant to 42 C.F.R. § 438.406(a)(1), giving beneficiaries any reasonable assistance in completing the forms and other procedural steps not limited to providing interpreter services and toll-free numbers with TTY/TDD and interpreter capability.
- b) Pursuant to 42 C.F.R. § 438.406(a)(2), the Contractor shall acknowledge receipt of each grievance appeal, and request for expedited appeal to the beneficiary in writing.
  - c) Consistent with 42 C.F.R. § 438.402(b)(1)(ii), a beneficiary may authorize another person to act on the beneficiary's behalf. The beneficiary may select a provider as his or her representative in the appeal or expedited appeal process, if the provider consents.
  - d) A beneficiary's legal representative may use the grievance, appeal, or expedited appeal processes on the beneficiary's behalf.
  - e) At the beneficiary's request, the Contractor shall identify staff or another individual, such as a legal guardian, to be responsible for assisting a beneficiary with these processes, including providing assistance in writing the grievance, appeal, or expedited appeal. If the individual identified by the Contractor is the person providing specialty mental health services to the beneficiary requesting assistance, the Contractor shall identify another individual to assist that beneficiary.

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- f) A beneficiary shall not be subject to discrimination or any other penalty for filing a grievance, appeal, or expedited appeal.
  - g) Procedures for these beneficiary problem resolution processes shall maintain the confidentiality of each beneficiary's information.
  - h) A procedure shall be included by which issues identified as a result of the grievance, appeal or expedited appeal processes are transmitted to the Contractor's Quality Improvement Committee, the Contractor's administration or another appropriate body within the Contractor's operations. These issues shall be considered in the Contractor's Quality Improvement Program, as required by Cal. Code Regs., tit. 9, § 1810.440(a)(5).
  - i) Individuals involved in any previous review or decision-making on the issue(s) presented in a problem resolution process shall not participate in making the decision on the grievance, appeal, or expedited appeal pursuant to 42 C.F.R. § 438.406(a)(3)(i).
  - j) The individual making the decision on the grievance, appeal, or expedited appeal shall have the appropriate clinical expertise, as determined by the Contractor, required to treat the beneficiary's condition, if the grievance concerns the denial of a request for an expedited appeal or if the grievance, appeal, or expedited appeal addresses any clinical issue, including a lack of medical necessity pursuant to Title per 42, C.F.R. § 438.406(a)(3)(ii).
- 4) Pursuant to record keeping and review requirements in 42 C.F.R. § 438.416, and to facilitate monitoring consistent with Cal. Code Regs., tit. 9, §§1810.440(a)(5), 1850.205, 1850.206, 1850.207, and 1850.208, the Contractor shall:
- a) Maintain a grievance and appeal log and record grievances, appeals, and expedited appeals in the log within one working day of the date of receipt of the grievance or appeal. The log entry shall include, but not be limited to, the name of the beneficiary, the date of receipt of the grievance, appeal, or expedited appeal, and the nature of the problem;
  - b) Record in the grievance and appeal log or another central location determined by the Contractor, the final dispositions of grievances, appeals, and expedited appeals, including the date the decision is sent to the beneficiary. If there has not been final disposition of the grievance, appeal, or expedited appeal, the reason(s) shall be included in the log;

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- c) Provide a staff person or other individual with responsibility to provide information requested by the beneficiary or the beneficiary's representative regarding the status of the beneficiary's grievance, appeal, or expedited appeal;
  - d) Acknowledge the receipt of each grievance, appeal, and expedited appeal to the beneficiary in writing;
  - e) Identify in its grievance, appeal, and expedited appeal documentation, the roles and responsibilities of the Contractor, the provider, and the beneficiary;
  - f) Notify the beneficiary, in writing, of the final disposition of the problem resolution process including the reasons for the disposition; and
  - g) Notify, in writing, any provider identified by the beneficiary or involved in the grievance, appeal, or expedited appeal of the final disposition of the beneficiary's grievance, appeal, or expedited appeal.
- 5) No provision of a Contractor's beneficiary problem resolution processes shall be construed to replace or conflict with the duties of county patients' rights advocates as described in Welfare and Institutions Code Section 5520.

#### B. Grievance Process

Consistent with 42 C.F.R. §§ 438.400, 438.402, 438.406 and Cal. Code Regs., tit. 9, § 1850.206, the grievance process shall, at a minimum:

- 1) Allow beneficiaries to present their grievance orally, or in writing;
- 2) Provide for a decision on the grievance and notify the affected parties within 60 calendar days of receipt of the grievance. This timeframe may be extended by up to 14 calendar days if the beneficiary requests an extension, or if the Contractor determines that there is a need for additional information and that the delay is in the beneficiary's interest. If the Contractor extends the timeframe, the Contractor shall, for any extension not requested by the beneficiary, notify the beneficiary of the extension and the reasons for the extension in writing. The written notice of the extension is not a Notice of Action as defined in Cal. Code Regs., tit. 9, § 1810.230.5; and
- 3) Provide for notification of the beneficiary or the appropriate representative in writing of the grievance decision and documentation of the notification or efforts to notify the beneficiary, if he or she could not be contacted.

#### C. Appeal Process

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- 1) Consistent with 42 C.F.R. § 438.408 and Cal. Code Regs., tit. 9, §§ 1850.205 and 1850.207, the appeal process shall, at a minimum:
  - a) Allow a beneficiary to file an appeal orally or in writing pursuant to 42 C.F.R. § 438.402(b)(3)(ii);
  - b) Pursuant to 42 C.F.R. § 438.402(b)(3)(ii), require a beneficiary who makes an oral appeal, that is not an expedited appeal, to subsequently submit the appeal in writing. The date the Contractor receives the oral appeal shall be considered the filing date for the purpose of applying the appeal timeframes;
  - c) Pursuant to 42 C.F.R. § 438.408(b) and (c), provide for a decision on the appeal and notify the affected parties within 45 calendar days of receipt of the appeal. This timeframe may be extended by up to 14 calendar days, if the beneficiary requests an extension or the Contractor determines that there is a need for additional information and that the delay is in the beneficiary's interest. If the Contractor extends the timeframes, the Contractor shall, for any extension not requested by the beneficiary, notify the beneficiary of the extension and the reasons for the extension in writing. The written notice of the extension is not a Notice of Action as defined in Cal. Code Regs., tit. 9, §1810.230.5;
  - d) Consistent with 42 C.F.R. § 438.408(f), inform the beneficiary of his or her right to request a fair hearing after the appeal process of the Contractor has been exhausted;
  - e) Allow the beneficiary to have a reasonable opportunity to present evidence and arguments of fact or law, in person and/or in writing, in accordance with the beneficiary's election;
  - f) Allow the beneficiary and/or his or her representative to examine the beneficiary's case file, including medical records, and any other documents or records considered before and during the appeal process, provided that there is no disclosure of the protected health information of any individual other than the beneficiary; and
  - g) Allow the beneficiary and/or his or her representative, or the legal representative of a deceased beneficiary's estate, to be included as parties to the appeal.
- 2) Pursuant to 42 C.F.R. § 438.408(e), the Contractor shall notify the beneficiary, and/or his or her representative, of the resolution of the appeal in writing. The notice shall contain:
  - a) The results of the appeal resolution process;

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- b) The date that the appeal decision was made;
- c) If the appeal is not resolved wholly in favor of the beneficiary, the notice shall also contain:
  - i. Information regarding the beneficiary's right to a fair hearing and the procedure for filing for a fair hearing, if the beneficiary has not already requested a fair hearing on the issue involved in the appeal; and
  - ii. Information on the beneficiary's right to continue to receive benefits while the fair hearing is pending and how to request the continuation of benefits.
- 3) If the decision of the appeal resolution process reverses a decision to deny, limit or delay services, the Contractor shall promptly provide or arrange and pay for the services at issue in the appeal.

D. Expedited Appeal Process

“Expedited Appeal” means an appeal, as defined in Cal. Code Regs., tit. 9, § §§ 1810.203.5 and 1810.216.2, to be used when the mental health plan determines or the beneficiary and/or the beneficiary's provider certifies that following the timeframe for an appeal as established in Cal. Code Regs., tit. 9, § 1850.207, would seriously jeopardize the beneficiary's life, health, or ability to attain, maintain, or regain maximum function. In addition to meeting the requirements of 42 C.F.R. § 438.410(a), and Cal. Code Regs., tit. 9, §§ 1850.205, 1850.207(a), (d), (e), (f), (g), and (i), and 1850.208, the expedited appeal process shall, at a minimum:

- 1) Be used when the Contractor determines or the beneficiary and/or the beneficiary's provider certifies that taking the time for a standard appeal resolution could seriously jeopardize the beneficiary's life, health or ability to attain, maintain, or regain maximum function.
- 2) Pursuant to 42 C.F.R. § 438.402(b)(3), allow the beneficiary to file the request for an expedited appeal orally without requiring that the request be followed by a written appeal.
- 3) Pursuant to 42 C.F.R. § 438.410(b), ensure that punitive action is not taken against a beneficiary or a provider because they request an expedited appeal or support a beneficiary's request for an expedited appeal.
- 4) Pursuant to 42 C.F.R. § 438.408(b)(3), resolve an expedited appeal and notify the affected parties in writing, no later than three working days after

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the Contractor receives the appeal. Pursuant to 42 C.F.R. § 438.408(c) this timeframe may be extended by up to 14 calendar days if the beneficiary requests an extension, or the Contractor determines that there is need for additional information and that the delay is in the beneficiary's interest. If the Contractor extends the timeframes, the Contractor shall, for any extension not requested by the beneficiary, notify the beneficiary of the extension and the reasons for the extension in writing. The written notice of the extension is not a Notice of Action as defined in Cal. Code Regs., tit. 9, § 1810.230.5.

- 5) Pursuant to 42 C.F.R. § 438.408(d)(2), provide a beneficiary with a written notice of the expedited appeal disposition and make reasonable efforts to provide oral notice to the beneficiary and/or his or her representative. The written notice shall meet the requirements of Section 1850.207(h).
- 6) Pursuant to 42 C.F.R. § 438.410(c), if the Contractor denies a request for expedited appeal resolution:
  - a) Transfer the expedited appeal request to the timeframe for appeal resolution as required by Cal. Code Regs., tit. 9, § 1850.207(c).
  - b) Make reasonable efforts to give the beneficiary and his or her representative prompt oral notice of the denial of the request for an expedited appeal and provide written notice within two calendar days of the date of the denial. The written notice of the denial of the request for an expedited appeal is not a Notice of Action as defined in Cal. Code Regs., tit. 9, § 1810.230.5.

#### **E. Beneficiary Problem Resolution Processes Established by Providers**

Nothing in the Cal. Code Regs., tit. 9, §§ 1850.205, 1850.206, 1850.207, 1850.208 and 1850.209 precludes a provider other than the Contractor from establishing beneficiary problem resolution processes for beneficiaries receiving services from that provider. When such processes exist, beneficiaries shall not be required by the Contractor to use or exhaust the provider's processes prior to using the Contractor's beneficiary problem resolution process, unless the following conditions have been met:

- 1) The Contractor delegates the responsibility for the beneficiary problem resolution process to the provider in writing, specifically outlining the provider's responsibility under the delegation;
- 2) The provider's beneficiary problem resolution process fully complies with this Section of the contract, the relevant provisions of 42 C.F.R. Subpart F, Cal. Code Regs., tit. 9, §1850.205 and § 1850.209, and depending on processes delegated, Cal. Code Regs., tit. 9, §§ 1850.206, 1850.207, and/or 1850.208; and

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- 3) No beneficiary is prevented from accessing the grievance, appeal or expedited appeal processes solely on the grounds that the grievance, appeal or expedited appeal was incorrectly filed with either the Contractor or the provider.

#### F. Fair Hearing

“Fair Hearing” means the State hearing provided to beneficiaries pursuant to Title 22, CCR, Sections 50951 and 50953 and Cal. Code Regs., tit. 9, § 1810.216.6. Fair hearings must comply with 42 C.F.R. §§ 431.220(a)(5), 438.408(f), 438.414, and 438.10(g)(1).

- 1) If a beneficiary requests a State Fair Hearing, the Department (not the Contractor) shall grant the request. The right to a State Fair Hearing, how to obtain a hearing, and representation rules at a hearing must be explained to the beneficiary and provider by Contractor in its notice of decision or notice of action. Beneficiaries and providers shall also be informed of the following:
  - a) A beneficiary may request a State Fair Hearing.
  - b) The provider may request a State Fair Hearing only if the Department permits the provider to act as the beneficiary's authorized representative.
  - c) The Department must permit the beneficiary to request a State Fair Hearing within a reasonable time period specified by the Department, not in excess of 90 days, from whichever of the following dates applies:
    - i. From the date indicated on the Contractor's notice of action, if the Department does not require exhaustion of the Contractor-level appeal procedures and the beneficiary appeals directly to the Department for a fair hearing.
    - ii. From the date indicated on the Contractor's notice of resolution, if the Department requires exhaustion of Contractor-level appeals.
- 2) The Department must reach its decisions within the specified timeframes:
  - a) Standard resolution: within 90 days of the date the beneficiary filed the appeal with the Contractor, if the beneficiary filed initially with the Contractor (excluding the days the beneficiary took to subsequently file for a State Fair Hearing), or the date the beneficiary filed for direct access to a State Fair Hearing.

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- b) Expedited resolution (if the appeal was heard first through the Contractor appeal process): within 3 working days from agency receipt of a hearing request for a denial of a service that:
  - i. Meets the criteria for an expedited appeal process but was not resolved using the Contractor's expedited appeal timeframes, or
  - ii. Was resolved wholly or partially adversely to the beneficiary using the Contractor's expedited appeal timeframes.
- 3) Pursuant to 42 C.F.R. § 438.408(f)(2), the parties to the State Fair Hearing include the Contractor as well as the beneficiary and his or her representative or the representative of a deceased beneficiary's estate.

#### G. Expedited Fair Hearing

"Expedited Fair Hearing" means a fair hearing, as described in 42 C.F.R. § 438.410(a), and Cal. Code Regs., tit. 9, §§ 1810.216.4 and 1810.216.6, to be used when the Contractor determines, or the beneficiary and/or the beneficiary's provider certifies, that the following the timeframe for a fair hearing as established in 42 C.F.R. § 431.244(f)(1) would seriously jeopardize the beneficiary's life, health, or ability to attain, maintain, or regain maximum function.

#### H. Continuation of Services Pending Fair Hearing Decision

- 1) A beneficiary receiving specialty mental health services shall have a right to file for continuation of specialty mental health services pending the outcome of a fair hearing pursuant to Cal. Code Regs., tit. 22., § 51014.2, and Cal. Code Regs., tit. 9, § 1850.215.
- 2) The Contractor shall continue to provide specialty mental health services pending the outcome of a fair hearing in accordance with Cal. Code Regs., tit. 22, § 51014.2. If the Contractor allows providers to deliver specialty mental health services for a set number of visits or a set duration of time without prior authorization, the Contractor shall continue to provide specialty mental health services pending the outcome of a fair hearing when the Contractor denies a payment authorization request from a provider requesting continuation of services beyond the number or duration permitted without prior authorization and the beneficiary files a timely request for fair hearing.
- 3) Before requesting a state fair hearing, the beneficiary must exhaust the Contractor's problem resolution processes as described in Cal. Code Regs., tit. 9, § 1850.205.

#### I. Provision of Notice of Action

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- 1) Consistent with 42 C.F.R. § 438.400(b) and Cal. Code Regs., tit. 9, § 1810.200 “Action,” in the case of an MHP, means:
  - a) A denial, modification, reduction or termination of a provider's request for MHP payment authorization of a specialty mental health service covered by the MHP.
  - b) A determination by the MHP or its providers that the medical necessity criteria in Cal. Code Regs., tit. 9, §§ 1830.205(b)(1), (b)(2), (b)(3)(C), or 1830.210(a) have not been met and the beneficiary is not entitled to any specialty mental health services from the MHP.
  - c) A failure by the MHP to provide a specialty mental health service covered by the MHP within the timeframe for delivery of the service established by the MHP; or
  - d) A failure by the MHP to act within the timeframes for resolution of grievances, appeals, or the expedited appeals.
- 2) Pursuant to 42 C.F.R. § 438.404(a), the Notice of Action (NOA) shall be in writing and shall meet the language and format requirements of 42 C.F.R. § 438.10(c) and (d) to ensure ease of understanding. The Notice of Action shall contain the items specified in 42 C.F.R. § 438.404 (b) and Cal. Code Regs., tit. 9, § 1850.210.
- 3) The Contractor shall provide a beneficiary with an NOA when the Contractor denies or modifies a Contractor payment authorization request from a provider for a specialty mental health service to the beneficiary.
- 4) When the denial or modification involves a request from a provider for continued Contractor payment authorization of a specialty mental health service or when the Contractor reduces or terminates a previously approved Contractor payment authorization, notice shall be provided in accordance with Cal. Code. Regs., tit. 22, § 51014.1.
- 5) A NOA is not required when a denial is a non-binding verbal description to a provider of the specialty mental health services that may be approved by the Contractor.
- 6) A NOA is not required when the Contractor modifies the duration of any approved specialty mental health services as long as the Contractor provides an opportunity for the provider to request Contractor payment authorization of additional specialty mental health services before the end of the approved duration of services.
- 7) Except as provided in subsection 6 below, a NOA is not required when the denial or modification is a denial or modification of a request for Contractor

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payment authorization for a specialty mental health service that has already been provided to the beneficiary.

- 8) A NOA is required when the Contractor denies or modifies a payment authorization request from a provider for a specialty mental health service that has already been provided to the beneficiary when the denial or modification is a result of post-service, prepayment determination by the Contractor that the service was not medically necessary or otherwise was not a service covered by the Contractor.
- 9) The Contractor shall deny the Contractor payment authorization request and provide the beneficiary with a NOA when the Contractor does not have sufficient information to approve or modify, or deny on the merits, a Contractor payment authorization request from a provider within the timeframes required by Cal. Code Regs., tit. 9, §§ 1820.220 or 1830.215.
- 10) The Contractor shall provide the beneficiary with a NOA if the Contractor fails to notify the affected parties of a grievance decision within 60 calendar days, of an appeal decision within 45 days, or of an expedited appeal decision within three working days. If the timeframe for a grievance, appeal or expedited appeal decision is extended pursuant to Cal. Code Regs., tit. 9, §§ 1850.206, 1850.207 or 1850.208 and the Contractor failed to notify the affected parties of its decision within the extension period, the Contractor shall provide the beneficiary with a NOA.
- 11) The Contractor shall provide a beneficiary with a NOA if the Contractor fails to provide a specialty mental health service covered by the Contractor within the timeframe for delivery of the service established by the Contractor.
- 12) The Contractor shall comply with the requirements of 42 C.F.R. § 438.404(b), and Cal. Code Regs., tit. 9, § 1850.210, regarding the content of NOAs and with the following timeframes for mailing of NOAs:
  - a) The written NOA issued pursuant to (1) or (6) above shall be deposited with the United States Postal Service in time for pick-up no later than the third working day after the action. A Notice of Action issued pursuant to (2) above shall be provided in accordance with the applicable timelines set forth in Cal. Code Regs., tit. 22, § 51014.1.
  - b) The written NOA issued pursuant to (7) or (8) above shall be deposited with the United States Postal Service in time for pick-up on the date that the applicable timeframe expires.
  - c) The written NOA issued pursuant to subsection (9) above shall be deposited with the United States Postal Service in time for pick up on the date that the timeframe for delivery of the service established by the Contractor expires.

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- 13) When a NOA would not be required as described in (3)-(5) above, the Contractor shall provide a beneficiary with an NOA when the Contractor or its providers determine that the medical necessity criteria in Cal. Code Regs., tit. 9, §§1830.205(b)(1),(b)(2),(b)(3)(C), or 1830.210(a) have not been met and that the beneficiary is not entitled to any specialty mental health services from the Contractor. A NOA is not required when a provider, including the Contractor acting as a provider, determines that a beneficiary does not qualify for a specific service covered by the Contractor, including but not limited to: crisis intervention, crisis stabilization, crisis residential treatment services, psychiatric inpatient hospital services, or any specialty mental health service to treat a beneficiary's urgent condition, provided that the determination does not apply to any other specialty mental health service covered by the Contractor. The NOA shall, at the election of the Contractor, be hand-delivered to the beneficiary on the date of the action or mailed to the beneficiary in accordance with Cal. Code Regs., tit. 9, § 1850.210(f)(1), and shall specify the information contained in Cal. Code Regs., tit. 9, § 1850.212(b).
- 14) For the purpose of this Section, each reference to a Medi-Cal managed care plan in Cal. Code Regs., tit. 22, § 51014.1, shall mean the Contractor.
- 15) For the purposes of this Section, "medical service", as used in Cal. Code Regs., tit. 22, § 51014.1, shall mean specialty mental health services that are subject to prior authorization by a Contractor pursuant to Cal. Code Regs., tit. 9, §§ 1820.100 and 1830.100.
- 16) The Contractor shall retain copies of all Notices of Action issued to beneficiaries under this Section in a centralized file accessible to the Department.

#### J. Contents of a NOA

- 1) The NOA issued pursuant to Section I of this contract and 42 C.F.R. § 438.404(b) and Cal. Code Regs., tit. 9, §§1850.210(a)-(e) and 1850.212, shall contain the following information:
  - a) The action taken by the Contractor;
  - b) The reason for the action taken;
  - c) Citations to the regulations or Contractor payment authorization procedures supporting the action;
  - d) The beneficiary's right to file an appeal or expedited appeal with the Contractor;

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- e) The circumstances under which an expedited resolution is available, and how to request it; and,
  - f) Information about the beneficiary's right to request a fair hearing or an expedited fair hearing, including:
    - i. The method by which a hearing may be obtained;
    - ii. A statement that the beneficiary may be either self-represented, or represented by an authorized third party such as legal counsel, a relative, friend or any other person;
    - iii. An explanation of the circumstances under which a specialty mental health service will be continued if a fair hearing is requested; and,
    - iv. The time limits for requesting a fair hearing or an expedited fair hearing.
- 2) A NOA issued pursuant to Cal. Code Regs., tit. 9, §§ 1850.210(g) and 1850.212(b), relating to denials for lack of medical necessity, shall specify the following:
- a) The reason that the medical necessity criteria were not met, including a citation to the applicable regulation;
  - b) The beneficiary's options for obtaining care from sources other than the Contractor, if applicable;
  - c) The beneficiary's right to request a second opinion on the determination;
  - d) The beneficiary's right to file an appeal or expedited appeal with the Contractor; and,
  - e) The beneficiary's right to request a fair hearing or an expedited fair hearing, including:
    - i. The method by which a hearing may be obtained;
    - ii. The time period in which the request for a fair hearing or expedited fair hearing must be filed; and,
    - iii. That the beneficiary may be either self-represented, or represented by an authorized third party such as legal counsel, a relative, friend or any other person;

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- K. Consistent with 42 C.F.R. § 438.404(c), the Contractor shall give notice at least 10 days before the effective date of action when the action is a termination, suspension, or reduction of previously authorized Medi-Cal-covered services, except:
- 1) The period of advanced notice is shortened to 5 days if probable beneficiary fraud has been verified;
  - 2) The action shall be effective on the date of the Notice under the following circumstances:
    - a) The death of a beneficiary;
    - b) Receipt of a signed written beneficiary statement requesting service termination or giving information requiring termination or reduction of services (provided the beneficiary understands that this will be the result of supplying that information);
    - c) The beneficiary's admission to an institution where he or she is ineligible for further services;
    - d) The beneficiary's whereabouts are unknown and mail directed to him or her has no forwarding address;
    - e) Notice that the beneficiary has been accepted for Medicaid services by another local jurisdiction;
    - f) A change in the beneficiary's physician's prescription for the level of medical care; or
    - g) Endangerment of the safety or health of individuals in the facility; improvement in the resident's health sufficient to allow a more immediate transfer or discharge; urgent medical needs that require a resident's immediate transfer or discharge; or notice that a resident has not resided in the nursing facility for 30 days (but only in adverse actions based on NF transfers).
  - 3) If payment is denied, the Contractor shall give notice to the beneficiary on the date of the action.
- L. Pursuant to Cal. Code Regs., tit. 9, § 1810.375(a), the Contractor is required to submit to the Department a report that summarizes beneficiary grievances, appeals and expedited appeals filed from July 1 of the previous year through June 30 of that year by October 1 of each year. The report shall include the total number of grievances, appeals and expedited appeals by type, by subject areas established by the Department, and by disposition.

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**16. Subcontracts**

- A. This provision is a supplement to provision number five (Subcontract Requirements) in Exhibit D(F) which is attached hereto as part of this agreement. As allowed by provision five in Exhibit D(F), the Department hereby, and until further notice, waives its right to prior approval of subcontracts and approval of existing subcontracts.
- B. No subcontract terminates the legal responsibility of the Contractor to the Department to assure that all activities under this contract are carried out.
- C. All subcontracts shall be in writing.
- D. All inpatient subcontracts shall require that subcontractors maintain necessary licensing and certification.
- E. Each subcontract shall contain:
  - 1) Full disclosure of the method and amount of compensation or other consideration to be received by the subcontractor from the Contractor.
  - 2) Specification of the services to be provided.
  - 3) Specification that the subcontract shall be governed by, and construed in accordance with, all laws and regulations, and all contractual obligations of the Contractor under this contract.
  - 4) Specification of the term of the subcontract including the beginning and ending dates, as well as methods for amendment, termination and, if applicable, extension of the subcontract. The subcontract must be subject to full or partial termination if the subcontractor's performance is inadequate.
  - 5) The nondiscrimination and compliance provisions of this contract as described in Exhibit E, Section 3.
  - 6) Subcontractor's agreement to submit reports as required by the Contractor.
  - 7) The subcontractor's agreement to make all of its books and records pertaining to the goods and services furnished under the terms of the subcontract available for inspection, examination or copying by the Department, HHS, the Comptroller General of the United States, and other authorized federal and state agencies, or their duly authorized representatives. The subcontract shall also state that inspection shall occur at all reasonable times, at the subcontractor's place of business, or at such other mutually agreeable location in California, in a form maintained in accordance with the general standards applicable to such book or record

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keeping, for a term of at least five years from the close of the state fiscal year in which the subcontract was in effect.

- 8) Subcontractor's agreement that assignment or delegation of the subcontract shall be void unless prior written approval is obtained from the Contractor.
- 9) Subcontractor's agreement to hold harmless both the State and beneficiaries in the event the Contractor cannot or does not pay for services performed by the subcontractor pursuant to the subcontract.
- 10) The subcontractor's agreement to comply with the Contractor's policies and procedures on advance directives and the Contractor's obligations for Physician Incentive Plans, if applicable based on the services provided under the subcontract.
- 11) A requirement that the Contractor monitors the subcontractor and the subcontractor's obligation to provide a corrective action plan if deficiencies are identified.

### **17. Delegation**

Unless specifically prohibited by this contract or by federal or state law, Contractor may delegate duties and obligations of Contractor under this contract to subcontracting entities if Contractor determines that the subcontracting entities selected are able to perform the delegated duties in an adequate manner in compliance with the requirements of this contract. In addition, Contractor may accept the certification of a provider by another Mental Health Plan, or by the Department, in order to meet the Contractor's obligations under Section 4. However, regardless of any such delegation to a subcontracting entity or acceptance of a certification by another MHP, Contractor shall remain ultimately responsible for adequate performance of all duties and obligations under this contract.

### **18. Program Integrity Requirements**

- A. The Contractor shall comply with the provisions of 42 C.F.R. §§ 438.604, 438.606 and 438.608, regarding the certification of accurate data submitted by the Contractor to the State and which require the Contractor to have administrative or management arrangements or procedures designed to guard against fraud and abuse.
- B. The Contractor shall comply with the provisions of 42 C.F.R. § 438.610, which relate to prohibited affiliations with individuals or affiliates of individuals debarred, suspended, or otherwise excluded from participating in procurement activities under the Federal Acquisition Regulation or from participating in non-procurement activities under regulations issued under Executive Order No. 12549 or under the guidelines implementing Executive Order No. 12549.

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- C. Pursuant to 42 C.F.R. § 438.214(d), the Contractor shall not employ or contract with providers or other individuals and entities excluded from participation in federal health care programs (as defined in section 1128B(f) of the Social Security Act) under either Section 1128, 1128A, or 1156 of the Social Security Act. FFP is not available for amounts expended for providers excluded by Medicare, Medicaid, or the State Children's Health Insurance Program, except for emergency services.
- D. The Contractor shall periodically check the Office of the Inspector General's List of Excluded Individuals/Entities and the Medi-Cal Suspended and Ineligible Provider List (S & I List) to prevent employment of, or payments to, any individuals or entities on those lists, and per DMH Letter Number 10-05, this must be satisfied prior to Medi-Cal certification of any individual or organizational provider. If the provider is listed on either the Office of the Inspector General's List of Excluded Individuals/Entities or the Medi-Cal S & I List, the Contractor shall not certify or pay any provider with Medi-Cal funds, and any such inappropriate payments or overpayments may be subject to recovery and/or be the basis for other sanctions by the appropriate authority.
- E. Report. Pursuant to 42 C.F.R. § 455.1(a)(1), the Contractor must report fraud and abuse information to the Department.
- 1) If the Contractor identifies an issue or receives notification of a complaint concerning an incident of possible potential fraud or abuse, the Contractor shall conduct an internal investigation to determine the validity of the issue/complaint, regarding potential fraud and/or abuse, and develop and implement corrective action, if needed. The majority of potential fraud or abuse issues are expected to be resolved at the Contractor level.
  - 2) If the Contractor's internal investigation concludes that fraud or abuse has occurred or is suspected, the issue is egregious, or beyond the scope of the Contractor's ability to pursue, the Contractor shall report the issue to the Department for review and disposition.
  - 3) The Department is to be notified if the Contractor discontinues a provider contract or disciplines a provider due to a fraud or abuse issue.
- F. Service Verification. To assist the Department in meeting its obligation under 42 C.F.R. § 455.1(a)(2), the Contractor shall have a way to verify whether services were actually furnished to beneficiaries.

**19. Disclosures**

- A. Disclosure of 5% or More Ownership Interest:
- 1) Pursuant to 42 C.F.R. § 455.104, Medicaid managed care entities must disclose certain information related to persons who have an ownership or control interest in the managed care entity, as defined in 42 C.F.R. §

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455.101. The parties hereby acknowledge that because the Contractor is a political subdivision of the State of California, there are no persons who meet such definition and therefore there is no information to disclose.

- a) In the event that, in the future, any person obtains an interest of 5% or more of any mortgage, deed of trust, note or other obligation secured by Contractor, and that interest equals at least 5% of Contractor's property or assets, then the Contractor will make the disclosures set forth in i and subsection 2(a).
  - i. The Contractor will disclose the name, address, date of birth, and Social Security Number of any managing employee, as that term is defined in 42 C.F.R. § 455.101. For purposes of this disclosure, Contractor may use the business address for any member of its Board of Supervisors.
  - ii. The Contractor shall provide any such disclosure upon execution of this contract, upon its extension or renewal, and within 35 days after any change in Contractor ownership or upon request of the Department.
- 2) The Contractor shall ensure that its subcontractors/network providers submit the disclosures below to the Contractor regarding the network providers' (disclosing entities') ownership and control. The Contractor's network providers must be required to submit updated disclosures to the Contractor upon submitting the provider application, before entering into or renewing the network providers' contracts, and within 35 days after any change in the subcontractor/network provider's ownership or upon request of the Department.
  - a) Disclosures to be Provided:
    - i. The name and address of any person (individual or corporation) with an ownership or control interest in the network provider. The address for corporate entities shall include, as applicable, a primary business address, every business location, and a P.O. Box address;
    - ii. Date of birth and Social Security Number (in the case of an individual);
    - iii. Other tax identification number (in the case of a corporation with an ownership or control interest in the managed care entity or in any subcontractor in which the managed care entity has a 5 percent or more interest);

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- iv. Whether the person (individual or corporation) with an ownership or control interest in the Contractor's network provider is related to another person with ownership or control interest in the same or any other network provider of the Contractor as a spouse, parent, child, or sibling; or whether the person (individual or corporation) with an ownership or control interest in any subcontractor in which the managed care entity has a 5 percent or more interest is related to another person with ownership or control interest in the managed care entity as a spouse, parent, child, or sibling;
  - v. The name of any other disclosing entity in which the Contractor or subcontracting network provider has an ownership or control interest; and
  - vi. The name, address, date of birth, and Social Security Number of any managing employee of the managed care entity.
- 3) All disclosures must be provided to the Medicaid agency.
- B. Disclosures Related to Business Transactions – Contractor must submit disclosures and updated disclosures to the Department or HHS including information regarding certain business transactions within 35 days, upon request.
- 1) The following information must be disclosed:
    - a) The ownership of any subcontractor with whom the Contractor has had business transactions totaling more than \$25,000 during the 12-month period ending on the date of the request; and,
    - b) Any significant business transactions between the Contractor and any wholly owned supplier, or between the Contractor and any subcontractor, during the 5-year period ending on the date of the request.
  - 2) Contractor must obligate Network Providers to submit the same disclosures regarding network providers' as noted under subsection 1(a) and (b) within 35 days upon request.
- C. Disclosures Related to Persons Convicted of Crimes – Contractor shall submit the following disclosures to the Department regarding the Contractor's management:
- 1) The identity of any person who is a managing employee of the Contractor who has been convicted of a crime related to federal health care programs. (42 C.F.R. § 455.106(a)(1), (2).)

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- 2) The identity of any person who is an agent of the Contractor who has been convicted of a crime related to federal health care programs. (42 C.F.R. § 455.106(a)(1), (2).) For this purpose, the word "agent" has the meaning described in 42 C.F.R. § 455.101.
- 3) The Contractor shall supply the disclosures before entering into the contract and at any time upon the Department's request.
- 4) Network providers should submit the same disclosures to the Contractor regarding the network providers' owners, persons with controlling interest, agents, and managing employees' criminal convictions. Network providers shall supply the disclosures before entering into the contract and at any time upon the Department's request.

#### **20. Medi-Cal Eligibility Data System (MEDS) and MEDS Monthly Extract File (MMEF) Access**

The Contractor shall enter into a Medi-Cal Privacy and Security Agreement (PSA) with the Department prior to obtaining access to MEDS and the MEDS monthly extract file (MMEF). The Contractor agrees to comply with the provisions as specified in the PSA. The County Mental Health Director or his or her authorized designee shall certify annually that Contractor is in compliance with the PSA agreement. Failure to comply with the terms of the agreement will result in the termination of access to MEDS and MMEF.

#### **21. Additional Requirements**

- A. Advance Directives. The Contractor shall maintain written policies and procedures on advance directives in compliance with the requirements of 42 C.F.R. §§ 422.128 and 438.6(i)(1), (3) and (4). Any written materials prepared by the Contractor for beneficiaries shall be updated to reflect changes in state laws governing advance directives as soon as possible, but no later than 90 days after the effective date of the change. For purposes of this contract, advance directives means a written instruction, such as a living will or durable power of attorney for health care, recognized under State law, relating to the provision of health care when the individual is incapacitated as defined in 42 C.F.R. § 489.100.
- B. Physician Incentive Plans. The Contractor shall obtain approval from the Department prior to implementing a Physician Incentive Plan. A Physician Incentive Plan is any compensation arrangement to pay a physician or physician group that may directly or indirectly have the effect of reducing or limiting the services provided to any beneficiary. For purposes of this definition, the words shall have the meanings set forth in 42 C.F.R. § 422.208(a). The Department shall approve the Contractor's request only if the proposed Physician Incentive Plan complies with all applicable federal and state regulations.
  - 1) Pursuant to 42 C.F.R. § 438.6(h), the Contractor shall comply with the requirements set forth in 42 CFR §§ 422.208 and 422.210.

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- 2) The Contractor may operate a Physician Incentive Plan only if no specific payment can be made directly or indirectly under a Physician Incentive Plan to a physician or physician group as an inducement to reduce or limit medically necessary services furnished to an individual.
  - 3) When seeking approval from the Department for its Physician Incentive Plan, the Contractor will disclose the following:
    - a) Whether services not furnished by physician/group are covered by incentive plan. No further disclosure required if the Physician Incentive Plan does not cover services not furnished by physician/group;
    - b) The type of incentive arrangement, e.g. withhold, bonus, capitation;
    - c) The percentage of funds withheld or bonus provided (if applicable);
    - d) The size of the panel, and, if patients are pooled, the approved method used for pooling; and,
    - e) If the physician/group is at substantial financial risk, proof that the physician/group has adequate stop loss coverage, including amount and type of stop-loss.
  - 4) If a physician or physician group is put at substantial financial risk for services not provided by the physician/group, the Contractor shall ensure adequate stop-loss protection to individual physicians and conduct annual beneficiary surveys.
  - 5) The Contractor shall provide information on its Physician Incentive Plan to any Medicaid beneficiary upon request (this includes the right to adequate and timely information on a Physician Incentive Plan).
  - 6) If required to conduct beneficiary survey, survey results shall be disclosed to the Department and, upon request, to beneficiaries, per the Social Security Act (SSA) 1903(m)(2)(A)(x); 42 C.F.R. §§ 422.208; 422.210;438.6(h); and SSA 1876(i)(8)(A)(ii)(II).
- C. Sharing of Information with Beneficiaries. The Contractor shall not prohibit nor otherwise restrict, a licensed, waived, or registered professional, as defined in Cal. Code Regs., tit. 9, §§ 1810.223 and 1810.254, who is acting within the lawful scope of practice (pursuant to 42 C.F.R. § 438.102(a)(1)), from advising or advocating on behalf of a beneficiary for whom the provider is providing mental health services for any of the following:

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- 1) The beneficiary's health status, medical care, or treatment options, including any alternative treatment that may be self-administered;
  - 2) Information on the beneficiary needs in order to decide among all relevant treatment options;
  - 3) The risks, benefits, and consequences of treatment not receiving treatment ; and
  - 4) The beneficiary's right to participate in decisions regarding his or her health care, including the right to refuse treatment, and to express preferences about future treatment decisions.
- D. Limitation on Services for Moral or Religious Grounds. Pursuant to 42 C.F.R. § 438.102(a)(2), the Contractor shall not be required to provide, reimburse for, or provide coverage of, a counseling or referral service if the Contractor objects to the service on moral or religious grounds.
- E. If the Contractor elects not to provide, reimburse for, or provide coverage of, a counseling or referral service because of an objection on moral or religious grounds, it must furnish information about the services it does not cover as follows:
- a) To the Department:
    - a) Prior to executing this contract;
    - b) Whenever it adopts the policy during the term of the contract;
  - b) Consistent with the provisions of 42 C.F.R. § 438.10:
    - a) To potential beneficiaries before and during enrollment; and
    - b) To beneficiaries within 90 days after adopting the policy with respect to any particular service.
- F. Beneficiary Liability for Payment. Pursuant to Cal. Code Regs., tit. 9, § 1810.365, the Contractor or an affiliate, vendor, contractor, or sub-subcontractor of the Contractor shall not submit a claim to, or demand or otherwise collect reimbursement from, the beneficiary or persons acting on behalf of the beneficiary for any specialty mental health or related administrative services provided under this contract, except to collect other health insurance coverage, share of cost, and co-payments. Consistent with 42 C.F.R. § 438.106, the Contractor or an affiliate, vendor, contractor, or sub-subcontractor of the Contractor shall not hold beneficiaries liable for debts in the event that the Contractor becomes insolvent, for costs of covered services for which the State does not pay the Contractor, for costs of covered services for which the State or the Contractor does not pay the

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Contractor's providers, for costs of covered services provided under a contract, referral or other arrangement rather than from the Contractor, or for payment of subsequent screening and treatment needed to diagnose the specific condition of or stabilize a beneficiary with an emergency psychiatric condition.

- G. Health Information System. Pursuant to 42 C.F.R. § 438.242 and consistent with Cal. Code Regs., tit. 9, § 1810.376, the Contractor shall maintain a health information system that collects, analyzes, integrates, and reports data. The system shall provide information on areas including, but not limited to, utilization, grievances, and appeals.
- 1) The Contractor's health information system shall, at a minimum:
    - a) Collect data on beneficiary and provider characteristics as specified by the Department, and on services furnished to beneficiaries as specified by the Department;
    - b) Ensure that data received from providers is accurate and complete by:
      - i. Verifying the accuracy and timeliness of reported data;
      - ii. Screening the data for completeness, logic, and consistency; and
      - iii. Collecting service information in standardized formats to the extent feasible and appropriate.
    - c) Make all collected data available to the Department and, upon request, to CMS.
  - 2) Consistent with Cal. Code Regs., tit. 9, § 1810.376(c), the Contractor's health information system is not required to collect and analyze all elements in electronic formats.
- H. Cost Sharing. Pursuant to 42 C.F.R. § 438.108, any cost sharing imposed on Medicaid beneficiaries shall be in accordance with 42 C.F.R. §§ 447.50 through 447.60.

**22. Quality Management (QM) Program**

- A. The Contractor's Quality Management (QM) Program shall improve Contractor's established outcomes through structural and operational processes and activities that are consistent with current standards of practice.
- B. The Contractor shall have a written description of the QM Program which clearly defines the QM Program's structure and elements, assigns responsibility to

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appropriate individuals, and adopts or establishes quantitative measures to assess performance and to identify and prioritize area(s) for improvement. The QM Program shall be evaluated annually and updated as necessary per Cal. Code Regs., tit. 9, § 1810.440(a)(6) and 42 C.F.R. § 438.240(e).

- C. The QM Program shall conduct performance monitoring activities throughout the Contractor's operations. These activities shall include, but not be limited to, beneficiary and system outcomes, utilization management, utilization review, provider appeals, credentialing and monitoring, and resolution of beneficiary grievances.
- D. The Contractor shall ensure continuity and coordination of care with physical health care providers. The Contractor shall coordinate with other human services agencies used by its beneficiaries. The Contractor shall assess the effectiveness of any MOU with a physical health care plan.
- E. The Contractor shall have mechanisms to detect both underutilization of services and overutilization of services, as required by 42 C.F.R. § 438.240(b)(3).
- F. The Contractor shall implement mechanisms to assess beneficiary/family satisfaction. The Contractor shall assess beneficiary/family satisfaction by:
  - 1) Surveying beneficiary/family satisfaction with the Contractor's services at least annually;
  - 2) Evaluating beneficiary grievances, appeals and fair hearings at least annually; and
  - 3) Evaluating requests to change persons providing services at least annually.
  - 4) The Contractor shall inform providers of the results of beneficiary/family satisfaction activities.
- G. The Contractor shall implement mechanisms to monitor the safety and effectiveness of medication practices. The monitoring mechanism shall be under the supervision of a person licensed to prescribe or dispense prescription drugs. Monitoring shall occur at least annually.
- H. The Contractor shall implement mechanisms to address meaningful clinical issues affecting beneficiaries system-wide.
- I. The Contractor shall implement mechanisms to monitor appropriate and timely intervention of occurrences that raise quality of care concerns. The Contractor shall take appropriate follow-up action when such an occurrence is identified. The results of the intervention shall be evaluated by the Contractor at least annually.

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- J. The Contractor shall have a QM Work Plan covering the current contract cycle with documented annual evaluations and documented revisions as needed. The QM Work Plan shall include:
- 1) Evidence of the monitoring activities including, but not limited to, review of beneficiary grievances, appeals, expedited appeals, fair hearings, expedited fair hearings, provider appeals, and clinical records review as required by Cal. Code Regs., tit. 9, § 1810.440(a)(5) and 42 C.F.R. § 438.416;
  - 2) Evidence that QM activities, including performance improvement projects, have contributed to meaningful improvement in clinical care and beneficiary service;
  - 3) A description of completed and in-process QM activities, including performance improvement projects. The description shall include:
    - a) Monitoring efforts for previously identified issues, including tracking issues over time;
    - b) Objectives, scope, and planned QM activities for each year; and,
    - c) Targeted areas of improvement or change in service delivery or program design.
  - 4) A description of mechanisms the Contractor has implemented to assess the accessibility of services within its service delivery area. This shall include goals for responsiveness for the Contractor's 24-hour toll-free telephone number, timeliness for scheduling of routine appointments, timeliness of services for urgent conditions, and access to after-hours care; and
  - 5) Evidence of compliance with the requirements for cultural competence and linguistic competence specified in Cal. Code Regs., tit. 9, § 1810.410.

**23. Quality Improvement (QI) Program**

- A. The Contractor's QI program shall monitor the Contractor's service delivery system with the aim of improving the processes of providing care and better meeting the needs of its beneficiaries.
- B. The Contractor shall establish a QI Committee to review the quality of specialty mental health services provided to beneficiaries. The QI Committee shall recommend policy decisions; review and evaluate the results of QI activities, including performance improvement projects; institute needed QI actions; ensure follow-up of QI processes; and document QI Committee meeting minutes regarding decisions and actions taken.

**Exhibit A Attachment I**  
Service, Administrative and Operational Requirements

- C. The QI Program shall be accountable to the Contractor's Director as described in Cal. Code Regs., tit. 9, § 1810.440(a)(1).
- D. Operation of the QI program shall include substantial involvement by a licensed mental health staff person, as described in Cal. Code. Regs., tit. 9, § 1810.440(a)(4).
- E. The QI Program shall include active participation by the Contractor's practitioners and providers, as well as beneficiaries and family members, in the planning, design and execution of the QI Program, as described in Cal. Code. Regs., tit. 9, § 1810.440(a)(2)(A-C).
- F. The Contractor shall maintain a minimum of two active Performance Improvement Projects (PIPs) that meet the criteria in 42 C.F.R. § 438.240(b)(1) and (d). Performance improvement projects shall focus on a clinical area, as well as one non-clinical area.
- G. QI activities shall include:
  - 1) Collecting and analyzing data to measure against the goals, or prioritized areas of improvement that have been identified;
  - 2) Identifying opportunities for improvement and deciding which opportunities to pursue;
  - 3) Identifying relevant committees internal or external to the Contractor to ensure appropriate exchange of information with the QI Committee;
  - 4) Obtaining input from providers, beneficiaries and family members in identifying barriers to delivery of clinical care and administrative services;
  - 5) Designing and implementing interventions for improving performance;
  - 6) Measuring effectiveness of the interventions;
  - 7) Incorporating successful interventions into the Contractor's operations as appropriate; and
  - 8) Reviewing beneficiary grievances, appeals, expedited appeals, fair hearings, expedited fair hearings, provider appeals, and clinical records review as required by Cal. Code Regs., tit. 9, § 1810.440(a)(5).

**24. Utilization Management (UM) Program**

- A. The Utilization Management Program shall be responsible for assuring that beneficiaries have appropriate access to specialty mental health services as required in Cal. Code Regs., tit. 9, § 1810.440(b)(1)-(3).

**Exhibit A Attachment I**  
Service, Administrative and Operational Requirements

- B. The Utilization Management (UM) Program shall evaluate medical necessity, appropriateness and efficiency of services provided to Medi-Cal beneficiaries prospectively or retrospectively.
- C. The Contractor shall implement mechanisms to assess the capacity of service delivery for its beneficiaries. This includes monitoring the number, type, and geographic distribution of mental health services within the Contractor's delivery system.
- D. The Contractor shall implement mechanisms to assess the accessibility of services within its service delivery area. This shall include the assessment of responsiveness of the Contractor's 24 hour toll-free telephone number, timeliness of scheduling routine appointments, timeliness of services for urgent conditions, and access to after-hours care.

**25. Practice Guidelines**

The Contractor shall comply with 42 C.F.R. § 438.236(b) and Cal. Code Regs., tit. 9, § 1810.326 which requires the adoption of practice guidelines.

- A. Such guideline shall meet the following requirements:
  - 1) They are based on valid and reliable clinical evidence or a consensus of health care professionals in the applicable field;
  - 2) They consider the needs of the beneficiaries;
  - 3) They are adopted in consultation with contracting health care professionals; and
  - 4) They are reviewed and updated periodically as appropriate.
- B. Contractor shall disseminate the guidelines to all affected providers and, upon request, to beneficiaries and potential beneficiaries.
- C. Contractor shall take steps to assure that decisions for utilization management, beneficiary education, coverage of services, and any other areas to which the guidelines apply shall be consistent with the guidelines.

**Exhibit A Attachment II**  
Definitions

The definitions contained in Cal. Code Regs., tit. 9, § 1810.100 et. seq. shall apply in this contract.

- A. "Beneficiary" means a Medi-Cal recipient who is currently receiving services from the Contractor.
- B. "Contractor" means Mono County Behavioral Health.
- C. "Covered Specialty Mental Health Services" means mental health services, medication support services, day treatment intensive, day rehabilitation, crisis intervention, crisis stabilization, adult residential treatment services, crisis residential services, psychiatric health facility services, and targeted case management as described in California's Medicaid State Plan and as defined in Cal. Code Regs., tit. 9, § 1810.247, to the extent described in Cal. Code Regs., tit. 9, § 1810.345. Covered Specialty Mental Health Services also include psychiatric inpatient hospital services as defined in Cal. Code Regs., tit. 9, § 1810.238, and Early and Periodic Screening, Diagnosis and Treatment (EPSDT) Supplemental Specialty Mental Health Services as defined in Cal. Code Regs., tit. 9, § 1810.215. Psychiatric nursing facility services are not included.
- D. "Department" means the California Department of Health Care Services (DHCS).
- E. "Director" means the Director of DHCS.
- F. "HHS" means the United States Department of Health and Human Service
- G. "PIHP" means Prepaid Inpatient Health Plan as described in 42 C.F.R. § 438.2. A PIHP is an entity that:
  - 1) Provides medical services to beneficiaries under contract with the Department of Health Care Services, and on the basis of prepaid capitation payments, or other payment arrangement that does not use state plan rates;
  - 2) Provides, arranges for, or otherwise has responsibility for the provision of any inpatient hospital or institutional services for its beneficiaries; and
  - 3) Does not have a comprehensive risk contract.
- H. "Subcontract" means an agreement entered into by the Contractor with any of the following:
  - 1) A provider of specialty mental health services who agrees to furnish covered services to beneficiaries.

**Exhibit A Attachment II**  
Definitions

- 2) Any other organization or person who agrees to perform any administrative function or service for the Contractor specifically related to securing or fulfilling the Contractor's obligations to the Department under the terms of this contract.

**Exhibit B**  
Budget Detail and Payment Provisions

**1. Payment Provisions**

This program may be funded using one or more of the following funding sources: funds distributed to the counties from the Mental Health Subaccount, the Mental Health Equity Subaccount, and the Vehicle License Collection Account of the Local Revenue Fund, funds from the Mental Health Account and the Behavioral Health Subaccount of the Local Revenue Fund 2011, funds from the Mental Health Services Fund, and any other funds from which the Controller makes distributions to the counties in compliance with applicable statute and regulations including Welf. & Inst. Code §§ 5891, 5892 and 14705(a)(2). These funding sources may be used by the Contractor to pay for services and then certify as public expenditures in order to be reimbursed federal funds.

**2. Budget Contingency Clause**

This provision is a supplement to provision number nine (Federal Contract Funds) in Exhibit D(F) which is attached hereto as part of this agreement.

A. Federal Budget

If federal funding for FFP reimbursement in relation to this contract is eliminated or substantially reduced by Congress, the Department and the Contractor each shall have the option either to cancel this contract or to propose a contract amendment to address changes to the program required as a result of the elimination or reduction of federal funding.

B. Delayed Federal Funding

Contractor and Department agree to consult with each other on interim measures for program operation that may be required to maintain adequate services to beneficiaries in the event that there is likely to be a delay in the availability of federal funding.

**3. Federal Financial Participation**

Nothing in this contract shall limit the Contractor's ability to submit claims for appropriate FFP reimbursement based on actual, total fund expenditures for any covered services or quality assurance, utilization review, Medi-Cal Administrative Activities and/or administrative costs. In accordance the Welf. & Inst. Code § 14705(c), the Contractor shall ensure compliance with all requirements necessary for Medi-Cal reimbursement for these services and activities. Claims for FFP reimbursement shall be submitted by the Contractor to the Department for adjudication throughout the fiscal year. Pursuant to the Welf. & Inst. Code § 14705(d), the Contractor shall certify to the state that it has incurred public expenditures prior to requesting the reimbursement of federal funds.

**Exhibit B**  
Budget Detail and Payment Provisions

**4. Cost Reporting**

- A. The Contractor shall submit a fiscal year-end cost report no later than December 31 following the close of each fiscal year unless that date is extended by the Department, in accordance with the Welf. & Inst. Code § 14705(c), and/or guidelines established by the Department. Data submitted shall be full and complete and the cost report shall be certified by the Contractor's Mental Health Director and one of the following: (1) the Contractor's chief financial officer (or equivalent), (2) an individual who has delegated authority to sign for, and reports directly to, the Contractor's chief financial officer, or (3) the Contractor's auditor-controller, or equivalent. The cost report shall include both Contractor's costs and the cost of its subcontractors, if any. The cost report shall be completed in accordance with instructions contained in the Department's Cost and Financial Reporting System Instruction Manual which can be accessed through the Department's Information Technology Web Services (ITWS) for the applicable year, as well as any instructions that are incorporated by reference thereto; however, to the extent that the Contractor disagrees with such instructions, it may raise that disagreement in writing with the Department at the time the cost report is filed, and shall have the right to appeal such disagreement pursuant to procedures developed under the Welf. & Inst. Code § 14171.
  
- B. In accordance with Welf. & Inst. Code § 5655 , the Department shall provide technical assistance and consultation to the Contractor regarding the preparation and submission of timely cost reports. If the Contractor does not submit the cost report by the reporting deadline, including any extension period granted by the Department, the Department, in accordance with Welf.& Inst. Code § 14712(e), may withhold payments of additional funds until the cost report that is due has been submitted.
  
- C. Upon receipt of an amended cost report, which includes reconciled units of service, and a certification statement that has been signed by the Contractor's Mental Health Director and one of the following: 1) the Contractor's Chief Financial Officer (or equivalent), (2) an individual who has delegated authority to sign for, and reports directly to the Contractor's Chief Financial Officer, or (3) the county's auditor controller, or equivalent, the Department shall preliminarily settle the cost report. After completing its preliminary settlement, the Department shall so notify the Contractor if additional FFP is due to the Contractor. The Department shall submit a claim to the federal government for the related FFP within 30 days contingent upon sufficient budget authority. If funds are due to the State, the Department shall invoice the Contractor and the Contractor shall return the overpayment to the Department.

**5. Audits and Recovery of Overpayments**

- A. Pursuant to Welf. & Inst. Code § 14707, in the case of federal audit exceptions, the Department will follow federal audit appeal processes unless the Department, in

**Exhibit B**  
Budget Detail and Payment Provisions

consultation with the California Mental Health Director's Association, determines that those appeals are not cost beneficial.

- 1) Whenever there is a final federal audit exception against the State resulting from a claim for federal funds for an expenditure by individual counties that is not federally allowable, the department may offset federal reimbursement and request the Controller's office to offset the distribution of funds to the Contractor from the Mental Health Subaccount, the Mental Health Equity Subaccount and the Vehicle License Collection Account of the Local Revenue Fund; funds from the Mental Health Account and the Behavioral Health Subaccount of the Local Revenue Fund 2011; and any other mental health realignment funds from which the Controller makes distributions to the counties by the amount of the exception. The Department shall provide evidence to the Controller that the county had been notified of the amount of the audit exception no less than 30 days before the offset is to occur.
  - 2) The Department will involve the Contractor in developing responses to any draft federal audit reports that directly impact the county.
- B. Pursuant to Welf. & Inst. Code § 14718(b)(2), the Department may offset the amount of any federal disallowance, audit exception, or overpayment against subsequent claims from the Contractor.
- 1) The Department may offset the amount of any state disallowance, audit exception, or overpayment for fiscal years through and including 2010-11 against subsequent claims from the Contractor.
  - 2) Offsets may be done at any time, after the department has invoiced or otherwise notified the Contractor about the audit exception, disallowance, or overpayment. The Department shall determine the amount that may be withheld from each payment to the mental health plan.
  - 3) The maximum withheld amount shall be 25 percent of each payment as long as the Department is able to comply with the federal requirements for repayment of FFP pursuant 42 United States Code (U.S.C.) §1396b(d)(2)). The Department may increase the maximum amount when necessary for compliance with federal laws and regulations.
- C. Pursuant to the Welf. & Inst. Code § 14170 , cost reports submitted to the Department are subject to audit in the manner and form prescribed by the Department. The year-end cost report shall include both Contractor's costs and the costs of its subcontractors, if any. Contractor and its subcontractors shall be subject to audits and/or reviews, including client record reviews, by the Department. In accordance with the Welf. & Inst. Code § 14170 , any audit of Contractor's cost report shall occur within three years of the date of receipt by the Department of the final cost report with signed certification by the Contractor's Mental Health Director and one of the following: (1) the Contractor's Chief

**Exhibit B**  
Budget Detail and Payment Provisions

Financial Officer (or equivalent), (2) an individual who has delegated authority to sign for, and reports directly to the Contractor's Chief Financial Officer, or (3) the county auditor controller, or equivalent. Both signatures are required before the cost report shall be considered final. For purposes of this section, the cost report shall be considered audited once the Department has informed the Contractor of its intent to disallow costs on the cost report, or once the Department has informed the Contractor of its intent to close the audit without disallowances.

- D. If the adjustments result in the Department owing FFP to the Contractor, the Department shall submit a claim to the federal government for the related FFP within 30 days contingent upon sufficient budget authority.

**6. Claims Adjudication Process**

- A. In accordance with the Welf. & Inst. Code §14705(c), claims for federal funds in reimbursement for services shall comply with eligibility and service requirements under applicable federal and state law.
- B. The Contractor shall certify each claim submitted to the Department in accordance with Cal. Code Regs., tit. 9, § 1840.112 and 42 C.F.R. § 433.51, at the time the claims are submitted to the Department. The Contractor's Chief Financial Officer or his or her equivalent, or an individual with authority delegated by the county auditor-controller, shall sign the certification, declaring, under penalty of perjury, that the Contractor has incurred an expenditure to cover the services included in the claims to satisfy the requirements for FFP. The Contractor's Mental Health Director or an individual with authority delegated by the Mental Health Director shall sign the certification, declaring, under penalty of perjury that, to the best of his or her knowledge and belief, the claim is in all respects true, correct, and in accordance with the law and meets the requirements of Cal. Code Regs., tit. 9, § 1840.112(b). The Contractor shall have mechanisms that support the Mental Health Director's certification, including the certification that the services for which claims were submitted were actually provided to the beneficiary. If the Department requires additional information from the Contractor that will be used to establish Department payments to the Contractor, the Contractor shall certify that the additional information provided is in accordance with 42 C.F.R. § 438.604.
- C. Claims not meeting federal and/or state requirements shall be returned to Contractor as not approved for payment, along with a reason for denial. Claims meeting all Health Insurance Portability and Accountability Act (HIPAA) transaction requirements and any other applicable federal or state privacy laws or regulations and certified by the Contractor in accordance with Cal. Code Regs., tit. 9, § 1840.112, shall be processed for adjudication.
- D. Good cause justification for late claim submission is governed by applicable federal and state laws and regulations and is subject to approval by the Department.

**Exhibit B**  
Budget Detail and Payment Provisions

- E. In the event that the Department or the Contractor determines that changes requiring a change in the Contractor's or Department's obligation must be made relating to either the Department's or the Contractor's claims submission and adjudication systems due to federal or state law changes or business requirements, both the Department and the Contractor agree to provide notice to the other party as soon as practicable prior to implementation. This notice shall include information and comments regarding the anticipated requirements and impacts of the projected changes. The Department and the Contractor agree to meet and discuss the design, development, and costs of the anticipated changes prior to implementation.
- F. The Contractor shall comply with Cal. Code Regs., tit. 9, § 1840.304, when submitting claims for FFP for services billed by individual or group providers. The Contractor shall submit service codes from the Health Care Procedure Coding System (HCPCS) published in the most current Mental Health Medi-Cal billing manual.

**7. Payment Data Certification**

Contractor shall certify the data it provides to the Department to be used in determining payment of FFP to the Contractor, in accordance with 42 C.F.R. §§ 438.604 and 438.606.

**8. System Changes**

In the event changes in federal or state law or regulations, including court decisions and interpretations, necessitate a change in either the fiscal or program obligations or operations of the Contractor or the Department, or a change in obligation for the cost of providing covered services the Department and the Contractor agree to negotiate, pursuant to the Welf. & Inst. Code § 14714(c) regarding (a) changes required to remain in compliance with the new law or changes in existing obligations, (b) projected programmatic and fiscal impacts, (c) necessary contract amendments. To the extent that contract amendments are necessary, the parties agree to act to ensure appropriate amendments are made to accommodate any changes required by law or regulation.

**9. Administrative Reimbursement**

- A. The Contractor may submit claims for reimbursement of Medical Administrative Activities (MAA) pursuant to Welf. & Inst. Code § 14132.47. The Contractor shall not submit claims for MAA unless it has submitted a claiming plan to the Department which was approved by the Department and is effective during the quarter in which the costs being claimed were incurred. In addition, the Contractor shall not submit claims for reimbursements of MAA that are not consistent with the Contractor's approved MAA claiming plan. The Contractor shall not use the relative value methodology to report its MAA costs on the year-end cost report. Rather, the Contractor shall calculate and report MAA units on the cost report by multiplying the amount of time (minutes, hours, etc.) spent on MAA activities by the

**Exhibit B**  
Budget Detail and Payment Provisions

salary plus benefits of the staff performing the activity and then allocating indirect administrative and other appropriately allocated costs.

- B. Pursuant to the Welf. & Inst. Code § 14711(c), administrative costs shall be claimed separately in a manner consistent with federal Medicaid requirements and the approved Medicaid state plans and waivers and shall be limited to 15 percent of the total actual cost of direct client services. The cost of performing quality assurance and utilization review activities shall be reimbursed separately and shall not be included in administrative costs.

**10. Notification of Request for Contract Amendment**

In addition to the provisions in Exhibit E, Additional Provisions, both parties agree to notify the other party whenever an amendment to this contract is to be requested so that informal discussion and consultation can occur prior to a formal amendment process.

**Exhibit E**  
Additional Provisions

**1. Amendment Process**

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

**2. Cancellation/Termination**

A. General Provisions

- 1) As required by Welf. & Inst. Code § 14712, if the Contractor decides not to contract with the Department, does not renew its contract, or is unable to meet the standards set by the Department, the Contractor agrees to inform the Department of this decision in writing.
- 2) If the Contractor is unwilling to contract for the delivery of specialty mental health services or if the Department or Contractor determines that the Contractor is unable to adequately provide specialty mental health services or that the Contractor does not meet the standards the Department deems necessary for a mental health plan, the Department shall ensure that specialty mental health services are provided to Medi-Cal beneficiaries.
- 3) The Department may contract with qualifying individual counties, counties acting jointly, or other qualified entities approved by the Department for the delivery of specialty mental health services in any county that is unable or unwilling to contract with the Department. The Contractor may not subsequently contract to provide specialty mental health services unless the Department elects to contract with the Contractor.
- 4) If the Contractor does not contract with the Department to provide specialty mental health services, the Department will work with the Department of Finance and the Controller to obtain funds from the Contractor in accordance with Government (Govt.) Code 30027.10.

B. Contract Renewal

- 1) Pursuant to Welf. & Inst. Code § 14714(b), this contract may be renewed if the Contractor continues to meet the statutory and regulatory requirements governing this contract, as well as the terms and conditions of this contract. Failure to meet these requirements shall be cause for nonrenewal of the contract. The Department may base the decision to renew on timely

**Exhibit E**  
Additional Provisions

completion of a mutually agreed-upon plan of correction of any deficiencies, submissions of required information in a timely manner, and/or other conditions of the contract.

- 2) In the event the contract is not renewed based on the reasons specified in (1), the Department will notify the Department of Finance, the fiscal and policy committees of the Legislature, and the Controller of the amounts to be sequestered from the Mental Health Subaccount, the Mental Health Equity Account, and the Vehicle License Fee Collection Account of the Local Revenue Fund and the Mental Health Account and the Behavioral Health Subaccount of the Local Revenue Fund 2011, and the Controller will sequester those funds in the Behavioral Health Subaccount pursuant to Govt. Code § 30027.10. Upon this sequestration, the Department will use the funds in accordance with Govt. Code § 30027.10

C. Contract Amendment Negotiations

Should either party during the life of this contract desire a change in this contract, such change shall be proposed in writing to the other party. The other party shall acknowledge receipt of the proposal in writing within 10 days and shall have 60 days (or such different period as the parties mutually may set) after receipt of such proposal to review and consider the proposal, to consult and negotiate with the proposing party, and to accept or reject the proposal. Acceptance or rejection may be made orally within the 60-day period, and shall be confirmed in writing within five days thereafter. The party proposing any such change shall have the right to withdraw the proposal at any time prior to acceptance or rejection by the other party. Any such proposal shall set forth a detailed explanation of the reason and basis for the proposed change, a complete statement of costs and benefits of the proposed change and the text of the desired amendment to this contract that would provide for the change. If the proposal is accepted, this contract shall be amended to provide for the change mutually agreed to by the parties on the condition that the amendment is approved by the Department of General Services, if necessary.

D. Contract Termination

The Department or the Contractor may terminate this contract in accordance with Cal. Code Regs., tit. 9, § 1810.323.

- 1) DHCS reserves the right to cancel or terminate this Agreement immediately for cause.
- 2) The term “for cause” shall mean that the Contractor fails to meet the terms, conditions, and/or responsibilities of this Agreement.

**Exhibit E**  
Additional Provisions

- 3) Agreement termination or cancellation shall be effective as of the date indicated in DHCS' notification to the Contractor. The notice shall identify any final performance, invoicing or payment requirements.
- 4) Upon receipt of a notice of termination or cancellation, the Contractor shall take immediate steps to stop performance and to cancel, or if cancelation is not possible reduce, subsequent agreement costs.
- 5) In the event of early termination or cancellation, the Contractor shall be entitled to payment for all allowable costs authorized under this Agreement 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.
- 6) Pursuant to the Welf. & Inst. Code § 14714(d), the Department will immediately terminate a contract when the director finds that there is an immediate threat to the health and safety of Medi-Cal beneficiaries. Termination of the contract for other reasons will be subject to reasonable notice to the Contractor of the Department's intent to terminate, as well as notification to affected beneficiaries.

E. Termination of Obligations

- 1) All obligations to provide covered services under this contract shall automatically terminate on the effective date of any termination of this contract. The Contractor shall be responsible for providing covered services to beneficiaries until the termination or expiration of the contract and shall remain liable for the processing and payment of invoices and statements for covered services provided to beneficiaries prior to such expiration or termination.
- 2) When Contractor terminates a subcontract with a provider, Contractor shall make a good faith effort to provide notice of this termination, within 15 days, to the persons that Contractor, based on available information, determines have recently been receiving services from that provider.

F. Contract Disputes

Should a dispute arise between the Contractor and the Department relating to performance under this contract, other than disputes governed by a dispute resolution process in Chapter 11 of Division 1, Cal. Code Regs., tit. 9, or the processes governing the audit appeals process in Chapter 9 of Division 1, Cal. Code Regs., tit. 9 the Contractor shall follow the Dispute Resolution Process outlined in provision number 15 of Exhibit D(F) which is attached hereto as part of this agreement.

**Exhibit E**  
Additional Provisions

**3. Fulfillment of Obligation**

No covenant, condition, duty, obligation, or undertaking continued or made a part of this contract shall be waived except by written agreement of the parties hereto, and forbearance or indulgence in any other form or manner by either party in any regard whatsoever will not constitute a waiver of the covenant, condition, duty, obligation, or undertaking to be kept, performed or discharged by the party to which the same may apply. Until performance or satisfaction of all covenants, conditions, duties, obligations, and undertakings is complete, the other party shall have the right to invoke any remedy available under this contract, or under law, notwithstanding such forbearance or indulgence.

**4. Additional Provisions**

A. Inspection Rights

The Contractor shall allow the Department, DHCS, HHS, the Comptroller General of the United States, and other authorized federal and state agencies, or their duly authorized representatives, to inspect or otherwise evaluate the quality, appropriateness, and timeliness of services performed under this contract, and to inspect, evaluate, and audit any and all books, records, and facilities maintained by the Contractor and its subcontractors pertaining to such services at any time during normal business hours. Books and records include, but are not limited to, all physical records originated or prepared pursuant to the performance under this contract including working papers, reports, financial records and books of account, beneficiary records, prescription files, subcontracts, and any other documentation pertaining to covered services and other related services for beneficiaries. Upon request, at any time during the period of this contract, the Contractor shall furnish any such record, or copy thereof, to the Department, DHCS, or HHS. Authorized agencies shall maintain the confidentiality of such books and records in accordance with applicable laws and regulations.

B. Notices

Unless otherwise specified in this contract, all notices to be given under this contract shall be in writing and shall be deemed to have been given when mailed, to the Department or the Contractor at the following addresses, unless the contract explicitly requires notice to another individual or organizational unit:

Department of Health Care Services  
Mental Health Services Division  
1500 Capitol Avenue, MS 2702  
P.O. Box 997413  
Sacramento, CA 95899-7413

Mono County Behavioral Health  
P.O. Box 2619  
Mammoth Lakes, CA 93546

C. Nondiscrimination

**Exhibit E**  
Additional Provisions

- 1) Consistent with the requirements of applicable federal law such as 42 C.F.R. §§ 438.6(d)(3) and (4) or state law, the Contractor shall not engage in any unlawful discriminatory practices in the admission of beneficiaries, assignments of accommodations, treatment, evaluation, employment of personnel, or in any other respect on the basis of race, color, gender, religion, marital status, national origin, age, sexual preference or mental or physical handicap. The Contractor will not discriminate against beneficiaries on the basis of health status or need for health care services, pursuant to 42 C.F.R. § 438.6(d)(3).
- 2) The Contractor shall comply with the provisions of Section 504 of the Rehabilitation Act of 1973, as amended, pertaining to the prohibition of discrimination against qualified handicapped persons in all federally assisted programs or activities, as detailed in regulations signed by the Secretary of Health and Human Services, effective June 2, 1977, and found in the Federal Register, Volume 42, No. 86, dated May 4, 1977.
- 3) The Contractor shall include the nondiscrimination and compliance provisions of this contract in all subcontracts to perform work under this contract.
- 4) Notwithstanding other provisions of this section, the Contractor may require a determination of medical necessity pursuant to Cal. Code Regs., tit. 9, §§ 1820.205, 1830.205 and/or 1830.210, prior to providing covered services to a beneficiary.

**D. Patients' Rights**

- 1) The parties to this contract shall comply with applicable laws and regulations relating to patients' rights, including but not limited to Welfare and Institutions Code 5325, Cal. Code Regs., tit. 9, §§ 860 through 868, and 42 C.F.R. § 438.100. The Contractor shall ensure that its subcontractors comply with these provisions.
- 2) Pursuant to 42 C.F.R. § 438.100, the Contractor shall have written policies regarding the beneficiary rights specified in this section and ensure that its staff and subcontract providers take those rights into account when providing services, including the right to:
  - a) Receive information in accordance with 42 C.F.R. § 438.10.
  - b) Be treated with respect and with due consideration for his or her dignity and privacy.
  - c) Receive information on available treatment options and alternatives, presented in a manner appropriate to the beneficiary's condition and ability to understand.

**Exhibit E**  
Additional Provisions

- d) Participate in decisions regarding his or her health care, including the right to refuse treatment.
- e) Be free from any form of restraint or seclusion used as a means of coercion, discipline, convenience, or retaliation.
- f) Request and receive a copy of his or her medical records, and to request that they be amended or corrected, as specified in 45 C.F.R. §§ 164.524 and 164.526.
- g) To be furnished services in accordance with 42 C.F.R. §§ 438.206 through 438.210.
- h) To freely exercise his or her rights, and the exercise of those rights will not adversely affect the way the Contractor and its providers or the Department treat the beneficiary.

E. Relationship of the Parties

The Department and the Contractor are, and shall at all times be deemed to be, independent agencies. Each party to this contract shall be wholly responsible for the manner in which it performs the obligations and services required of it by the terms of this contract. Nothing herein contained shall be construed as creating the relationship of employer and employee, or principal and agent, between the parties or any of their agents or employees. Each party assumes exclusively the responsibility for the acts of its employees or agents as they relate to the services to be provided during the course and scope of their employment. The Department and its agents and employees shall not be entitled to any rights or privileges of the Contractor's employees and shall not be considered in any manner to be Contractor employees. The Contractor and its agents and employees, shall not be entitled to any rights or privileges of state employees and shall not be considered in any manner to be state employees.

F. Waiver of Default

Waiver of any default shall not be deemed to be a waiver of any subsequent default. Waiver of breach of any provision of this agreement shall not be deemed to be a waiver of any other or subsequent breach, and shall not be construed to be a modification of the terms of this contract.

**5. Duties of the State**

In discharging its obligations under this contract, and in addition to the obligations set forth in other parts of this contract, the Department shall perform the following duties:

A. Payment for Services

**Exhibit E**  
Additional Provisions

The Department shall make the appropriate payments set forth in Exhibit B and take all available steps to secure and pay FFP to the Contractor, once the Department receives FFP, for claims submitted by the Contractor. The Department shall notify Contractor and allow Contractor an opportunity to comment to the Department when questions are posed by CMS, or when there is a federal deferral, withholding, or disallowance with respect to claims made by the Contractor.

B. Reviews

The Department shall conduct reviews of access to and quality of care in Contractor's county at least once every three years and issue reports to the Contractor detailing findings, recommendations, and corrective action, as appropriate, pursuant to Cal. Code Regs., tit. 9, §§ 1810.380 and 1810.385. The Department shall also arrange for an annual external quality review of the Contractor as required by 42 C.F.R. § 438.204(d) and Cal. Code Regs., tit. 9, § 1810.380(a)(7).

C. Monitoring for Compliance

The Department 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 facilities, management systems and procedures, and books and records, as the Department deems appropriate, at any time during the Contractor's or facility's normal business hours. When monitoring activities identify areas of non-compliance, the Department shall issue reports to the Contractor detailing findings, recommendations, and corrective action. Failure to comply with required corrective action could lead to civil penalties, as appropriate, pursuant to Cal. Code Regs., tit. 9, §§ 1810.380 and 1810.385.

D. The Department shall review and either approve, disapprove, or request additional information for each Implementation Plan as defined in Cal. Code Regs., tit. 9, §§ 1810.221 and 1810.310 . Notices of Approval, Notices of Disapproval and requests for additional information shall be forwarded to the Contractor within 60 days of the receipt of the Implementation Plan. A Contractor shall submit proposed changes to its approved Implementation Plan in writing to the Department for review. A Contractor shall submit proposed changes in the policies, processes or procedures that would modify the Contractor's current Implementation Plan prior to implementing the proposed changes.(See Cal. Code Regs., tit. 9, § 1810.310 (b)-(c)).

E. The Department shall act promptly to review the Contractor's Cultural Competence Plan submitted pursuant to Cal. Code Regs., tit. 9, § 1810.410. The Department shall provide a Notice of Approval or a Notice of Disapproval, including the reasons for the disapproval, to the Contractor within 60 calendar days after receipt of the

**Exhibit E**  
Additional Provisions

plan from the Contractor. If the Department fails to provide a Notice of Approval or Disapproval, the Contractor may implement the plan 60 calendar days from its submission to the Department.

F. Certification of Organizational Provider Sites Owned or Operated by the Contractor

- 1) The Department shall certify the organizational provider sites that are owned, leased or operated by the Contractor, in accordance with Cal. Code Regs., tit. 9, § 1810.435, and the requirements specified in Exhibit B, Section 4 of this contract. This certification shall be performed prior to the date on which the Contractor begins to deliver services under this contract at these sites and once every three years after that date, unless the Department determines an earlier date is necessary. The on-site review required by Cal. Code Regs., tit. 9, § 1810.435(e), shall be conducted of any site owned, leased, or operated by the Contractor and used for to deliver covered services to beneficiaries, except that on-site review is not required for public school or satellite sites.
- 2) The Department may allow the Contractor to begin delivering covered services to beneficiaries at a site subject to on-site review by the Department prior to the date of the on-site review, provided the site is operational and has any required fire clearances. The earliest date the Contractor may begin delivering covered services at a site subject to on site review by the Department is the date the Contractor requested certification of the site in accordance with procedures established by the Department, the date the site was operational, or the date a required fire clearance was obtained, whichever date is latest.
- 3) The Department may allow the Contractor to continue delivering covered services to beneficiaries at a site subject to on-site review by the Department as part of the recertification process prior to the date of the on-site review, provided the site is operational and has all required fire clearances.
- 4) Nothing in this section precludes the Department from establishing procedures for issuance of separate provider identification numbers for each of the organizational provider sites operated by the Contractor to facilitate the claiming of FFP by the Contractor and the Department's tracking of that information.

G. Distribution of Informing Materials

The Department shall provide annual notice to all beneficiaries in accordance with 42 C.F.R. § 438.10(f)(2), and Cal. Code Regs., tit. 9, § 1810.360(c).

H. Sanctions

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The Department shall conduct oversight and impose sanctions on the Contactor for violations of the terms of this contract, and applicable federal and state law and regulations, in accordance with Welf. & Inst. Code § 14712(e) and Cal. Code Regs., tit. 9, §§ 1810.380 and 1810.385.

I. Notification

The Department shall notify beneficiaries of their Medi-Cal specialty mental health benefits and options available upon termination or expiration of this contract.

J. Performance Measurement

The Department shall measure the Contractor's performance based on Medi-Cal approved claims and other data available to the Department using standard measures established by the Department in consultation with stakeholders.

**6. State and Federal Law Governing this Contract**

- A. Contractor agrees to comply with all applicable federal and state law, including the applicable sections of the state plan and waiver, particularly the statutes and regulations incorporated by reference below, in its provision of services as the Mental Health Plan. The Department will notify Contractor of any changes to these statutes and regulations. Contractor agrees to comply with any changes to these statutes and regulations that may occur during the contract period and any new applicable statutes or regulations, but either the Department or Contractor may request consultation and discussion of new or changed statutes or regulations, including whether contract amendments may be necessary.
- B. Pursuant to Welf. & Inst. Code § 14704, a regulation or order concerning Medi-Cal specialty mental health services adopted by the State Department of Mental Health pursuant to Division 5 (commencing with Section 5000), as in effect preceding the effective date of this section, shall remain in effect and shall be fully enforceable, unless and until the readoption, amendment, or repeal of the regulation or order by DHCS, or until it expires by its own terms.
- C. Specifically, the following federal law applies to this contract:
- 1) Title 42 United States Code, to the extent that these requirements are applicable
  - 2) 42 C.F.R. to the extent that these requirements are applicable;
  - 3) 42 C.F.R. § 438 – Managed Care, limited to those provisions that apply to Prepaid Inpatient Health Plans (PIHP);
  - 4) 45 C.F.R. §§ 160 and 164 to the extent that these requirements are applicable;

**Exhibit E**  
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- 5) Title VI of the Civil Rights Act of 1964;
  - 6) Title IX of the Education Amendments of 1972;
  - 7) Age Discrimination Act of 1975;
  - 8) Rehabilitation Act of 1973;
  - 9) Titles II and III of the Americans with Disabilities Act;
  - 10) Deficit Reduction Act of 2005;
  - 11) Balanced Budget Act of 1997.
  - 12) The Contractor shall comply with the provisions of the Copeland Anti-Kickback Act, which requires that all contracts and subcontracts in excess of \$2000 for construction or repair awarded by the Contractor and its subcontractors shall include a provision for compliance with the Copeland Anti-Kickback Act.
  - 13) The Contractor shall comply with the provisions of the Davis-Bacon Act, as amended, which provides that, when required by Federal Medicaid program legislation, all construction contracts awarded by the Contractor and its subcontractors of more than \$2,000 shall include a provision for compliance with the Davis-Bacon Act as supplemented by Department of Labor regulations.
  - 14) The Contractor shall comply with the provisions of the Contract Work Hours and Safety Standards Act, as applicable, which requires that all subcontracts awarded by the Contractor in excess of \$2,000 for construction and in excess of \$2,500 for other subcontracts that involve the employment of mechanics or laborers shall include a provision for compliance with the Contract Work Hours and Safety Standards Act.
- D. State Law:
- 1) Division 5, Welf. & Inst. Code, to the extent that these requirements are applicable to the services and functions set forth in this contract
  - 2) Welf. & Inst. Code §§ 5779-5782
  - 3) Welf. & Inst. Code §§ 14680-14685.1
  - 4) Welf. & Inst. Code §§ 14700-14726

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- 5) Chapter 7, Division 9, Welf. & Inst. Code, to the extent that these requirements are applicable to the services and functions set forth in this contract
- 6) Cal. Code Regs., tit. 9, § 1810.100 et. seq. – Medi-Cal Specialty Mental Health Services
- 7) Cal. Code Regs., tit. 22, §§ 50951 and 50953
- 8) Cal. Code Regs., tit. 22, §§ 51014.1 and 51014.2

**EXHIBIT F**  
Privacy and Information Security Provisions

Exhibit F is intended to protect the privacy and security of specified Department information that 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")(PHI); and (2) Personal Information (PI) as defined under the California Information Practices Act (CIPA), at California Civil Code § 1798.3. Personal Information may include data provided to the Department by the Social Security Administration.

Exhibit F consists of the following parts:

- A. Part I, HIPAA Business Associate Addendum, which provides for the privacy and security of PHI.
- B. Part II, which provides for the privacy and security of PI in accordance with specified provisions of the IEA and the Computer Matching and Privacy Protection Act Agreement between the Social Security Administration and the California Health and Human Services Agency (Computer Agreement) to the extent Contractor access, receives, or transmits PI under these Agreements. Exhibit F, Part II, further provides for the privacy and security of PI as defined under Civil Code §§ 1798.3(a) and 1798.29. These terms of the California Information Practices Act (CIPA) are included here because they do not apply to counties directly, and the statute requires the Department to contractually extend these CIPA terms to contractors if they use the Department's PI to accomplish a function for the Department.
- C. Part III, Miscellaneous Provision, sets forth additional terms and conditions that extend to the provisions of Exhibit F in its entirety.

**EXHIBIT F**  
Privacy and Information Security Provisions

Part I: 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. § 17921 et seq., and their implementing privacy and security regulations at 45 C.F.R. Parts 160 and 164 (“the HIPAA regulations”) between Department and Contractor arises only to the extent that Contractor performs functions or activities on behalf of the Department pursuant to this Agreement that are described in the definition of “business associate” in 45 C.F.R. § 160.103, including but not limited to utilization review, quality assurance, or benefit management.
- 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, Part I of this Agreement. This information is hereafter referred to as “Department PHI”.
- C. To the extent Contractor performs the services, functions and activities on behalf of Department as set forth in Section 1.A. of Exhibit F, Part I of this Agreement, Contractor is the Business Associate of the Department acting on the Department's behalf and provides services, arranges, performs or assists in the performance of functions or activities on behalf of the Department and creates, receives, maintains, transmits, uses or discloses PHI and ePHI in the provision of such services or in the performance of such functions or activities. The Department and Contractor are each a party to this Agreement and are collectively referred to as the “parties.”
- D. The purpose of this Part I 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, including, but not limited to, the requirement that the Department must enter into a contract containing specific requirements with Contractor prior to the disclosure of PHI to Contractor, as set forth in 45 C.F.R. Parts 160 and 164 and the HITECH Act.
- E. The terms used in this Part I, 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.

**EXHIBIT F**  
Privacy and Information Security Provisions

**2. Definitions**

- A. Breach shall have the meaning given to such term under HIPAA, the HITECH Act, and the HIPAA regulations.
- B. Business Associate shall have the meaning given to such term under HIPAA, the HITECH Act, and the HIPAA regulations.
- C. Covered Entity shall have the meaning given to such term under HIPAA, the HITECH Act, and the HIPAA regulations.
- D. 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, Part I of this Agreement. The terms PHI as used in this document shall mean Department PHI.
- E. Electronic Health Records shall have the meaning given to such term in the HITECH Act, including, but not limited to, 42 U.S.C. § 17921 and implementing regulations.
- F. 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 C.F.R. § 160.103.
- G. 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 C.F.R. § 160.103.
- H. Privacy Rule shall mean the HIPAA Regulations that are found at 45 C.F.R. Parts 160 and 164, Subparts A and E.
- I. 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 C.F.R. § 160.103 and as defined under HIPAA.

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Privacy and Information Security Provisions

- J. Required by law, as set forth under 45 C.F.R. § 164.103, 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.
- K. Secretary means the Secretary of the U.S. Department of Health and Human Services ("HHS") or the Secretary's designee.
- L. 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, Part I of this Agreement; or interference with system operations in an information system that processes, maintains or stores Department PHI.
- M. Security Rule shall mean the HIPAA regulations that are found at 45 C.F.R. Parts 160 and 164.
- N. Unsecured PHI shall have the meaning given to such term under the HITECH Act, 42 U.S.C. § 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, Part I, Contractor may use or disclose Department PHI only to perform functions, activities or services specified in Section 1.A of Exhibit F, Part I of this Agreement, for, or on behalf of the Department, provided that such use or disclosure would not violate the HIPAA regulations, 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 C.F.R. § 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, Part I, Contractor may:

**EXHIBIT F**  
Privacy and Information Security Provisions

- 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 reasonable assurances from the person to whom the information is disclosed that it will remain confidential and will be used or further disclosed only as required by law or for the purpose for which it was disclosed to the person, and the person notifies the 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. §§ 17935(a) and 45 C.F.R. § 164.522(a).
- 2) Contractor shall not directly or indirectly receive remuneration in exchange for Department PHI, except with the prior written consent of the Department and as permitted by 42 U.S.C. § 17935(d)(2).

**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.
- 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 Department, in compliance with 45 C.F.R. §§ 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,

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Privacy and Information Security Provisions

implementation specifications and other requirements of 45 C.F.R. § 164, subpart C, in compliance with 45 C.F.R. § 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, Business Associate Data Security Requirements;
  - b) Achieving and maintaining compliance with the HIPAA Security Rule (45 C.F.R. Parts 160 and 164), as necessary in conducting operations on behalf of DHCS under this Agreement; and
  - 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, Part I.
- 6) **Reporting Unauthorized Use or Disclosure.** To report to Department any use or disclosure of Department PHI not provided for by this Exhibit F, Part I 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

## EXHIBIT F

### Privacy and Information Security Provisions

with respect to such Department PHI under this Exhibit F, and that require compliance with all applicable provisions of HIPAA, the HITECH Act and the HIPAA regulations, including the requirement that any agents, subcontractors or vendors implement reasonable and appropriate administrative, physical, and technical safeguards to protect such PHI. Contractor shall incorporate, when applicable, the relevant provisions of this Exhibit F, Part I into each subcontract or subaward 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 C.F.R. § 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:**

- 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 C.F.R. § 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.

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### Privacy and Information Security Provisions

- 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. §17935(e). This section shall be effective as of the date that 42 U.S.C. § 17935(e) and its implementing regulations apply to the Department.
- 9) **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 C.F.R. § 164.526, in the time and manner designated by the Department, with the Contractor being given a minimum of twenty (20) days within which to make the amendment.
- 10) **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.
- 11) **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 C.F.R. § 164.528 and 42 U.S.C. § 17935(c). If Contractor maintains electronic health records for the Department as of January 1, 2009, Contractor must provide an accounting of disclosures, including those disclosures for treatment, payment or health care operations, effective with disclosures on or after January 1, 2014. If Contractor acquires electronic health records for the Department after January 1, 2009, Contractor must provide an accounting of disclosures, including those disclosures for treatment, payment or health care operations, effective with disclosures on or after the date the electronic health record is acquired, or on or after January 1, 2011, whichever date is later. The electronic accounting of disclosures shall be for disclosures during the three years prior to the request for an accounting. This section shall be effective only as of the date that 42 U.S.C. § 17935(c) and its implementing regulations apply to the Department.
- 12) **Breaches and Security Incidents.** During the term of this Agreement, Contractor agrees to implement reasonable systems for the discovery and

**EXHIBIT F**  
Privacy and Information Security Provisions

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 plus 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, Part I, or potential loss of confidential data affecting this Agreement. A breach shall be treated as discovered by Business Associate 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 Business Associate.
  
- b) Notice shall be provided to the Department Program Contract Manager and the Department Information Security Officer. If the incident occurs after business hours or on a weekend or holiday and involves electronic PHI, 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](http://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 PHI , Contractor shall take:
  - i. Prompt corrective action to mitigate any risks or damages involved with the breach and to protect the operating environment; and
  - ii. Any action pertaining to such unauthorized disclosure required by applicable Federal and State laws and regulations.
  
- 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

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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 Program Contract Manager and the Department Information Security Officer.

- e) **Complete Report.** To provide a complete report of the investigation to the Department Program Contract Manager and the Department Information Security Officer within ten (10) 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(10) 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 individual notifications are required, and the corrective action plan.
  
- f) **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. § 17932 and its implementing regulations, including notification to media outlets and to the Secretary. If a breach of unsecured Department PHI involves more than 500 residents of the State of California or its jurisdiction, Contractor shall notify the Secretary of the breach immediately upon discovery of the breach. 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.

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 Privacy and Information Security Provisions

- g) **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 42 U.S.C. § 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. The Department Program Contract Manager and the Department Information Security 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.
- 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	Privacy Officer c/o: Office of HIPAA Compliance Department of Health Care Services P.O. Box 997413, MS 4722 Sacramento, CA 95899-7413  Email: <a href="mailto:privacyofficer@dhcs.ca.gov">privacyofficer@dhcs.ca.gov</a>	Information Security Officer DHCS Information Security Office P.O. Box 997413, MS 6400 Sacramento, CA 95899-7413  Email: <a href="mailto:iso@dhcs.ca.gov">iso@dhcs.ca.gov</a>  Telephone: ITSD Service Desk (916) 440-7000 or (800)

- 13) **Termination of Agreement.** In accordance with § 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, Part I, it shall take the following steps:

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- 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, Part I and cure is not possible.
- 14) **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:

- 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 C.F.R. § 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 Business Associate with the Notice of Privacy Practices that DHCS produces in accordance with 45 C.F.R. § 164.520, as well as any changes to such notice. Visit the DHCS Privacy Office to view the most current Notice of Privacy Practices at: <http://www.dhcs.ca.gov/formsandpubs/laws/priv/Pages/default.aspx> or the DHCS website at [www.dhcs.ca.gov](http://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 of Civil Rights, U.S. Department of

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Health and Human Services, that is related to the performance of its obligations pursuant to this HIPAA Business Associate Exhibit F, Part I, Contractor shall 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. § 17934(c).

**G. Termination**

- 1) **Term.** The Term of this Exhibit F, Part I, 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 C.F.R. § 164.504(e)(2)(ii)(I).
- 2) **Termination for Cause.** In accordance with 45 C.F.R. § 164.504(e)(1)(ii), upon the Department's knowledge of a material breach or violation of this Exhibit F, Part I, 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, Part I, and cure is not possible.

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Part II: 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) The Agreement between the Social Security Administration (SSA) and the Department, known as the Information Exchange Agreement (IEA), which incorporates the Computer Matching and Privacy Protection Act Agreement (CMPPA) between the SSA and the California Health and Human Services Agency. The IEA, including the CMPPA, is attached to this Exhibit F as Attachment B and is hereby incorporated in this Agreement.
- B. The purpose of this Exhibit F, Part II 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, Part I of this Agreement, the HIPAA Business Associate Addendum.
- C. The IEA Agreement referenced in A.2) above requires the Department to extend its substantive privacy and security terms to subcontractors who receive data provided to DHCS by the Social Security Administration. If Contractor receives data from DHCS that includes data provided to DHCS by the Social Security Administration, Contractor must comply with the following specific sections of the IEA Agreement: E. Security Procedures, F. Contractor/Agent Responsibilities, and G. Safeguarding and Reporting Responsibilities for Personally Identifiable Information ("PII"), and in Attachment 4 to the IEA, Electronic Information Exchange Security Requirements, Guidelines and Procedures for Federal, State and Local Agencies Exchanging Electronic Information with the Social Security Administration. Contractor must also ensure that any agents, including a subcontractor, to whom it provides DHCS data that includes data provided by the Social Security Administration, agree to the same requirements for privacy and security safeguards for such confidential data that apply to Contractor with respect to such information.
- D. The terms used in this Exhibit F, Part II, but not otherwise defined, shall have the same meanings as those terms have in the above referenced statute and

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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 the IEA and CMPPA. It shall include a "PII loss" as that term is defined in the CMPPA.
- B. "Breach of the security of the system" shall have the meaning given to such term under the California Information Practices Act, Civil Code § 1798.29(d).
- C. "CMPPA Agreement" means the Computer Matching and Privacy Protection Act Agreement between the Social Security Administration and the California Health and Human Services Agency (CHHS).
- D. "Department PI" shall mean Personal Information, as defined below, accessed 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 specified in this Agreement on behalf of the Department.
- E. "IEA" shall mean the Information Exchange Agreement currently in effect between the Social Security Administration (SSA) and the California Department of Health Care Services (DHCS).
- F. "Notice-triggering Personal Information" shall mean the personal information identified in Civil Code section 1798.29(e) whose unauthorized access may trigger notification requirements under Civil Code § 1709.29. 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 a finger or voice print, a photograph or a biometric identifier. Notice-triggering Personal Information includes PI in electronic, paper or any other medium.
- G. "Personally Identifiable Information" (PII) shall have the meaning given to such term in the IEA and CMPPA.
- H. "Personal Information" (PI) shall have the meaning given to such term in California Civil Code § 1798.3(a).
- I. "Required by law" means a mandate contained in law that compels an entity to make a use or disclosure of PI or PII 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

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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 PI, or confidential data utilized in complying with this Agreement; or interference with system operations in an information system that processes, maintains or stores PI.

**3. Terms of Agreement**

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

Except as otherwise indicated in this Exhibit F, Part II, 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; and

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- b) 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.
  - c) If the data obtained by User(s) from DHCS includes PII, User(s) shall also comply with the substantive privacy and security requirements in the Computer Matching and Privacy Protection Act Agreement between the SSA and the California Health and Human Services Agency (CHHS) and in the Agreement between the SSA and DHCS, known as the Information Exchange Agreement (IEA), which are attached as Attachment B and are incorporated into this Agreement. The specific sections of the IEA with substantive privacy and security requirements to be complied with are sections E, F, and G, and in Attachment 4 to the IEA, Electronic Information Exchange Security Requirements, Guidelines and Procedures for Federal, State and Local Agencies Exchanging Electronic Information with the SSA. The User(s) also agree to ensure that any agents, including a subcontractor, to whom they provide DHCS PII agree to the same requirements for privacy and security safeguards for confidential data that apply to the User(s) with respect to such information.
- 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, Part II.
  - 5) **Contractor's Agents and Subcontractors.** To impose the same restrictions and conditions set forth in this Exhibit F, Part II 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

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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) **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 plus 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, Part I, 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 Department Program Contract Manager and the Department Information Security Officer. 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](http://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 PHI, Contractor shall take:
    - i. Prompt corrective action to mitigate any risks or damages involved with the breach and to protect the operating environment; and

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- 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 Program Contract Manager and the Department Information Security Officer:
  
- e) **Complete Report.** To provide a complete report of the investigation to the Department Program Contract Manager and the Department Information Security Officer within ten (10) 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(10) 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 individual notifications are required, and the corrective action plan.
  
- 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 responsible for all required reporting of the breach as specified in CIPA, § 1798.29(a) – (d) and as may be required under the IEA. Contractor shall bear all costs of required notifications to individuals as well as any costs associated with the breach. The Department Program Contract Manager and the Department Information Security Officer and Privacy Officer shall approve the time, manner and content of any such notifications and their review and approval must be obtained before the notifications

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are made. The Department will provide its review and approval expeditiously and without unreasonable delay. 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.

- g) **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.

<b>Department Program Contract Manager</b>	<b>DHCS Privacy Officer</b>	<b>DHCS Information Security Officer</b>
See the Exhibit A, Scope of Work for Program Contract Manager information	Privacy Officer c/o: Office of HIPAA Compliance Department of Health Care Services P.O. Box 997413, MS 4722 Sacramento, CA 95899-7413  Email: <a href="mailto:privacyofficer@dhcs.ca.gov">privacyofficer@dhcs.ca.gov</a>	Information Security Officer DHCS Information Security Office P.O. Box 997413, MS 6400 Sacramento, CA 95899-7413  Email: <a href="mailto:iso@dhcs.ca.gov">iso@dhcs.ca.gov</a>  Telephone: ITSD Service Desk (916) 440-7000 or (800)

- 9. **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, Part II and for communicating on security matters with the Department.

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Part III: Miscellaneous Terms and Conditions Applicable to Exhibit F

**1. 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.

**2. Amendment**

A. 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. 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. The Department may terminate this Agreement upon thirty (30) days written notice in the event:

- 1) Contractor does not promptly enter into negotiations to amend this Exhibit F when requested by the Department pursuant to this section; or
- 2) 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.

**3. 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 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.

**4. 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

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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.

**5. No Third-Party Beneficiaries**

Nothing express 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.

**6. 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.

**7. 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 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.

**8. 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.

**9. Survival**

The respective rights and obligations of Contractor under Section 3, Item D of Exhibit F, Part I, Responsibilities of Contractor, shall survive the termination or expiration of this Agreement.

**10. 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.

**11. Audits, Inspection and Enforcement**

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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.

**12. 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 that its agents, subcontractors and vendors are in compliance with their obligations as required by this Exhibit F.

**13. Term**

The Term of this Exhibit F 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 C.F.R. § 164.504(e)(2)(ii)(I), and when all Department PI and PII is destroyed in accordance with Attachment A.

**14. 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.

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**Attachment A**  
Business Associate Data Security Requirements

**1. Personnel Controls**

- A. **Employee Training.** All workforce members who assist in the performance of functions or activities on behalf of the Department, or access or disclose Department PHI or PI must complete information privacy and security training, at least annually, at Contractor'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 termination of this Agreement.
- 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 Department 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 Department PHI or PI. The statement must be renewed annually. The Contractor shall retain each person's written confidentiality statement for Department inspection for a period of six (6) years following termination of this Agreement.
- D. **Background Check.** Before a member of the workforce may access Department PHI or PI, a background screening of that worker must be conducted. The screening should be commensurate with the risk and magnitude of harm the employee could cause, with more thorough screening being done for those employees who are authorized to bypass significant technical and operational security controls. The Contractor shall retain each workforce member's background check documentation for a period of three (3) years.

**2. Technical Security Controls**

- A. **Workstation/Laptop encryption.** All workstations and laptops that store Department PHI or PI either directly or temporarily must be encrypted using a FIPS 140-2 certified algorithm which is 128bit or higher, such as Advanced Encryption Standard (AES). The encryption solution must be full disk unless approved by the Department Information Security Office.
- B. **Server Security.** Servers containing unencrypted Department 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.

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- C. **Minimum Necessary.** Only the minimum necessary amount of Department PHI or PI required to perform necessary business functions may be copied, downloaded, or exported.
- D. **Removable media devices.** All electronic files that contain Department PHI or PI data must be encrypted when stored on any removable media or portable device (i.e. USB thumb drives, floppies, CD/DVD, Blackberry, 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 Department 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 Department 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. Applications and systems that cannot be patched within this time frame due to significant operational reasons must have compensatory controls implemented to minimize risk until the patches can be installed. Applications and systems that cannot be patched must have compensatory controls implemented to minimize risk, where possible.
- G. **User IDs and Password Controls.** All users must be issued a unique user name for accessing Department 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. 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 at least 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:
- 1) Upper case letters (A-Z)
  - 2) Lower case letters (a-z)
  - 3) Arabic numerals (0-9)
  - 4) Non-alphanumeric characters (punctuation symbols)
- H. **Data Destruction.** When no longer needed, all Department PHI or PI must be wiped using the Gutmann or US Department of Defense (DoD) 5220.22-M (7 Pass) standard, or by degaussing. Media may also be physically destroyed in accordance with NIST Special Publication 800-88. Other methods require prior written permission of the Department Information Security Office.

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- I. **System Timeout.** The system providing access to Department 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 Department 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 Department PHI or PI, or which alters Department 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 Department 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 Department 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 Department 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 Department PHI can be encrypted. This requirement pertains to any type of Department 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 Department PHI or PI that are accessible via the Internet must be protected by a comprehensive intrusion detection and prevention solution.

**3. Audit Controls**

- A. **System Security Review.** Contractor must ensure audit control mechanisms that record and examine system activity are in place. All systems processing and/or storing Department 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 Department 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 Department PHI or PI must have a documented change control procedure that ensures separation of duties and protects the confidentiality, integrity and availability of data.

**EXHIBIT F**  
Privacy and Information Security Provisions

**4. Business Continuity / Disaster Recovery Controls**

- A. **Emergency Mode Operation Plan.** Contractor must establish a documented plan to enable continuation of critical business processes and protection of the security of Department PHI or PI held in an electronic format 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 Department PHI to maintain retrievable exact copies of Department 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 Department PHI or PI should it be lost. At a minimum, the schedule must be a weekly full backup and monthly offsite storage of Department data.

**5. Paper Document Controls**

- A. **Supervision of Data.** Department 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. Department 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.
- B. **Escorting Visitors.** Visitors to areas where Department PHI or PI is contained shall be escorted and Department PHI or PI shall be kept out of sight while visitors are in the area.
- C. **Confidential Destruction.** Department PHI or PI must be disposed of through confidential means, such as cross cut shredding and pulverizing.
- D. **Removal of Data.** Only the minimum necessary Department PHI or PI may be removed from the premises of the Contractor except with express written permission of the Department. Department PHI or PI shall not be considered "removed from the premises" if it is only being transported from one of Contractor's locations to another of Contractor's locations.
- E. **Faxing.** Faxes containing Department 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 containing Department PHI or PI shall be sealed and secured from damage or inappropriate viewing of such PHI or PI to the extent possible.

**EXHIBIT F**  
Privacy and Information Security Provisions

Mailings which include 500 or more individually identifiable records of Department 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 the Department to use another method is obtained.

## 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

<ol style="list-style-type: none"> <li>1. Federal Equal Employment Opportunity Requirements</li> <li>2. Travel and Per Diem Reimbursement</li> <li>3. Procurement Rules</li> <li>4. Equipment Ownership / Inventory / Disposition</li> <li>5. Subcontract Requirements</li> <li>6. Income Restrictions</li> <li>7. Audit and Record Retention</li> <li>8. Site Inspection</li> <li>9. Federal Contract Funds</li> <li>10. Intellectual Property Rights</li> <li>11. Air or Water Pollution Requirements</li> <li>12. Prior Approval of Training Seminars, Workshops or Conferences</li> <li>13. Confidentiality of Information</li> <li>14. Documents, Publications, and Written Reports</li> <li>15. Dispute Resolution Process <i>(Revised 2/2012)</i></li> <li>16. Financial and Compliance Audit Requirements</li> </ol>	<ol style="list-style-type: none"> <li>17. Human Subjects Use Requirements</li> <li>18. Novation Requirements</li> <li>19. Debarment and Suspension Certification</li> <li>20. Smoke-Free Workplace Certification</li> <li>21. Covenant Against Contingent Fees</li> <li>22. Payment Withholds</li> <li>23. Performance Evaluation</li> <li>24. Officials Not to Benefit</li> <li>25. Four-Digit Date Compliance</li> <li>26. Prohibited Use of State Funds for Software</li> <li>27. Use of Small, Minority Owned and Women's Businesses</li> <li>28. Alien Ineligibility Certification</li> <li>29. Union Organizing</li> <li>30. Contract Uniformity (Fringe Benefit Allowability)</li> <li>31. Suspension or Stop Work Notification</li> <li>32. Lobbying Restrictions and Disclosure Certification</li> </ol>
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## 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 the Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor," and the Rehabilitation Act of 1973, and by the rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to its books, records, and accounts by the State and its designated representatives and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.
- f. In the event of the Contractor's noncompliance with the requirements of the provisions herein or with any federal rules, regulations, or orders which are referenced herein, this Agreement may be cancelled, terminated, or suspended in whole or in part and the Contractor may be declared ineligible for further federal and state contracts in accordance with procedures authorized in Federal Executive Order No. 11246 as amended and such other sanctions may be imposed and remedies invoked as provided in Federal Executive Order No. 11246 as amended, including by Executive Order 11375, 'Amending Executive Order 11246 Relating to Equal Employment Opportunity,' and as supplemented by regulation at 41 CFR part 60, "Office of the Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor," or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.

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

## 2. Travel and Per Diem Reimbursement

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

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

## 3. Procurement Rules

(Applicable to 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.3. 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).

- d. The Contractor and/or Subcontractor shall preserve and make available his/her records (1) for a period of three years from the date of final payment under this Agreement, and (2) for such longer period, if any, as is required by applicable statute, by any other provision of this Agreement, or by subparagraphs (1) or (2) below.
  - (1) If this Agreement is completely or partially terminated, the records relating to the work terminated shall be preserved and made available for a period of three years from the date of any resulting final settlement.
  - (2) If any litigation, claim, negotiation, audit, or other action involving the records has been started before the expiration of the three-year period, the records shall be retained until completion of the action and resolution of all issues which arise from it, or until the end of the regular three-year period, whichever is later.
- e. The Contractor and/or Subcontractor shall comply with the above requirements and be aware of the penalties for violations of fraud and for obstruction of investigation as set forth in Public Contract Code § 10115.10, if applicable.
- f. The Contractor and/or Subcontractor may, at its discretion, following receipt of final payment under this Agreement, reduce its accounts, books and records related to this Agreement to microfilm, computer disk, CD ROM, 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.
- g. The Contractor shall, if applicable, comply with the Single Audit Act and the audit reporting requirements set forth in OMB Circular A-133.

## 8. Site Inspection

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

## 9. Federal Contract Funds

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

- a. It is mutually understood between the parties that this Agreement may have been written before ascertaining the availability of congressional appropriation of funds, for the mutual benefit of both parties, in order to avoid program and fiscal delays which would occur if the Agreement were executed after that determination was made.
- b. This agreement is valid and enforceable only if sufficient funds are made available to the State by the United States Government for the fiscal years covered by the term of this Agreement. In addition, this Agreement is subject to any additional restrictions, limitations, or conditions enacted by the Congress or any statute enacted by the Congress which may affect the provisions, terms or funding of this Agreement in any manner.

- c. It is mutually agreed that if the Congress does not appropriate sufficient funds for the program, this Agreement shall be amended to reflect any reduction in funds.
- d. DHCS has the option to invalidate or cancel the Agreement with 30-days advance written notice or to amend the Agreement to reflect any reduction in funds.

## 10. Intellectual Property Rights

### a. Ownership

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

**b. Retained Rights / License Rights**

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

**c. Copyright**

- (1) Contractor agrees that for purposes of copyright law, all works [as defined in Paragraph a, subparagraph (2)(a) of this provision] of authorship made by or on behalf of Contractor in connection with Contractor's performance of this Agreement shall be deemed "works made for hire". Contractor further agrees that the work of each person utilized by Contractor in connection with the performance of this Agreement will be a "work made for hire," whether that person is an employee of Contractor or that person has entered into an agreement with Contractor to perform the work. Contractor shall enter into a written agreement with any such person that: (i) all work performed for Contractor shall be deemed a "work made for hire" under the Copyright Act and (ii) that person shall assign all right, title, and interest to DHCS to any work product made, conceived, derived from, or reduced to practice by Contractor or DHCS and which result directly or indirectly from this Agreement.
- (2) All materials, including, but not limited to, visual works or text, reproduced or distributed pursuant to this Agreement that include Intellectual Property made, conceived, derived from, or reduced to practice by Contractor or DHCS and which result directly or indirectly from this Agreement, shall include DHCS' notice of copyright, which shall read in 3mm or larger typeface: "© [Enter Current Year e.g., 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 under 40 CFR 15.5.

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

### **12. Prior Approval of Training Seminars, Workshops or Conferences**

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

### 13. Confidentiality of Information

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

### 14. Documents, Publications and Written Reports

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

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

### 15. Dispute Resolution Process

- a. A Contractor grievance exists whenever there is a dispute arising from DHCS' action in the administration of an agreement. If there is a dispute or grievance between the Contractor and DHCS, the Contractor must seek resolution using the procedure outlined below.
  - (1) The Contractor should first informally discuss the problem with the DHCS Program Contract Manager. If the problem cannot be resolved informally, the Contractor shall direct its grievance together with any evidence, in writing, to the program Branch Chief. The grievance shall state the issues in dispute, the legal authority or other basis for the Contractor's position and the remedy sought. The Branch Chief shall render a decision within ten (10) working days after receipt of the written grievance from the Contractor. The Branch Chief shall respond in writing to the Contractor indicating the decision and reasons 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 7 CFR Part 3017, 45 CFR 76, 40 CFR 32 or 34 CFR 85.
- b. By signing this Agreement, the Contractor certifies to the best of its knowledge and belief, that it and its principals:
  - (1) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded by any federal department or agency;
  - (2) Have not within a three-year period preceding this application/proposal/agreement been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
  - (3) Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State or local) with commission of any of the offenses enumerated in Paragraph b(2) herein; and
  - (4) Have not within a three-year period preceding this application/proposal/agreement had one or more public transactions (Federal, State or local) terminated for cause or default.
  - (5) Shall not knowingly enter into any lower tier covered transaction with a person who is proposed for debarment under federal regulations (i.e., 48 CFR part 9, subpart 9.4), debarred, suspended, declared ineligible, or voluntarily excluded from participation in such transaction, unless authorized by the State.
  - (6) Will include a clause entitled, "Debarment and Suspension Certification" that essentially sets forth the provisions herein, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.
- c. If the Contractor is unable to certify to any of the statements in this certification, the Contractor shall submit an explanation to the DHCS Program Contract Manager.
- d. The terms and definitions herein have the meanings set out in the Definitions and Coverage sections of the rules implementing Federal Executive Order 12549.
- e. If the Contractor knowingly violates this certification, in addition to other remedies available to the Federal Government, the DHCS may terminate this Agreement for cause or default.

**20. Smoke-Free Workplace Certification**

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

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

**21. Covenant Against Contingent Fees**

(Applicable only to federally funded agreements.)

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

**22. Payment Withholds**

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

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

**23. Performance Evaluation**

(Not applicable to grant agreements.)

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

**24. Officials Not to Benefit**

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

**25. Four-Digit Date Compliance**

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

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

**26. Prohibited Use of State Funds for Software**

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

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

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

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

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

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

**28. Alien Ineligibility Certification**

(Applicable to sole proprietors entering federally funded agreements.)

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

**29. Union Organizing**

(Applicable only to grant agreements.)

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

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

**30. Contract Uniformity (Fringe Benefit Allowability)**

(Applicable only to nonprofit organizations.)

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

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

## f. Earned/Accrued Compensation

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

(a) **Example No. 1:**

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

(b) **Example No. 2:**

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

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

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

**31. 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. 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.

Attachment 2

**CERTIFICATION REGARDING LOBBYING**

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

Approved by OMB  
0348-0046

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

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

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

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

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

**INFORMATION EXCHANGE AGREEMENT  
BETWEEN  
THE SOCIAL SECURITY ADMINISTRATION (SSA)  
AND  
THE CALIFORNIA DEPARTMENT OF HEALTH CARE SERVICES (STATE AGENCY)**

**A. PURPOSE:** The purpose of this Information Exchange Agreement ("IEA") is to establish terms, conditions, and safeguards under which SSA will disclose to the State Agency certain information, records, or data (herein "data") to assist the State Agency in administering certain federally funded state-administered benefit programs (including state-funded state supplementary payment programs under Title XVI of the Social Security Act) identified in this IEA. By entering into this IEA, the State Agency agrees to comply with:

- the terms and conditions set forth in the Computer Matching and Privacy Protection Act Agreement ("CMPPA Agreement") attached as **Attachment 1**, governing the State Agency's use of the data disclosed from SSA's Privacy Act System of Records; and
- all other terms and conditions set forth in this IEA.

**B. PROGRAMS AND DATA EXCHANGE SYSTEMS:** (1) The State Agency will use the data received or accessed from SSA under this IEA for the purpose of administering the federally funded, state-administered programs identified in **Table 1** below. In **Table 1**, the State Agency has identified: (a) each federally funded, state-administered program that it administers; and (b) each SSA data exchange system to which the State Agency needs access in order to administer the identified program. The list of SSA's data exchange systems is attached as **Attachment 2**:

**TABLE 1**

<b>FEDERALLY FUNDED BENEFIT PROGRAMS</b>	
Program	SSA Data Exchange System(s)
<input checked="" type="checkbox"/> Medicaid	BENDEX/SDX/EVS/SVES/SOLQ/SVES I-Citizenship /Quarters of Coverage/Prisoner Query
<input type="checkbox"/> Temporary Assistance to Needy Families (TANF)	
<input type="checkbox"/> Supplemental Nutrition Assistance Program (SNAP- formally Food Stamps)	
<input type="checkbox"/> Unemployment Compensation (Federal)	
<input type="checkbox"/> Unemployment Compensation (State)	
<input type="checkbox"/> State Child Support Agency	
<input type="checkbox"/> Low-Income Home Energy Assistance Program (LI-HEAP)	
<input type="checkbox"/> Workers Compensation	
<input type="checkbox"/> Vocational Rehabilitation Services	



<input type="checkbox"/> Foster Care (IV-E)	
<input type="checkbox"/> State Health Insurance Program (S-CHIP)	
<input type="checkbox"/> Women, Infants and Children (W.I.C.)	
<input checked="" type="checkbox"/> Medicare Savings Programs (MSP)	LIS File
<input checked="" type="checkbox"/> Medicare 1144 (Outreach)	Medicare 1144 Outreach File
<input type="checkbox"/> <i>Other Federally Funded, State-Administered Programs (List Below)</i>	
Program	SSA Data Exchange System(s)

(2) The State Agency will use each identified data exchange system only for the purpose of administering the specific program for which access to the data exchange system is provided. SSA data exchange systems are protected by the Privacy Act and federal law prohibits the use of SSA's data for any purpose other than the purpose of administering the specific program for which such data is disclosed. In particular, the State Agency will use: (a) the **tax return data** disclosed by SSA only to determine individual eligibility for, or the amount of, assistance under a state plan pursuant to Section 1137 programs and child support enforcement programs in accordance with 26 U.S.C. § 6103(1)(8); and (b) the **citizenship status data** disclosed by SSA under the Children's Health Insurance Program Reauthorization Act of 2009, Pub. L. 111-3, only for the purpose of determining entitlement to Medicaid and CHIP program for new applicants. The State Agency also acknowledges that SSA's citizenship data may be less than 50 percent current. Applicants for SSNs report their citizenship data at the time they apply for their SSNs; there is no obligation for an individual to report to SSA a change in his or her immigration status until he or she files a claim for benefits.

**C. PROGRAM QUESTIONNAIRE:** Prior to signing this IEA, the State Agency will complete and submit to SSA a program questionnaire for each of the federally funded, state-administered programs checked in **Table 1** above. SSA will not disclose any data under this IEA until it has received and approved the completed program questionnaire for each of the programs identified in **Table 1** above.



**D. TRANSFER OF DATA:** SSA will transmit the data to the State Agency under this IEA using the data transmission method identified in **Table 2** below:

**TABLE 2**

<b>TRANSFER OF DATA</b>
<input type="checkbox"/> Data will be transmitted directly between SSA and the State Agency.
<input checked="" type="checkbox"/> Data will be transmitted directly between SSA and the California Office of Technology (State Transmission/Transfer Component ("STC")) by the File Transfer Management System, a secure mechanism approved by SSA. The STC will serve as the conduit between SSA and the State Agency pursuant to the State STC Agreement.
<input type="checkbox"/> Data will be transmitted directly between SSA and the Interstate Connection Network ("ICON"). ICON is a wide area telecommunications network connecting state agencies that administer the state unemployment insurance laws. When receiving data through ICON, the State Agency will comply with the "Systems Security Requirements for SSA Web Access to SSA Information Through the ICON," attached as <b>Attachment 3</b> .

**E. SECURITY PROCEDURES:** The State Agency will comply with limitations on use, treatment, and safeguarding of data under the Privacy Act of 1974 (5 U.S.C. 552a), as amended by the Computer Matching and Privacy Protection Act of 1988, related Office of Management and Budget guidelines, the Federal Information Security Management Act of 2002 (44 U.S.C. § 3541, et seq.), and related National Institute of Standards and Technology guidelines. In addition, the State Agency will comply with SSA's "Information System Security Guidelines for Federal, State and Local Agencies Receiving Electronic Information from the Social Security Administration," attached as **Attachment 4**. For any tax return data, the State Agency will also comply with the "Tax Information Security Guidelines for Federal, State and Local Agencies," Publication 1075, published by the Secretary of the Treasury and available at the following Internal Revenue Service (IRS) website: <http://www.irs.gov/pub/irs-pdf/p1075.pdf>. This IRS Publication 1075 is incorporated by reference into this IEA.

**F. CONTRACTOR/AGENT RESPONSIBILITIES:** The State Agency will restrict access to the data obtained from SSA to only those authorized State employees, contractors, and agents who need such data to perform their official duties in connection with purposes identified in this IEA. At SSA's request, the State Agency will obtain from each of its contractors and agents a current list of the employees of its contractors and agents who have access to SSA data disclosed under this IEA. The State Agency will require its contractors, agents, and all employees of such contractors or agents with authorized access to the SSA data disclosed under this IEA, to comply with the terms and conditions set forth in this IEA, and not to duplicate, disseminate, or disclose such data without obtaining SSA's prior written approval. In addition, the State Agency will comply with the limitations on use, duplication, and redisclosure of SSA data set forth in Section IX. of the CMPPA Agreement, especially with respect to its contractors and agents.



**G. SAFEGUARDING AND REPORTING RESPONSIBILITIES FOR PERSONALLY IDENTIFIABLE INFORMATION ("PII"):**

1. The State Agency will ensure that its employees, contractors, and agents:
  - a. properly safeguard PII furnished by SSA under this IEA from loss, theft or inadvertent disclosure;
  - b. understand that they are responsible for safeguarding this information at all times, regardless of whether or not the State employee, contractor, or agent is at his or her regular duty station;
  - c. ensure that laptops and other electronic devices/media containing PII are encrypted and/or password protected;
  - d. send emails containing PII only if encrypted or if to and from addresses that are secure; and
  - e. limit disclosure of the information and details relating to a PII loss only to those with a need to know.
2. If an employee of the State Agency or an employee of the State Agency's contractor or agent becomes aware of suspected or actual loss of PII, he or she must immediately contact the State Agency official responsible for Systems Security designated below or his or her delegate. That State Agency official or delegate must then notify the SSA Regional Office Contact and the SSA Systems Security Contact identified below. If, for any reason, the responsible State Agency official or delegate is unable to notify the SSA Regional Office or the SSA Systems Security Contact within 1 hour, the responsible State Agency official or delegate must call SSA's Network Customer Service Center ("NCSC") at 410-965-7777 or toll free at 1-888-772-6661 to report the actual or suspected loss. The responsible State Agency official or delegate will use the worksheet, attached as **Attachment 5**, to quickly gather and organize information about the incident. The responsible State Agency official or delegate must provide to SSA timely updates as any additional information about the loss of PII becomes available.
3. SSA will make the necessary contact within SSA to file a formal report in accordance with SSA procedures. SSA will notify the Department of Homeland Security's United States Computer Emergency Readiness Team if loss or potential loss of PII related to a data exchange under this IEA occurs.
4. If the State Agency experiences a loss or breach of data, it will determine whether or not to provide notice to individuals whose data has been lost or breached and bear any costs associated with the notice or any mitigation.



## H. POINTS OF CONTACT:

### FOR SSA

#### **San Francisco Regional Office:**

Ellery Brown  
Data Exchange Coordinator  
Frank Hagel Federal Building  
1221 Nevin Avenue  
Richmond CA 94801  
Phone: (510) 970-8243  
Fax: (510) 970-8101  
Email: [Ellery.Brown@ssa.gov](mailto:Ellery.Brown@ssa.gov)

#### **Systems Issues:**

Pamela Riley  
Office of Earnings, Enumeration &  
Administrative Systems  
DIVES/Data Exchange Branch  
6401 Security Boulevard  
Baltimore, MD 21235  
Phone: (410) 965-7993  
Fax: (410) 966-3147  
Email: [Pamela.Riley@ssa.gov](mailto:Pamela.Riley@ssa.gov)

### FOR STATE AGENCY

#### **Agreement Issues:**

Manuel Urbina  
Chief, Security Unit  
Policy Operations Branch  
Medi-Cal Eligibility Division  
1501 Capitol Avenue, MS 4607  
Sacramento, CA 95814  
Phone: (916) 650-0160  
Email: [Manuel.Urbina@dhcs.ca.gov](mailto:Manuel.Urbina@dhcs.ca.gov)

#### **Data Exchange Issues:**

Guy Fortson  
Office of Electronic Information Exchange  
GD10 East High Rise  
6401 Security Boulevard  
Baltimore, MD 21235  
Phone: (410) 597-1103  
Fax: (410) 597-0841  
Email: [guy.fortson@ssa.gov](mailto:guy.fortson@ssa.gov)

#### **Systems Security Issues:**

Michael G. Johnson  
Acting Director  
Office of Electronic Information Exchange  
Office of Strategic Services  
6401 Security Boulevard  
Baltimore, MD 21235  
Phone: (410) 965-0266  
Fax: (410) 966-0527  
Email: [Michael.G.Johnson@ssa.gov](mailto:Michael.G.Johnson@ssa.gov)

#### **Technical Issues:**

Fei Collier  
Chief, Application Support Branch  
Information Technology Services Division  
1615 Capitol Ave, MS 6100  
Sacramento, CA 95814  
Phone: (916) 440-7036  
Email: [Fei.Collier@dhcs.ca.gov](mailto:Fei.Collier@dhcs.ca.gov)

- I. **DURATION:** The effective date of this IEA is January 1, 2010. This IEA will remain in effect for as long as: (1) a CMPPA Agreement governing this IEA is in effect between SSA and the State or the State Agency; and (2) the State Agency submits a certification in accordance with Section J. below at least 30 days before the expiration and renewal of such CMPPA Agreement.



**J. CERTIFICATION AND PROGRAM CHANGES:** At least 30 days before the expiration and renewal of the State CMPPA Agreement governing this IEA, the State Agency will certify in writing to SSA that: (1) it is in compliance with the terms and conditions of this IEA; (2) the data exchange processes under this IEA have been and will be conducted without change; and (3) it will, upon SSA's request, provide audit reports or other documents that demonstrate review and oversight activities. If there are substantive changes in any of the programs or data exchange processes listed in this IEA, the parties will modify the IEA in accordance with Section K. below and the State Agency will submit for SSA's approval new program questionnaires under Section C. above describing such changes prior to using SSA's data to administer such new or changed program.

**K. MODIFICATION:** Modifications to this IEA must be in writing and agreed to by the parties.

**L. TERMINATION:** The parties may terminate this IEA at any time upon mutual written consent. In addition, either party may unilaterally terminate this IEA upon 90 days advance written notice to the other party. Such unilateral termination will be effective 90 days after the date of the notice, or at a later date specified in the notice.

SSA may immediately and unilaterally suspend the data flow under this IEA, or terminate this IEA, if SSA, in its sole discretion, determines that the State Agency (including its employees, contractors, and agents) has: (1) made an unauthorized use or disclosure of SSA-supplied data; or (2) violated or failed to follow the terms and conditions of this IEA or the CMPPA Agreement.

**M. INTEGRATION:** This IEA, including all attachments, constitutes the entire agreement of the parties with respect to its subject matter. There have been no representations, warranties, or promises made outside of this IEA. This IEA shall take precedence over any other document that may be in conflict with it.

#### **ATTACHMENTS**

- 1 – CMPPA Agreement
- 2 – SSA Data Exchange Systems
- 3 – Systems Security Requirements for SSA Web Access to SSA Information Through ICON
- 4 – Information System Security Guidelines for Federal, State and Local Agencies Receiving Electronic Information from the Social Security Administration
- 5 – PII Loss Reporting Worksheet



N. **SSA AUTHORIZED SIGNATURE:** The signatory below warrants and represents that he or she has the competent authority on behalf of SSA to enter into the obligations set forth in this IEA.

SOCIAL SECURITY ADMINISTRATION

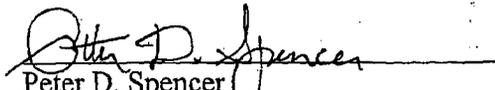
  
\_\_\_\_\_  
Michael G. Gallagher  
Assistant Deputy Commissioner  
for Budget, Finance and Management

5/13/05  
Date



**O. REGIONAL AND STATE AGENCY SIGNATURES:**

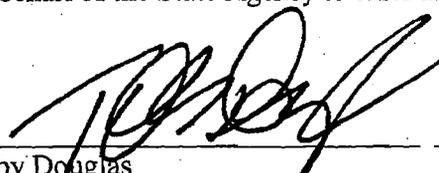
SOCIAL SECURITY ADMINISTRATION  
REGION IX

  
Peter D. Spencer  
San Francisco Regional Commissioner

10/26/09  
Date

THE CALIFORNIA DEPARTMENT OF HEALTH CARE SERVICES

The signatory below warrants and represents that he or she has the competent authority on behalf of the State Agency to enter into the obligations set forth in this IEA.

  
Toby Douglas  
Chief Deputy Director, Health Care Programs

10/11/09  
Date



**CERTIFICATION OF COMPLIANCE  
FOR  
THE INFORMATION EXCHANGE AGREEMENT  
BETWEEN  
THE SOCIAL SECURITY ADMINISTRATION (SSA)  
AND  
THE CALIFORNIA DEPARTMENT OF HEALTH CARE SERVICES (STATE  
AGENCY)  
(State Agency Level)**

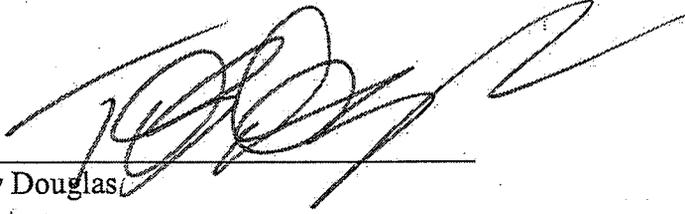
In accordance with the terms of the Information Exchange Agreement (IEA/F) between SSA and the State Agency, the State Agency, through its authorized representative, hereby certifies that, as of the date of this certification:

1. The State Agency is in compliance with the terms and conditions of the IEA/F;
2. The State Agency has conducted the data exchange processes under the IEA/F without change, except as modified in accordance with the IEA/F;
3. The State Agency will continue to conduct the data exchange processes under the IEA/F without change, except as may be modified in accordance with the IEA/F;
4. Upon SSA's request, the State Agency will provide audit reports or other documents that demonstrate compliance with the review and oversight activities required under the IEA/F and the governing Computer Matching and Privacy Protection Act Agreement; and
5. In compliance with the requirements of the "Electronic Information Exchange Security Requirements, Guidelines, and Procedures for State and Local Agencies Exchanging Electronic Information with the Social Security Administration," Attachment 4 to the IEA/F, as periodically updated by SSA, the State Agency has not made any changes in the following areas that could potentially affect the security of SSA data:
  - General System Security Design and Operating Environment
  - System Access Control
  - Automated Audit Trail
  - Monitoring and Anomaly Detection
  - Management Oversight
  - Data and Communications Security

The State Agency will submit an updated Security Design Plan at least 30 days prior to making any changes to the areas listed above.

The signatory below warrants and represents that he or she is a representative of the State Agency duly authorized to make this certification on behalf of the State Agency.

**DEPARTMENT OF HEALTH CARE SERVICES OF CALIFORNIA**



\_\_\_\_\_  
Toby Douglas  
Director

4/12/12

\_\_\_\_\_  
Date

**ATTACHMENT 1**

**COMPUTER MATCHING AND PRIVACY  
PROTECTION ACT AGREEMENT**

COMPUTER MATCHING AND PRIVACY PROTECTION ACT AGREEMENT  
BETWEEN  
THE SOCIAL SECURITY ADMINISTRATION  
AND  
THE HEALTH AND HUMAN SERVICES AGENCY  
OF CALIFORNIA

**I. Purpose and Legal Authority**

**A. Purpose**

This Computer Matching and Privacy Protection Act (CMPPA) Agreement between the Social Security Administration (SSA) and the California Health and Human Services Agency (State Agency), sets forth the terms and conditions governing disclosures of records, information, or data (collectively referred to herein "data") made by SSA to the State Agency that administers federally funded benefit programs under various provisions of the Social Security Act (Act), such as section 1137 (42 U.S.C. § 1320b-7), including the state-funded state supplementary payment programs under title XVI of the Act. The terms and conditions of this Agreement ensure that SSA makes such disclosures of data, and the State Agency uses such disclosed data, in accordance with the requirements of the Privacy Act of 1974, as amended by the Computer Matching and Privacy Protection Act of 1988, 5 U.S.C. § 552a.

Under section 1137 of the Act, the State Agency is required to use an income and eligibility verification system to administer specified federally funded benefit programs, including the state-funded state supplementary payment programs under title XVI of the Act. To assist the State Agency in determining entitlement to and eligibility for benefits under those programs, as well as other federally funded benefit programs, SSA discloses certain data about applicants for state benefits from SSA Privacy Act Systems of Records (SOR) and verifies the Social Security numbers (SSN) of the applicants.

**B. Legal Authority**

SSA's authority to disclose data and the State Agency's authority to collect, maintain, and use data protected under SSA SORs for specified purposes is:

- Sections 1137, 453, and 1106(b) of the Act (42 U.S.C. §§ 1320b-7, 653, and 1306(b)) (income and eligibility verification data);
- 26 U.S.C. § 6103(l)(7) and (8) (tax return data);
- Section 202(x)(3)(B)(iv) of the Act (42 U.S.C. § 401(x)(3)(B)(iv)) (prisoner data);
- Section 1611(e)(1)(I)(iii) of the Act (42 U.S.C. § 1382(e)(1)(I)(iii)) (SSI);

- Section 205(r)(3) of the Act (42 U.S.C. § 405(r)(3)) and the Intelligence Reform and Terrorism Prevention Act of 2004, Pub. L. 108-458, § 7213(a)(2) (death data);
- Sections 402, 412, 421, and 435 of Pub. L. 104-193 (8 U.S.C. §§ 1612, 1622, 1631, and 1645) (quarters of coverage data);
- Children's Health Insurance Program Reauthorization Act of 2009, Pub. L. 111-3 (citizenship data); and
- Routine use exception to the Privacy Act, 5 U.S.C. § 552a(b)(3) (data necessary to administer other programs compatible with SSA programs).

This Agreement further carries out section 1106(a) of the Act (42 U.S.C. § 1306), the regulations promulgated pursuant to that section (20 C.F.R. Part 401), the Privacy Act of 1974 (5 U.S.C. § 552a), as amended by the CMPPA, related Office of Management and Budget (OMB) guidelines, the Federal Information Security Management Act of 2002 (FISMA) (44 U.S.C. § 3541, et seq.), and related National Institute of Standards and Technology (NIST) guidelines, which provide the requirements that the State Agency must follow with regard to use, treatment, and safeguarding of data.

## II. Scope

- A. The State Agency will comply with the terms and conditions of this Agreement and the Privacy Act, as amended by the CMPPA.
- B. The State Agency will execute one or more Information Exchange Agreements (IEA) with SSA, documenting additional terms and conditions applicable to those specific data exchanges, including the particular benefit programs administered by the State Agency, the data elements that will be disclosed, and the data protection requirements implemented to assist the State Agency in the administration of those programs.
- C. The State Agency will use the SSA data governed by this Agreement to determine entitlement and eligibility of individuals for one or more of the following programs:
  1. Temporary Assistance to Needy Families (TANF) program under Part A of title IV of the Act;
  2. Medicaid provided under an approved State plan or an approved waiver under title XIX of the Act;
  3. State Children's Health Insurance Program (CHIP) under title XXI of the Act, as amended by the Children's Health Insurance Program Reauthorization Act of 2009;
  4. Supplemental Nutritional Assistance Program (SNAP) under the Food Stamp Act of 1977 (7 U.S.C. § 2011, et seq.);

5. Women, Infants and Children Program (WIC) under the Child Nutrition Act of 1966 (42 U.S.C. § 1771, et seq.);
  6. Medicare Savings Programs (MSP) under 42 U.S.C. § 1396a(10)(E);
  7. Unemployment Compensation programs provided under a state law described in section 3304 of the Internal Revenue Code of 1954;
  8. Low Income Heating and Energy Assistance (LIHEAP or home energy grants) program under 42 U.S.C. § 8621;
  9. State-administered supplementary payments of the type described in section 1616(a) of the Act;
  10. Programs under a plan approved under titles I, X, XIV or XVI of the Act;
  11. Foster Care and Adoption Assistance under title IV of the Act;
  12. Child Support Enforcement programs under section 453 of the Act (42 U.S.C. § 653);
  13. Other applicable federally funded programs administered by the State Agency under titles I, IV, X, XIV, XVI, XVIII, XIX, XX and XXI of the Act; and
  14. Any other federally funded programs administered by the State Agency that are compatible with SSA's programs.
- D. The State Agency will ensure that SSA data disclosed for the specific purpose of administering a particular federally funded benefit program is used only to administer that program.

### **III. Justification and Expected Results**

#### **A. Justification**

This Agreement and related data exchanges with the State Agency are necessary for SSA to assist the State Agency in its administration of federally funded benefit programs by providing the data required to accurately determine entitlement and eligibility of individuals for benefits provided under these programs. SSA uses computer technology to transfer the data because it is more economical, efficient, and faster than using manual processes.

#### **B. Expected Results**

The State Agency will use the data provided by SSA to improve public service and program efficiency and integrity. The use of SSA data expedites the application process and ensures that benefits are awarded only to applicants that satisfy the State Agency's program criteria. A cost-benefit analysis for the exchange made under this Agreement is not required in accordance with the determination by the SSA Data Integrity Board (DIB) to waive such analysis pursuant to 5 U.S.C. § 552a(u)(4)(B).

## IV. Record Description

### A. Systems of Records

SSA SORs used for purposes of the subject data exchanges include:

- 60-0058 -- Master Files of SSN Holders and SSN Applications (accessible through EVS, SVES, or Quarters of Coverage Query data systems);
- 60-0059 -- Earnings Recording and Self-Employment Income System (accessible through BENDEX, SVES, or Quarters of Coverage Query data systems);
- 60-0090 -- Master Beneficiary Record (accessible through BENDEX or SVES data systems);
- 60-0103 -- Supplemental Security Income Record (SSR) and Special Veterans Benefits (SVB) (accessible through SDX or SVES data systems);
- 60-0269 -- Prisoner Update Processing System (PUPS) (accessible through SVES or Prisoner Query data systems).
- 60-0321 -- Medicare Part D and Part D Subsidy File

The State Agency will only use the tax return data contained in **SOR 60-0059** (Earnings Recording and Self-Employment Income System) in accordance with 26 U.S.C. § 6103.

### B. Data Elements

Data elements disclosed in computer matching governed by this Agreement are Personally Identifiable Information (PII) from specified SSA SORs, including names, SSNs, addresses, amounts, and other information related to SSA benefits, and earnings information. Specific listings of data elements are available at:

<http://www.ssa.gov/gix/>

### C. Number of Records Involved

The number of records for each program covered under this Agreement is equal to the number of title II, title XVI, or title XVIII recipients resident in the State as recorded in SSA's Annual Statistical Supplement found on the Internet at:

<http://www.ssa.gov/policy/docs/statcomps/>

This number will fluctuate during the term of this Agreement, corresponding to the number of title II, title XVI, and title XVIII recipients added to, or deleted from, SSA databases during the term of this Agreement.

## V. Notice and Opportunity to Contest Procedures

### A. Notice to Applicants

The State Agency will notify all individuals who apply for federally funded, state-administered benefits under the Act that any data they provide are subject to verification through computer matching with SSA. The State Agency and SSA will provide such notice through appropriate language printed on application forms or separate handouts.

### B. Notice to Beneficiaries/Recipients/Annuitants

The State Agency will provide notice to beneficiaries, recipients, and annuitants under the programs covered by this Agreement informing them of ongoing computer matching with SSA. SSA will provide such notice through publication in the Federal Register and periodic mailings to all beneficiaries, recipients, and annuitants describing SSA's matching activities.

### C. Opportunity to Contest

The State Agency will not terminate, suspend, reduce, deny, or take other adverse action against an applicant for or recipient of federally funded, state-administered benefits based on data disclosed by SSA from its SORs until the individual is notified in writing of the potential adverse action and provided an opportunity to contest the planned action. "Adverse action" means any action that results in a termination, suspension, reduction, or final denial of eligibility, payment, or benefit. Such notices will:

1. Inform the individual of the match findings and the opportunity to contest these findings;
2. Give the individual until the expiration of any time period established for the relevant program by a statute or regulation for the individual to respond to the notice. If no such time period is established by a statute or regulation for the program, a 30-day period will be provided. The time period begins on the date on which notice is mailed or otherwise provided to the individual to respond; and
3. Clearly state that, unless the individual responds to the notice in the required time period, the State Agency will conclude that the SSA data are correct and will effectuate the threatened action or otherwise make the necessary adjustment to the individual's benefit or entitlement.

## **VI. Records Accuracy Assessment and Verification Procedures**

The State Agency may use SSA's benefit data without independent verification. SSA has independently assessed the accuracy of its benefits data to be more than 99 percent accurate when they are created.

Prisoner and death data, some of which is not independently verified by SSA, does not have the same degree of accuracy as SSA's benefit data. Therefore, the State Agency must independently verify these data through applicable State verification procedures and the notice and opportunity to contest procedures specified in Section V of this Agreement before taking any adverse action against any individual.

SSA's citizenship data may be less than 50 percent current. Applicants for SSNs report their citizenship status at the time they apply for their SSNs. There is no obligation for an individual to report to SSA a change in his or her immigration status until he or she files a claim for benefits.

## **VII. Disposition and Records Retention of Matched Items**

- A. The State Agency will retain all data received from SSA to administer programs governed by this Agreement only for the required processing times for the applicable federally funded benefit programs and will then destroy all such data.
- B. The State Agency may retain SSA data in hardcopy to meet evidentiary requirements, provided that they retire such data in accordance with applicable state laws governing the State Agency's retention of records.
- C. The State Agency may use any accretions, deletions, or changes to the SSA data governed by this Agreement to update their master files of federally funded, state-administered benefit program applicants and recipients and retain such master files in accordance with applicable state laws governing the State Agency's retention of records.
- D. The State Agency may not create separate files or records comprised solely of the data provided by SSA to administer programs governed by this Agreement.
- E. SSA will delete electronic data input files received from the State Agency after it processes the applicable match. SSA will retire its data in accordance with the Federal Records Retention Schedule (44 U.S.C. § 3303a).

## **VIII. Security Procedures**

The State Agency will comply with the security and safeguarding requirements of the Privacy Act, as amended by the CMPPA, related OMB guidelines, FISMA, related

NIST guidelines, and the current revision of IRS Publication 1075, *Tax Information Security Guidelines for Federal, State and Local Agencies and Entities*, available at <http://www.irs.gov>. In addition, the State Agency will have in place administrative, technical, and physical safeguards for the matched data and results of such matches. Additional administrative, technical, and physical security requirements governing all data SSA provides electronically to the State Agency, including specific guidance on safeguarding and reporting responsibilities for PII, are set forth in the IEAs.

#### **IX. Records Usage, Duplication, and Rediscovery Restrictions**

- A. The State Agency will use and access SSA data and the records created using that data only for the purpose of verifying eligibility for the specific federally funded benefit programs identified in the IEA.
- B. The State Agency will comply with the following limitations on use, duplication, and rediscovery of SSA data:
  1. The State Agency will not use or rediscover the data disclosed by SSA for any purpose other than to determine eligibility for, or the amount of, benefits under the state-administered income/health maintenance programs identified in this Agreement.
  2. The State Agency will not use the data disclosed by SSA to extract information concerning individuals who are neither applicants for, nor recipients of, benefits under the state-administered income/health maintenance programs identified in this Agreement.
  3. The State Agency will use the **Federal tax information (FTI)** disclosed by SSA only to determine individual eligibility for, or the amount of, assistance under a state plan pursuant to section 1137 programs and child support enforcement programs in accordance with 26 U.S.C. § 6103(l)(7) and (8). The State Agency receiving FTI will maintain all FTI from IRS in accordance with 26 U.S.C. § 6103(p)(4) and the IRS Publication 1075. Contractors and agents acting on behalf of the State Agency will only have access to tax return data where specifically authorized by 26 U.S.C. § 6103 and the IRS Publication 1075.
  4. The State Agency will use the **citizenship status data** disclosed by SSA under the Children's Health Insurance Program Reauthorization Act of 2009, Pub. L. 111-3, only for the purpose of determining entitlement to Medicaid and CHIP programs for new applicants.
  5. The State Agency will restrict access to the data disclosed by SSA to only those authorized State employees, contractors, and agents who need such data

to perform their official duties in connection with the purposes identified in this Agreement.

6. The State Agency will enter into a written agreement with each of its contractors and agents who need SSA data to perform their official duties whereby such contractor or agent agrees to abide by all relevant Federal laws, restrictions on access, use, and disclosure, and security requirements in this Agreement. The State Agency will provide its contractors and agents with copies of this Agreement, related IEAs, and all related attachments before initial disclosure of SSA data to such contractors and agents. Prior to signing this Agreement, and thereafter at SSA's request, the State Agency will obtain from its contractors and agents a current list of the employees of such contractors and agents with access to SSA data and provide such lists to SSA.
  7. The State Agency's employees, contractors, and agents who access, use, or disclose SSA data in a manner or purpose not authorized by this Agreement may be subject to civil and criminal sanctions pursuant to applicable Federal statutes.
- C. The State Agency will not duplicate in a separate file or disseminate, without prior written permission from SSA, the data governed by this Agreement for any purpose other than to determine entitlement to, or eligibility for, federally funded benefits. The State Agency proposing the redisclosure must specify in writing to SSA what data are being disclosed, to whom, and the reasons that justify the redisclosure. SSA will not give permission for such redisclosure unless the redisclosure is required by law or essential to the conduct of the matching program and authorized under a routine use.

## **X. Comptroller General Access**

The Comptroller General (the Government Accountability Office) may have access to all records of the State Agency that the Comptroller General deems necessary to monitor and verify compliance with this Agreement in accordance with 5 U.S.C. § 552a(o)(1)(K).

## **XI. Duration, Modification, and Termination of the Agreement**

### **A. Duration**

1. This Agreement is effective from July 1, 2012 (Effective Date) through December 31, 2013 (Expiration Date).
2. In accordance with the CMPPA, SSA will: (a) publish a Computer Matching Notice in the Federal Register at least 30 days prior to the

Effective Date; (b) send required notices to the Congressional committees of jurisdiction under 5 U.S.C. § 552a(o)(2)(A)(i) at least 40 days prior to the Effective Date; and (c) send the required report to the OMB at least 40 days prior to the Effective Date.

3. Within 3 months prior the Expiration Date, the SSA DIB may, without additional review, renew this Agreement for a period not to exceed 12 months, pursuant to 5 U.S.C. § 552a(o)(2)(D), if:
  - the applicable data exchange will continue without any change; and
  - SSA and the State Agency certify to the DIB in writing that the applicable data exchange has been conducted in compliance with this Agreement.
4. If either SSA or the State Agency does not wish to renew this Agreement, it must notify the other party of its intent not to renew at least 3 months prior to the Expiration Date.

#### B. Modification

Any modification to this Agreement must be in writing, signed by both parties, and approved by the SSA DIB.

#### C. Termination

The parties may terminate this Agreement at any time upon mutual written consent of both parties. Either party may unilaterally terminate this Agreement upon 90 days advance written notice to the other party; such unilateral termination will be effective 90 days after the date of the notice, or at a later date specified in the notice.

SSA may immediately and unilaterally suspend the data flow or terminate this Agreement if SSA determines, in its sole discretion, that the State Agency has violated or failed to comply with this Agreement.

## XII. Reimbursement

In accordance with section 1106(b) of the Act, the Commissioner of SSA has determined not to charge the State Agency the costs of furnishing the electronic data from the SSA SORs under this Agreement.

**XIII. Disclaimer**

SSA is not liable for any damages or loss resulting from errors in the data provided to the State Agency under any IEAs governed by this Agreement. Furthermore, SSA is not liable for any damages or loss resulting from the destruction of any materials or data provided by the State Agency.

**XIV. Points of Contact****A. SSA Point of Contact****Regional Office**

Martin White, Director  
San Francisco Regional Office, Center for Programs Support  
1221 Nevin Ave  
Richmond CA 94801  
Phone: (510) 970-8243/Fax: (510) 970-8101  
[Martin.White@ssa.gov](mailto:Martin.White@ssa.gov)

**B. State Agency Point of Contact**

Sonia Herrera  
Health and Human Services Agency  
1600 Ninth Street, Room 460  
Sacramento, CA 95814  
Phone: (916) 654-3459/Fax: (916) 44-5001  
[sherrera@chhs.ca.gov](mailto:sherrera@chhs.ca.gov)

**XV. SSA and Data Integrity Board Approval of Model CMPPA Agreement**

The signatories below warrant and represent that they have the competent authority on behalf of SSA to approve the model of this CMPPA Agreement.

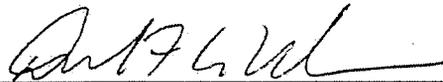
**SOCIAL SECURITY ADMINISTRATION**

Dawn S. Wiggins  
Deputy Executive Director  
Office of Privacy and Disclosure  
Office of the General Counsel

1-17-2012

Date

I certify that the SSA Data Integrity Board approved the model of this CMPPA Agreement.



Daniel F. Callahan  
Chair  
SSA Data Integrity Board

1-26-2012

Date

**XVI. Authorized Signatures**

The signatories below warrant and represent that they have the competent authority on behalf of their respective agencies to enter into the obligations set forth in this Agreement.

**SOCIAL SECURITY ADMINISTRATION**

*Patty Koludart*  
\_\_\_\_\_  
for Bill Zieliński  
Regional Commissioner  
San Francisco

*05/10/2012*  
\_\_\_\_\_  
Date

**HEALTH AND HUMAN SERVICES AGENCY**

*Diana S. Dooley*  
\_\_\_\_\_  
Diana S. Dooley  
Secretary  
*April 27, 2012*  
\_\_\_\_\_  
Date

**ATTACHMENT 2**

**AUTHORIZED DATA EXCHANGE SYSTEM(S)**

**Authorized Data Exchange System(s)**

**BEER (Beneficiary Earnings Exchange Record):** Employer data for the last calendar year.

**BENDEX (Beneficiary and Earnings Data Exchange):** Primary source for Title II eligibility, benefit and demographic data.

**LIS (Low-Income Subsidy):** Data from the Low-Income Subsidy Application for Medicare Part D beneficiaries -- used for Medicare Savings Programs (MSP).

**Medicare 1144 (Outreach):** Lists of individuals on SSA roles, who may be eligible for medical assistance for: payment of the cost of Medicare cost-sharing under the Medicaid program pursuant to Sections 1902(a)(10)(E) and 1933 of the Act; transitional assistance under Section 1860D-31(f) of the Act; or premiums and cost-sharing subsidies for low-income individuals under Section 1860D-14 of the Act.

**PUPS (Prisoner Update Processing System):** Confinement data received from over 2000 state and local institutions (such as jails, prisons, or other penal institutions or correctional facilities) -- PUPS matches the received data with the MBR and SSR benefit data and generates alerts for review/action.

**QUARTERS OF COVERAGE (QC):** Quarters of Coverage data as assigned and described under Title II of the Act -- The term "quarters of coverage" is also referred to as "credits" or "Social Security credits" in various SSA public information documents, as well as to refer to "qualifying quarters" to determine entitlement to receive Food Stamps.

**SDX (SSI State Data Exchange):** Primary source of Title XVI eligibility, benefit and demographic data as well as data for Title VIII Special Veterans Benefits (SVB).

**SOLQ/SOLQ-I (State On-line Query/State On-line Query-Internet):** A real-time online system that provides SSN verification and MBR and SSR benefit data similar to data provided through SVES.

## Attachment 2

**SVES (State Verification and Exchange System):** A batch system that provides SSN verification, MBR benefit information, and SSR information through a uniform data response based on authorized user-initiated queries. The SVES types are divided into five different responses as follows:

<b>SVES I:</b>	This batch provides strictly SSN verification.
<b>SVES I/Citizenship*</b>	This batch provides strictly SSN verification and citizenship data.
<b>SVES II:</b>	This batch provides strictly SSN verification and MBR benefit information
<b>SVES III:</b>	This batch provides strictly SSN verification and SSR/SVB.
<b>SVES IV:</b>	This batch provides SSN verification, MBR benefit information, and SSR/SVB information, which represents all available SVES data.

*\* Citizenship status data disclosed by SSA under the Children's Health Insurance Program Reauthorization Act of 2009, Pub. L. 111-3 is only for the purpose of determining entitlement to Medicaid and CHIP program for new applicants.*



**ATTACHMENT 3 OMITTED**

**ATTACHMENT 4**

**ELECTRONIC INFORMATION EXCHANGE SECURITY  
REQUIREMENTS AND PROCEDURES**



**ELECTRONIC INFORMATION EXCHANGE  
SECURITY REQUIREMENTS AND PROCEDURES  
FOR  
STATE AND LOCAL AGENCIES  
EXCHANGING ELECTRONIC INFORMATION WITH THE  
SOCIAL SECURITY ADMINISTRATION**

**SENSITIVE DOCUMENT**

**VERSION 5.0  
MARCH 9, 2012**

**ELECTRONIC INFORMATION EXCHANGE  
SECURITY REQUIREMENTS AND PROCEDURES  
FOR  
STATE AND LOCAL AGENCIES  
EXCHANGING ELECTRONIC INFORMATION WITH THE  
SOCIAL SECURITY ADMINISTRATION**

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**ELECTRONIC INFORMATION EXCHANGE  
SECURITY REQUIREMENTS AND PROCEDURES  
FOR  
STATE AND LOCAL AGENCIES  
RECEIVING ELECTRONIC INFORMATION FROM THE  
SOCIAL SECURITY ADMINISTRATION**

**1. Introduction** 

The Social Security Administration (SSA) is required by law to maintain oversight and assure the protection of information it has provided to its *'electronic information exchange partners'* (EIEP)s. EIEPs are entities that have established an electronic information sharing agreement with the agency.

The overall aim of this document is twofold. First, to ensure that EIEPs are properly certified as compliant by SSA to SSA security requirements, standards, and procedures expressed in this document, prior to being granted access to SSA information in a production environment; second, to ensure that EIEPs adequately safeguard electronic information provided to them by SSA.

This document (which is considered SENSITIVE by SSA and must be handled accordingly), describes the security requirements which must be met including, SSA's standards and procedures which must be implemented by outside entities (state and local agencies) in order to obtain information from SSA electronically. This document assists outside entities in understanding the criteria that SSA will use when evaluating and certifying the system design, and security features used for electronic access to SSA-provided information. It also provides the framework and general procedures for SSA's security compliance review program intended to ensure, on a periodic basis, conformance to SSA's security requirements by outside entities.

The addition, elimination, and modification of security controls, etc. are predicated upon factors which impact the level of security and due diligence required for mitigating risks, e.g., the emergence of new threats and attack methods, the availability of new security technologies, etc. System security requirements (SSR) are, therefore, periodically reviewed and revised. Accordingly, over time, the SSRs may be subject to change.

The EIEP must comply with SSA's most current SSRs for access to SSA-provided data. However, SSA will work with its partners in the EIEPs' resolution of any deficiencies which occur subsequent to previous approval for access as the result of updated SSRs. Additionally, EIEPs may proactively ensure their ongoing compliance with the SSRs by periodically requesting the most current SSR package from their SSA contact and making such adjustments as may be necessary.

**2. Electronic Information Exchange (EIE) Definition** 

For discussion purposes herein, EIE is any electronic process in which information under SSA control is disclosed to any third party for program or non-program purposes, without the specific consent of the owner of that information. EIE involves individual data transactions and data files that are processed within the programmatic systems of either or all parties to electronic information sharing agreements with SSA. This includes direct terminal access (DTA) to SSA systems, batch processing, and variations thereof (e.g., online query) regardless of the systematic method used to accomplish the activity or to interconnect SSA with the EIEP.

### 3. Roles and Responsibilities

The SSA **Office of Information Security (OIS)** has agency-wide responsibility for interpreting, developing, and implementing security policy; providing security and integrity review requirements for all major SSA systems; managing SSA's fraud monitoring and reporting activities, developing and disseminating security training and awareness materials, and providing consultation and support for a variety of agency initiatives. SSA's security reviews ensure that external systems receiving information from SSA are secure and operate in a manner that is consistent with SSA's Information Technology (IT) security policies and in compliance with the terms of electronic information sharing agreements executed by SSA and the outside entity. Within the context of SSA's security policies and the terms of electronic information sharing agreements with SSA's EIEPs, OIS exclusively conducts and brings to closure initial security certifications and periodic security compliance reviews of EIEPs that process, maintain, transmit, or store SSA-provided data in accordance with pertinent Federal requirements which include the following (refer to **References**):

- a. The Federal Information Security Management Act (FISMA) requires the protection of "Federal information in contractor systems, including those systems operated by state and local governments".
- b. Social Security Administration (SSA) policies, standards, procedures, and directives.

Privacy information is information about an individual including, but not limited to, personal identifying information including the social security number (SSN).

The data (last 4 digits of the SSN) provided by SSA to its EIEPs for purposes of the Help America Vote Act (HAVA) does not identify a specific individual and, therefore, is not 'Privacy Information' as defined by the Act.

However, SSA is diligent in discharging its responsibility for establishing appropriate administrative, technical, and physical safeguards to ensure the security, confidentiality, and availability of its records and to protect against any anticipated threats or hazards to their security or integrity.

Therefore, although the information provided HAVA is not, by definition, 'Privacy Information' and as such, does not require that SSA conduct compliance reviews of entities to which it provides information for purposes of HAVA; SSA does require that those organizations adhere to the terms of their electronic information sharing agreements with SSA.

SSA regional **Data Exchange Coordinators (DECs)** are the bridge between SSA and state EIEPs. As such, in the security arena, DECs will assist OIS in coordinating data exchange security review activities with state and local EIEPs; e.g., providing points of contact with state agencies, assisting in setting up security reviews, etc. DECs are also the first points of contact for states if an employee of a state agency or an employee of a state agency's contractor or agent becomes aware of suspected or actual loss of SSA-provided personally identifiable information (PII).

### 4. General Systems Security Standards

EIEPs that request and receive information electronically from SSA must comply with the following general systems security standards concerning access to and control of SSA-provided information.

**NOTE: EIEPs may not create separate files or records comprised solely of the information provided by SSA.**

- a. EIEPs must ensure that means, methods, and technology by which SSA-provided information is processed, maintained, transmitted, or stored neither prevent nor impede the EIEP's ability to:
- safeguard the information in conformance to SSA requirements;
  - efficiently investigate fraud, breach, or security events that involve SSA-provided data, or instances of misuse of SSA-provided data.

For example, utilization of cloud computing may have the potential to jeopardize an EIEP's compliance with the terms of their agreement or SSA's associated system security requirements and procedures.

- b. EIEPs must ensure that SSA-provided data is not processed, maintained, transmitted, or stored in or by means of data communications channels, electronic devices, computers, computer networks, etc. that are located in geographic or virtual areas **not** subject to U.S. law.
- c. EIEPs must restrict access to the information to authorized users who need it to perform their official duties.

**NOTE: Contractors and agents (hereafter referred to as contractors) of the EIEP who process, maintain, transmit, or store SSA-provided data are held to the same security requirements as are employees of the EIEP. Refer to the section 'Contractors of Electronic Information Exchange Partners' in the 'Systems Security Requirements' for additional information.**

- d. Information received from SSA must be stored in a manner that, at all times, is physically and electronically secure from access by unauthorized persons.
- e. SSA-provided information must be processed under the immediate supervision and control of authorized personnel.
- f. EIEPs must employ both physical and technological safeguards to ensure against unauthorized retrieval of SSA-provided information by means of computer, remote terminal, or other means.
- g. EIEPs must have in place formal PII incident response procedures. When faced with a security incident whether caused by malware, unauthorized access, software issues, or acts of nature, etc., EIEP must be able to respond in a manner that protects SSA-provided information affected by the incident.
- h. EIEPs must have an active and robust employee security awareness program that is mandatory for all employees who may have access to SSA-provided information.
- i. EIEP employees with access to SSA provided information must be advised of the confidentiality of the information, the safeguards required to protect the information, and the civil and criminal sanctions for non-compliance contained in the applicable Federal and state laws.
- j. At its discretion, SSA or its designee, must have the option to conduct onsite security reviews or make other provisions, to ensure that EIEPs maintain adequate security controls to safeguard the information we provide.

## 5. Systems Security Requirements

### 5.1 Overview

Following is a discussion of SSA's security requirements that must be met by its EIEPs. SSA must certify that controls to meet the requirements have been implemented and working as intended, before it will authorize initiating transactions to and from SSA through batch data exchange processes or online processes such as State Online Query (SOLQ) or Internet SOLQ.

The Systems Security Requirements (SSR)s address management, operational, and technical aspects of security regarding the confidentiality, integrity, and availability of Social Security Administration (SSA) provided information used, maintained, transmitted, or stored by SSA's EIEPs.

SSRs are representative of the current state-of-the-practice security controls, safeguards, and countermeasures required for Federal information systems by Federal regulations and statutes, congressional mandates, etc., including but not limited to the Privacy Act of 1974, the Federal Information Security Management Act (FISMA), etc. and recommended by standards and guidelines established by NIST, etc.

### 5.2 General System Security Design and Operating Environment

The EIEP must provide descriptions and explanations of their overall system design, configuration, security features, and operational environment and include discussions of how they conform to SSA's requirements. Discussion must also include:

- Description of the operating environment(s) in which SSA-provided data is to be utilized, maintained, and transmitted
- Description of the business process(es) in which SSA-provided information is to be used
- Physical safeguards employed to ensure that unauthorized personnel cannot access SSA-provided data and that audit information pertaining to use of and access to SSA-provided information and the EIEP's associated applications is readily available
- Electronic safeguards, methods, and procedures for protecting the EIEP's network infrastructure and for protecting SSA-provided data while in transit, in use within a process or application, at rest (stored or not in use); preventing unauthorized retrieval of SSA-provided information by computer, remote terminal, or other means; including descriptions of security software other than access control software (e.g., security patch and anti-malware software installation and maintenance, etc.)

### 5.3 System Access Control

EIEPs must utilize and maintain technological (logical) access controls that limit access to SSA-provided information and associated transactions and functions to only those users, processes acting on behalf of authorized users, or devices (including other information systems) authorized for such access based on their official duties or purpose(s). EIEPs must employ a recognized user access security software package (e.g. RAC-F, ACF-2, TOP SECRET) or a security software design which is *at minimum* equivalent to such products. The access control software must utilize personal identification numbers (PIN) and passwords or

biometric identifiers in combination with the user's system identification code (userID), etc. (e.g., the access control software must employ and enforce (1) *PIN/password*, and/or (2) *PIN/biometric identifier*, and/or (3) *SmartCard/ biometric identifier*, etc., for authentication of users).

Depending upon the computing platform (e.g., client/server (PC), mainframe) and the access software implementation, the terms "PIN" and "user system identification code (userID)" may be, for practical purposes, synonymous. For example, the PIN/password combination may be required for access to an individual's PC after which, the userID/password combination may be required for access to a mainframe application. (A biometric identifier may supplant one element in the pair of those combinations).

Implementation of the control software must be in compliance with recognized industry standards. For example, password policies should enforce sufficient construction strength (length and complexity) to defeat or minimize risk-based identified vulnerabilities, ensure limitations for password repetition; technical controls should enforce periodic password changes based on a risk-based standard (e.g., maximum password age of 30 - 45 days, minimum password age of 3 - 7 days), enforce automatic disabling of user accounts that have been inactive for a specified period of time (e.g., 45 days); etc.

EIEPs must have management control and oversight of the function of authorizing individual user access to SSA-provided information and over the process of issuing and managing access control PINs, passwords, biometric identifiers, etc. for access to the EIEP's system.

The EIEPs' systems access rules must cover such matters as least privilege and individual accountability regarding access to sensitive information and associated transactions and functions, control of transactions by permissions modules, the assignment and limitation of system privileges, disabling accounts of separated employees (e.g., within 24 hours), individual accountability, work at home, dial-up access, and connecting to the Internet.

#### **5.4 Automated Audit Trail**

EIEPs that receive information electronically from SSA are required to implement and maintain a fully automated audit trail system (ATS). The system must, at a minimum, be capable of creating, storing, protecting, and efficiently retrieving and collecting records identifying the individual user that initiates a request for information from SSA or accesses SSA-provided data. At a minimum, individual audit trail records must contain the data needed (including date and time stamps) to associate each query transaction or access to SSA-provided information with its initiator, their action, if any, and the relevant business purpose/process (e.g., SSN verification for driver license, etc.). Each entry in the audit file must be stored as a separate record, not overlaid by subsequent records. Transaction files must be created to capture all input from interactive internet applications which access or query SSA-provided data.

EIEPs whose transactions with SSA are mediated AND audited by an STC (e.g., State Transmission Component) are responsible for ensuring that the STC's audit capabilities meet SSA's requirements for an automated audit trail system. The EIEP must also establish a process by which the EIEP is able to efficiently obtain audit information from the STC regarding the EIEP's SSA transactions.

Access to the audit file must be restricted to authorized users with a "need to know" and audit file data must be unalterable (read only) and maintained for a minimum of three (preferably seven) years. Information in the audit file must be retrievable by an automated method and capable of being made available to SSA upon request. Audit trail records must be backed up

on a regular basis to ensure their availability. Backup audit files must have the same level of protection as that applied to the original files.

If SSA-provided information is retained by the EIEP (e.g., Access database, Share Point, etc.), or if certain data elements within the EIEP's system will indicate to users that the information has been verified by SSA, the EIEP's system must also capture an audit trail record of any user who views SSA-provided information stored within the EIEP's system. The audit trail requirements for these inquiry transactions are the same as those outlined above for the EIEP's transactions requesting or accessing information directly from SSA.

## 5.5 Personally Identifiable Information (PII)

**PII** is defined as any information which can be used to distinguish or trace an individual's identity, such as their name, social security number, biometric records, etc., alone or when combined with other personal or identifying information which is linked or linkable to a specific individual, such as date and place of birth, mother's maiden name, etc.

**PII loss** is defined as a circumstance wherein SSA has reason to believe that information on hard copy or in electronic format which contains PII provided by SSA to an EIEP, has left the EIEP's custody or has been disclosed by the EIEP to an unauthorized individual or entity. PII loss is a reportable incident (refer to **Incident Reporting**).

If a PII loss involving SSA-provided data occurs or is suspected, the EIEP must be able to quantify the extent of the loss and compile a complete list of the individuals potentially affected incident (refer to **Incident Reporting**).

## 5.6 Monitoring and Anomaly Detection

The EIEP must establish and/or maintain continuous monitoring of its network infrastructure and assets to ensure that:

- implemented security controls continue to be effective over time
- only authorized individuals, devices, and processes have access to SSA-provided information
- efforts by external and internal entities, devices, or processes to perform unauthorized actions (i.e., data breaches, malicious attacks, access to network assets, software/hardware installations, etc.) are detected as soon as they occur
- the necessary parties are immediately alerted to unauthorized actions performed by external and internal entities, devices, or processes
- upon detection of unauthorized actions, measures are immediately initiated to prevent or mitigate associated risk
- in the event of a data breach or security incident, the necessary remedial actions can be efficiently determined and initiated
- trends, patterns, or anomalous occurrences and behavior in user or network activity that may be indicative of potential security issues are more readily discernable

The EIEP's system must include the capability to prevent employees from browsing SSA records (e.g., utilize a permission module and/or employ a system design which is transaction-driven, whereby employees are unable to initiate transactions). If such a design is used, the EIEP then needs only minimal additional monitoring and anomaly detection (detect and monitor employees' attempts to gain access to SSA-provided data to which they are not authorized and attempts to obtain information from SSA for clients not in the EIEP's client system). However, measures must exist to prevent circumvention of the permission module (e.g., creation of a bogus case and subsequently deleting it in such a way that it goes undetected).

If the EIEP's design does not **currently** utilize a permission module **and** is not transaction-driven, until at least one of these security features is implemented, the EIEP must develop and implement compensating security controls to deter their employees from browsing SSA records. These controls must include monitoring and anomaly detection features, either systematic, manual, or a combination thereof. Such features must include the capability to detect anomalies in the volume and/or type of transactions or queries requested or initiated by individuals and include systematic or manual procedures for verifying that requests for and queries of SSA-provided information are in compliance with valid official business purposes. The system must also produce reports providing management and/or supervisors with the capability to appropriately monitor user activity, such as:

- User ID Exception Reports:

This type of report captures information about users who enter incorrect user IDs when attempting to gain access to the system or to the transaction that initiates requests for information from SSA, including failed attempts to enter a password.

- Inquiry Match Exception Reports:

This type of report captures information about users who may be initiating transactions for SSNs that have no client case association within the EIEP's system (**100 percent of these cases must be reviewed by the EIEP's management**).

- System Error Exception Reports:

This type of report captures information about users who may not understand or be following proper procedures for access to SSA-provided information.

- Inquiry Activity Statistical Reports:

This type of report captures information about transaction usage patterns among authorized users and is a tool which would enable the EIEP's management to monitor typical usage patterns in contrast to extraordinary usage.

The EIEP must have a process for distributing these monitoring and exception reports to appropriate local managers/supervisors or to local security officers to ensure that the reports are used by those whose responsibilities include monitoring anomalous activity of users including those who have been granted exceptional system rights and privileges.

## 5.7 Management Oversight and Quality Assurance

The EIEP must establish and/or maintain ongoing management oversight and quality assurance capabilities to ensure that only authorized employees have access to SSA-provided information and to ensure that there is ongoing compliance with the terms of the EIEP's

electronic information sharing agreement with SSA and the SSRs established by SSA for access to and use of SSA-provided data by EIEPs. The management oversight function must consist of one or more of the EIEP's management officials whose job functions include responsibility for assuring that access to and use of SSA-provided information is appropriate for each employee position type for which access is granted.

The EIEP must assure that employees granted access to SSA-provided information receive adequate training on the sensitivity of the information, associated safeguards, procedures that must be followed and the penalties for misuse.

Although not required, it is recommended that EIEPs establish the following functions and require that they be performed by employees whose job functions are separate from those who request or use information from SSA:

- Performing periodic self-reviews to monitor the EIEP's ongoing usage of SSA-provided information.
- Random sampling of work activity involving SSA-provided information to determine whether the access and usage comply with SSA's requirements.

## 5.8 Data and Communications Security

EIEPs must encrypt all PII and SSA-provided information when it is transmitted across dedicated communications circuits between its systems, included in intrastate communications among its local office locations, and resident on the EIEP's mobile computers/devices and removable media, etc. The encryption method employed must meet acceptable standards as designated by the National Institute of Standards and Technology (NIST). The recommended encryption method for securing SSA-provided data during transport is the Advanced Encryption Standard (AES) or triple DES (Data Encryption Standard 3) if AES is unavailable. Files encrypted for external users (when using tools such as Microsoft WORD encryption, etc.) require a key length of 9 characters. Although not required, it is recommended that the key (also referred to as a *password*) contain both a number and a special character. However, it is required that the key be delivered in a manner wherein the key does not accompany the media. Also, the key must be secured when unattended or not in use.

It is recommended that the public Internet not be used for transmission of SSA-provided information. If it is, however, Internet and all other electronic communications (e.g., emails and FAXes) containing SSA-provided information must, at minimum, utilize Secure Socket Layer (SSL) and 256-bit encryption protocols or more secure methods such as Virtual Private Network technology. Additionally, the data must be transmitted only to a secure address or device.

EIEPs may retain SSA-provided data for only the business purpose(s) and period of time stipulated in the EIEP's Information Exchange Agreement with SSA. SSA-provided information is to be deleted, purged, destroyed, or returned to SSA when the purpose for which the information was obtained has been completed.

The EIEP may not save or create separate files comprised solely of information provided by SSA. The EIEP may, however, apply specific SSA-provided data to the EIEP's matched record (i.e., specified data obtained from SSA which matches that in the EIEP's preexisting record).

Duplication and redisclosure of SSA-provided information within or outside the EIEP without the written approval of SSA is prohibited.

EIEPs must prevent unauthorized disclosure of SSA-provided data after processing has been completed and also after the data is no longer required by the EIEP. The EIEP's operational processes must ensure that no residual SSA-provided data remains on the hard drives of users' workstations after the user has exited the application(s) in which SSA-provided data was utilized. In cases where a PC, hard drive, or other computing or storage device on which SSA-provided information resided will be sent offsite from the EIEP for repair and its information must be retrievable, the EIEP's repair contract must include a requirement for non-disclosure of SSA-provided data by the servicing vendor. SSA-provided information must be completely removed from, rendered unrecoverable, or destroyed on any electronic device or media (e.g., hard drives, removable storage devices, etc.) prior to the device or media being serviced by an external vendor (when the data need not be recovered), excessed, sold, or placed in the custody of another organization.

To sanitize media, one of the following methods must be used:

- **Overwriting**

Overwrite utilities can only be used on working devices. The media to be overwritten must be designed for multiple reads and writes. This includes disk drives, magnetic tapes, floppies, USB flash drives, etc. The overwrite utility must completely overwrite the media by the ***purging*** type of media sanitization to make the data irretrievable by a laboratory attack or laboratory forensic procedures (refer to ***Definitions*** for more information regarding ***Media Sanitization***). Reformatting the media does not overwrite the data.

- **Degaussing**

Degaussing is a sanitization method for magnetic media (e.g., disk drives, tapes, floppies, etc.). Degaussing is not effective for purging non-magnetic media (e.g., optical discs). Degaussing must be performed with a certified tool designed for the media being degaussed. Certification of the tool is required to ensure that the magnetic flux applied to the media is strong enough to render the information irretrievable. The degaussing process must render data on the media irretrievable by a laboratory attack or laboratory forensic procedures (refer to ***Definitions*** for more information regarding ***Media Sanitization***).

- **Physical destruction**

Physical destruction is the method which must be used when degaussing or over-writing cannot be accomplished (for example, CDs, floppies, DVDs, damaged tapes, hard drives, damaged USB flash drives, etc.). Examples of physical destruction include shredding, pulverizing, and burning.

State agencies may retain SSA-provided data in hardcopy if it is required to fulfill evidentiary requirements, provided the agencies retire such data in accordance with applicable state laws governing state agencies' retention of records. The EIEP must ensure that print media containing SSA-provided data is controlled to restrict its access to only authorized employees who need such access to perform their official duties and must have in place secure processes by which print media containing SSA-provided data is destroyed when it is no longer required. Paper documents containing SSA-provided data must be destroyed by burning, pulping, shredding, macerating, or other similar means that ensures that the information cannot be recovered.

***NOTE: Hand tearing or lining through documents to obscure information does not meet SSA's requirements for appropriate destruction of PII).***

The EIEP must employ measures to ensure that communications and data furnished to SSA contain no viruses or other malware.

## 5.9 Incident Reporting

The EIEP must develop and implement policies and procedures for responding to the breach or loss of PII and explain how they conform to SSA's requirements. The procedures must include the following information:

*If the EIEP experiences or suspects a breach or loss of PII or a security incident which includes SSA-provided data, they must notify the United States Computer Emergency Readiness Team (US-CERT) **within one hour** of discovering the incident. The EIEP must also notify the SSA Systems Security contact named in the agreement. If within 1 hour the EIEP has been unable to make contact with that person, the EIEP must call SSA's National Network Service Center (NNSC) toll free at 877-697-4889 (select "Security and PII Reporting" from the options list). The EIEP will provide updates as they become available to SSA contact, as appropriate. Refer to the worksheet, **Attachment 5**, provided in the agreement to facilitate gathering and organizing information about an incident.*

The EIEP must agree that if SSA determines that the risk presented by the breach or security incident requires the notification of the individuals whose information is involved and/or remedial action, the EIEP will perform those actions without cost to SSA.

## 5.10 Security Awareness and Employee Sanctions

The EIEP must establish and/or maintain an ongoing function that is responsible for providing security awareness training for employees granted access to SSA-provided information. Training must include discussion of:

- The sensitivity of SSA-provided information and address the Privacy Act and other Federal and state laws governing its use and misuse
- Rules of behavior concerning use of and security in systems processing SSA-provided data
- Restrictions on viewing and/or copying SSA-provided information
- The employees' responsibility for proper use and protection of SSA-provided information including its proper disposal
- Security incident reporting procedures
- The possible sanctions and penalties for misuse of SSA-provided information.

The EIEP must provide security awareness training periodically or, as needed, and have in place administrative procedures for sanctioning employees who violate laws governing the use and misuse of SSA-provided data through unauthorized or unlawful use or disclosure of SSA-provided information.

## 5.11 Contractors of Electronic Information Exchange Partners

As previously stated, in ***The General Systems Security Standards***, contractors of the EIEP are held to the same security requirements as are employees of the EIEP. As such, the EIEP is responsible for oversight and compliance of their contractors with SSA's security requirements. The EIEP must be able to provide proof of the contractual agreement between itself and its contractors (e.g., copy of their contract, etc.) who are authorized by the EIEP to perform on its behalf and who have access to or are involved in the processing, handling, transmission, etc. of information provided to the EIEP by SSA. The EIEP must also explain the role of those contractors within the EIEP's operations.

The EIEP must also require that their contractors who will have access to or be involved in the processing, handling, transmission, etc. of information provided to the EIEP by SSA, sign an agreement with the EIEP that obligates the contractor to follow the terms of the EIEP's data exchange agreement with SSA. The EIEP must provide its contractors a copy of the data exchange agreement between the EIEP and SSA and related attachments before any disclosure by the EIEP of SSA-provided information to the EIEP's contractor/agent.

If the EIEP's contractor will be involved with the processing, handling, transmission, etc. of information provided to the EIEP by SSA offsite from the EIEP, the EIEP must have the contractual option to perform onsite reviews of that offsite facility to ensure that the following meet SSA's requirements:

- safeguards for sensitive information
- computer system safeguards
- security controls and measures to prevent, detect, and resolve unauthorized access to, use of, and redisclosure of SSA-provided information

## **6. General -- Security Certification and Compliance Review Programs**

SSA's security certification and compliance review programs are two distinct programs with the same objective. The certification program is a one-time process associated exclusively with an EIEP's initial request for electronic access to SSA-provided information or an initial change to online access. The certification process entails two rigorous stages intended to ensure that technical, management, and operational security measures implemented by EIEPs fully conform to SSA's security requirements and are working as intended. EIEPs must satisfy both stages of the certification process before SSA will permit online access to its data in a production environment.

The compliance review program, however, is intended to ensure that the suite of security measures implemented by an EIEP to safeguard SSA-provided data remains in full compliance with SSA's security standards and requirements. The compliance review program is applicable to online access to SSA-provided data as well as batch processes. Under the compliance review program, EIEPs are subject to ongoing periodic security reviews by SSA that are regularly scheduled or ad hoc.

### **6.1 The Security Certification Program**

The security certification process applies to EIEPs that seek online electronic access to SSA information and consists of two general phases:

- Phase One: The Security Design Plan (SDP) phase wherein a formal written plan is authored by the EIEP to comprehensively document its technical and non-technical

security controls to safeguard SSA-provided information (refer to **Documenting Security Controls in the Security Design Plan**).

**NOTE: SSA may have legacy EIEPs (EIEPs not certified under the current process) who have not prepared an SDP. OIS strongly recommends that these EIEPs prepare an SDP.**

**The EIEPs' preparation and maintenance of a current SDP will aid them in determining potential compliance issues prior to reviews, assuring continued compliance with SSA's security requirements, and providing for more efficient security reviews.**

- Phase 2: SSA Onsite Certification phase wherein a formal onsite review is conducted by SSA to examine the full suite of technical and non-technical security controls implemented by the EIEP to safeguard data obtained from SSA electronically (refer to **The Certification Process**).

## **6.2 Documenting Security Controls in the Security Design Plan (SDP) ⓘ**

### **6.2.1 When the SDP and RA are Required ⓘ**

EIEPs must submit to SSA an SDP and a security risk assessment (RA) for evaluation when one or more of the following circumstances apply. The RA must be in an electronic format and include discussion of the measures planned or implemented to mitigate risks identified by the RA and (as applicable) risks associated with the circumstances below:

- to obtain approval for requested initial access to SSA-provided information for an initial agreement
- to obtain approval to reestablish previously terminated access to SSA-provided data
- when implementing a new operating or security platform in which SSA-provided data will be involved
- significant changes to the EIEP's organizational structure, technical processes, operational environment, data recovery capabilities, or security implementations are planned or have been made since approval of their most recent SDP or of their most recent successfully completed security review
- one or more security breaches or incidents involving SSA-provided data have occurred since approval of the EIEP's most recent SDP or of their most recent successfully completed security review
- to document descriptions and explanations of measures implemented as the result of a data breach or security incident
- to document descriptions and explanations of measures implemented to resolve non-compliance issue(s)
- when approval of the SDP has been revoked

The RA may also be required if changes (other than those listed above) that may impact the terms of the EIEP's data sharing agreement with SSA have occurred.

***The SDP must be approved by SSA prior to the initiation of transactions and/or access to SSA-provided information by the EIEP.***

An SDP must satisfactorily document the EIEP's compliance with all of SSA's SSRs in order to provide the minimum level of security acceptable to SSA for its EIEPs' access to SSA-provided information.

Deficiencies identified through the evaluation of the SDP must be corrected by the EIEP and a revised SDP which incorporates descriptions and explanations of the measures implemented to eliminate the deficiencies must be submitted. Until the deficiencies have been corrected and documented in its SDP, and the SDP is approved, the EIEP will not be granted access to SSA-provided information or certified for electronic receipt of the information. The progress of corrective implementation(s) must be communicated to SSA on a regular basis. If, within a reasonable time as determined by SSA, the EIEP is unable to rectify a deficiency determined by SSA to present an untenable risk to SSA-provided information or the agency, approval of the SDP will be withheld.

If, at any time subsequent to approval of its SDP the EIEP is found to be in non-compliance with one or more SSRs, SSA may revoke approval of the EIEP's access to SSA-provided data. A revised SDP which incorporates descriptions and explanations of the measures implemented to resolve the non-compliance issue(s) must be submitted. The progress of corrective implementation(s) must be communicated to SSA on a regular basis. Until resolution of the issue(s) has been accomplished and documented in its SDP, and the SDP is approved, the EIEP will be in non-compliance with SSA's SSRs. If, within a reasonable time as determined by SSA, the EIEP is unable to rectify a deficiency determined by SSA to present an untenable risk to SSA-provided information or to SSA, approval of the SDP will be withheld and the flow of SSA-provided information to the EIEP may be discontinued.

***NOTE: EIEPs that function only as an STC, transferring SSA-provided data to other EIEPs must, per the terms of their agreements with SSA, adhere to SSA's System Security Requirements (SSR) and exercise their responsibilities regarding protection of SSA-provided information.***

### **6.3 The Certification Process**

Once the EIEP has successfully satisfied Phase 1, SSA will conduct an onsite certification review. The objective of the onsite review will be to ensure by SSA's examination and the EIEP's demonstration that the non-technical and technical controls implemented by the EIEP to safeguard Social Security-provided data from misuse and improper disclosure are fully functioning and working as intended.

At its discretion, SSA may request that the EIEP participate in an onsite review and compliance certification of their security infrastructure and implementation of SSA's security requirements.

The onsite review may address any or all of SSA's security requirements and include, where appropriate:

- a demonstration of the EIEP's implementation of each requirement
- random sampling of audit records and transactions submitted to SSA

- a walkthrough of the EIEP's data center to observe and document physical security safeguards
- a demonstration of the EIEP's implementation of electronic exchange of data with SSA
- discussions with managers/supervisors
- examination of management control procedures and reports (e.g., anomaly detection reports, etc.)
- demonstration of technical tools pertaining to user access control and, if appropriate, browsing prevention, specifically:
  - If the design is based on a permission module or similar design, or is transaction driven, the EIEP will demonstrate how the system triggers requests for information from SSA.
  - If the design is based on a permission module, the EIEP will demonstrate the process by which requests for SSA-provided information are prevented for SSNs not present in the EIEP's system (e.g.; by attempting to obtain information from SSA using at least one, randomly created, fictitious number not known to the EIEP's system).

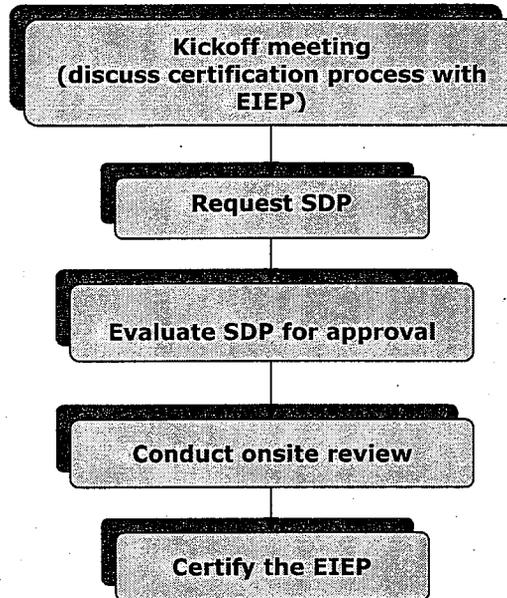
During the certification review, SSA, or a certifier acting on its behalf, may request a demonstration of the system's audit trail and retrieval capability. The certifier may request a demonstration of the system's capability for tracking the activity of employees that are permitted to view SSA-provided information within the EIEP's system. Additionally, the certifier may request those EIEPs whose transactions with SSA are mediated AND audited by an STC to demonstrate the process(es) by which the EIEP obtains audit information from the STC regarding the EIEP's SSA transactions.

EIEPs whose transactions with SSA are mediated AND audited by an STC will be required to demonstrate both their own in-house audit capabilities AND the process(es) by which the EIEP obtains audit information from the STC regarding the EIEP's transactions with SSA.

If the EIEP employs a contractor who will be involved with the processing, handling, transmission, etc. of the EIEP's SSA-provided information offsite from the EIEP, SSA, at its discretion, may include in the onsite certification review an onsite inspection of the contractor's facility. The inspection may occur with or without a representative of the EIEP.

Upon successful completion of the onsite certification exercise, SSA will authorize electronic access to production data by the EIEP. SSA will provide written notification of its certification to the EIEP as well as all appropriate internal components.

The following is a high-level flow chart of the OIS Certification Process: 

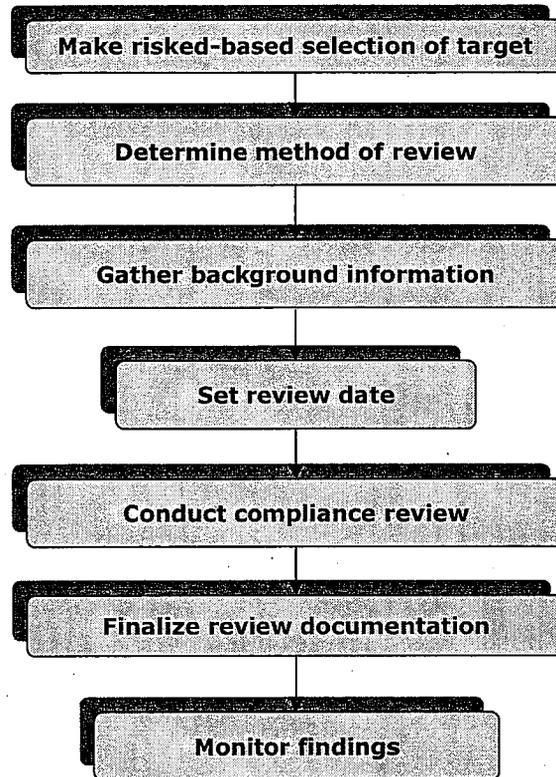


## 6.5 The Compliance Review Program and Process

Similar to the certification process, the compliance review program entails a rigorous process intended to ensure that EIEPs currently receiving electronic information from SSA are in full compliance with the Agency's security requirements and standards. As a practice, SSA attempts to conduct compliance reviews following a 3 to 5 year periodic review schedule. However, as circumstances warrant, a review may take place at anytime. Three prominent examples that would trigger an ad hoc review are:

- a significant change in the outside EIEP's computing platform
- a violation of any of SSA's systems security requirements
- an unauthorized disclosure of SSA information by the EIEP

The following is a high-level flow chart of the OIS Compliance Review Process: 



SSA may, at its discretion, conduct compliance reviews onsite at the EIEPs' site, including a field office location, if appropriate.

SSA may, also at its discretion, request that the EIEP participate in an onsite compliance review of their security infrastructure and implementation of SSA's security requirements.

The onsite review may address any or all of SSA's security requirements and include, where appropriate:

- a demonstration of the EIEP's implementation of each requirement
- random sampling of audit records and transactions submitted to SSA
- a walkthrough of the EIEP's data center to observe and document physical security safeguards
- a demonstration of the EIEP's implementation of online exchange of data with SSA
- discussions with managers/supervisors
- examination of management control procedures and reports (e.g., anomaly detection reports, etc.)

- demonstration of technical tools pertaining to user access control and, if appropriate, browsing prevention, specifically:
  - If the design is based on a permission module or similar design, or is transaction driven, the EIEP will demonstrate how the system triggers requests for information from SSA.
  - If the design is based on a permission module, the EIEP will demonstrate the process by which requests for SSA-provided information are prevented for SSNs not present in the EIEP's system (e.g.; by attempting to obtain information from SSA using at least one, randomly created, fictitious number not known to the EIEP's system).

SSA may also, at its discretion, perform an ad hoc onsite or remote review for reasons including but not limited to the following:

- the EIEP has experienced a security breach or incident involving SSA-provided data
- the EIEP has unresolved non-compliance issue(s)
- to review an EIEP's offsite (relative to the EIEP) contractor's facilities involving SSA-provided data
- the EIEP is a legacy organization that has not yet been through SSA's security certification and compliance review programs
- the EIEP has requested that an IV & V (Independent Verification and Validation review) be performed by SSA

During the compliance review, SSA, or a certifier acting on its behalf, may request a demonstration of the system's audit trail and retrieval capability. The certifier may request a demonstration of the system's capability for tracking the activity of employees that are permitted to view SSA-provided information within the EIEP's system. Additionally, the certifier may request those EIEPs whose transactions with SSA are mediated AND audited by an STC to demonstrate the process(es) by which the EIEP obtains audit information from the STC regarding the EIEP's SSA transactions.

EIEPs whose transactions with SSA are mediated AND audited by an STC may be required to demonstrate both their own in-house audit capabilities AND the process(es) by which the EIEP obtains audit information from the STC regarding the EIEP's transactions with SSA.

If the EIEP employs a contractor who will be involved with the processing, handling, transmission, etc. of the EIEP's SSA-provided information offsite from the EIEP, SSA, at its discretion, may include in the onsite compliance review an onsite inspection of the contractor's facility. The inspection may occur with or without a representative of the EIEP. However, manpower limitations or fiscal constraints could drive an alternative approach, such as teleconferencing. In any event, the format of the review in routine circumstances (i.e., the compliance review is not being conducted to address a special circumstance, such as a disclosure violation, etc.) will generally consist of reviewing and updating the EIEP's compliance with the systems security requirements described above in this document. At the conclusion of the review, SSA will issue a formal report to appropriate EIEP personnel. Findings and recommendations from SSA's compliance review, if any, will be discussed in its report and monitored for closure.

**NOTE: Documentation provided SSA by the EIEP for compliance reviews is considered sensitive and is, therefore, handled accordingly by SSA. E.g., the information is accessible to only authorized individuals who have a need for the information as it relates to compliance of the EIEP with its electronic information sharing agreement with SSA and SSA's associated system security requirements and procedures. Additionally, the EIEP's documentation is retained for only as long as required and is deleted, purged, or destroyed when the requirement for which the information was obtained has expired.**

The following is a high-level example of the analysis that aids in making preliminary decisions as to which review format may be most appropriate. Various additional factors may also be factored in determining whether SSA performs an onsite or remote compliance review.

- High/Medium Risk Criteria
  - undocumented closing of prior review finding(s)
  - implementation of technical/operational controls that impact security of SSA provided data (e.g., implementation of new data access method, etc.)
  - reported PII breach
- Low Risk Criteria
  - no prior review finding(s) or prior finding(s) documented as closed
  - no implementation of technical/operational controls that impact security of SSA provided data (e.g., implementation of new data access method, etc.)
  - no reported PII breach

#### **6.5.1 EIEP Compliance Review Participation**

During the compliance review SSA may request to meet with the following:

- a sample of managers and/or supervisors responsible for enforcing and monitoring ongoing compliance to security requirements and procedures to assess their level of training to monitor their employee's use of SSA-provided information, and for reviewing reports and taking necessary action
- the individuals responsible for security awareness and employee sanction functions and request an explanation of how these responsibilities are performed
- a sample of the EIEP's employees to assess their level of training and understanding of the requirements and potential sanctions applicable to the use and misuse of SSA-provided information
- the individual(s) responsible for management oversight and quality assurance functions and request a description of how these responsibilities will be carried out
- additional individuals as deemed appropriate by SSA

#### **6.5.2 Verification of Audit Samples**

Prior to or during the compliance review, SSA will present to the EIEP a sampling of transactions previously submitted to SSA for verification. The EIEP is required to verify whether each transaction was, per the terms of their agreement with SSA, legitimately submitted by a user authorized to do so.

The EIEP must provide SSA a written attestation of the results of the EIEP's review of the transactions. The document must provide:

- confirmation for each sample transaction located in the EIEP's audit file(s) and determined to have been submitted by its employee(s) for legitimate and authorized business purposes
- an explanation for each sample transaction located in the EIEP's audit file(s) determined to have been unauthorized
- an explanation for each sample transaction not found in the EIEP's ATS

When the sample transactions are provided to the EIEP, detailed instructions will be included. Only an official responsible for the EIEP is to provide the attestation.

## 6.6 Scheduling the Onsite Review

The SDP must be approved before its associated onsite review is scheduled. Notification of the approval of a plan will be sent via email. Although there is no prescribed time frame for arranging the subsequent onsite review (**certification review** for an EIEP requesting initial access to SSA-provided information for an initial agreement or **compliance review** for other EIEPs), unless there are compelling circumstances precluding it, the onsite review will follow as soon as reasonably possible.

However, the scheduling of the onsite review may depend on additional factors including:

- the reason for submission of a plan
- the severity of security issues if any
- circumstances of the previous review if any
- SSA workload considerations

Although the scheduling of the review is contingent upon approval of the SDP, in extreme circumstances, SSA may, at its discretion, perform an onsite review prior to approval if determined necessary by SSA for completion of the evaluation of a plan.

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## 7. Additional Definitions

### **Back Button:**

Refers to a button on a web browser's toolbar, the *backspace button* on a computer keyboard, a programmed keyboard button or mouse button, etc., that returns a user to a previously visited web page or application screen.

### **Breach:**

Refers to actual loss, loss of control, compromise, unauthorized disclosure, unauthorized acquisition, unauthorized access, or any similar term referring to situations where persons other than authorized users and for other than authorized purposes have access or potential access to PII or Covered Information, whether physical, electronic, or in spoken word or recording.

### **Browsing:**

Requests for or queries of SSA-provided data for purposes not related to the performance of official job duties.

### **Choke Point:**

The firewall between a local network and the Internet is considered a choke point in network security, because any attacker would have to come through that channel, which is typically protected and monitored.

### **Cloud Computing:**

The term refers to Internet-based computing and is derived from the cloud drawing representing the Internet in computer network diagrams. Cloud computing providers deliver on-demand online computing resources (e.g., services, software applications, data storage, and information) accessible to their customers by means of a web service or browser.

### **Cloud Drive:**

A cloud drive is a Web-based service that provides storage space on a remote server.

### **CloudAudit:**

CloudAudit is a specification that provides cloud computing service providers a standard way to present and share detailed, automated statistics about performance and security.

### **Commingling:**

The process by which an EIEP adjoins specific SSA-provided data to specific preexisting EIEP information according to a particular data-matching scheme.

### **Degaussing:**

Degaussing is the method of using a degausser (i.e., a device that generates a magnetic field) in order to disrupt magnetically recorded information. Degaussing can be effective for purging damaged media and media with exceptionally large storage capacities. Degaussing is not effective for purging non-magnetic media (e.g., optical discs).

### **Dial-up:**

Sometimes used synonymously with *dial-in*, refers to digital data transmission over the wires of a local telephone network.

### **Function:**

One or more persons or organizational components assigned to serve a particular purpose, or perform a particular role. Also, the purpose, activity, or role assigned to one or more persons or organizational components.

**Hub:**

As it relates to electronic data exchange with SSA, a hub is an organization which performs as an electronic information distribution and/or collection point (and may also be referred to as a State Transmission Component or STC).

**ICON:**

Interstate Connection Network (various entities use 'Connectivity' rather than 'Connection')

**IV & V:**

Independent Verification and Validation

**Legacy System:**

A term usually referring to a corporate or organizational computer system or network that utilizes outmoded programming languages, software, and/or hardware that typically no longer receive support from the original vendors or developers.

**Manual Transaction:**

An operation (also referred to as a 'user-initiated transaction') which is initiated at the volition of a user rather than system-generated within an automated process.

Example: A user enters a client's information including the client's SSN on an input screen and presses the 'ENTER' key to acknowledge that input of data has been completed. A new screen appears with multiple options which include 'VERIFY SSN' and 'CONTINUE'. The user has the option to verify the client's SSN or perform alternative actions.

**Media Sanitization:**

- Disposal: Refers to the discarding (e.g., recycling) of media that contains no sensitive or confidential data.
- Clearing: This type of media sanitization is considered to be adequate for protecting information from a robust keyboard attack. Clearing must prevent retrieval of information by data, disk, or file recovery utilities. Clearing must be resistant to keystroke recovery attempts executed from standard input devices and from data scavenging tools. For example, overwriting is an acceptable method for clearing media. Deleting items, however, is not sufficient for clearing.

This process may include overwriting all addressable locations of the data, as well as its logical storage location (e.g., its file allocation table). The aim of the overwriting process is to replace or obfuscate existing information with random data. Most rewriteable media may be cleared by a single overwrite. This method of sanitization cannot be utilized on unwriteable or damaged media.

- Purging: This type of media sanitization is a process that protects information from a laboratory attack. The terms *clearing* and *purging* are sometimes considered synonymous. However, for some media, clearing is not sufficient for purging (i.e., protecting data from a laboratory attack). Although most rewriteable media may be cleared by a single overwrite, purging may require multiple rewrites using different characters for each write cycle.

This is because a laboratory attack involves threats with the capability to employ non-standard assets (e.g., specialized hardware) to attempt data recovery on media outside of that media's normal operating environment.

Degaussing is also an example of an acceptable method for purging magnetic media. If purging media is not a viable method for sanitization, the media should be destroyed.

- **Destruction:** Physical destruction of media is the most effective form of sanitization. Methods of destruction include burning, pulverizing, and shredding. Any residual medium should be able to withstand a laboratory attack.

**Permission module:**

A utility or subprogram within an application which automatically enforces the relationship of a request for or query of SSA-provided data to an authorized process or transaction legitimately initiated; e.g., verification of an SSN for issuance of a driver license which can be triggered only automatically from within a state's driver license application, requests for information from SSA by an EIEP's employee which cannot be initiated unless the EIEP's client system has a record containing the SSN of the individual for which information is sought, etc.

**Screen Scraping:**

Screen scraping is normally associated with the programmatic collection of visual data from a source. Originally, screen scraping referred to the practice of reading text data from a computer display terminal's screen. This was generally done by reading the terminal's memory through its auxiliary port, or by connecting the terminal output port of one computer system to an input port on another. The term screen scraping is also commonly used to refer to the bidirectional exchange of data.

A screen scraper might connect to a legacy system via Telnet, emulate the keystrokes needed to navigate the legacy user interface, process the resulting display output, extract the desired data, and pass it on to a modern system.

More modern screen scraping techniques include capturing the bitmap data from a screen and running it through an optical character reader engine, or in the case of graphical user interface applications, querying the graphical controls by programmatically obtaining references to their underlying programming objects.

**Security Breach:**

An act from outside an organization that bypasses or contravenes security policies, practices, or procedures.

**Security Incident:**

A fact or event which signifies the possibility that a breach of security may be taking place, or may have taken place. All threats are security incidents, but not all security incidents are threats.

**Security Violation:**

An act from within an organization that bypasses or contravenes security policies, practices, or procedures.

**Sensitive data:**

Information such as PII and information provided by SSA to an EIEP, the loss, misuse, or unauthorized access to or modification of which, could adversely affect the national interest or the conduct of Federal programs, or the privacy to which individuals are entitled under 5 U.S.C. Section 552a (the Privacy Act), but that has not been specifically authorized under criteria established by an Executive Order or an Act of Congress to be kept classified in the interest of national defense or foreign policy but is to be protected in accordance with the requirements of the Computer Security Act of 1987 (P.L.100-235).

**SMDS (Switched Multimegabit Data Service (SMDS):**

SMDS is a telecommunications service that provides connectionless, high-performance, packet-switched data transport. Although not a protocol, it supports standard protocols and communications interfaces using current technology.

**SSA-provided data/information:**

Synonymous with 'SSA-supplied data/information', defines information under the control of SSA provided to an external entity under the terms of an information exchange agreement with SSA. The following are examples of SSA-provided data/information information:

- SSA's response to a request from an EIEP for information from SSA (e.g., date of death)
- SSA's response to a query from an EIEP for verification of an SSN

**SSA data/information:**

This is term, sometimes used interchangeably with 'SSA-provided data/information', denotes information under the control of SSA provided to an external entity under the terms of an information exchange agreement with SSA. However, '**SSA data/information**' also includes information provided to the EIEP by a source other than SSA, but which is attested by the EIEP to have been verified by SSA, or is coupled with data from SSA as to the accuracy of the information. The following are examples of SSA information:

- SSA's response to a request from an EIEP for information from SSA (e.g., date of death)
- SSA's response to a query from an EIEP for verification of an SSN
- Display by the EIEP of SSA's response to a query for verification of an SSN **and** the associated SSN provided by SSA
- Display by the EIEP of SSA's response to a query for verification of an SSN **and** the associated SSN provided to the EIEP by a source other than SSA
- Electronic records that contain only SSA's response to a query for verification of an SSN **and** the associated SSN whether provided to the EIEP by SSA or a source other than SSA

**SSN:**

Social Security Number

**STC:**

A State Transmission Component is an organization which performs as an electronic information distribution and/or collection point for one or more other entities (and may also be referred to as a hub).

**System-generated transaction:**

A transaction automatically triggered by an automated system process.

Example: A user enters a client's information including the client's SSN on an input screen and presses the 'ENTER' key to acknowledge that input of data has been completed. An automated process then matches the SSN against the user's organization's database and when no match is found, automatically sends an electronic request for verification of the SSN to SSA.

**Systems process:**

Refers to a software program module that runs in the background within an automated batch, online, or other process.

**Third Party:**

This term pertains to an entity (person or organization) provided access to SSA-provided information by an EIEP or other SSA business partner for which one or more of the following apply:

- is not stipulated access to SSA-provided data by an information-sharing agreement between an EIEP and SSA
- has no information-sharing agreement with SSA
- is not directly authorized by SSA for access to SSA-provided data

**Transaction-driven:**

This term pertains to an automatically initiated online query of or request for SSA information by an automated transaction process (e.g., driver license issuance, etc.). The query or request will only occur if prescribed conditions are met within the automated process.

**Uncontrolled transaction:**

This term pertains to a transaction that is not controlled by a permission module (i.e., not subject to a systematically enforced relationship to an authorized process or application or an existing client record).

## 8. Regulatory References

Federal Information Processing Standards (FIPS) Publications

Federal Information Security Management Act of 2002 (FISMA)

Homeland Security Presidential Directive (HSPD-12)

National Institute of Standards and Technology (NIST) Special Publications

Office of Management and Budget (OMB) Circular A-123, *Management's Responsibility for Internal Control*

Office of Management and Budget (OMB) Circular A-130, Appendix III, *Management of Federal Information Resources*

Office of Management and Budget (OMB) Memo M-06-16, *Protection of Sensitive Agency Information, June 23, 2006*

Office of Management and Budget (OMB) Memo M-07-16, *Memorandum for the Heads of Executive Departments and Agencies, May 22, 2007*

Office of Management and Budget (OMB) Memo M-07-17, *Safeguarding Against and Responding to the Breach of Personally Identifiable Information, May 22, 2007*

Privacy Act of 1974

9. Frequently Asked Questions   
(Click links for answers or additional information)

1. Q: What is a breach of data?  
A: Refer also to Security Breach, Security Incident, and Security Violation.
2. Q: What is employee browsing?  
A: Click hyperlink
3. Q: Okay, so the SDP was submitted. Can the Onsite Review be scheduled now?  
A: Refer to Scheduling the Onsite Review.
4. Q: What is a 'Permission Module'?  
A: Click hyperlink
5. Q: What is meant by Screen Scraping?  
A: Click hyperlink
6. Q: When does an SDP have to be submitted?  
A: Refer to When the SDP and RA are Required.
7. Q: Does an SDP have to be submitted when the agreement is renewed?  
A: The SDP does not have to be submitted **because** the agreement between the EIEP and SSA was renewed. There are, however, circumstances that require an SDP to be submitted. Refer to When the SDP and RA are Required.
8. Q: Is it acceptable to save SSA data with a verified indicator on a (EIEP) workstation as long as the hard drive is encrypted? If not, what options does the agency have?  
A: There is no problem with an EIEP saving SSA-provided information to the encrypted hard drives of computers processing the data provided the information is retained only as provided for in the EIEP's data-sharing agreement with SSA. Refer to Data and Communications Security.
9. Q: Is caching of SSA-provided data on EIEP workstations allowed?  
A: Caching during processing is not a problem. However, SSA-provided data must be cleared from the cache when the user exits the application in which the data was used or accessed. Refer to Data and Communications Security.
10. Q: What is meant by "interconnections to other systems"?  
A: As used in SSA's system security requirements document, the term "interconnections" is synonymous with "connections".
11. Q: Is it acceptable to submit the SDP as a PDF file?  
A: No, it is not.
12. Q: Should the SDP be written from the standpoint of my agency's SVES access itself, or from the standpoint of access to all data provided to us by SSA?  
A: The SDP is to encompass your agency's electronic access to SSA-provided data as per the electronic data sharing agreement between your agency and SSA. Refer to Developing the SDP.
15. Q: Does having a "transaction-driven" system mean that employees cannot initiate a query to SSA and that a permission module is not needed?  
A: Not necessarily. "Transaction driven" basically means that queries, etc. are submitted automatically (and it might depend on the transaction). Depending on the system

implementation, queries might not be automatic or, if they are, manual transactions might still be permitted (for example, when something needs to be corrected). Also, even if a "transaction-driven" system is implemented in such a way that manual transactions cannot be performed, if the system does **not** require the user to be in a particular application and/or the query to be for an existing record in the EIEP's system **before** the system will allow a query to go through to SSA, it would still need a permission module.

16. Q: What is an Onsite Compliance Review?

A: The Onsite Compliance Review is the process wherein SSA performs periodic site visits to its Electronic Information Exchange Partners (EIEP) to certify whether the EIEP's technical, managerial, and operational security measures for protecting data obtained electronically from SSA continue to conform to the terms of the EIEPs' data sharing agreements with SSA and SSA's associated system security requirements and procedures. Refer to the Compliance Review Program and Process.

17. Q: What are the criteria for performing an Onsite Compliance Review?

A: The following are criteria for performing the Onsite Compliance Review:

- EIEP initiating new access or new access method for obtaining information from SSA
- EIEP's cyclical review (previous review was performed remotely)
- EIEP has made significant change(s) in its operating or security platform involving SSA-provided data
- EIEP experienced a breach of SSA-provided personally identifying information (PII)
- EIEP has been determined to be high-risk

Refer also to the Review Determination Matrix.

18. Q: What is a Remote Compliance Review?

A: The Remote Compliance Review is the process wherein SSA conducts periodic meetings remotely (e.g., via conference calls) with its EIEPs to determine whether the EIEP's technical, managerial, and operational security measures for protecting data obtained electronically from SSA continue to conform to the terms of the EIEPs' data sharing agreements with SSA and SSA's associated system security requirements and procedures. Refer to the Compliance Review Program and Process.

19. Q: What are the criteria for performing a Remote Compliance Review?

A: Each of the following criteria must be satisfied for performing the Remote Compliance Review:

- EIEP's cyclical review (previous review was performed onsite without findings or issues for which findings were cited have been satisfactorily resolved).
- EIEP has made no significant change(s) in its operating or security platform involving SSA-provided data.
- EIEP has not experienced a breach of SSA-provided personally identifying information (PII) since its previous compliance review.
- EIEP has been determined to be low-risk

Refer also to the Review Determination Matrix

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**ATTACHMENT 5**

**WORKSHEET FOR REPORTING LOSS OR POTENTIAL LOSS  
OF PERSONALLY IDENTIFIABLE INFORMATION**

**Worksheet for Reporting Loss or Potential Loss of Personally Identifiable Information**

**1. Information about the individual making the report to the NCSC:**

Name:			
Position:			
Deputy Commissioner Level Organization:			
Phone Numbers:			
Work:	Cell:	Home/Other:	
E-mail Address:			
Check one of the following:			
Management Official	Security Officer	Non-Management	

**2. Information about the data that was lost/stolen:**

Describe what was lost or stolen (e.g., case file, MBR data):

Which element(s) of PII did the data contain?

Name	Bank Account Info
SSN	Medical/Health Information
Date of Birth	Benefit Payment Info
Place of Birth	Mother's Maiden Name
Address	Other (describe):

Estimated volume of records involved:

**3. How was the data physically stored, packaged and/or contained?**

Paper or Electronic? (circle one):

If Electronic, what type of device?

Laptop	Tablet	Backup Tape	Blackberry
Workstation	Server	CD/DVD	Blackberry Phone #
Hard Drive	Floppy Disk	USB Drive	
Other (describe):			

Additional Questions if Electronic:

	Yes	No	Not Sure
a. Was the device encrypted?			
b. Was the device password protected?			
c. If a laptop or tablet, was a VPN SmartCard lost?			
Cardholder's Name:			
Cardholder's SSA logon PIN:			
Hardware Make/Model:			
Hardware Serial Number:			

Additional Questions if Paper:

	Yes	No	Not Sure
a. Was the information in a locked briefcase?			
b. Was the information in a locked cabinet or drawer?			
c. Was the information in a locked vehicle trunk?			
d. Was the information redacted?			
e. Other circumstances:			

4. If the employee/contractor who was in possession of the data or to whom the data was assigned is not the person making the report to the NCSC (as listed in #1), information about this employee/contractor:

Name:			
Position:			
Deputy Commissioner Level Organization:			
Phone Numbers:			
Work:		Cell:	Home/Other:
E-mail Address:			

5. Circumstances of the loss:
- a. When was it lost/stolen?
  - b. Brief description of how the loss/theft occurred:
  - c. When was it reported to SSA management official (date and time)?
6. Have any other SSA components been contacted? If so, who? (Include deputy commissioner level, agency level, regional/associate level component names)

**7. Which reports have been filed? (include FPS, local police, and SSA reports)**

<b>Report Filed</b>	<b>Yes</b>	<b>No</b>	<b>Report Number</b>
Federal Protective Service			
Local Police			
	<b>Yes</b>	<b>No</b>	
SSA-3114 (Incident Alert)			
SSA-342 (Report of Survey)			
Other (describe)			

**8. Other pertinent information (include actions under way, as well as any contacts with other agencies, law enforcement or the press):**



**OFFICE OF THE CLERK  
OF THE BOARD OF SUPERVISORS**

**REGULAR AGENDA REQUEST**

Print

<b>MEETING DATE</b>	June 4, 2013	<b>DEPARTMENT</b>	County Administrative Office
<b>ADDITIONAL DEPARTMENTS</b>	County Counsel		
<b>TIME REQUIRED</b>	20 minutes	<b>PERSONS APPEARING BEFORE THE BOARD</b>	Sarah Messerlian
<b>SUBJECT</b>	Special Event Ordinance - First Reading		

**AGENDA DESCRIPTION:**

(A brief general description of what the Board will hear, discuss, consider, or act upon)

First Reading of the proposed Ordinance of the Mono County Board of Supervisors Creating Chapter 5.50 of the Mono County Code Pertaining to Special Events.

**RECOMMENDED ACTION:**

Introduce, read title, and waive further reading of proposed ordinance. Provide any desired direction to staff.

**FISCAL IMPACT:**

None at this time.

\*\*\*\*\*  
LUNCH  
\*\*\*\*\*

**OPPORTUNITY FOR THE PUBLIC TO ADDRESS THE BOARD** on items of public interest that are within the subject matter jurisdiction of the Board. (Speakers may be limited in speaking time dependent upon the press of business and number of persons wishing to address the Board.)

**CONTACT NAME:** Sarah Messerlian

**PHONE/EMAIL:** (760) 932-5405 / smesserlian@mono.ca.gov

SUBMIT THE ORIGINAL DOCUMENT WITH ATTACHMENTS TO THE OFFICE OF THE COUNTY ADMINISTRATOR  
**PRIOR TO 5:00 P.M. ON THE FRIDAY**  
**32 DAYS PRECEDING THE BOARD MEETING**

**SEND COPIES TO:**

**MINUTE ORDER REQUESTED:**

YES  NO

## ATTACHMENTS:

Click to download

- [Special Event Ord Staff Report: First Reading](#)
- [Special Event Permit](#)
- [Special Event Application](#)
- [Draft Ordinance](#)

---

### History

Time	Who	Approval
5/30/2013 11:28 AM	County Administrative Office	Yes
5/30/2013 11:14 AM	County Counsel	Yes
5/29/2013 5:33 PM	Finance	Yes



# COUNTY OF MONO

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P.O. BOX 696, BRIDGEPORT, CALIFORNIA 93517  
(760) 932-5410 • FAX (760) 932-5411

June 4, 2013

To: Honorable Chair and Members of the Board of Supervisors  
From: Sarah Messerlian

## **SUBJECT**

Proposed ordinance of the Mono County Board of Supervisors adding Special Events Chapter to the Mono County Code

## **RECOMMENDATION**

Introduce, read title, and waive further reading of proposed ordinance. Provide any desired direction to staff.

## **FISCAL IMPACT**

None at this time.

## **DISCUSSION**

### **Summary of Board Direction during Workshop:**

A Draft Special Event Ordinance Workshop was held during the May 14th Board meeting. The Board expressed their interest in encouraging tourism and economic development in Mono County and their desire to see this ordinance match those goals. To that end, the Board directed staff to include language in the ordinance waiving Mono County Business Licenses for those vendors only doing business in Mono County as part of a Special Event.

The Board made a few additional adjustments to the draft ordinance presented by requesting a 10 working day response time once a completed application is received by the County. The Board also directed staff to increase the potential permit issue date from 120 to 180 days prior to the event. These changes have been made to the ordinance.

### **Background:**

Since approximately 2006, Special Event Applications have been reviewed by the following County departments: County Administrative Officer, Risk Management, Public Works, Sheriff, Paramedics, Code Enforcement and Public Health. There is currently no charge for a Special Event Permit and the existing application is simply meant as an information sharing tool. The draft ordinance is expected to help provide guidance to County staff as well as special event organizers and create consistent requirements aimed at ensuring safe and successful community events.

### Proposed Content:

The purpose of this ordinance is to provide uniform guidelines for special event organizers and the involved County Departments for permitting and regulating events. It is intended to ensure the health and safety of the public while also fostering a regulatory environment in which community events will thrive.

Definitions for the ordinance are found in section .020 of the draft ordinance. Of particular importance, Special Events are defined as "any organized activity, event, procession, or assemblage of persons for which there is not an outstanding use permit, which is held over a temporary or limited number of days. A Special Event is any event that anticipates seventy five (75) or more invitees or attendees, or an event anticipating any number of people when the event includes the sale of food and/or alcohol."

Section .030 of the draft ordinance discusses when a Special Event Permit is required. A Special Event Permit is required for any event meeting this definition held in the unincorporated area of the County. As also set forth in that section, a Special Event application may not be submitted less than 30 days prior to the event and a Special Event Permit may be issued no more than 120 days prior to the event.

Events exempt from obtaining a Special Event Permit are found in section .040 of the draft ordinance. The following types of events are exempt: garage sales; private parties on private property; events held in designated event facilities with use permits; seasonal sales lots; commercial filming and still photography; funeral processions by licensed mortuaries; activities conducted by governmental agencies within the scope of their authority; and certain expressive activities protected by the First Amendment.

General requirements for a Special Event are found in section .050 of the draft ordinance. This section addresses issues that may require the coordination of various County Departments to ensure a successful Special Event. Such issues relate to additional permit requirements, signage, security and public health, nuisance conditions, restoration of Special Event sites, and other similar issues.

### Applying for a Special Event Permit:

The first step for a Special Event organizer would be to submit a completed Special Event Application no less than 30 days prior to the event. A copy of the Special Event Application is included in your packet. As you can see, the application is intended to provide County staff with information regarding contact information for the event organizer, the nature and location of the event, the number of anticipated attendees and the contact information for operators/ promoters/ vendors. Events with over 200 anticipated attendees will be required to supply a schedule of events, detailed site plan, maps or routes, and copies of any additionally necessary permits and/or licenses.

If any of the departments have concerns or need additional information it is addressed at this stage and requested from the organizer.

### Issuance of a Special Event Permit:

A Special Event Permit will be required for every Special Event held in the unincorporated area of the County. Once reviewed by County staff and any concerns or issues are addressed, the Special Event Permit may be issued within 180 days prior to the event. A copy of a Special Event Permit is included in your packet.

If you have any questions please contact me at (760) 932-5405 or [smesserlian@mono.ca.gov](mailto:smesserlian@mono.ca.gov)



# COUNTY OF MONO

County Administrative Office  
P.O. BOX 696, BRIDGEPORT, CALIFORNIA 93517  
(760) 932-5410 • FAX (760) 932-5411

## SPECIAL EVENT PERMIT

Permit # \_\_\_\_\_

Date of Issuance: \_\_\_\_\_

Host Organization: \_\_\_\_\_

Event Organizer/Contact Name: \_\_\_\_\_

Event Contact Phone Number: \_\_\_\_\_

Event Date: \_\_\_\_\_

Permitted Hours of Event Operation: \_\_\_\_\_ a.m./p.m. to: \_\_\_\_\_ a.m./p.m.

Maximum Estimated Attendance: \_\_\_\_\_

County Services to be Provided by:  Public Works  Sheriff  Health Department  Other: \_\_\_\_\_

Estimated Cost for Services Provided by County: \$ \_\_\_\_\_

Insurance Required:  General Liability  Auto  Workers' Compensation  Property  Pollution  Aircraft  
 Airport  Bond/Crime  Watercraft  Professional Liability  Other: \_\_\_\_\_  None

A cash or deposit/surety bond equivalent is held by the County for this Special Event:  Yes  No  
Deposit Required: \$ \_\_\_\_\_

Licenses/Permits Required:  Alcoholic Beverage Control Permit  Encroachment Permit  Road Closure   
Temporary Food Permit  Building  Other: \_\_\_\_\_  None

Food Permitted:  Yes  No

Alcohol Permitted:  Yes  No

**This permit is subject to the following additional conditions:**

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

- Mono County shall have the privilege of inspecting the premises covered by this permit at any or all times, and applicant will ensure that the County has permission to enter private property while a Special Event is occurring.
- This permit shall not be assigned.
- Mono County may revoke this permit at any time if permittee fails to perform any covenant herein contained or violates any provision of the Mono County Code or any other county laws.
- The parties hereto agree that the permittee, its officers, agents and employees, in the performance of this permit, shall act in an independent capacity and not as officers, employees or agents of Mono County.
- No alteration or variation of the terms of this permit shall be valid unless made in writing and signed by the County Administrative Officer or his/her designee.
- All required permits and licenses must be at the event location and must be presented when requested to any Agent / Officer of Mono County. All conditions noted on the permits must be met. Failure to obtain or provide all necessary permits or licenses will void the Special Event Permit.

**This permit certifies that the holder has satisfied the requirements for issuance of a County Special Events Permit and is in compliance with applicable county regulations relating to such issuance. This permit does not authorize the holder to conduct an event other than that specifically authorized in this permit.**

**Permittee waives all claims against Mono County, its officers, agents and employees for loss or damage caused by, arising out of, or in any way connected with the exercise of this permit, and permittee agrees to save harmless, indemnify and defend Mono County, its officers, agents and employees from any and all loss, damage or liability that may be suffered or incurred by Mono County, its officers, agents and employees caused by, arising out of or in any way connected with exercise by permittee of the rights hereby permitted except those arising out of the sole negligence of Mono County.**

**BY SIGNING THIS FORM, PERMITTEE AGREES TO ALL CONDITIONS STATED IN THIS PERMIT.**

\_\_\_\_\_  
Risk Management

\_\_\_\_\_  
Date

\_\_\_\_\_  
Permittee

\_\_\_\_\_  
Date



# COUNTY OF MONO

County Administrative Office  
P.O. BOX 696, BRIDGEPORT, CALIFORNIA 93517  
(760) 932-5410 • FAX (760) 932-5411

## SPECIAL EVENT APPLICATION

The following application is intended for all types Special Events.  
Special Events Are Regulated By Mono County Code Chapter \_\_\_\_\_.  
Completed applications must be submitted for approval between 120 and 30 days prior to event.  
**Please submit completed application to the Mono County Administrative Office.**

EVENT ORGANIZER/APPLICANT \_\_\_\_\_

ADDRESS \_\_\_\_\_ CITY/STATE/ZIP \_\_\_\_\_

PHONE \_\_\_\_\_ FAX \_\_\_\_\_ E-MAIL \_\_\_\_\_

NATURE OF EVENT (please provide a full description and continue on a separate page if necessary)

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

DATE OF EVENT \_\_\_\_\_ HOURS OF EVENT \_\_\_\_\_ a.m./p.m. to \_\_\_\_\_ a.m./p.m.

NUMBER OF ATTENDEES EXPECTED \_\_\_\_\_

RISK/RELEASE OF LIABILITY FORM: Signed by applicant, attached to application

ALCOHOL PRESENT ON PREMISES?

(If applicable please provide a certificate naming the County as an additional insured)

PROFITABLE EVENT  NONPROFIT EVENT (proof of tax-exempt status may be requested)

COMMUNITY CENTER RESERVED:  Antelope Valley  Benton  Bridgeport  Chalfant Valley

Crowley Lake  June Lake  Lee Vining  Other site: \_\_\_\_\_

**NOTE:** Mono County park facilities cannot be reserved; facilities will be open to the public

WILL YOU BE ERECTING/INSTALLING TEMPORARY STRUCTURES?  Yes  No

(May be subject to building codes and additional time for review)

COUNTY PERSONNEL/EQUIPMENT REQUESTED \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

PUBLIC EVENT OR  PRIVATE EVENT

If your event is private you have completed the application. If your event is public, please continue

**OTHER OPERATORS/PROMOTERS**

**NAME** \_\_\_\_\_

ADDRESS \_\_\_\_\_ CITY/STATE/ZIP \_\_\_\_\_

**NAME** \_\_\_\_\_

ADDRESS \_\_\_\_\_ CITY/STATE/ZIP \_\_\_\_\_

**VENDORS** *Use additional sheets if necessary.*

**NAME** \_\_\_\_\_

ADDRESS \_\_\_\_\_ CITY/STATE/ZIP \_\_\_\_\_

**NAME** \_\_\_\_\_

ADDRESS \_\_\_\_\_ CITY/STATE/ZIP \_\_\_\_\_

**NAME** \_\_\_\_\_

ADDRESS \_\_\_\_\_ CITY/STATE/ZIP \_\_\_\_\_

**RESTROOMS:**  On-site fixed facilities  Portable, how many? \_\_\_\_\_

**DRINKING WATER:**  On-site fountain  On-site sink  Bottled water  Other \_\_\_\_\_

**MEDICAL AID:** Type \_\_\_\_\_ Location \_\_\_\_\_

**SECURITY MEASURES:**  Portable fencing  Extra lighting  Sheriff  Other \_\_\_\_\_

**ELECTRICITY:**  No  Yes, provided by \_\_\_\_\_, paid by \_\_\_\_\_

**LIVE MUSIC:** Type \_\_\_\_\_ Number of musicians \_\_\_\_\_

Concert/dance

Amplified from \_\_\_\_\_ a.m./p.m. to \_\_\_\_\_ a.m./p.m. (generally no later than 10 pm)

**CLEANUP PLAN:** Personnel provided by \_\_\_\_\_ Finish time \_\_\_\_\_

**ADDITIONAL CONTAINERS:** Dumpsters, trash bags, etc. supplied by \_\_\_\_\_

[continued on next page]

## **ATTACHMENTS**

(Please attach all of the following that apply to your event)

**SCHEDULE OF EVENTS** (include items and times)

**SITE PLAN** (required for events anticipating more than 200 attendees)

Site plan may be hand drawn, not necessarily to exact scale, to show the following:

- Event site location
- Stage/entertainment areas
- Food booths
- Game booths
- Sales booths
- Parking areas
- Restroom facilities
- Street closures
- Dumpsters/trash cans

**MAPS OR ROUTES** (i.e., bicycle race/tour, 5K-10K runs or other event maps)

**PERMITS/LICENSES:**

- Encroachment Permit (Caltrans/Public Works)
- Road Closure (Caltrans/Public Works/ BOS Resolution)
- Temporary Food Permit (Environmental Health)
- Business License (Finance Department)
- Alcoholic Beverage License (from Alcoholic Beverage Control)
- Other: \_\_\_\_\_



1  
2 **ORDINANCE NO. ORD13-\_\_\_\_**  
3 **AN ORDINANCE OF THE MONO COUNTY BOARD OF SUPERVISORS**  
4 **CREATING CHAPTER 5.50 OF THE MONO COUNTY CODE**  
5 **PERTAINING TO SPECIAL EVENTS**

6 **WHEREAS**, Events conducted by private persons or entities using public roads,  
7 facilities and services provide benefits to residents and visitors of Mono County that are  
8 not normally provided as part of local government services; and

9 **WHEREAS**, Mono County does not currently have a comprehensive process for  
10 permitting and regulating such events; and

11 **WHEREAS**, A comprehensive process for such events will help ensure the  
12 success of such events as it relates to the utilization of public resources involved in  
13 permitting the event and protecting the general public.

14 **NOW, THEREFORE, THE BOARD OF SUPERVISORS OF THE COUNTY OF**  
15 **MONO ORDAINS** as follows:

16 **SECTION 1:** Chapter 5.50 shall be added to the Mono County Code and read as  
17 follows:

18 **“SPECIAL EVENTS**

19 **SECTION 5.50.010 Purpose**

20 The purpose of this chapter is to provide a comprehensive process for permitting  
21 and regulating events conducted by private persons or entities using County  
22 streets, facilities, services, or otherwise requiring County permission. It is  
23 recognized that such events provide benefits to residents and visitors to Mono  
24 County through the creation of unique venues for expression and entertainment  
25 that are not normally provided as part of local government services.

26 This ordinance is intended to supplement land use regulations; provide a  
27 coordinated process for the regulation of activities conducted in conjunction with  
28 a special event or other public event; ensure the Health and Safety of the patrons  
of a special event or other public event; prohibit unlawful activity from taking  
place at a special event or other public event; protect the rights and interests  
granted to a special event or other public event permit holder; protect the rights  
and interests of the community where the special event or other public event is  
held; provide reasonable cost recovery from commercial events; and to  
encourage non-profit beneficial events.

**SECTION 5.50.020 Definitions**

A. “Amplified Public Entertainment” means any type of performance or  
speech where any sound, including the human voice, musical instrument,  
or any other activity is amplified by means of mechanical or electrical  
amplification using microphones, amplifiers, speakers, or other similar  
equipment.

- 1
- 2 B. "Attendee" means any person who does or who is anticipated to attend a  
special event or a County Facility Event.
- 3 C. "Board of Supervisors" means the Mono County Board of Supervisors.
- 4 D. "County" means the County of Mono, a political subdivision of the State  
of California.
- 5
- 6 E. "County Facility Event" means an event that is to be held on or within  
County property, including, but not limited to, County Community  
7 Centers, facilities, parks, ball fields, roads or rights of way, or any other  
county property.
- 8 F. "Director" means the County Chief Administrative Officer or designee,  
and/or the Community Development Director when the event is to be  
9 held on a facility subject to a use permit to hold special events.
- 10 G. "Health Department" means the County Department of Public Health.
- 11 H. "Outdoor Festival" means any music festival, dance festival, open  
theatrical festival, "rock" festival, or similar musical or other performance  
12 activity held at a place other than in a permanent building or permanent  
installation that has been constructed for the purpose of conducting such  
13 activities, and to which members of the public are invited or admitted for a  
charge or free of cost.
- 14 I. "Sheriff" means County Sheriff or his designee.
- 15
- 16 J. "Special Event" means any organized activity, event, procession, or  
assemblage of persons for which there is not an outstanding use permit,  
17 which is held over a temporary or limited number of days. A Special  
Event is any event that anticipates seventy five (75) or more invitees or  
18 attendees, or an event anticipating any number of people when the event  
includes the sale of food and/or alcohol. Examples of special events  
19 include, but are not limited to, musical concerts and other amplified  
public entertainment events, parades, fairs, celebrations, marches,  
20 receptions, carnivals, festivals, rodeos, athletic events using public roads,  
rights-of ways, or facilities, community and/or long-term garage sales,  
21 flea markets, swap meets, and other similar activities.

22 **SECTION 5.50.030 PERMIT REQUIRED**

- 23 A. A Special Event Permit shall be required as specified in this Chapter for  
every Special Event held in the unincorporated area of the County.
- 24 B. A Special Event Permit may be issued no more than one hundred eighty  
25 (180) days prior to the first date of the event, unless the Director finds that  
circumstances and good cause require a permit to be issued prior to that  
26 time. An application for a Special Event Permit must be submitted to the  
Director, but may not be submitted less than thirty (30) days prior to the  
27 first date of the event, unless a shorter time is specifically authorized by  
the Board of Supervisors after finding that good cause exists and that all
- 28

1 necessary staff review and mitigation conditions can be identified and  
2 provided for. The County will make its best effort to process the  
3 application for a Special Event Permit within ten working days after  
4 receiving the complete application.

#### 5 SECTION 5.50.040 EXEMPT EVENTS

6 The following events are exempt from this Chapter:

- 7 A. Garage Sales. Garage Sales located at a private residence where items  
8 from that residence are the sole items for sale.
- 9 1. Garage Sales conducted on any parcel for longer than seventy two  
10 (72) hours at a time and/or more than twice per calendar year are  
11 not exempt events within the meaning of this Section.
- 12 2. Community garage sales and/or garage sales organized by several  
13 households, flea markets and swap meets are not exempt events  
14 within the meaning of this Section.
- 15 B. Private Parties. Private parties, receptions, or gatherings located on a  
16 private property and do not include the sale of food and/or alcohol.
- 17 C. Designated Facilities Events. Facilities that operate as locations for  
18 parties, receptions, or gatherings that have been issued a current and valid  
19 use permit are not required to obtain a Special Even Permit for any  
20 specific event so long as that event falls within the parameters of the  
21 current use permit. Any event held at a designated event facility where it  
22 is anticipated to exceed the specific parameters of the current use permit  
23 shall require a Special Event Permit.
- 24 D. Seasonal Sales Lot: Any lot or space used for the sale of seasonal products,  
25 such as Christmas trees, pumpkins, or similar items that are regulated by  
26 the Mono County General Plan.
- 27 E. Commercial filming and still photography permits are issued pursuant to  
28 Chapter 5.42 of the County Code.
- 29 F. Funeral procession by licensed mortuary.
- 30 G. Activities conducted by a governmental agency within the scope of its  
31 authority.
- 32 H. Expressive activity in, on or at any public place, property or facility, that is  
33 not likely to interfere with the use of public ways, violate traffic  
34 regulations, pose a threat to public safety, and does not interfere with the  
35 County's regulating competing uses of such public areas. Due to the  
36 substantial likelihood that the above described types of interference will  
37 occur, this exception does not apply to a demonstration or protest that is  
38 expected to involve more than seventy five (75) persons.

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1. Organizers of demonstrations or protests involving more than 75 persons and/or likely interfere with the use of public ways, violate traffic regulations, pose a threat to public safety, and/or likely to interfere with the County's regulating of competing uses of the public areas at issue shall notify the Sheriff and County Administrator in writing at least twenty four (24) hours in advance of such activity, and may be subject to reasonable restrictions as to the time, place, and manner of such activities depending on the specific type and level of interference at issue.

**SECTION 5.50.050 GENERAL REQUIREMENTS FOR SPECIAL EVENTS**

- A. A Special Event shall not be allowed on or within a parcel or lot, shopping center, professional center, business park, or any other location for more than thirty (30) days in any calendar year.
- B. Building permits shall be required when any new structure is built, an existing structure is modified, or when new utility service connection is made otherwise requiring a building permit.
- C. Approval from the Health Department, including, but not limited to, obtaining a Temporary Food Permit, shall be obtained in the form issued by the Health Department for all temporary uses involving the preparation or handling of food, and when determined by the Health Department during the permit review process. All temporary food vendors shall comply with temporary food stand requirements.
- D. Parking shall be on-site whenever possible and adequate temporary parking facilities, pedestrian and vehicle circulation, and vehicle and pedestrian ingress and egress, shall be sufficient to handle the number of anticipated attendees. Parking attendants may be required. Off-site parking, satellite parking facilities, shuttle and other off-site transportation, and a traffic control plan shall be required when necessary as determined by the Director, and shall be subject to approval by the Department of Public Works, Sheriff, and California Highway Patrol as deemed necessary by the Director.
- E. Pedestrian and display areas not located on a paved surface may be required by the Director to be covered with a temporary surface that may include, but is not limited to, green grass, artificial turf, or a minimum of two inches of sawdust, wood shavings, or other surface materials.
- F. Signs used within a Special Event, used to direct attendees to the Special Event, or to advertise the Special Event shall comply with the sign guidelines set forth in Chapter 7 of the Mono County General Plan, and shall be erected in approved specified locations not more than twenty (20) days prior to the event and shall be removed at the conclusion of the event. "Signs" for this purpose include flags, pennants, lighting, and any other device or method used to advertise or provide direction or information regarding the Special Event.
- G. Site restoration and clean-up: The subject site shall be restored to its original condition within three days from the date the event has

1 concluded, unless an extension of time has been granted in writing by the  
2 Director. Site restoration includes, but is not limited to: removal of all  
3 temporary structures; portable sanitary and water facilities; temporary  
4 utility hook-ups; litter, garbage, waste and debris generated by the Special  
5 Event; temporary parking barriers, equipment, and signs; and temporary  
6 surface covering. Any temporary roadblocks, detours or road signage  
7 shall be removed immediately upon the completion of the event.

8 1. The Director may require the posting of a security bond, cash  
9 deposit, or other form of security in an amount that is sufficient to  
10 cover any expenses likely to be incurred by the County in  
11 performing the required site restoration in the event the site is not  
12 completely restored to its pre-event condition as required above.

13 H. Operating hours shall be specified in the permit and may be set by the  
14 Director in a manner specifying a time(s) that is necessary to facilitate the  
15 event activities and purposes, and that does not interfere with the health,  
16 safety, and general welfare of the surrounding community. Except as set  
17 forth in subsection I below, Special Events must not operate between the  
18 hours of 10 p.m. and 7 a.m..

19 I. Nuisance conditions shall be avoided or mitigated to an insignificant  
20 amount pursuant to conditions required by the Director addressing the  
21 prevention of dust, dirt, noise, vibration, odors, heat, smoke, waste, glare,  
22 or direct illumination on adjoining parcels and/or parcels in close  
23 proximity to the event. Notwithstanding any other provision of the Mono  
24 County Code, the Board of Supervisors may, by resolution, grant an  
25 exemption to authorize a Special Event, including those expected to  
26 otherwise create nuisance conditions, to be conducted later than 10 p.m.  
27 and/or earlier than 7 a.m..

28 J. Screening to mitigate visual and other impacts to adjoining parcels or  
rights-of-way by using temporary decorative walls, barriers, fences,  
landscaping or similar methods may be required.

K. Security and public safety measures shall be required that are appropriate  
considering the nature and size of the Special Event. Security  
requirements shall be determined by the Sheriff and may include  
requiring on-site professional security approved by the Sheriff, or  
specially assigned Sheriff personnel. Any event using state highways  
shall comply with any security or safety requirements as may be  
determined by the California Highway Patrol.

L. First aid and emergency safety measures shall be required that are  
appropriate with the nature and size of the special event. Such  
requirements may include the presence of trained medical professionals, a  
staffed first-aid facility, and/or the standby presence of County  
paramedics.

M. Fire safety measures shall be required that are appropriate with the nature  
and size of the Special Event. Such requirements may include placement  
of personnel and equipment from a fire protection district, water supplies,

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- placement of fire extinguishers, and/or creation of defensible space around the special event site.
- N. Water supplies for human consumption, sanitation facilities, and solid waste receptacles shall be required that are appropriate with the nature and size of potable domestic water and sanitation facilities shall be approved by the Health Department. Any solid waste items that may be recycled shall be disposed of in a manner that facilitates their recycling.
  - O. Pets, other than animals trained to assist the physically impaired, may be prohibited from any Special Event depending on the nature of the Special Event. Pets that may be allowed shall be leashed and subject to the direct control of the pet's owner. Any pet waste must be immediately removed and placed in appropriate receptacles. A pet shall be removed immediately upon the request of the permit holder or designee, any county employee, or any public safety personnel.
  - P. Notwithstanding any other provision of the Mono County Code, all Special Event permit holders, and any vendors or others participating in the Special Event, shall be exempted from the requirements of Chapter 5.16 of the Mono County Code (business license requirements), to the extent they would only otherwise be required to obtain a business license for their participation in the Special Event.
  - Q. All vendors selling or distributing food or beverages shall be required to have all necessary licenses, permits, or certificates, including, but not limited to, any licenses required by the State Department of Alcoholic Beverage Control. Any required licenses, permits, or certificates shall be present and available for display and inspection at all times during the course of the event.
  - R. Setbacks shall be maintained to ensure adequate separation from adjoining land uses, and to provide a safe environment for pedestrians and vehicles, in a manner determined by the Director.
  - S. Cost of Special Events shall be the responsibility of the applicant/permit holder, and may include costs associated with County services related to the Special Event. An applicant may apply, in writing, to the Board of Supervisors for co-sponsorship of a Special Event. An applicant for an event conducted by a non-profit entity may apply to the Director for a fee and/or cost waiver if the Special Event is to be conducted by the non-profit entity, concerns a matter of community interest, or is of substantial public interest and benefit, which request may be granted or denied by the Director or referred to the Board of Supervisors for consideration.
  - T. Other conditions may be required by the Director depending on the nature and size of the Special Event in order to protect the health, safety and general welfare of the participants of the event and the surrounding community.
  - U. Alcohol may be sold, distributed, and/or consumed at a Special Event only upon the prior approval of the Director, after considering the nature

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and size of the event, and subject to any regulation by the Department of Alcohol Beverage and Control.

V. Any Special Event that may be held, or continues to operate, after dark shall include sufficient lighting to ensure that all occupied areas are continuously and adequately lighted to ensure the safety of the event participants. Any such lighting scheme is subject to the approval of the Director.

W. Issuance of a Special Event Permit does no obligate the County to provide any equipment, personnel, or other services."

**SECTION TWO:** This ordinance shall become effective 30 days from the date of its adoption and final passage, which appears immediately below. The Clerk of the Board of Supervisors shall post this ordinance and also publish the ordinance in the manner prescribed by Government Code section 25124 no later than 15 days after the date of its adoption and final passage. If the Clerk fails to publish this ordinance within said 15 day-period, then the ordinance shall not take effect until 30 days after the date of publication.

**PASSED, APPROVED and ADOPTED** this \_\_\_\_\_ day of \_\_\_\_\_, 2013, by the following vote, to wit:

AYES:  
NOES:  
ABSENT:  
ABSTAIN:

\_\_\_\_\_  
Byng Hunt, Chair  
Mono County Board of Supervisors

ATTEST:

APPROVED AS TO FORM:

\_\_\_\_\_  
Clerk of the Board

\_\_\_\_\_  
COUNTY COUNSEL



OFFICE OF THE CLERK  
OF THE BOARD OF SUPERVISORS

## REGULAR AGENDA REQUEST

Print

<b>MEETING DATE</b>	June 4, 2013	<b>DEPARTMENT</b>	Board of Supervisors
<b>ADDITIONAL DEPARTMENTS</b>	CAO, County Counsel		
<b>TIME REQUIRED</b>	10 minutes	<b>PERSONS APPEARING BEFORE THE BOARD</b>	Marshall Rudolph
<b>SUBJECT</b>	Jim Leddy Employment Contract		

### AGENDA DESCRIPTION:

(A brief general description of what the Board will hear, discuss, consider, or act upon)

Proposed Resolution approving an employment agreement with James Leddy and prescribing the compensation, appointment, and conditions of said employment. The Resolution provides for Mr. Leddy's appointment as County Administrator under a two-year, at-will employment contract. His first date of employment will be June 10, 2013.

### RECOMMENDED ACTION:

Adopt proposed resolution #R13-\_\_\_\_\_, approving an employment agreement with James Leddy and prescribing the compensation, appointment, and conditions of said employment. Provide any desired direction to staff.

### FISCAL IMPACT:

\$15,591.91 for Fiscal Year 2012-13 (one month); \$244,127.70 for Fiscal Year 2013-14, consisting of \$160,000 in salary, \$32,012 in PERS contributions, and \$52,115.70 in other benefits and employment-related costs to the County.

**CONTACT NAME:** Marshall Rudolph

**PHONE/EMAIL:** (760) 924-1707 / mrudolph@mono.ca.gov

SUBMIT THE ORIGINAL DOCUMENT WITH  
ATTACHMENTS TO THE OFFICE OF  
THE COUNTY ADMINISTRATOR  
**PRIOR TO 5:00 P.M. ON THE FRIDAY**  
**32 DAYS PRECEDING THE BOARD MEETING**

### SEND COPIES TO:

### MINUTE ORDER REQUESTED:

YES  NO

### ATTACHMENTS:

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[Leddy staff](#)

[📄 Leddy press release](#)

[📄 Leddy resolution](#)

[📄 Leddy contract](#)

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### History

<b>Time</b>	<b>Who</b>	<b>Approval</b>
5/30/2013 11:43 AM	County Administrative Office	Yes
5/30/2013 11:32 AM	County Counsel	Yes
5/29/2013 5:22 PM	Finance	Yes

**County Counsel**  
Marshall Rudolph

**Assistant County Counsel**  
Stacey Simon

**Deputy County Counsels**  
John-Carl Vallejo

**OFFICE OF THE  
COUNTY COUNSEL**

*Mono County*  
South County Offices  
P.O. BOX 2415

MAMMOTH LAKES, CALIFORNIA 93546

**Telephone**  
760-924-1700  
**Facsimile**  
760-924-1701

**Legal Assistant**  
Jennifer Senior

TO: Board of Supervisors  
FROM: Marshall Rudolph  
DATE: June 4, 2013  
RE: Jim Leddy employment agreement

**Recommendation:**

Adopt proposed resolution approving an employment agreement with James Leddy and prescribing the compensation, appointment, and conditions of said employment.

**Fiscal/Mandates Impact:**

\$15,591.91 for Fiscal Year 2012-13 (one month); \$244,127.70 for Fiscal Year 2013-14, consisting of \$160,000 in salary, \$32,012 in PERS contributions, and \$52,115.70 in other benefits and employment-related costs to the County.

**Discussion:**

The proposed resolution would appoint Jim Leddy as County Administrator pursuant to a two-year, at-will agreement. His first date of employment would be June 10, 2013. Attached is copy of the County's press release describing Mr. Leddy's background and other pertinent information.

Please contact me with any questions or comments.



## MEDIA ADVISORY

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# MONO COUNTY, *California's Eastern Sierra*

P.O. Box 696 · Bridgeport, CA 93517  
Phone (760) 932-5410 · Fax (760) 932-5411

---

FOR IMMEDIATE RELEASE

Date: May 21, 2013

Contact: Marshall Rudolph, County Counsel  
(760) 932-5410 - mrudolph@mono.ca.gov

## **Mono County Board of Supervisors Announces New County Administrator**

*Jim Leddy brings over 20 years experience to position*

**Mono County, Calif.** – On Tuesday, May 21<sup>st</sup>, the Mono County Board of Supervisors announced its selection of Jim Leddy as the new Mono County Administrator. The selection follows an extensive recruitment process begun in January and guided by the Board's efforts to strengthen strategic planning for the county. Jim Leddy currently serves as a Deputy County Administrator/Community and Government Affairs Manager for the County of Sonoma. The Board of Supervisors intends to approve a contract formally appointing Mr. Leddy as County Administrator on June 4<sup>th</sup> with his employment starting on June 10<sup>th</sup>. The salary will be \$160,000 annually.

Board of Supervisors Chairman Byng Hunt commented, "Jim brings energy, experience and a commitment to effective and efficient public services. The Board was unanimous in the decision to ask him to join our community. This Board is identifying and working on a series of short and long term challenges facing our County and we know we need an Administrator that will work with the community, the staff and the Board to maximize results." Chairman Hunt further commented, "The Board also extends its appreciation to Public Health Director Lynda Salcido and County Counsel Marshall Rudolph for their respective services as Acting CAO during this process."

Prospective County Administrator Jim Leddy commented, "It is such an honor to be given the opportunity to work for the Board and join with fellow public servants of Mono County in delivering high quality, crucial services. Mono County is an amazing place of rugged, natural beauty and has challenges and opportunities. I am confident by working together, we can strengthen public services while being wise stewards of taxpayer resources. The Board's commitment to building a strong strategic planning process through collaborative partnerships is exciting and I can't wait to get started!"

Prior to coming to Mono County, Jim has two decades of public service experience. Jim has served as the Community and Governmental Affairs Manager (Deputy County Administrator) of Sonoma County since 2008, a position with additional public information and legislative responsibilities. Prior to working for Sonoma County, Jim was the Executive Director of the Napa County Planning and Transportation Agency from 2006 to 2008. From 1993 to 2006, Jim worked for the State Senate serving in the District Offices of two Senators, first as a Field representative then District Director.

Jim grew up in the rural community of Monte Rio in Sonoma County. He possesses a Bachelor's Degree from University of California, Davis in Sociology (Criminology Focus). Jim is also a graduate of the Senior Executive Institute, University of Virginia (Weldon Cooper School of Public Policy - 2011).

In addition to his professional service, Jim, age 45, is a former member of the Santa Rosa School Board having served two terms from 2001-2008. Jim is married to Kathy Hayes, his wife of 15 years, and they have twin 11-year-old sons, Logan and John.



###

Mono County offers a rural setting with the most spectacular landscapes in the state. Situated between the crest of the Sierra Nevada mountains and the California/Nevada border, Mono County has a land area of 3,030 square miles, or just over 2 million acres, 94% of which is publicly owned. Much of this land is contained in the Inyo and Toiyabe National Forests. As a result, Mono County is home to vast scenic and recreational resources, and has unsurpassed access to wilderness and adventure.

The county is home to, and named after Mono Lake, which is a large high-desert saline lake. Also located in the county is the historic gold rush town of Bodie, which during its heyday in the late 1800's was home to as many as 7,000 people, and is today maintained as a State Historic Park for the public to come and enjoy. The county seat is proudly located in Bridgeport.

Scenic Highway 395 weaves its way north-south through the heart of the county, effectively dividing the steep mountains to the west from the vast desert valley to the east. As it provides access to Yosemite National Park via Lee Vining, it passes beneath towering peaks, and past broad desert expanses.



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**RESOLUTION NO. R13-**

**A RESOLUTION OF THE MONO COUNTY BOARD OF SUPERVISORS APPROVING AN EMPLOYMENT AGREEMENT WITH JAMES LEDDY AND PRESCRIBING THE COMPENSATION, APPOINTMENT, AND CONDITIONS OF SAID EMPLOYMENT**

**WHEREAS**, the Mono County Board of Supervisors has the authority under Section 25300 of the Government Code to prescribe the compensation, appointment, and conditions of employment of County employees;

**NOW, THEREFORE, BE IT RESOLVED** by the Mono County Board of Supervisors, that the Agreement re Employment of James Leddy, a copy of which is attached hereto as an exhibit and incorporated herein by this reference as though fully set forth, is hereby approved and the compensation, appointment, and other terms and conditions of employment set forth in that Agreement are hereby prescribed and shall govern the employment of Mr. Leddy. The Chairman of the Board of Supervisors shall execute said Agreement on behalf of the County.

PASSED AND ADOPTED this \_\_\_\_ day of \_\_\_\_\_, 2013, by the following vote:

AYES :  
NOES :  
ABSTAIN :  
ABSENT :

ATTEST: \_\_\_\_\_  
Clerk of the Board

\_\_\_\_\_  
Byng Hunt, Chair  
Board of Supervisors

APPROVED AS TO FORM:

COUNTY COUNSEL

## **AGREEMENT RE EMPLOYMENT OF JAMES LEDDY**

This Agreement is entered into this 4th day of June, 2013, by and between James Leddy and the County of Mono.

### **I. RECITALS**

The County wishes to employ James Leddy as its County Administrator on a full-time basis on the terms and conditions set forth in this Agreement. Mr. Leddy wishes to accept such employment with the County on said terms and conditions.

### **II. AGREEMENT**

1. The term of this Agreement shall be June 4, 2013, until June 4, 2015, unless earlier terminated by either party in accordance with this Agreement. The County shall notify Mr. Leddy in writing no later than December 4, 2014, whether it intends to negotiate a renewal of this Agreement. In the event the County fails to provide such notice, Mr. Leddy shall notify the County in writing of its breach of this provision of the Agreement and County shall be allowed 30 days from the receipt of that notice to cure the breach. If the County cures the breach and notifies Mr. Leddy that it does not intend to negotiate a renewal of the Agreement, then this Agreement shall terminate six months after said notification and no additional compensation or damages shall be owing to Mr. Leddy as a result of the cured breach. If the County does not cure the breach, then the Agreement shall automatically renew for another two years on the same terms in effect at the time of renewal.
2. Commencing June 10, 2013, Mr. Leddy shall be employed by Mono County and is hereby appointed by the Board of Supervisors as the County Administrator, serving at the will and pleasure of the Board of Supervisors in accordance with the terms and conditions of this Agreement. Mr. Leddy accepts such employment. The Board of Supervisors shall be deemed the "appointing authority" for all purposes with respect to Mr. Leddy's employment.
3. Mr. Leddy's initial salary shall be \$13,333 per month, prorated for the month of June 2013 to reflect his June 10th start date. During each calendar year commencing with 2014, the Board of Supervisors may increase or decrease Mr. Leddy's then-current salary in its discretion; provided, however, that the Board shall not decrease his salary by more than two percent (2%) during any one calendar year. In exercising its discretion to increase or decrease Mr. Leddy's salary, the Board may consider the survey and cost-of-living-adjustment principles of the County's management compensation policies (most recently

amended by Board Resolution R10-74), but Mr. Leddy's salary and compensation shall not be formally governed by such policies and thus, among other things, he shall not be eligible at any time to receive "performance pay" under those policies. Mr. Leddy understands that he is responsible for paying the employee's share of any retirement contributions owed to the Public Employees Retirement System (PERS) with respect to his employment for the County.

4. Mr. Leddy shall also be entitled to an assigned County vehicle for business use, including commuting from a principal residence within the County.
5. Mr. Leddy shall earn and accrue vacation and sick leave in accordance with the County's Management Benefits Policy and in accordance with any applicable County Code provisions not in conflict with said Policy. Also pursuant to said Policy, in recognition of the fact that his employment will be exempt from the payment of overtime or compensatory time-off under the Fair Labor Standards Act, he shall be entitled to 80 hours of merit leave (aka administrative leave) during each year of service under this Agreement. Mr. Leddy understands that said merit leave does not accrue from one calendar year to the next; rather, it must be used by December 31<sup>st</sup> of each calendar year in which it is provided or it is lost. (Due to Mr. Leddy's start date of June 10, 2013; his merit leave shall be pro-rated to 46 hours for 2013.)
6. To the extent deemed appropriate by the Board of Supervisors, the County shall pay the professional dues, subscriptions, and other educational expenses necessary for Mr. Leddy's full participation in applicable professional associations, for his continued professional growth and for the good of the County.
7. To the extent not inconsistent with the foregoing or any other provision of this Agreement, Mr. Leddy shall be entitled to the same general benefits provided by the County to other management-level employees, as described more fully in the County's Management Benefits Policy. Such benefits include but are not limited to CalPERS retirement benefits, CalPERS medical insurance, County dental and vision coverage, and life insurance. Pursuant to the California Public Employees' Pension Reform Act of 2013, because Mr. Leddy is being hired by the County within six months of leaving a county retirement system with reciprocity, the CalPERS retirement formula applicable to his County employment will be "2.5% @ 55" (the formula in effect on December 31, 2012). Any and all references in this Agreement to the County's Management Benefits Policy shall mean the "Policy Regarding Benefits of Management-level Officers and Employees," amended most recently by Resolution R11-56 of the Mono County Board of Supervisors and as the same may be further amended from time to time and unilaterally implemented by the County.

8. Mr. Leddy understands and agrees that his receipt of compensation or benefits of any kind under this Agreement or under any applicable County Code provision or policy – including but not limited to salary, insurance coverage, and paid holidays or leaves – is expressly contingent on his actual and regular rendering of personal services to the County or, in the event of any absence, upon his proper use of any accrued leave. Should Mr. Leddy cease rendering such services during this Agreement and be absent from work without any accrued leave to cover said absence, then he shall cease earning or receiving any additional compensation or benefits until such time as he returns to work and resumes rendering personal services; provided, however, that the County shall provide any compensation or benefits mandated by state or federal law. Furthermore, should Mr. Leddy's regular schedule ever be reduced to less than full-time employment, on a temporary or permanent basis, then all compensation and benefits provided by this Agreement or any applicable County policies shall be reduced on a pro-rata basis, except for those benefits that the County does not generally pro-rate for its other part-time employees (e.g., medical insurance).
9. Consistent with the "at will" nature of Mr. Leddy's employment, the Board of Supervisors may terminate Mr. Leddy's employment at any time during this agreement, without cause. In that event, this Agreement shall automatically terminate concurrently with the effective date of the termination. Mr. Leddy understands and acknowledges that as an "at will" employee, he will not have permanent status nor will his employment be governed by the County Personnel System (Mono County Code Chapter 2.68) except to the extent that System is ever modified to apply expressly to at-will employees. Among other things, he will have no property interest in his employment, no right to be terminated or disciplined only for just cause, and no right to appeal, challenge, or otherwise be heard regarding any such termination or other disciplinary action the Board of Supervisors may, in its discretion, take during Mr. Leddy's employment.
10. In the event that such a termination without cause occurs after June 10, 2014, (i.e., after the first twelve months of employment), Mr. Leddy shall receive as severance pay a lump sum equal to six months' salary or, to the extent that fewer than six full calendar months remain (as of that effective date) before this Agreement would have expired, Mr. Leddy shall instead receive a lesser amount equal to any remaining salary payments he would have received before expiration of the Agreement had he not been terminated. Notwithstanding the foregoing, Mr. Leddy shall receive severance pay equal to six months' salary in the event that termination occurs after the County has notified Mr. Leddy that it intends to negotiate a renewal of this Agreement but before this Agreement expires. In no event shall the parties' failure or inability to arrive at mutually acceptable terms of a renewed agreement trigger the payment of severance pay.

Note: for purposes of severance pay, "salary" refers only to base compensation (i.e., it does not include any other compensation, including but not limited to any temporary performance or merit pay).

11. Notwithstanding the foregoing, Mr. Leddy shall not be entitled to any severance pay in the event that the Board of Supervisors has grounds to discipline him on or about the time it gives him notice of termination. For purposes of this provision, grounds for discipline include but are not limited to those specified in Section 2.68.230 of the County Code or any successor Code provision, as the same may be amended from time to time. Mr. Leddy shall also not be entitled to any severance pay in the event that he becomes unable to perform the essential functions of his position (with or without reasonable accommodations) and his employment is duly terminated for such non-disciplinary reasons.
12. Mr. Leddy may resign his employment with the County at any time. His resignation shall be deemed effective when tendered, and this agreement shall automatically terminate on that same date, unless otherwise mutually agreed to in writing by the parties. Mr. Leddy shall not be entitled to any severance pay or additional compensation of any kind after the effective date of such resignation.
13. This Agreement constitutes the entire agreement of the parties with respect to the employment of Mr. Leddy.
14. The parties agree that the Board of Supervisors' approval of this Agreement on behalf of the County is a legislative act and that through this agreement, the Board of Supervisors is carrying out its responsibility and authority under Section 25300 of the Government Code to set the terms and conditions of County employment. It is not the parties' intent to alter in any way the fundamental statutory (non-contractual) nature of Mr. Leddy's employment with the County nor to give rise to any future contractual remedies for breach of this Agreement or of an implied covenant of good faith and fair dealing. Rather, the parties intend that Mr. Leddy's sole remedy in response to any failure by the County to comply with this Agreement shall be traditional mandamus.
15. Mr. Leddy acknowledges that this Agreement is executed voluntarily by him, without duress or undue influence on the part or on behalf of the County. Mr. Leddy further acknowledges that he has participated in the negotiation and preparation of this Agreement and has had the opportunity to be represented by counsel with respect to such negotiation and preparation or does hereby knowingly waive his right to do so, and that he is fully aware of the contents of this Agreement and of its legal effect. Thus, any ambiguities in this Agreement shall not be resolved in favor of or against either party.

**III. EXECUTION:**

This Agreement shall be deemed executed as of June 4, 2013.

JAMES LEDDY

THE COUNTY OF MONO

\_\_\_\_\_

\_\_\_\_\_

By: Byng Hunt, Chair  
Board of Supervisors

APPROVED AS TO FORM:

\_\_\_\_\_  
MARSHALL RUDOLPH  
County Counsel



OFFICE OF THE CLERK  
OF THE BOARD OF SUPERVISORS

## REGULAR AGENDA REQUEST

Print

<b>MEETING DATE</b>	June 4, 2013	<b>DEPARTMENT</b>	County Counsel
<b>ADDITIONAL DEPARTMENTS</b>			
<b>TIME REQUIRED</b>	5 minutes	<b>PERSONS APPEARING BEFORE THE BOARD</b>	Marshall Rudolph
<b>SUBJECT</b>	Housing Mitigation Ordinance Suspension		

### AGENDA DESCRIPTION:

(A brief general description of what the Board will hear, discuss, consider, or act upon)

Proposed ordinance amending section \_\_\_\_ of the Mono County Code in order to extend an existing suspension of chapter \_\_\_\_ of the County Code pertaining to housing mitigation.

### RECOMMENDED ACTION:

Introduce, read title, and waive further reading of proposed ordinance. Provide any desired direction to staff.

### FISCAL IMPACT:

None, other than foregone mitigation fee revenue in an unknown amount during the suspension.

**CONTACT NAME:** Marshall Rudolph

**PHONE/EMAIL:** (760) 924-1707 / [mrudolph2mono.ca.gov](mailto:mrudolph2mono.ca.gov)

SUBMIT THE ORIGINAL DOCUMENT WITH  
ATTACHMENTS TO THE OFFICE OF  
THE COUNTY ADMINISTRATOR  
**PRIOR TO 5:00 P.M. ON THE FRIDAY**  
**32 DAYS PRECEDING THE BOARD MEETING**

### SEND COPIES TO:

### MINUTE ORDER REQUESTED:

YES  NO

### ATTACHMENTS:

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[HMO staff](#)

[HMO ordinance](#)

History

<b>Time</b>	<b>Who</b>	<b>Approval</b>
5/30/2013 11:28 AM	County Administrative Office	Yes
5/30/2013 11:15 AM	County Counsel	Yes
5/29/2013 6:35 PM	Finance	Yes

**County Counsel**  
Marshall Rudolph

**Assistant County Counsel**  
Stacey Simon

**Deputy County Counsels**  
John-Carl Vallejo

**OFFICE OF THE  
COUNTY COUNSEL**

*Mono County*  
South County Offices  
P.O. BOX 2415

MAMMOTH LAKES, CALIFORNIA 93546

**Telephone**  
760-924-1700  
**Facsimile**  
760-924-1701

**Legal Assistant**  
Jennifer Senior

TO: Board of Supervisors

FROM: Marshall Rudolph

DATE: June 4, 2013

RE: Ordinance extending a temporary suspension of housing mitigation requirements

**Recommendation:**

Introduce, read title, and waive further reading of proposed ordinance amending section 15.40.170 of the Mono County Code, pertaining to a temporary suspension of all housing mitigation requirements.

**Fiscal/Mandates Impact:**

Loss of mitigation fee revenue in an unknown amount during the period of the suspension.

**Discussion:**

The Board recently reviewed and ultimately decided to extend the current suspension of housing mitigation requirements, which would otherwise expire on July 15, 2013, for an additional eighteen (18) months. The proposed ordinance would effectuate that extension. If introduced at today's meeting (first reading), it could then be adopted on July 11<sup>th</sup>, and take effect 30 days later.

Please contact me with any questions or comments.



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ORDINANCE NO. ORD13-\_\_

**AN ORDINANCE OF THE MONO COUNTY BOARD OF SUPERVISORS AMENDING SECTION 15.40.170 OF THE MONO COUNTY CODE, PERTAINING TO A TEMPORARY SUSPENSION OF ALL HOUSING MITIGATION REQUIREMENTS**

**WHEREAS**, the County previously enacted a temporary suspension of certain housing mitigation requirements on development projects, as codified in Chapter 15.40 of the Mono County Code, which will expire on June 15, 2013, if not extended; and

**WHEREAS**, the Board wishes to continue that suspension for an additional eighteen (18) months;

**NOW, THEREFORE, THE BOARD OF SUPERVISORS OF THE COUNTY OF MONO ORDAINS** as follows:

**SECTION ONE:** Section 15.40.170 of the Mono County Code is hereby amended to read as follows:

**“15.40.170 Temporary suspension of requirements.**

All housing mitigation requirements set forth in Chapter 15.40 shall be suspended in their entirety, and be of no force or effect, during the period from July 15, 2011, through January 15, 2015.”

**SECTION TWO:** This ordinance shall become effective 30 days from the date of its adoption and final passage, which appears immediately below. The Clerk of the Board of Supervisors shall post this ordinance and also publish the ordinance or a summary thereof in the manner prescribed by Government Code section 25124 no later than 15 days after the date of this ordinance’s adoption and final passage. If the Clerk fails to so publish this ordinance or a summary thereof within said 15 day-period, then the ordinance shall not take effect until 30 days after the date of publication.

**PASSED, APPROVED and ADOPTED** this\_\_day of\_\_\_\_\_, 2013, by the following vote, to wit:

- AYES:
- NOES:
- ABSENT:
- ABSTAIN:

\_\_\_\_\_  
BYNG HUNT, Chair  
Mono County Board of Supervisors

ATTEST:

APPROVED AS TO FORM:

\_\_\_\_\_  
Clerk of the Board

\_\_\_\_\_  
COUNTY COUNSEL



OFFICE OF THE CLERK  
OF THE BOARD OF SUPERVISORS

## REGULAR AGENDA REQUEST

Print

<b>MEETING DATE</b>	June 4, 2013	<b>DEPARTMENT</b>	County Counsel
<b>ADDITIONAL DEPARTMENTS</b>			
<b>TIME REQUIRED</b>	5 minutes	<b>PERSONS APPEARING BEFORE THE BOARD</b>	Marshall Rudolph
<b>SUBJECT</b>	Aquaculture Plan Consulting Contract		

### AGENDA DESCRIPTION:

(A brief general description of what the Board will hear, discuss, consider, or act upon)

Consulting Contract with Professional Aquaculture Services (Tony Vaught) for Conway Ranch Aquaculture and Interpretive Site Evaluation and Planning Services.

### RECOMMENDED ACTION:

Authorize County Administrator to negotiate and enter into a consulting contract with Professional Aquaculture Services (Tony Vaught) for Conway Ranch Aquaculture and Interpretive Site Evaluation and Planning Services, in an amount of \$15,000 plus travel and lodging expenses (not to exceed a combined total of \$20,000). Authorize payment for said contract from the Fish Enhancement Fund increase the fish-enhancement line item within the Economic Development budget by said amount.

### FISCAL IMPACT:

\$15,000 plus travel and lodging expenses (not to exceed a combined total of \$20,000) in available fish enhancement funds. This will require a budget amendment (4/5ths vote required)

**CONTACT NAME:** Marshall Rudolph

**PHONE/EMAIL:** (760) 924-1707 / [mrudolph@mono.ca.gov](mailto:mrudolph@mono.ca.gov)

SUBMIT THE ORIGINAL DOCUMENT WITH  
ATTACHMENTS TO THE OFFICE OF  
THE COUNTY ADMINISTRATOR  
**PRIOR TO 5:00 P.M. ON THE FRIDAY**  
**32 DAYS PRECEDING THE BOARD MEETING**

### SEND COPIES TO:

### MINUTE ORDER REQUESTED:

YES  NO

### ATTACHMENTS:

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[Vaught staff](#)

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**History**

<b>Time</b>	<b>Who</b>	<b>Approval</b>
5/30/2013 11:44 AM	County Administrative Office	Yes
5/30/2013 11:43 AM	County Counsel	Yes
5/30/2013 12:14 PM	Finance	Yes

**County Counsel**  
Marshall Rudolph

**Assistant County Counsel**  
Stacey Simon

**Deputy County Counsels**  
John-Carl Vallejo

**OFFICE OF THE  
COUNTY COUNSEL**

*Mono County*  
South County Offices  
P.O. BOX 2415

MAMMOTH LAKES, CALIFORNIA 93546

**Telephone**  
760-924-1700  
**Facsimile**  
760-924-1701

**Legal Assistant**  
Jennifer Senior

TO: Board of Supervisors

FROM: Marshall Rudolph

DATE: June 4, 2013

RE: Consulting Contract with Professional Aquaculture Services (Tony Vaught) for Conway Ranch Aquaculture and Interpretive Site Evaluation and Planning Services

**Recommendation:**

Authorize County Administrator to negotiate and enter into a consulting contract with Professional Aquaculture Services (Tony Vaught) for Conway Ranch Aquaculture and Interpretive Site Evaluation and Planning Services, in an amount of \$15,000 plus travel and lodging expenses (not to exceed a combined total of \$20,000). Authorize payment for said contract from the Fish Enhancement Fund increase the fish-enhancement line item within the Economic Development budget by said amount.

**Fiscal/Mandates Impact:**

\$15,000 plus travel and lodging expenses (not to exceed a combined total of \$20,000) in available fish enhancement funds.

**Discussion:**

The County recently entered into a Memorandum of Understanding (MOU) with Caltrans which, if all conditions of the MOU are satisfied, would ultimately result in certain grant restrictions (EEMP Cycle 7 grant) being removed in a seventy-five (75) acre area of Conway Ranch where fish-rearing and other fishing activities are currently occurring, thereby allowing the County to more fully utilize that area. It is proposed that the County retain Professional Aquaculture Services (Tony Vaught) to assist the County in evaluating and planning for future aquaculture facilities and an interpretive site in that 75 acre area. The consultant would obtain input from all interested

stakeholders in that planning process, including but not limited to Inland Aquaculture Group, Conway Ranch Foundation, and the Fisheries Commission. Professional Aquaculture Services' proposal for this project is attached.

The Fish Enhancement Fund (not part of the general fund) has available funds to pay for this contract if the Board so wishes.

Please contact me with any questions or comments.

Professional Aquaculture Services

# Conway Aquaculture and Interpretive Site Evaluation and Plan Proposal

Contact: [tvaught@proaqua.com](mailto:tvaught@proaqua.com)

Tony S. Vaught





## Site Evaluation

A site evaluation includes onsite visits as well as a preliminary report on the fitness of the site for aquaculture. This will provide information to determine how current facilities are operating and how to enhance the site to meet future needs. Our firm will also help investigate other uses for the property related to aquaculture as it integrates with recreational needs, strategic partners, and the public.

A comprehensive assessment reviews efficiency of the projected operation based on available resources. An assessment of the infrastructure and retrofitting for necessary technical upgrades, if needed, will be completed.

The evaluation includes several key areas that determine the success and longevity of an aquaculture business. Each one is linked to the other by financial, ecological, managerial, and biological components. Tying these components together creates a clearer picture of the project and its goals and assists in improving efficiency and developing plans for growth. Other key components to be addressed include financial stability, location, water quality and quantity, water discharge and waste removal, inventory analysis, seed sources, and bio-security. Community impact such as Job creation and economic growth will be reviewed.

## Site Plan

A site plan will be developed from information gathered from the evaluation study. Key components will address water delivery, broodstock management, hatchery development, production units, water treatment, support structures, and housing. Facility footprint will include integration with surrounding uses.

## Concept Development

Determination of the projects ability to enhance the area needs of recreational trophy trout as well as the production and protection of sensitive trout species in the area will be reviewed. Integration of community involvement and strategic public and private partners will be investigated. A timeline of contributions to the area, economy, and recreational fishing industry is important to establish project goals.

## Compensation

Site evaluation, plan, and conceptual development contract total is \$15,000 plus travel and lodging expenses. A commencement payment of \$7,500 is due at contract initiation; expenses will be billed monthly and final payment due with submission of the final report. Also included in the total is one presentation to a public or internal meeting. Additional work such as public relations, design, and permitting will be addressed in a separate agreement.



OFFICE OF THE CLERK  
OF THE BOARD OF SUPERVISORS

## REGULAR AGENDA REQUEST

Print

<b>MEETING DATE</b>	June 4, 2013	<b>DEPARTMENT</b>	County Counsel
<b>ADDITIONAL DEPARTMENTS</b>			
<b>TIME REQUIRED</b>	5 minutes	<b>PERSONS APPEARING BEFORE THE BOARD</b>	Marshall Rudolph
<b>SUBJECT</b>	Claim for Damages Presented by Harold Mark Huddleston		

### AGENDA DESCRIPTION:

(A brief general description of what the Board will hear, discuss, consider, or act upon)

Claim for damages presented by Harold Mark Huddleston.

### RECOMMENDED ACTION:

Reject claim in its entirety and direct county counsel to notify claimant of the Board's action.

### FISCAL IMPACT:

None if the claim is rejected as recommended.

**CONTACT NAME:** Marshall Rudolph

**PHONE/EMAIL:** (760) 924-1707 / mrudolph@mono.ca.gov

SUBMIT THE ORIGINAL DOCUMENT WITH  
ATTACHMENTS TO THE OFFICE OF  
THE COUNTY ADMINISTRATOR  
**PRIOR TO 5:00 P.M. ON THE FRIDAY**  
**32 DAYS PRECEDING THE BOARD MEETING**

### SEND COPIES TO:

### MINUTE ORDER REQUESTED:

YES  NO

### ATTACHMENTS:

Click to download

[Huddleston Staff](#)

### History

Time	Who	Approval
5/29/2013 2:29 PM	County Administrative Office	Yes
5/29/2013 1:55 PM	County Counsel	Yes
5/29/2013 5:26 PM	Finance	Yes

**County Counsel**  
Marshall Rudolph

**Assistant County Counsel**  
Stacey Simon

**Deputy County Counsels**  
Tara McKenzie  
John-Carl Vallejo

**OFFICE OF THE  
COUNTY COUNSEL**

*Mono County*  
South County Offices  
P.O. BOX 2415

MAMMOTH LAKES, CALIFORNIA 93546

**Telephone**  
760-924-1700  
**Facsimile**  
760-924-1701

**Legal Assistant**  
Michelle Robinson

TO: Board of Supervisors

FROM: Marshall Rudolph

DATE: June 4, 2013

RE: Huddleston claim for damages presented on or about April 15, 2013

**Recommendation:**

Reject claim in its entirety and direct County Counsel to notify Claimant of said rejection.

**Fiscal/Mandates Impact:**

None if the claim is rejected as recommended.

**Discussion:**

In accordance with the Board's practice, a copy of the subject claim is not enclosed in the Board packet. But it will be available and discussed at the meeting, including at a closed session that day.



OFFICE OF THE CLERK  
OF THE BOARD OF SUPERVISORS

## REGULAR AGENDA REQUEST

Print

<b>MEETING DATE</b>	June 4, 2013	<b>DEPARTMENT</b>	County Counsel
<b>ADDITIONAL DEPARTMENTS</b>			
<b>TIME REQUIRED</b>	5 minutes	<b>PERSONS APPEARING BEFORE THE BOARD</b>	Marshall Rudolph
<b>SUBJECT</b>	Claim for Damages Presented by Joel Yanez		

### AGENDA DESCRIPTION:

(A brief general description of what the Board will hear, discuss, consider, or act upon)

Claim For Damages presented by Joel Yanez.

### RECOMMENDED ACTION:

Reject said claim in its entirety and direct County Counsel to notify the claimant of the Board's action.

### FISCAL IMPACT:

None if the claim is rejected as recommended.

**CONTACT NAME:** Marshall Rudolph

**PHONE/EMAIL:** (760) 924-1707 / mrudolph@mono.ca.gov

SUBMIT THE ORIGINAL DOCUMENT WITH  
ATTACHMENTS TO THE OFFICE OF  
THE COUNTY ADMINISTRATOR  
**PRIOR TO 5:00 P.M. ON THE FRIDAY**  
**32 DAYS PRECEDING THE BOARD MEETING**

### SEND COPIES TO:

### MINUTE ORDER REQUESTED:

YES  NO

### ATTACHMENTS:

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[Yanez staff](#)

### History

Time	Who	Approval
5/30/2013 11:27 AM	County Administrative Office	Yes
5/30/2013 11:16 AM	County Counsel	Yes
5/29/2013 5:26 PM	Finance	Yes

**County Counsel**  
Marshall Rudolph

**Assistant County Counsel**  
Stacey Simon

**Deputy County Counsels**  
Tara McKenzie  
John-Carl Vallejo

**OFFICE OF THE  
COUNTY COUNSEL**

*Mono County*  
South County Offices  
P.O. BOX 2415

MAMMOTH LAKES, CALIFORNIA 93546

**Telephone**  
760-924-1700  
**Facsimile**  
760-924-1701

**Legal Assistant**  
Michelle Robinson

TO: Board of Supervisors

FROM: Marshall Rudolph

DATE: June 4, 2013

RE: Yanez claim for damages presented on or about March 19, 2013

**Recommendation:**

Reject claim in its entirety and direct County Counsel to notify Claimant of said rejection.

**Fiscal/Mandates Impact:**

None if the claim is rejected as recommended.

**Discussion:**

In accordance with the Board's practice, a copy of the subject claim is not enclosed in the Board packet. But it will be available and discussed at the meeting, including at a closed session that day.



OFFICE OF THE CLERK  
OF THE BOARD OF SUPERVISORS

## REGULAR AGENDA REQUEST

Print

<b>MEETING DATE</b>	June 4, 2013	<b>DEPARTMENT</b>	Community Development - Planning Division
<b>ADDITIONAL DEPARTMENTS</b>			
<b>TIME REQUIRED</b>	20 minutes	<b>PERSONS APPEARING BEFORE THE BOARD</b>	Heather deBethizy
<b>SUBJECT</b>	Mono County Community Trails Workshop		

### AGENDA DESCRIPTION:

(A brief general description of what the Board will hear, discuss, consider, or act upon)

Presentation by Heather deBethizy regarding existing community trails planning efforts and discussion on construction and long-term maintenance of trail projects.

### RECOMMENDED ACTION:

Conduct workshop and provide any desired direction to staff.

### FISCAL IMPACT:

None at this time. Trails planning efforts are supported through a variety of grants, including Local Transportation Commission and National Scenic Byway grants, and staffing contributions provided by the National Park Service Rivers, Trails, Conservation Program grant, and Sierra Nevada Conservancy AmeriCorps staff. Mono County's current budget includes \$5,000 for related Friends of the Inyo land stewardship services.

**CONTACT NAME:** Heather deBethizy

**PHONE/EMAIL:** 760-924-1812 / hdebethizy@mono.ca.gov

SUBMIT THE ORIGINAL DOCUMENT WITH  
ATTACHMENTS TO THE OFFICE OF  
THE COUNTY ADMINISTRATOR  
**PRIOR TO 5:00 P.M. ON THE FRIDAY**  
**32 DAYS PRECEDING THE BOARD MEETING**

### SEND COPIES TO:

### MINUTE ORDER REQUESTED:

YES  NO

### ATTACHMENTS:

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[Staff Report](#)

 [Attachment](#)

 [Attachment](#)

 [Attachment](#)

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**History**

<b>Time</b>	<b>Who</b>	<b>Approval</b>
5/29/2013 2:31 PM	County Administrative Office	Yes
5/29/2013 1:32 PM	County Counsel	Yes
5/28/2013 10:32 AM	Finance	Yes

# Mono County Community Development Department

---

PO Box 347  
Mammoth Lakes, CA 93546  
760.924.1800, fax 924.1801  
commdev@mono.ca.gov

Planning Division

PO Box 8  
Bridgeport, CA 93517  
760.932.5420, fax 932.5431  
[www.monocounty.ca.gov](http://www.monocounty.ca.gov)

June 4, 2013

TO: Honorable Chair and Members of the Board of Supervisors  
FROM: Heather deBethizy, Associate Planner  
Scott Burns, Director  
RE: Mono County Community Trails Workshop

## **RECOMMENDATION**

Conduct workshop and provide any desired direction to staff.

## **FISCAL IMPACT**

This workshop has no impact on the general fund. Trails planning efforts are supported through a variety of grants, including Local Transportation Commission and National Scenic Byway grants, and staffing contributions provided by the National Park Service Rivers, Trails, Conservation Program grant, and Sierra Nevada Conservancy AmeriCorps staff. Mono County's current budget includes \$5,000 for related Friends of the Inyo land stewardship services.

## **BACKGROUND**

The purpose of today's workshop is to review the status of community trail projects and initiate consideration of related trail construction and maintenance issues. Community trail planning efforts are occurring throughout the county in the communities of Paradise, Long Valley, June Lake, Mono Basin, Bridgeport Valley, and Antelope Valley. These efforts are being led by Community Development staff along with community volunteers, organizations, agencies, and local Regional Planning Advisory Committees (RPACs). The efforts range in their scope and participation. As noted above, funding comes from Local Transportation Commission and National Scenic Byway grant, and additional staffing comes from the National Park Service Rivers, Trails, Conservation Program grant, Friends of the Inyo, and Sierra Nevada Conservancy AmeriCorps staff. The following provides an overview of community trails planning efforts:

### **Paradise**

Who: Small working group comprised of residents

Status: Working on a trails plan for the community of Paradise. The plan is recognizing existing trails and on-road system improvements for cyclists. The draft plan is expected to be completed by June 30.

### **Long Valley**

Who: Long Valley RPAC

Status: Long Valley RPAC is currently surveying residents on a variety of community issues, including trail priorities.

### **June Lake**

Who: June Lake Trails Committee (subcommittee of the June Lake CAC)

Status: The June Lake Trails Committee has met many times over the past 15 years to help promote trail development in the June Lake area and implement the June Lake Trails Plan. Two years ago the committee built June Lake's first trail in 50 years around Gull Lake. Currently, the subcommittee is working on the Down Canyon area to designate a trail that would follow existing trails as well as create new connections, as needed. The proposed trail alignments will provide additional non-motorized connections to the residential area on the east end of Down Canyon with the Yost and Fern Creek trailhead, the June Mountain Ski Area trails (including the Rodeo Grounds and the Gull Lake Trail). Inyo National Forest and Friends of the Inyo participate on the committee.

### **Mono-Yosemite Gateway Project (Mono Basin)**

Who: Working group that includes Mono Basin RPAC members, agencies, landowners, community members and County staff.

Status: The Mono-Yosemite Gateway Trail Project involves a community-based effort to identify a conceptual trail plan for the Mono Basin area that connects the town of Lee Vining through Lee Vining Canyon with possible trails segments into Yosemite National Park. The trail master plan will include trail alignment alternatives, design guidelines, trail access points, including trailheads, way-finding, interpretation themes, strategies for long-term maintenance and operations, and opportunities for partnerships. Members of the working group include: Mono County, National Park Service, RTCA Program, Mono Lake Committee, Southern California Edison, California State Parks, Eastern Sierra Interpretive Association, Friends of the Inyo, Yosemite National Park, and the U.S. Forest Service (see attached flyer).

<http://monocounty.ca.gov/rpac-mono-basin/page/mono-yosemite-gateway-trail-project>

### **Bridgeport Valley**

Who: Bridgeport Valley RPAC and Working Group

Status: The Bridgeport Valley RPAC is continuing its community trail planning process this summer. Priorities include promoting existing trails through creation of online trail maps with descriptions, and identifying new trail projects. A master trail plan document will be the result of the summer's planning efforts. Jaryd Block, AmeriCorps member from the Sierra Nevada Conservancy, is assisting staff in heading up this effort. He brings exceptional GIS and mapping skills with a focus on watershed protection efforts to the project (see attached map example).

<http://monocounty.ca.gov/rpac-bridgeport/event/bridgeport-trails-workshop>

### **Antelope Valley**

Who: Antelope Valley RPAC

Status: Currently working on trail policies to support connecting Mountain Gate Recreational Area to Walker and enhanced pedestrian facilities along US 395.

## **LONG-TERM MAINTENANCE DISCUSSION**

An issue drawing increasing attention is the long-term maintenance of new trail segments. With budget cuts and lack of capacity at public land managing agencies, community-driven trail projects may be required to provide the majority of funding for trail planning, construction, and long-term trail maintenance on any new trail segment. Maintenance of existing trails and infrastructure is an increasing challenge, and agencies such as the Inyo National Forest have been clear that no "new" trails will be permitted and constructed on Forest land without a binding maintenance agreement with an outside proponent.

Through the RPACs, the County finds itself facilitating these trail efforts and collaborating with public agencies to deliver trail projects. As the County continues working on the above community trail systems, the Forest Service requirement that the trail proponent incur the costs of trail construction and long-term maintenance may become an obstacle. Recently, via transportation planning funds, the County entered into a Challenge Cost Share agreement with the Inyo National Forest to fund environmental studies on the Down Canyon Trail. If we move forward with trail construction, the Forest Service will likely require an agreement for long-term maintenance.

The County has successfully partnered with Friends of the Inyo (FOI) in recent years on community trail efforts, including holding several June Lake Trails Days and in the constructing the Gull Lake Trail. Continuing with and memorializing this type of partnership with the National Forest and an organization such as Friends of the Inyo may be an economical and efficient way for community trail projects to continue moving forward to meet the healthy living and economic development goals in our communities.

The following summarizes the type of the support services available from organizations such as FOI:

- **Community Stewardship** –Trail alignment mapping, on-site design, route identification with community members and project coordination with agencies; organizing and leading community Trail Days. Provide regular engagement, training, facilitation and leadership for community-driven public lands stewardship efforts. Projects could include providing volunteer training and organizational structure for local citizens to adopt trails and facilities for maintenance, work with community members and groups to identify strategic opportunities for projects, act as a fiscal sponsor, as well as facilitate and coordinate work between all partners involved. As an example, FOI, in partnership with the Inyo National Forest, Town of Mammoth Lakes, local businesses and recreational organizations, has facilitated three Summers of Stewardship, including volunteer trail construction and maintenance projects in the Mammoth Lakes Basin. In the 2012 season, 188 volunteers came out to five individual volunteer days.
- **Design, Construction & Maintenance** – Under contract with agencies such as the Town of Mammoth Lakes, the FOI has provided trail maintenance services. Maintenance contracts spell out deliverables such as names of trails, desired maintenance levels, frequency of maintenance. Maintenance can be performed by a single individual or a crew depending on need. Regular trail maintenance can be performed through a combination of paid FOI staff, trained volunteers (local “Adopt-a-trail” programs), and through regular volunteer Trail Days.

Representatives from the INF, FOI and June Lake Trails Committee are expected to participate in today’s workshop. Please contact Heather deBethizy at (760) 924-1812 if you have any questions concerning this agenda item.

## **ATTACHMENTS**

Mono Yosemite Trails Materials

Trails Map Example

# Mono-Yosemite Gateway Trail

## Community Workshop



Lower Lee Vining Trail

*Imagine...a trail that connects downtown Lee Vining to nearby recreation areas, Mono Lake, Lower Lee Vining, and Yosemite National Park.*

Please join the Mono County Planning Department, community partners, and public agencies in helping to plan the Mono-Yosemite Gateway Trail. Together, we will develop a Conceptual Trail Plan that documents the community's vision, identifies potential trail alignments, and more!

During the next few months, meetings with a technical trail design team, key stakeholders, and two community workshops will be held. The draft Conceptual Trail Plan will be completed by Fall 2013. A more formal NEPA process, which may alter the trail plan, will follow.

### Get Involved!

Attend the upcoming Community Workshop in order to share your ideas for this potential trail. We need your help to identify potential trail connections, trail uses (i.e. walking biking, cross-country skiing), amenities, access points, and interpretive themes.

What: **Community Workshop**

When: **May 8, 2013 at 6:30 p.m.**

Where: **Lee Vining Community Center**

**Contact:**

Heather deBethizy

760-924-1812

[hdebethizy@mono.ca.gov](mailto:hdebethizy@mono.ca.gov)

[monocounty.ca.gov/rpac-mono-basin](http://monocounty.ca.gov/rpac-mono-basin)



Mono Lake Trails

**Project Partners:** California State Parks • Eastern Sierra Interpretive Association  
Friends of the Inyo • Kutzadika'a Paiute Indian Community • National Park Service, RTCA Program  
Mono Basin Historical Society • Mono County • Mono Lake Committee • Southern California Edison  
U.S. Forest Service • Yosemite National Park

# Mono-Yosemite Gateway Trail

## Desired Outcomes

- ❑ The formation of a planning team, consisting of representatives from public agencies, community organizations, user groups, and residents, that guides the trail planning process.
- ❑ The development and implementation of a community engagement plan.
- ❑ A Mono-Yosemite Gateway Trail conceptual plan, developed through a collaborative planning process, that includes:
  - Trail alignment alternatives
  - Design guidelines
  - Trail access points, including trailheads
  - Conceptual design details for trail segments with significant challenges (i.e. topography)
  - Potential locations of wayfinding signs, amenities and restoration areas
  - Potential themes for education and interpretation
  - Strategies for long-term maintenance and operations
  - Opportunities for partnerships that support the project and the delivery of recreation and tourism services
- ❑ Facilitate trail designation in collaboration with land managers.

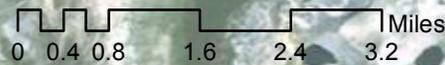
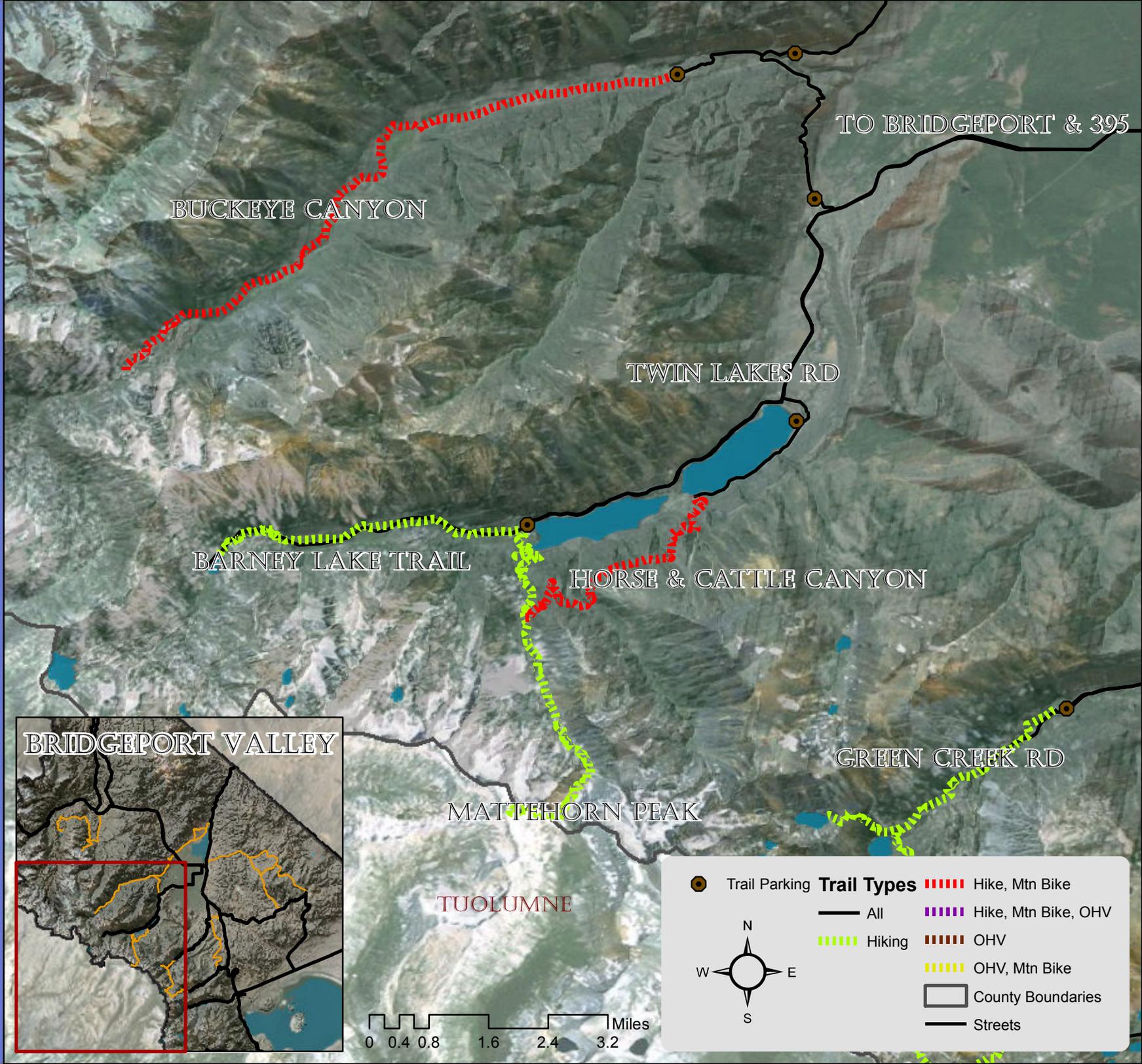
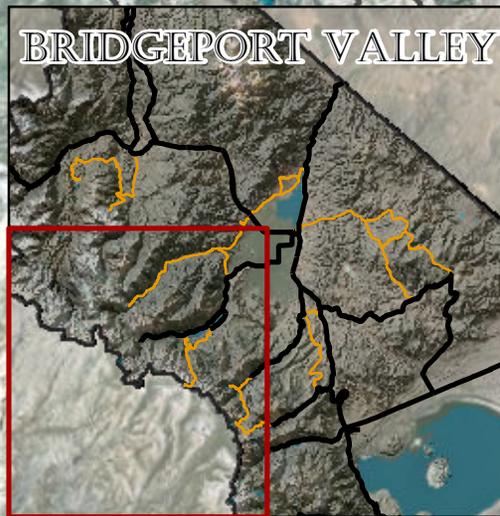
## Goals

- ✓ Provide a non-motorized trail connection between the Mono Basin Scenic Visitor Center, the gateway community of Lee Vining, Lee Vining Canyon and Yosemite National Park.
- ✓ Trail should be designed in order to:
  - Provide for a range of non-motorized uses including walking, hiking, biking, horseback riding, cross country skiing, skateboarding and rollerblading.
  - Respect sensitive areas, such as historic and cultural sites.
  - Limit conflicts between the Gateway Trail and motorized uses.
  - Provide access to existing recreational uses, such climbing and camping.
  - Provide both year-round and seasonal trail segments.
  - Consider limited resources available for operations and maintenance.
- ✓ Identify opportunities for motorized trails, or direct use to designated areas.
- ✓ Protect and enhance of the Mono Basin's natural, historical and recreational attributes.
- ✓ Provide a designated alternative transportation route that connects to existing and planned transit (i.e. YARTS and park and rides) and public facilities, including schools.
- ✓ Increase awareness of the County's unique cultural, geographic and geologic features through educational/interpretive signs.
- ✓ Promote tourism and economic development within the area.
- ✓ Increase quality of life and health of the local community.
- ✓ Strengthen the relationship between the Yosemite region and partners in its eastern gateway.
- ✓ Provide focus for community based stewardship.

# TWIN LAKES ACCESS

TRAIL REFERENCE AND ACCESS TYPES

BARNEY LAKE, MATTEHORN PEAK, BUCKEYE CANYON



Trail Parking

**Trail Types**

- All
- Hiking
- Hike, Mtn Bike
- Hike, Mtn Bike, OHV
- OHV
- OHV, Mtn Bike
- County Boundaries
- Streets



OFFICE OF THE CLERK  
OF THE BOARD OF SUPERVISORS

## REGULAR AGENDA REQUEST

Print

<b>MEETING DATE</b>	June 4, 2013	<b>DEPARTMENT</b>	Elections
<b>ADDITIONAL DEPARTMENTS</b>			
<b>TIME REQUIRED</b>	30 minutes	<b>PERSONS APPEARING BEFORE THE BOARD</b>	Lynda Roberts
<b>SUBJECT</b>	Election Planning Workshop		

### AGENDA DESCRIPTION:

(A brief general description of what the Board will hear, discuss, consider, or act upon)

Discussion with the Board of Supervisors about planning for the purchase of a new voting system, possibly within the next two years.

### RECOMMENDED ACTION:

Review the future of election logistics and discuss various options. Provide direction to staff.

### FISCAL IMPACT:

None.

**CONTACT NAME:** Lynda Roberts

**PHONE/EMAIL:** 760-932-5538 / lroberts@mono.ca.gov

SUBMIT THE ORIGINAL DOCUMENT WITH  
ATTACHMENTS TO THE OFFICE OF  
THE COUNTY ADMINISTRATOR  
**PRIOR TO 5:00 P.M. ON THE FRIDAY**  
**32 DAYS PRECEDING THE BOARD MEETING**

### SEND COPIES TO:

### MINUTE ORDER REQUESTED:

YES  NO

### ATTACHMENTS:

Click to download

- [Election Discussion](#)
- [Workshop PowerPoint](#)
- [Exhibits A and B](#)

**History**

<b>Time</b>	<b>Who</b>	<b>Approval</b>
5/29/2013 2:30 PM	County Administrative Office	Yes
5/29/2013 1:30 PM	County Counsel	Yes
5/28/2013 8:46 AM	Finance	Yes



## CLERK-RECORDER-REGISTRAR COUNTY OF MONO

---

P.O. BOX 237, BRIDGEPORT, CALIFORNIA 93517  
(760) 932-5530 • FAX (760) 932-5531

*Lynda Roberts*  
*Clerk-Recorder*  
*760-932-5538*  
*lroberts@mono.ca.gov*

*Linda Romero*  
*Assistant Clerk-Recorder*  
*760-932-5534*  
*lromero@mono.ca.gov*

To: Honorable Board of Supervisors

From: Lynda Roberts, Elections Official

Date: June 4, 2013

Subject

Election Planning Workshop

Recommendation

Review the future of election logistics and discuss various options. Provide direction to staff.

Discussion

The purpose of the workshop is to initiate a discussion with the Board of Supervisors about planning for the purchase of a new voting system, possibly within the next two years.

Fiscal Impact

None

# Mono County Elections



**FUTURE LOGISTICS**

# Workshop Objectives



- **Initiate Conversation**
- **Receive Feedback/Board Direction**
- **Start Developing a Plan**

# Issues to Consider



## ➤ Aging Equipment/Technology

- Replacement Cost

## ➤ Options

- Maintain Status Quo?
- Fewer Polling Locations?
- More VBM Precincts?

# Aging Equipment



## ➤ Active Equipment

15 paper ballot readers (Insight)

- 9 precincts
- 2 precinct back-ups
- 2 central count
- 2 central count back-ups

9 touch screen machines (Edge), printers, activators

- 1 test machine
- 6 polling locations
- 2 back-ups

## ➤ Inactive Equipment

21 Edge touch screens and printers

# Aging Equipment



Mandated equipment purchased 2005 with Federal, State, County funds

- 30 Edge touch screens, 2 Insight paper ballot readers, software, training cost = \$294,663

New mandate in 2007: return to paper ballots

- 11 machines purchased 2007 using General Funds--\$89,000
- 2 machines purchased 2008 using General and HAVA Funds--\$13,606
  - \$6,862 reimbursed from HAVA funds

## ➤ Problems

Software is a product from 2002

Equipment life is 6-10 years

Eventually old technology will be unable to conform to legislative changes

**Example: The Top-2 change in primary elections pushed the limits of capacity**

## ➤ Insight (Paper Ballot Readers) Data Memory Packs—Think 8-track tape

No longer manufactured

Can only be replaced by what manufacturer has on hand

# Aging Equipment



- Edge Touch Screen
  - Used for provisional voting and to meet HAVA requirements
  - Hard to find replacement computers to read the cartridges
  - Software updates require an extensive and rigorous testing process at the federal and state levels
  - Still functional, but obsolete so there is no market to sell the equipment
    - ✦ **Some Counties have thousands of these machines**
  
- **All Counties in California are facing the same situation with aging equipment**
  
- **CACEO is working with vendors and the SOS to address challenges until new equipment is certified**
  
- **SOS issues monthly updates about federal and state activities related to voting systems**
  
- **SB 360: 1) allow the Secretary of State to approve a county developed voting system; 2) explicitly state that counties can develop and own a public voting system (non-proprietary software)**

# Aging Equipment



- **Old Equipment—Current Vendor**
  - Vendor will continue to support old equipment through buy-backs when other states purchase new systems
- **New Equipment—Current Vendor**
  - **Not Yet Certified in California**
  - Designed to be more efficient so fewer machines are needed at polling sites
  - Uses a flash card (similar to those found in digital camera)
  - Ability to use light-weight paper for ballots
    - Reduces cost of printing ballots and mailing ballots
  - All-in-one design would eliminate need for Edge touch screens
  - Can lease rather than buy
  - Vendor will demo new equipment for Elections Department
- **New Equipment—New Vendor?**
  - Shop for less expensive equipment
  - Limited to systems certified by SOS
  - No new systems have been certified by the SOS

# Options



- **Maintain Status Quo?**
- **Centralize Voting Locations?**
- **More Vote by Mail Precincts?**

# Option—Status Quo



- **Maintain Current Polling Locations: Walker, Bridgeport, June Lake, 2 Mammoth, Crowley**
  - Except for new equipment, no change for voters
  - Workload remains about the same  
Transport, set-up, etc.
- In order to meet “**2<sup>nd</sup>-chance**” requirement at **polls**, need a machine at each polling location
- Equipment replacement costly—possibly \$200,000+

# Option—Fewer Polling Locations



## ➤ Centralize voting locations

### Per Election Code

- Designate a polling place for each precinct [EC §12286]
- If suitable arrangements for polling place can't be found, designate a polling place in any contiguous precinct [EC §12327(b)]

# Option—Vote by Mail



## Considerations

- Purchase fewer machines (4-6) for central count in Bridgeport
- 2 provisional voting locations—Mammoth and Bridgeport
- Partial or All Vote by Mail?
- Voter Interest—Survey?

# Option—Vote by Mail



## ➤ Efficiency and cost savings

Not Transporting Equipment:

- Reduce wear/tear on equipment
- Reduce concerns with weather

Reduce time to set-up voting locations

## ➤ Requires Legislation

## ➤ Trend in VBM (review statistics and potential cost savings—**Exhibits A and B**)

# Summary



- No immediate urgency to replace equipment
- Will possibly need to purchase a new system prior to 2016 elections
- Start saving \$\$\$
  - Mono County still has **\$16,998.83** available from state through Voting Modernization Act of 2002 (Prop 41); requires a **\$5,666.28 match**; currently there is no spending deadline
  - Designate a savings fund and save the money received from conducting elections for other entities (i.e. TOML, school districts)
  - During the budget process, designate an amount each year to deposit into a savings fund (rollover unspent funds from prior year)
- Keep Board updated

**VOTE BY MAIL  
Comparison of Turnout**

**EXHIBIT A**

PRECINCT	Polling Place	VBM										
	% 2008 Primary	% 2008 Primary	% 2010 Primary	% 2010 Primary	% 2012 Primary	% 2012 Primary	% 2008 General	% 2008 General	% 2010 General	% 2010 General	% 2012 General	% 2012 General
1	24.71%	20.00%	39.66%	27.56%	35.70%	26.51%	51.57%	31.74%	44.92%	32.44%	47.15%	43.50%
3	27.12%	28.99%	40.42%	34.58%	37.63%	34.79%	46.34%	40.09%	44.93%	38.71%	42.16%	45.83%
5	34.66%	32.01%	29.22%	30.83%	33.14%	35.71%	44.75%	46.00%	35.00%	39.21%	34.44%	50.96%
7	30.01%	19.62%	34.97%	23.70%	30.36%	27.68%	49.73%	32.22%	43.00%	31.93%	49.79%	41.80%
8	21.00%	22.34%	25.80%	30.40%	20.58%	23.75%	44.24%	34.24%	29.02%	33.78%	42.69%	43.39%
9	22.27%	23.21%	33.25%	25.19%	12.92%	25.70%	42.68%	37.50%	37.37%	30.30%	39.29%	44.49%
10	29.85%	15.67%	16.47%	28.00%	14.73%	29.45%	56.10%	24.39%	38.90%	33.18%	35.53%	48.74%
12	25.25%	14.39%	32.83%	20.92%	11.94%	17.15%	51.99%	25.46%	37.74%	24.97%	48.31%	35.11%
13	23.86%	20.95%	32.88%	25.58%	13.16%	19.96%	46.26%	34.43%	37.22%	29.63%	39.60%	46.06%

\*Precincts not included: 2, 4, 6, 11 VBM only

Future of Elections—Mono County Vote-by-Mail

**EXHIBIT B**

<b>COST ELIMINATION Money &amp; Hours</b>	<b>SAVE</b>	<b>COST REDUCTIONS Money &amp; Hours</b>	<b>SAVE</b>	<b>COST INCREASE</b>	<b>COST</b>	<b>BENEFITS</b>
Pollworkers	\$4,791.00	CDD (provisional table)	\$599.00	Envelopes outgoing/incoming	\$1,615.40	Faster results
Lodging	\$131.00	IT	\$10,809.00	Postage outgoing/incoming	\$7,777.90	Minimize weather issues
Public Works	\$762.00	Clerk	\$6,530.00			Fewer machines to prep, test, set-up
Incentive Gifts	\$112.00	Travel	\$382.00			No transport of machines = less wear/tear
						Printing piece savings include: recruiting pollworkers, training/travel, supply boxes, paperwork, paychecks, reserving, set-up/down
Sub Total	\$5,796.00		\$18,320.00	Costs for 11/12 = \$4,184.81; incoming postage only on All VBM precincts	\$9,393.30	Reduce number of ballots to be printed
<b>TOTAL</b>	<b>\$14,722.70</b>	<b>Savings - Costs</b>				

Costs are from the November 6, 2012, election