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

Regular Meeting
April 10, 2018

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 Shannon Kendall, Clerk of the Board, at (760) 932-5533. 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). 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 http://monocounty.ca.gov. If you would like to receive an automatic copy of this agenda by email, please subscribe to the Board of Supervisors Agendas on our website at http://monocounty.ca.gov/bos.
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

1. 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. RECOGNITIONS - NONE

3. COUNTY ADMINISTRATIVE OFFICE

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

4. DEPARTMENT/COMMISSION REPORTS

5. 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.)

A. Public Health Department County Medi-Cal Administrative Activities (CMAA) Contract #18-90057 for FY July 1, 2018 - June 30, 2021

Departments: Public Health

(Kim Bunn) - Funding is available to local governmental agencies through the Department of Health Care Services (DHCS) to assist in the proper and efficient administration of the Medi-Cal Program by improving the availability and accessibility of Medi-Cal Services to Medi-Cal eligible and potentially eligible individuals and their families.

Recommended Action: Approve County entry into the County Medi-Cal Administrative Activities (CMAA) Contract #18-90057 and related certifications and authorize the Public Health Fiscal & Administrative Officer to execute said contract on behalf of the County, including minor amendments that may occur in the 3-year contract period of July 1, 2018 -June 30, 2021 with approval as to form by County Counsel.

Fiscal Impact: There is no fiscal impact on the County General Fund. The maximum amount of funding that can be drawn down from this agreement to assist DHCS in administration of the Medi-Cal Program is $300,000.

6. CORRESPONDENCE RECEIVED - NONE

All items listed are located in the Office of the Clerk of the Board, and are available for review. Direction may be given to staff regarding, and/or the Board may discuss, any item of correspondence listed on the agenda.

7. REGULAR AGENDA - MORNING

A. At-Will Contract with John Estridge for the District Attorney Investigator II Position

Departments: District Attorney

5 Minutes

(Tim Kendall) - Proposed resolution approving a contract with John Estridge as

District Attorney Investigator II and prescribing the compensation, appointment and conditions of said employment.

Recommended Action: Announce fiscal impact. Approve resolution R18-___, Approving an Employment Agreement with John Estridge for the Position of Mono County District Attorney Investigator II. Authorize the Board Chair to execute said contract on behalf of the County.

Fiscal Impact: The cost for this position for the remainder of the 2017/2018 fiscal year approximately $23,926.15 in salary and $7,742.45 in benefits. For FY 2018-2019 $103,680.00 salary and $49,502.96 in benefits. This amount is already accounted for in the DA Department's budget.

B. Spring 2018 Recreation Projects on Public Lands

Departments: CAO

20 minutes

(Tony Dublino) - Presentation by Tony Dublino regarding potential Spring 2018 recreation projects on Inyo and Humboldt-Toiyabe National Forest and Bureau of Land Management lands for possible County funding using $50,000 in recreation funding approved for FY 2017/18. Potential projects include the opening and cleaning of restrooms through Memorial Day at Virginia and/or Shingle Mill trailheads; Twin Lakes boat launch signage, tables and vegetation maintenance; improved trail markers for Horsetail and/or Barney Lakes, interpretive panels for Rosachi Ranch, Leavitt Lake gate, signage and barricading; OHV signage eastside Mt. Patterson; Kavannah Ridge Patrol; sand and reseal hot tub boardwalks and remove trash at Wet Willy's and/or Hilltop; Travertine bathroom cleaning; sign repair in Adobe Valley; road grading and boulder placement at various locations; shooting area cleanup at various locations; road and site repair and grading at Lee Vining Canyon campgrounds; Mono Basin Visitor Center maintenance; Inyo National Forest sign repair; Lundy/Parker trailhead signs and parking improvements; backlogged maintenance for trails and campgrounds; repair washout on Lee Vining Canyon trail; renting port-a-potties for high use areas/times; extended open season for Lee Vining Canyon campgrounds.

Recommended Action: Authorize staff to execute all necessary contracts and approvals to expend $50,000 on performing enhancements to Public Recreation in May and June 2018.

Fiscal Impact: Up to $50,000, currently appropriated in 17/18 budget for recreation purposes.

C. Fee for Inspection of Hay and other Forage to North American Invasive Species Management Association (NAISMA) Standards

Departments: Agricultural Commissioner

PUBLIC HEARING: 9:45 AM - 15 minutes (10 minute presentation; 5 minute discussion)

(Nathan D. Reade, Agricultural Commissioner) - The Inyo / Mono Counties'

Agricultural Commissioner's Office (CAC) is requesting that a fee be established for annual fees to maintain NAISMA inspection authority for weed-free certification of forage.

Recommended Action: 1. Conduct a public hearing on proposed fees for inspection and NAISMA certification for hay and other forage; 2. Approve resolution R18-___, Establishing a fee for North American Invasive Species Management Association (NAISMA) weed-free certification of forage.

Fiscal Impact: Assuming hay producers decide to participate in the program as expected and request certification of 200 acres in total for the County, the proposed fees will fully cover the cost of the program and there will be no fiscal impact to the County's general fund.

D. Long Valley and Little Round Valley Irrigated Meadows-threats to habitat and grazing

Departments: CAO

30 minutes

(Tony Dublino, Cattleman's Association) - Presentation by the Cattleman's Association about the impacts of the elimination of irrigation requirements in LADWP Grazing Leases in the Long Valley and Little Round Valley areas.

Recommended Action: Receive presentation and provide any direction to staff.

Fiscal Impact: None at this time.

E. Proposed Amendments to Chapter 7.92 of the Mono County Code Pertaining to the County's Smoking Regulations

Departments: Public Health

30 Minutes

(Nancy Mahannah) - Following the March 13, 2018, presentation to the Board and pursuant to Board direction, staff is bringing back two variations of amended MCC 7.92 pertaining to smoking policies (one with regulations pertaining to multi-unit housing and one without). Both variations include the creation of smoke free zones 20 feet from business doorways, windows and ventilation systems and in outdoor dining; inclusion of electronic cigarettes and vaping in the definition of smoking; and the elimination of flavored and menthol tobacco sales in the county.

Recommended Action: Receive presentation on proposed amendments to Mono County Code (MCC) Chapter 7.92, including suggested changes to smoking policies related to smoke-free zones, sale of flavored tobacco, enforcement and prohibitions, and potentially multi-unit housing. Following discussion, decide which variation of proposed ordinance to adopt (with or without regulations pertaining to multi-unit housing). Introduce, read title, and waive further reading of proposed ordinance No. Ord18 -___, amending Mono County Code Chapter 7.92 pertaining to the County's smoking regulations. Provide any desired direction to staff.

Fiscal Impact: There is no impact to the Mono County General Fund. Implementation of ordinance amendments would be funded through the Tobacco Tax and Health Protection Act of 1988 and The California Healthcare, Research and Prevention Tobacco Tax Act of 2016.

8. 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.)

9. CLOSED SESSION

A. Closed Session--Human Resources

CONFERENCE WITH LABOR NEGOTIATORS. Government Code Section 54957.6. Agency designated representative(s): Stacey Simon, Leslie Chapman, Dave Butters, Janet Dutcher, and Anne Larsen. 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.

B. Closed Session: Workers' Compensation

CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION. Subdivision (a) of Government Code section 54956.9. Name of case: Worker's compensation claim of Mark Hanson.

THE AFTERNOON SESSION WILL RECONVENE NO EARLIER THAN 1 P.M.

10. 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.)

11. REGULAR AGENDA - AFTERNOON

A. Cannabis Regulatory Package - Workshop on Remaining Policy Questions

Departments: CAO, County Counsel, Community Development, Public Health, Economic Development,

1 hour

(Tony Dublino) - Presentation by Tony Dublino regarding final policy questions and options on the regulation of commercial cannabis in Mono County.

Recommended Action: Consider policy questions and options, and provide direction to staff on the final regulatory package to be presented for adoption.

Fiscal Impact: None.

12. BOARD MEMBER REPORTS

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

ADJOURN

OFFICE OF THE CLERK
OF THE BOARD OF SUPERVISORS

REGULAR AGENDA REQUEST

Print

MEETING DATE April 10, 2018

Departments: Public Health

TIME REQUIRED

SUBJECT Public Health Department County Medi-Cal Administrative Activities (CMAA) Contract #18-90057 for FY July 1, 2018 - June 30, 2021

PERSONS APPEARING BEFORE THE BOARD Kim Bunn

AGENDA DESCRIPTION:

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

Funding is available to local governmental agencies through the Department of Health Care Services (DHCS) to assist in the proper and efficient administration of the Medi-Cal Program by improving the availability and accessibility of Medi-Cal Services to Medi-Cal eligible and potentially eligible individuals and their families.

RECOMMENDED ACTION:

Approve County entry into the County Medi-Cal Administrative Activities (CMAA) Contract #18-90057 and related certifications and authorize the Public Health Fiscal & Administrative Officer to execute said contract on behalf of the County, including minor amendments that may occur in the 3-year contract period of July 1, 2018 -June 30, 2021 with approval as to form by County Counsel.

FISCAL IMPACT:

There is no fiscal impact on the County General Fund. The maximum amount of funding that can be drawn down from this agreement to assist DHCS in administration of the Medi-Cal Program is $300,000.

CONTACT NAME: Kim Bunn

PHONE/EMAIL: 760.932.5587 / kbunn@mono.ca.gov

SEND COPIES TO:

Kim Bunn

Sandra Pearce

MINUTE ORDER REQUESTED:

☑ YES ☐ NO

ATTACHMENTS:

Click to download

BOS Staff Report
CMAA Contract STD & Exhibits
CMAA Contract Civil Rights
CMAA Contract CCC

History

Time	Who	Approval
4/5/2018 8:28 AM	County Administrative Office	Yes
4/2/2018 10:15 AM	County Counsel	Yes
4/5/2018 9:04 AM	Finance	Yes

MONO COUNTY HEALTH DEPARTMENT
Public Health

P.O. BOX 476, BRIDGEPORT, CA 93517 PHONE (760) 932-5580 • FAX (760) 932-5284
P.O. BOX 3329, MAMMOTH LAKES, CA 93546 PHONE (760) 924-1830 • FAX (760) 924-1831

DATE: April 10, 2018

TO: Honorable Board of Supervisors

FROM: Sandra Pearce, Public Health Director

SUBJECT: Public Health Department County Medi-Cal Administrative Activities (CMAA) Contract #18-90057 for FY July 1, 2018 - June 30, 2021.

Recommendation:

Approve County entry into the County Medi-Cal Administrative Activities (CMAA) Contract #18-90057 and authorize the Public Health Fiscal & Administrative Officer to execute said contract on behalf of the County, including minor amendments that may occur in the 3-year contract period of July 1, 2018 -June 30, 2021 with approval as to form by County Counsel.

Discussion:

Funding is available to local governmental agencies through the Department of Health Care Services (DHCS) to assist in the proper and efficient administration of the Medi-Cal Program by improving the availability and accessibility of Medi-Cal Services to Medi-Cal eligible and potentially eligible individuals and their families. Allowable activities include Medi-Cal outreach, facilitation of Medi-Cal applications, contracting for Medi-Cal services and Medi-Cal administrative activities, program planning and policy development to improve delivery of Medi-Cal services through interagency coordination, and general administration of the Agency CMAA program.

Fiscal Impact:

There is no fiscal impact on the County General Fund.

The maximum amount of funding that can be drawn down from this agreement to assist in administration of the Medi-Cal Program is $300,000.

For questions regarding this item, please call Kim Bunn at (760) 932-5587 or Sandra Pearce at (760) 924-1818.

Submitted by:

Pearce

Sandra Pearce, Public Health Director

STATE OF CALIFORNIA
STANDARD AGREEMENT
STD 213_DHCS (Rev. 06/16)

REGISTRATION NUMBER	AGREEMENT NUMBER
	18-95007

1. This Agreement is entered into between the State Agency and the Contractor named below:

STATE AGENCY'S NAME (Also known as DHCS, CDHS, DHS or the State)
Department of Health Care Services

CONTRACTOR'S NAME (Also referred to as Contractor)
County of Mono

2. The term of this Agreement is: July 1, 2018 through June 30, 2021

3. The maximum amount of this Agreement is: **$** 300,000 Three Hundred Thousand Dollars

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

Exhibit A – Scope of Work	7 pages
Exhibit B – Budget Detail and Payment Provisions	7 pages
Exhibit C * – General Terms and Conditions	GTC 04/2017
Exhibit D (F) – Special Terms and Conditions (Attached hereto as part of this agreement)	26 pages
Exhibit E – Additional Provisions	6 pages
Exhibit F – Contractor's Release	1 page
Exhibit G – HIPAA Business Associate Addendum	15 pages

See Exhibit E, Provision 1 for additional incorporated exhibits.

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

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

CONTRACTOR

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

BY *(Authorized Signature)* ✍ | DATE SIGNED *(Do not type)*

PRINTED NAME AND TITLE OF PERSON SIGNING
Kimberly Bunn, Fiscal and Administrative Services Officer

ADDRESS
P.O. Box 3329, Mammoth Lakes, CA 93546

STATE OF CALIFORNIA

AGENCY NAME
Department of Health Care Services

BY *(Authorized Signature)* ✍ | DATE SIGNED *(Do not type)*

PRINTED NAME AND TITLE OF PERSON SIGNING
Don Rodriguez, Chief, Contract Management Unit

ADDRESS
1501 Capitol Avenue, Suite 71.2048, MS 1400, P.O. Box 997413, Sacramento, CA 95899-7413

California Department of General Services Use Only

☐ Exempt per:

Exhibit A
Scope of Work

1. Service Overview

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

Contractor shall perform County-Based Medi-Cal Administrative Activities (CMAA) on behalf of DHCS to assist in the proper and efficient administration of the Medi-Cal Program by improving the availability and accessibility of Medi-Cal Services to Medi-Cal eligible and potentially eligible individuals and their families. These activities include, but are not limited to, attending or conducting general, non-medical staff meetings, developing and monitoring program budgets and/or site management, and general non-program supervision of staff. This also includes staff break time and any time spent filling out a Time Survey Form Medi-Cal Outreach, Referral, Coordination, and Monitoring of Medi-Cal Services, Facilitating Medi-Cal Application, Arranging and/or Providing Non-Emergency, Non-Medical Transportation to a Medi-Cal Covered Service, Contract Administration for Medi-Cal Services, Program Planning and Policy Development for Medi-Cal Services, Medi-Cal Administrative Activities (MAA)/Targeted Case Management (TCM) Coordination and Claims Administration, MAA/TCM Implementation Training, general administration, and paid time off.

2. Service Location

The activities shall be performed at applicable facilities within the Mono County geographic region.

3. Service Hours

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

4. Project Representatives

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

Department of Health Care Services	**County of Mono**
Shelly Taunk, Chief	Kimberly Bunn
County-Based Claiming and Inmate Services Section	Fiscal and Administrative Services Officer
Telephone: (916) 322-2551	Telephone: (760) 932-5587
Fax: (916) 552-8651	Fax: (760) 932-5584
E-Mail: shelly.taunk@dhcs.ca.gov	E-Mail: kbunn@mono.ca.gov

B. Direct all inquiries to:

Department of Health Care Services	**County of Mono**
County-Based Claiming and Inmate Services Section	Public Health
Attention: Damitra Hawkins	Attention: Kimberly Bunn
1501 Capitol Ave., MS 4603	P.O. Box 3329
Sacramento, CA 95899-7436	Mammoth Lakes, CA 93546
Telephone: (916) 322-3995	Telephone: (760) 932-5587
Fax: (916) 324-0738	Fax: (760) 932-5584
E-Mail: damitra.hawkins@dhcs.ca.gov	E-Mail: sue.guest@hsd.cccounty.us

Exhibit A
Scope of Work

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

5. Services to be Performed

The following CMAA are *eligible* for Federal Financial Participation (FFP) only when they are identified in a CMAA Claiming Plan approved by the State and the Centers for Medicare and Medicaid Services (CMS):

A. **Medi-Cal Outreach**: This activity may consist of discrete campaigns or may be an ongoing activity. This activity is directed to groups or individuals targeted to two goals:

a. Bringing potential eligibles into the Medi-Cal system for the purpose of determining Medi-Cal eligibility.

b. Bringing Medi-Cal eligibles into Medi-Cal services.

Outreach may consist of discrete campaigns or may be an ongoing activity, such as: sending teams of employees into the community to contact homeless alcoholics or drug abusers; establishing a telephone or walk-in service for referring persons to Medi-Cal services or eligibility offices; operating a drop-in community center for underserved populations, such as minority teenagers where Medi-Cal eligibility and service information is disseminated.

NOTE: Public health outreach conducted by Local Government Agencies (LGAs) shall not duplicate the requirements on Medi-Cal managed care providers to pursue the enrollment of Medi-Cal eligibles in their service areas.

c. Medi-Cal only eligibility outreach campaigns directed to the entire population to encourage potential Medi-Cal eligibles to apply for Medi-Cal are allowable, and the costs do not have to be discounted by the Medi-Cal percentage:

(1) Outreach campaigns directed toward bringing Medi-Cal eligibles into Medi-Cal covered services are allowable and the costs do not have to be discounted by the Medi-Cal percentage. In such campaigns, the language should clearly indicate that the message is directed only to persons eligible for Medi-Cal, and not the general public. These campaigns are service campaigns, targeted on specific Medi-Cal services, such as Early and Periodic Screening, Diagnosis and Treatment.

(2) A health education program or campaign may be allowable as a Medi-Cal administrative cost if it is targeted specifically to Medi-Cal services and for Medi-Cal eligible individuals, such as an educational campaign on immunization addressed to parents of Medi-Cal children.

B. **Referral, Coordination, and Monitoring of Medi-Cal Services:** Referral, Coordination, and Monitoring of Medi-Cal Services includes making referrals for, coordinating, and/or monitoring the delivery of Medi-Cal covered services.

Exhibit A
Scope of Work

C. **Facilitating Medi-Cal Application (Eligibility Intake**): This activity includes explaining Medi-Cal eligibility rules and the Medi-Cal eligibility process to prospective applicants; assisting an applicant to fill out a Medi-Cal eligibility application; gathering information related to the application and eligibility determination or re-determination from a client, including resource information and third party liability information, as a prelude to submitting a formal Medi-Cal application to the county welfare department; and/or providing necessary forms and packaging all forms in preparation for the Medi-Cal eligibility determination. This activity does not include the eligibility determination itself. These costs do not have to be discounted (i.e., reduced) by the Medi-Cal percentage.

D. **Arranging and/or Providing Non-Emergency, Non-Medical Transportation to a Medi-Cal covered Service**: Arranging and/or providing non-emergency, non-medical transportation for a Medi-Cal eligible client who does not have a physical or mental limitation to a Medi-Cal provider for a Medi-Cal covered service when medically necessary. Arranging and/or providing non-emergency, non-medical transportation and accompaniment by an attendant, for a Medi-Cal eligible client who has a physical or mental limitation to an Medi-Cal provider for a Medi-Cal covered service when medically necessary. If the Medi-Cal eligible client does not have a physical or mental limitation, the contractor or governmental unit may provide transportation services, but is unable to accompany the client to the Medi-Cal covered service appointment. However, LGAs may not claim arranging transportation as CMAA when performed by a TCM Case Manager. The cost of this time will be included in the TCM encounter rate and is not claimable separately through CMAA (DHCS CMMA Program Operational Plan, Appendix D, Section III.3.).

   Examples: Providing transportation services to a Medi-Cal eligible individual to a Medi-Cal service provider. Scheduling or arranging transportation to Medi-Cal covered services. Accompanying clients (elderly, young, disabled at a Medi-Cal provider medical appointment because the client has physical limitation, pursuant to 42 Code of Federal Regulations (CFR) part 440.170.

E. **Contract Administration for Medi-Cal Services**: This activity involves entering into agreements with community based organizations or other provider agencies for the provision of Medi-Cal services and/or CMAA, other than TCM. The costs of TCM subcontract administration should be included in the TCM rate.

   NOTE: A Contractor has the option of claiming the costs of contract administration for allowable CMAA, such as Outreach, under that activity or the costs may be claimed under Contract Administration. Under no circumstances are the costs of contract administration for allowable CMAA to be claimed under both Contract Administration and the activity, such as Outreach. Contracting for Medi-Cal services may only be claimed under Contract Administration.

   Contracting for Medi-Cal services and/or CMAA is claimable as an administrative activity when the administration of those agreements meets all of the following criteria:

Exhibit A
Scope of Work

a. The contract administration is performed by an identifiable unit of one or more employees, whose tasks officially involve contract administration, according to the duty statements or job descriptions of the employees being claimed.

b. The contract administration involves contractors that provide Medi-Cal services and/or CMAA. The costs of contracting for TCM services with non-LGA providers should be claimed as part of the TCM rate. These costs cannot be separately claimed as CMAA.

c. The contract administration must be directed to one or more of the following goals:

(1) Identifying, recruiting, and contracting with community agencies as Medi-Cal service contract providers;

(2) Providing technical assistance to Medi-Cal subcontractors regarding County, State and Federal regulations;

(3) Monitoring provider agency capacity and availability; and

(4) Ensuring compliance with the terms of the agreement.

The contracts being administered must be for Medi-Cal services and CMAA or just CMAA and target Medi-Cal populations only or target the general population if the general population includes a Medi-Cal eligible population.

F. **Program Planning and Policy Development (PP&PD) for Medi-Cal Services**: This activity may be claimed at the enhanced rate (75 percent FFP) if performed by a Skilled Professional Medical Personnel (SPMP), or the non-enhanced rate (50 percent FFP) if performed by a non-SPMP.

a. Allowable: This activity is claimable when performed, either part-time or full-time, by one or more Contractor employees and subcontractors whose tasks officially involve PP&PD. Contractor employees performing this activity must have the tasks identified in the employee's position descriptions/duty statements. If the programs serve both Medi-Cal and non-Medi-Cal clients, the costs of PP&PD activities must be allocated according to the Medi-Cal percentages being served by the programs.

This activity is claimable as a direct charge for Medi-Cal administration only when PP&PD is performed by a unit of one or more Contractor employees who spend 100 percent of their paid working time performing this activity. This activity is claimable only if the administrative amounts being claimed for PP&PD persons and activities are not otherwise included in other claimable cost pools; and the amounts being claimed for such persons employed by (and activities taking place in) a service provider setting are not otherwise being reimbursed through the billable service rate of that provider. Costs for persons performing this activity less that 100 percent of their time will be based on a time-survey.

In LGAs with county-wide managed care arrangements, PP&PD activities are claimable as Medi-Cal administration only for those services that are excluded from the managed care contracts.

Exhibit A
Scope of Work

Under the conditions specified above, the following tasks are allowable as CMAA under this activity:

(1) Developing strategies to increase Medi-Cal system capacity and close Medi-Cal service gaps. This includes analyzing Medi-Cal data related to a specific program or specific group.

(2) Interagency coordination to improve delivery of Medi-Cal services.

(3) Developing resource directories of Medi-Cal services/providers.

(4) For subcontractors, some PP&PD support services are allowable, e.g., developing resource directories, preparing Medi-Cal data reports, conducting needs assessments, or preparing proposals for expansion of Medi-Cal services.

b. Not allowable: This activity is not allowable if staff performing this function are employed full-time by service providers, such as clinics. The full costs of the employee's salary are assumed to be included in the billable fee-for-service rate and separate CMAA claiming is not allowed.

This activity is not allowable if staff who deliver services part-time in an LGA service provider setting, such as a clinic, are performing PP&PD activities relating to the service provider setting in which they deliver services.

G. **MAA/TCM Coordination and Claims Administration:** Contractor employees whose position description/duty statement includes the administration of CMAA and TCM on an LGA service region-wide basis, may claim for the costs of these activities on the CMAA detailed invoice as a direct charge.

Costs incurred in the preparation and submission of CMAA claims at any level, including staff time, supplies, and computer time, may be direct charged. If the CMAA/TCM Coordinator and/or claims administration staff are performing this function part-time, along with other duties, they must certify the percentage of total time spent performing the duties of CMAA coordination and/or claims administration. The percentage certified for the CMAA/TCM Coordinator and/or claims administration staff activities must be used as the basis for federal claiming. Charges for supervisors, clericals, and support staff may be allocated based upon the percentage of certified time of the CMAA/TCM Coordinator and claims administration staff.

a. The CMAA/TCM Coordinator and claims administration staff may claim the costs of the following activities, as well as any other reasonable activities directly related to the Contractor's administration of TCM services and CMAA at the LGA-wide level:

(1) Drafting, revising, and submitting CMAA Claiming Plans, and TCM performance monitoring plans.
(2) Serving as liaison with and monitoring the performance of claiming programs within the LGA and with the State and Federal Governments on CMAA and TCM.

Exhibit A
Scope of Work

(3) Administering LGA claiming, including overseeing, preparing, compiling, revising and submitting CMAA and TCM invoices on an LGA-wide basis to the State.

(4) Attending training sessions, meetings, and conferences involving CMAA and/or TCM.

(5) Training Contractor program and subcontractor staff on State, Federal, and Local requirements for CMAA and/or TCM claiming.

(6) Ensuring that CMAA and/or TCM invoices do not duplicate Medi-Cal invoices for the same services or activities from other providers. This includes ensuring that services are not duplicated when a Medi-Cal beneficiary receives TCM services from more than one case manager.

NOTE: The costs of the CMAA/TCM Coordinator's time and claims administration staff time must not be included in the CMAA claiming or in the TCM rate, since the costs associated with the time are to be direct charged. Charges for supervisors, clericals, and support staff for these employees may be allocated based upon the percentage of certified time of the CMAA/TCM Coordinator and claims administration staff. The costs of TCM claiming activity at the TCM provider level are to be included in the TCM rate.

H. **MAA/TCM Implementation Training**: Training activities shall be time studied in accordance with the purpose of the training. Training activities include time spent providing or attending training related to the performance of CMAA or TCM. Training activities also include reasonable time spent on related paperwork, clerical activities, staff travel time necessary to perform these activities including initiating and responding to email and voicemail. Training that is unrelated to CMAA is not allowable.

I. **General Administration**: This includes activities that are eligible for cost distribution on a 2 CFR Part 200 et. Seq. approved cost allocation basis. These costs are to be distributed proportionately while performing the following activities:

a. Attend or conduct general, non-medical staff meetings;

b. Develop and monitor program budgets;

c. Provide instructional leadership, site management, supervise staff, or participate in Employee performance reviews;

d. Review departmental or unit procedures and rules;

e. Present or participate in, in-service orientations and programs;

f. Participate in health promotion activities for employees of the Contractor; and
g. The 15 minutes that a time survey participant spent filling out the Time Survey Form at the end of the work day.

Exhibit A
Scope of Work

J. **Paid Time Off:** This activity is to be used by all staff involved in CMAA to record usage of paid leave, including vacation, sick leave, holiday time and any other employee time off that is paid. This does not include lunch or meal breaks, off payroll time, or Compensatory Time Off which shall be allocated as prescribed by the State.

6. Americans with Disabilities Act

Contractor agrees to ensure that deliverables developed and produced, pursuant to this Agreement shall comply with the accessibility requirements of **Section 508 of the Rehabilitation Act and the Americans with Disabilities Act of 1973** as amended (29 U.S.C. § 794 (d), and regulations implementing that act as set forth in Part 1194 of Title 36 of the Federal Code of Regulations. In 1998, Congress amended the **Rehabilitation Act of 1973** to require Federal agencies to make their electronic and information technology (EIT) accessible to people with disabilities. California Government Code section 11135 codifies section 508 of the Act requiring accessibility of electronic and information technology.

Exhibit B
Budget Detail and Payment Provisions

1. Invoicing and Payment

A. For administrative activities satisfactorily rendered and upon receipt and approval of the invoices, DHCS agrees to compensate the Contractor for actual expenditures incurred in accordance with the conditions specified herein.

B. Invoices shall include the Agreement Number and shall be submitted not more frequently than quarterly in arrears to:

Regular Mail	**Overnight Mail**
CMAA Analyst Department of Health Care Services Safety Net Financing Division County-Based Claiming and Inmate Services Section MS 4603 PO Box 997436 Sacramento, CA 95899-7436	CMAA Analyst Department of Health Care Services Safety Net Financing Division County-Based Claiming and Inmate Services Section MS 4603 1501 Capitol Avenue Sacramento, CA 95814

C. Invoices shall:

1) Be prepared on the CMAA Invoice incorporated by reference in Exhibit E, Provision 1.

2) Be prepared on Contractor letterhead and must be signed by an authorized official, employee or agent certifying that the expenditures claimed represent actual expenses for the activities performed under this agreement on the CMAA Invoice Summary page.

3) Bear the Contractor's name as shown on the agreement on the CMAA Invoice.

4) Identify the billing and/or performance period covered by the invoice on the CMAA Invoice.

5) Itemize costs for the billing period in the same or greater level of detail as indicated in this agreement on the CMAA Invoice. Subject to the terms of this agreement, reimbursement may only be sought for those costs and/or cost categories expressly identified as allowable in this agreement and approved by DHCS.

6) Provide the State with complete invoice and expenditure information to include in the CMS 64 no later than *fifteen* (15) months after the end of the quarter for which the claim was submitted. This information shall be provided on the standardized CMAA Invoice.

7) Identify on the CMAA Invoice, the claim categories to which expenditure data must adhere for insertion into the CMS 64. A separate CMAA Invoice shall be submitted for each program, clinic, non-governmental entity and subcontractor claiming CMAA costs pursuant to this agreement, except for contracted employees under the direct control of the Contractor. Contracted employees' costs shall be aggregated and reported in accordance with the CMAA Invoice instructions. The CMAA Invoice(s) for each of the programs claimed shall correspond to the name of the claiming

Exhibit B
Budget Detail and Payment Provisions

programs identified in the Contractors CMAA Claiming Plan. The Invoice instructions are found in the DHCS CMAA/TCM Time Survey Methodology and DHCS CMAA Program Operational Plan (CMAA/ TCM Implementation Plan) incorporated by reference in Exhibit E, Provision 1.

D. Rates Payable

1) The invoices may include the cost of expenses of staff and the operating expenses and equipment costs necessary to collect data, disseminate information, and carry out the staff activities outlined in this agreement.

a. The maximum rate of Federal reimbursement for compensation (salary and benefits), of activities qualifying under Federal regulations applying to SPMP of a public agency and their direct supporting staff shall be 75 percent of such costs for activities identified as "enhanced." The maximum rate of reimbursement for allowable costs of activities identified as "non-enhanced", performed by SPMP and their direct supporting staff, shall be 50 percent. The maximum rate of reimbursement for all allowable costs other than compensation applicable to SPMPs and their direct supporting staff shall be 50 percent.

(1) An SPMP is defined as an employee of the Contractor who has completed a 2-year or longer program leading to an academic degree or certification in a medically-related profession *and* who performs duties and responsibilities requiring professional medical knowledge and skills. Direct supporting staff are also employees of the Contractor. They are secretarial, stenographic, copy, file, or record clerks who are directly supervised by the SPMP, and who provide clerical services necessary for carrying out the professional medical responsibilities and administrative activities of the SPMP.

b. The rate of federal reimbursement is 50 percent FFP for all costs of non-SPMPs and all costs of subcontractors (non-governmental entities) performing allowable administrative activities as defined in Provision 5, Services to be Performed, of Exhibit A, Scope of Work.

c. The maximum rate of reimbursement for all non-public subcontractors to the Contractor shall be 50 percent for all categories of cost.

E. Certify the certified public expenditure (CPE) from the Contractor's General Fund, or from any other funds allowed under federal law and regulation, for Title XIX funds claimed for CMAA performed pursuant to W&I Code Section 14132.47. The State shall deny payment of any claim submitted under this agreement if it determines that the certification is not adequately supported for purposes of FFP. Expenditures certified for CMAA costs shall not duplicate, in whole or in part, claims made for the costs of direct patient care. DHCS shall provide a certification statement to be included with each CMAA Invoice Summary Page submitted to the State for payment for the performance of CMAA.

Exhibit B
Budget Detail and Payment Provisions

2. Budget Contingency Clause

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

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

3. Prompt Payment Clause

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

4. Amounts Payable

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

1) $ 100,000 for the budget period of 07/01/18 through 06/30/19,
2) $ 100,000 for the budget period of 07/01/19 through 06/30/20,
3) $ 100,000 for the budget period of 07/01/20 through 06/30/21.

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

5. Timely Submission of Final Invoice

A. A final undisputed invoice shall be submitted for payment no more than thirty (30) calendar days following the expiration or termination date of this Agreement, unless a later or alternate deadline is agreed to in writing by the Program Contract Manager. Said invoice should be clearly marked “Final Invoice”, thus indicating that all payment obligations of DHCS under this Agreement have ceased and that no further payments are due or outstanding.

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

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

Exhibit B
Budget Detail and Payment Provisions

6. Participation in Medi-Cal Administrative Claiming Process

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

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

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

7. Non-Federal Matching Funds for CMAA

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

8. Claiming Overhead Costs

A. In order to claim administrative overhead costs, also referred to as "External Administrative Overhead" costs, the Contractor must have a State Controller's Office approved LGA administrative overhead cost allocation plan for the applicable period and these costs must be claimed in accordance with the plan. An LGA's plan is submitted to the California State Controller's Office, which has delegated authority from the Federal Government to approve it.

B. Internal (departmental) administrative overhead costs are allowable for FFP only if there is a departmental overhead indirect cost allocation plan prepared and on file for audit purposes for the applicable period and costs are claimed in accordance with it following 2 CFR Part 200 et. Seq. guidelines.

C. Both external and internal administrative cost allocation plans must comply with provisions of 2 CFR Part 200 et. Seq., entitled "Cost Principles for State, Local, and Indian Tribal Governments "and Federal Publication OASC-10, entitled "A Guide for State and Local Governments/Cost Principles and Procedures for Establishing Cost Allocation Plans and Indirect Cost Rates for Grants and Contracts with the Federal Government."

D. The Contractor must assure that costs claimed as direct costs are not duplicate costs claimed through the application of the indirect cost rate.

Exhibit B
Budget Detail and Payment Provisions

9. Offset of Revenues and Non-Duplication of FFP

A. To the extent that other funding sources have paid or would pay for the costs at issue, FFP is not available and the costs must be removed from the total costs *(2 CFR part 200 et. seq.)*. The revenue offset categories which must be applied in developing the net costs include, but are not limited to:

1) All unallowable federal funds, including not only federal grants but also federal payments for services under Medicare fee-for-service or encounter rates.

2) All state expenditures which have been previously matched by the Federal Government (*includes Medicaid funds for medical assistance, such as the payment rate for services under fee-for-service or encounter rates).* Claims submitted will not be duplicative of Medicaid claims for costs that are part of the all inclusive rate for direct patient care.

3) Private insurance and other fees collected from non-governmental sources.

4) All applicable credits must be offset against claims for Medicaid funds. Applicable credits refer to those receipts or reduction of expenditure type transactions that offset or reduce expense items allocable to federal awards as direct or indirect costs.

5) A program may not claim any federal match for administrative activities if its total cost has already been paid by the revenue sources above. A government program may not be reimbursed in excess of its actual costs.

10. Requirements for FFP

A. The reimbursement LGAs receive for their Medi-Cal program expenditures is known as FFP. Section 433.51 of Title 42 of the CFR provides that the amount expended for providing medical assistance must be "… certified by the contribution public agency as representing expenditures eligible for FFP." Section 1903(a) of Title XIX of the Social Security Act also provides language indicating states may receive an enhancement to the FFP. Section 1903(a)(2) of the Act specifically indicates federal matching at 75 percent is attributable to the compensation and/or training of SPMP, and staff direct supporting such personnel of the State agency of any other public agency. For example, when the amounts expended for providing medical assistance "are attributable to the compensation or training of SPMP, and staff direct supporting such personnel", the FFP rate shall be 75 percent. Therefore, the FFP rate for an LGA claim with eligible and certified Medi-Cal expenditures performed by an SPMP, or staff direct supporting an SPMP, in the amount of $100 would be $75 ($100 x .75 = $75).

B. In order to meet the CPE requirements and receive FFP, LGAs must obtain and maintain supporting documentation verifying: a) 100 percent of available revenue is specifically related to performing the administrative activities and services of the Medi-Cal program; b) 100 percent of the expenditures eligible for reimbursement are specifically related to performing the administrative activities and services of the Medi-Cal program; c) the expenditures eligible for reimbursement are restricted to the actual costs incurred; d) the funds expended to account for the actual cost are from revenue sources allowable under all applicable state and federal laws and regulations; e) the

administrative activity and service expenditures of the Medi-Cal program are incurred prior to requesting FFP reimbursement. The contributing public agency must certify to their allowable expenditures for the actual costs of providing services and/or activities. Community-Based Organizations (CBOs) may not utilize their private funds or certify costs. CBOs may only utilize allowable CPE contributed by a Public Agency for the actual costs related to Medi-Cal eligible services and/or activities. If an LGA has a question regarding eligible CPE or actual cost at the claiming unit or CBO level, they should contact DHCS.

C. Per 42 CFR, Section 432.2 et seq., and Section 433.1 et seq., SPMP, and direct supporting staff, eligible for enhanced funding are defined as physicians, dentists, nurses, and other specialized personnel who have professional education and training in the field of medical care or appropriate medical practice and who are in an employer-employee relationship with the Contractor. SPMPs do not include other non-medical health professionals such as public administrators, medical analysts, lobbyists, senior managers or administrators of public assistance programs or of the Medi-Cal program.

D. The seventy-five (75) percent (enhanced) federal matching rate is only available for a Contractor that is contractually linked to DHCS to perform Medi-Cal Administrative Activities. The enhanced federal matching rate can be claimed for salaries, benefits, travel and training of SPMP and their direct supporting clerical staff who are in an employee-employer relationship with the Contractor and are involved in activities that are necessary for the proper and efficient administration of the Medi-Cal Program.

E. Fifty (50) percent (non-enhanced) federal matching rate can be claimed for any of the Contractor's staff, or subcontractors, involved in the performance of activities that are necessary for the proper and efficient administration of the Medi-Cal Program. This includes claiming for SPMP and direct supporting clerical staff performing related activities that are non-enhanced. Additionally, the ability to claim SPMP under the MAA program is activity driven not education based. Expenditures for the actual furnishing of medical services by SPMP do not qualify for reimbursement via Medi-Cal Administrative Claiming, as medical services are paid for in the fee-for-services system and managed care system.

F. Qualifying SPMP costs may be matched at the 75 percent rate in proportion to the time worked by SPMP in performing those duties that require professional medical knowledge and skills, as evidenced by position descriptions, job announcements, or job classifications.

11. Expense Allowability/Fiscal Documentation

A. Invoices, received from a Contractor and accepted and/or submitted for payment by DHCS, shall not be deemed evidence of allowable agreement costs.

B. Contractor shall maintain for review and audit and supply to DHCS upon request, adequate documentation of all expenses claimed pursuant to this agreement to permit a determination of expense allowability.

C. If the allowability or appropriateness of an expense cannot be determined by DHCS because invoice detail, fiscal records, or backup documentation is nonexistent or inadequate according to generally accepted accounting principles or practices, all

Exhibit B
Budget Detail and Payment Provisions

questionable costs may be disallowed and payment may be withheld by the DHCS. Upon receipt of adequate documentation supporting a disallowed or questionable expense, reimbursement may resume for the amount substantiated and deemed allowable.

D. The LGA is to establish policies and procedures to identify the Federal Award amounts passed through to subrecipients and furnish those amounts to DHCS.

12. Federal Audit Disallowances

A. In addition to the indemnification required by Exhibit C, Provision 5, and notwithstanding any other provision of this agreement, the State shall be held harmless, in accordance with Provision 2, Budget Contingency Clause, paragraphs A and B, from any federal audit disallowance and interest resulting from payments made to the Contractor pursuant to W&I Code Section 14132.47, and this agreement, less the amounts already remitted to the State.

B. To the extent that a federal audit disallowance and interest results from a claim or claims for the Contractor has received reimbursement for CMAA, the State shall recoup from the Contractor which submitted the disallowed claim, through offsets or by direct billing, amounts equal to the amount of the disallowance plus interest in that fiscal year, less any amount already remitted to the State for the disallowed claim. All subsequent claims submitted to the State applicable to any previously disallowed CMAA or claim, may be held in abeyance, with no payment made, until the federal disallowance issue is resolved.

C. To the extent that a federal audit disallowance and interest results from a claim or claims for which the Contractor has received reimbursement for CMAA performed by a non-governmental entity under agreement with, and on behalf of, the Contractor, the State shall be held harmless by that particular Contractor for 100 percent of the amount of any such final federal audit disallowance and interest less the amounts already remitted to the State for the disallowed claim.

13. Dun and Bradstreet Universal Numbering System (DUNS)

Notwithstanding Exhibit E. 8. A. 8. definition for vendor, CMAA providers and their subcontractors are considered contractors solely for the purposes of U.S. Office of Management and Budget Uniform Guidance (Title 2 of the Code of Federal Regulations, Part 200, and, specifically, 2 CFR 200.330). Consequently, as contractors, as distinguished from subrecipients, a DUNS number is not required.

Special Terms and Conditions

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

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

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

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

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

Index of Special Terms and Conditions

1. Federal Equal 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 Human Resources (CalHR), for nonrepresented state employees as stipulated in DHCS' Travel Reimbursement Information Exhibit. If the CalHR rates change during the term of the Agreement, the new rates shall apply upon their effective date and no amendment to this Agreement shall be necessary. Exceptions to CalHR rates may be approved by DHCS upon the submission of a statement by the Contractor indicating that such rates are not available to the Contractor. No travel outside the State of California shall be reimbursed without prior authorization from DHCS. Verbal authorization should be confirmed in writing. Written authorization may be in a form including fax or email confirmation.

3. Procurement Rules

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

a. **Equipment/Property definitions**

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

(1) **Major equipment/property**: A tangible or intangible item having a base unit cost of **$5,000 or more** with a life expectancy of one (1) year or more and is either furnished by DHCS or the cost is reimbursed through this Agreement. Software and videos are examples of intangible items that meet this definition.

(2) **Minor equipment/property**: A tangible item having a base unit cost of **less than $5,000** with a life expectancy of one (1) year or more and is either furnished by DHCS or the cost is reimbursed through this Agreement.

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

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

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

To secure equipment/property above the annual maximum limit of $50,000, the Contractor shall

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

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

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

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

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

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

[1] Avoid purchasing unnecessary or duplicate items.

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

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

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

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

f. The Contractor and/or subcontractor must maintain a copy or narrative description of the procurement system, guidelines, rules, or regulations that will be used to make purchases under this Agreement. The State reserves the right to request a copy of these documents and to inspect the purchasing practices of the Contractor and/or subcontractor at any time.

g. For all purchases, the Contractor and/or subcontractor must maintain copies of all paid vendor invoices, documents, bids and other information used in vendor selection, for inspection or audit. Justifications supporting the absence of bidding (i.e., sole source purchases) shall also be maintained on file by the Contractor and/or subcontractor for inspection or audit.

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

4. Equipment/Property Ownership / Inventory / Disposition

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

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

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

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

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

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

(a) Include in the inventory report, equipment and/or property in the Contractor's possession and/or in the possession of a subcontractor (including independent consultants).

(b) Submit the inventory report to DHCS according to the instructions appearing on the inventory form or issued by the DHCS Program Contract Manager.

(c) Contact the DHCS Program Contract Manager to learn how to remove, trade-in, sell, transfer or survey off, from the inventory report, expired equipment and/or property that is no longer wanted, usable or has passed its life expectancy. Instructions will be supplied by either the DHCS Program Contract Manager or DHCS' Asset Management Unit.

b. Title to state equipment and/or property shall not be affected by its incorporation or attachment to any property not owned by the State.

c. Unless otherwise stipulated, DHCS shall be under no obligation to pay the cost of restoration, or rehabilitation of the Contractor's and/or Subcontractor's facility which may be affected by the removal of any state equipment and/or property.

d. The Contractor and/or Subcontractor shall maintain and administer a sound business program for ensuring the proper use, maintenance, repair, protection, insurance and preservation of state equipment and/or property.

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

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

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

g. **Motor Vehicles**

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

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

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

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

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

Automobile Liability Insurance

(a) The Contractor, by signing this Agreement, hereby certifies that it possesses or will obtain automobile liability insurance in the amount of $1,000,000 per occurrence for bodily injury and property damage combined. Said insurance must be obtained and made effective upon the delivery date of any motor vehicle, purchased/reimbursed with agreement funds or furnished by DHCS under the terms of this Agreement, to the Contractor and/or Subcontractor.

(b) The Contractor and/or Subcontractor shall, as soon as practical, furnish a copy of the certificate of insurance to the DHCS Program Contract Manager. The certificate of insurance shall identify the DHCS contract or agreement number for which the insurance applies.

(c) The Contractor and/or Subcontractor agree that bodily injury and property damage liability insurance, as required herein, shall remain in effect at all times during the term of this Agreement or until such time as the motor vehicle is returned to DHCS.

(d) The Contractor and/or Subcontractor agree to provide, at least thirty (30) days prior to the expiration date of said insurance coverage, a copy of a new certificate of insurance evidencing continued coverage, as indicated herein, for not less than the remainder of the term of this Agreement, the term of any extension or continuation thereof, or for a period of not less than one (1) year.

(e) The Contractor and/or Subcontractor, if not a self-insured government and/or public entity, must provide evidence, that any required certificates of insurance contain the following provisions:

[1] The insurer will not cancel the insured's coverage without giving thirty (30) calendar days prior written notice to the State (California Department of Health Care Services).

[2] The State of California, its officers, agents, employees, and servants are included as additional insureds, but only with respect to work performed for the State under this Agreement and any extension or continuation of this Agreement.

[3] The insurance carrier shall notify the California Department of Health Care Services (DHCS), in writing, of the Contractor's failure to pay premiums; its cancellation of such policies; or any other substantial change, including, but not limited to, the status, coverage, or scope of the required insurance. Such notices shall contain a reference to each agreement number for which the insurance was obtained.

(f) The Contractor and/or Subcontractor is hereby advised that copies of certificates of insurance may be subject to review and approval by the Department of General Services (DGS), Office of Risk and Insurance Management. The Contractor shall be notified by DHCS, in writing, if this provision is applicable to this Agreement. If DGS approval of the certificate of insurance is required, the Contractor agrees that no work or services shall be performed prior to obtaining said approval.

(g) In the event the Contractor and/or Subcontractor fails to keep insurance coverage, as required herein, in effect at all times during vehicle possession, DHCS may, in addition to any other remedies it may have, terminate this Agreement upon the occurrence of such event.

5. Subcontract Requirements

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

a. Prior written authorization will be required before the Contractor enters into or is reimbursed for any subcontract for services costing $5,000 or more. Except as indicated in Paragraph a(3) herein, when securing subcontracts for services exceeding $5,000, the Contractor shall obtain at least three bids or justify a sole source award.

(1) The Contractor must provide in its request for authorization, all information necessary for evaluating the necessity or desirability of incurring such cost.

(2) DHCS may identify the information needed to fulfill this requirement.

(3) Subcontracts performed by the following entities or for the service types listed below are exempt from the bidding and sole source justification requirements:

(a) A local governmental entity or the federal government,

(b) A State college or State university from any State,

(c) A Joint Powers Authority,

(d) An auxiliary organization of a California State University or a California community college,

(e) A foundation organized to support the Board of Governors of the California Community Colleges,

(f) An auxiliary organization of the Student Aid Commission established under Education Code § 69522,

(g) Firms or individuals proposed for use and approved by DHCS' funding Program via acceptance of an application or proposal for funding or pre/post contract award negotiations,

(h) Entities and/or service types identified as exempt from advertising and competitive bidding in State Contracting Manual Chapter 5 Section 5.80 Subsection B.2. View this publication at the following Internet address: http://www.dgs.ca.gov/ols/Resources/StateContractManual.aspx.

b. DHCS reserves the right to approve or disapprove the selection of subcontractors and with advance written notice, require the substitution of subcontractors and require the Contractor to terminate subcontracts entered into in support of this Agreement.

(1) Upon receipt of a written notice from DHCS requiring the substitution and/or termination of a subcontract, the Contractor shall take steps to ensure the completion of any work in progress and select a replacement, if applicable, within 30 calendar days, unless a longer period is agreed to by DHCS.

c. Actual subcontracts (i.e., written agreement between the Contractor and a subcontractor) of $5,000 or more are subject to the prior review and written approval of DHCS. DHCS may, at its discretion, elect to waive this right. All such waivers shall be confirmed in writing by DHCS.

d. Contractor shall maintain a copy of each subcontract entered into in support of this Agreement and shall, upon request by DHCS, make copies available for approval, inspection, or audit.

e. DHCS assumes no responsibility for the payment of subcontractors used in the performance of this Agreement. Contractor accepts sole responsibility for the payment of subcontractors used in the performance of this Agreement.

f. The Contractor is responsible for all performance requirements under this Agreement even though performance may be carried out through a subcontract.

g. The Contractor shall ensure that all subcontracts for services include provision(s) requiring compliance with applicable terms and conditions specified in this Agreement.

h. The Contractor agrees to include the following clause, relevant to record retention, in all subcontracts for services:

"(*Subcontractor Name*) agrees to maintain and preserve, until three years after termination of (*Agreement Number*) and final payment from DHCS to the Contractor, to permit DHCS or any duly authorized representative, to have access to, examine or audit any pertinent books, documents, papers and records related to this subcontract and to allow interviews of any employees who might reasonably have information related to such records."

i. Unless otherwise stipulated in writing by DHCS, the Contractor shall be the subcontractor's sole point of contact for all matters related to performance and payment under this Agreement.

j. Contractor shall, as applicable, advise all subcontractors of their obligations pursuant to the following numbered provisions of this Exhibit: 1, 2, 3, 4, 5, 6, 7, 8, 10, 11, 12, 13, 14, 17, 19, 20, 24, 32 and/or other numbered provisions herein that are deemed applicable.

6. Income Restrictions

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

7. Audit and Record Retention

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

a. The Contractor and/or Subcontractor shall maintain books, records, documents, and other evidence, accounting procedures and practices, sufficient to properly reflect all direct and indirect costs of whatever nature claimed to have been incurred in the performance of this Agreement, including any matching costs and expenses. The foregoing constitutes "records" for the purpose of this provision.

b. The Contractor's and/or subcontractor's facility or office or such part thereof as may be engaged in the performance of this Agreement and his/her records shall be subject at all reasonable times to inspection, audit, and reproduction.

c. Contractor agrees that DHCS, the Department of General Services, the Bureau of State Audits, or their designated representatives including the Comptroller General of the United States shall have the right to review and to copy any records and supporting documentation pertaining to the performance of this

Agreement. Contractor agrees to allow the auditor(s) access to such records during normal business hours and to allow interviews of any employees who might reasonably have information related to such records. Further, the Contractor agrees to include a similar right of the State to audit records and interview staff in any subcontract related to performance of this Agreement. (GC 8546.7, CCR Title 2, Section 1896).

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.

County of Mono Name of Contractor	Kimberly Bunn, Printed Name of Person Signing for Contractor
18-95007 Contract / Grant Number	 Signature of Person Signing for Contractor
 Date	Fiscal and Administrative Services Officer Title

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

California Department of Health Care Services
Safety Net Financing Division
County-Based Medi-Cal Administrative Activities
1501 Capitol Avenue
P.O. Box 997436 MS 4603
Sacramento, CA 95899-7436

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

Attachment 2

CERTIFICATION REGARDING LOBBYING

Approved by OMB
0348-0046

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

1. Type of Federal Action: [ ] a. contract b. grant c. cooperative agreement d. loan e. loan guarantee f. loan insurance	2. Status of Federal Action: [ ] a. bid/offer/application b. initial award c. post-award	3. Report Type: [ ] a. initial filing b. material change For Material Change Only: Year _____ quarter _____ date of last report _____.

4. Name and Address of Reporting Entity: ☐ Prime ☐ Subawardee Tier ___, if known: Congressional District, If known:	5. If Reporting Entity in No. 4 is Subawardee, Enter Name and Address of Prime: Congressional District, If known:
6. Federal Department/Agency	7. Federal Program Name/Description: CDFA Number, if applicable: _____
8. Federal Action Number, if known:	9. Award Amount, if known: $
10.a. Name and Address of Lobbying Registrant *(If individual, last name, first name, MI)*:	b. Individuals Performing Services *(including address if different from 10a.* *(Last name, First name, MI):*
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.	Signature: _____ Print Name: _____ Title: Telephone No.: Date:

Federal Use Only	Authorized for Local Reproduction Standard Form-LLL (Rev. 7-97)

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 appropriateclassification 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 itis, 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 organizationallevel below agency name, if known. For example, Department of Transportation, United States Coast Guard.

7. Enter the Federal program name or description for the covered Federal action (item 1). If known, enter the full Catalog of Federal Domestic Assistance (CFDA) number for grants, cooperative agreements, loans, and loan commitments.

8. Enter the most appropriate Federal identifying number available for the Federal action identified in item 1 (e.g., Request for Proposal (RFP) number; Invitation for Bid (IFB) number; grant announcement number; the contract, grant, or loan award number; the application/proposal control number assigned by the Federal agency). Include prefixes, e.g., "RFP-DE-90-001".

9. For a covered Federal action where there has been an award or loan commitment by the Federal agency, enter the Federal amount of the award/loan commitment for the prime entity identified in item 4 or 5.

10. (a) Enter the full name, address, city, State and zip code of the lobbying registrant under the Lobbying Disclosure Act of 1995 engaged by the reporting entity identified in item 4 to influence the covered Federal action.

    (b) Enter the full names of the individual(s) performing services, and include full address if different from 10 (a). Enter Last Name, First Name, and Middle Initial (MI).

11. The certifying official shall sign and date the form, print his/her name, title, and telephone number.

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

Exhibit E
Additional Provisions

1. Additional Incorporated Exhibits

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

1) Policy & Procedure Letters (PPL)*
2) DHCS CMAA/TCM Time Survey Methodology and DHCS CMAA Program Operational Plan (CMAA/ TCM Implementation Plan) *
3) CMAA Invoice Documents*
4) CMAA Training Materials*

*View at www.dhcs.ca.gov/provgovpart/Pages/CMAA.aspx

2. Amendment Process

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

3. Cancellation/Termination

A. This agreement may be cancelled or terminated without cause by either party by giving thirty (30) calendar days advance written notice to the other party. Such notification shall state the effective date of termination or cancellation and include any final performance and/or payment/invoicing instructions/requirements.

B. Upon receipt of a notice of termination or cancellation from DHCS, Contractor shall take immediate steps to stop performance and to cancel or reduce subsequent agreement costs.

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

4. Contractor Responsibilities

A. The Contractor shall comply with 42 U.S.C., Section 1396 et seq., 42 CFR Part 400 et seq., and 45 CFR Part 95, California Welfare and Institutions Code, Division 9, Part 3, Chapter 7 (commencing with Section 14000) and Chapter 8 (commencing with Section 14200), and Title 22 California Code of Regulations CCR), Division (3 (commencing with Section 50000), all as periodically amended; State issued policy directives; 2 CFR Part 200 et. Seq., as periodically amended.

B. If the Contractor enters into contracts with other organizations to perform CMAA in support of the Contractor claiming administrative reimbursement, the Contractor shall have any contract to perform administrative activities under the auspices of the Medi-Cal Program available for State and/or Federal review.

C. The Contractor is responsible for the acts or omissions of its employees and/or subcontractors. Submission of a falsified CMAA Invoice by a Contractor shall constitute a breach of contract. Submission of a CMAA invoice for which there is no supporting documentation by a Contractor may constitute a breach of contract.

D. The conviction of an employee or subcontractor of the Contractor, or of an employee of a subcontractor, of any felony or of a misdemeanor involving fraud, abuse of any Medi-Cal applicant or beneficiary, or abuse of the Medi-Cal Program, shall result in the exclusion of that employee or subcontractor, or employee of a subcontractor, from participation in the Medi-Cal Administrative Claiming process. Failure of a Contractor to exclude a convicted individual from participation in the Medi-Cal Administrative Claiming process shall constitute a breach of contract.

E. Exclusion after conviction shall result regardless of any subsequent order under Section 1203.4 of the Penal Code allowing a person to withdraw his or her plea of guilty and to enter a plea of not guilty, or setting aside the verdict of guilty, or dismissing the accusation, information, or indictment.

F. Suspension or exclusion of an employee or subcontractor, or of an employee of a subcontractor, from participation in the Medi-Cal Program, the Medicaid Program, or the Medicare Program, shall result in the exclusion of that employee or subcontractor, or employee of a subcontractor, from participation in the Medi-Cal Administrative Claiming process. Failure of a Contractor to exclude a

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Additional Provisions

suspended or excluded individual from participation in the Medi-Cal Administrative Claiming process shall constitute a breach of contract.

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

H. LGA budget units that elect to participate in the CMAA and/or TCM programs are required to conduct time surveys to account for staff time spent performing Medi-Cal and non-Medi-Cal eligible services and activities. The time survey results are used in the determination of allowable Medi-Cal costs. The activities of staff providing Medi-Cal administration must be documented in accordance with the provisions of 42 CFR Sections 432.50, 433.32, and 433.34, and 45 CFR Parts 74 and 95, and 2 CFR Part 200 et. Seq.

I. All non-Medi-Cal related activities and direct patient care services shall be time surveyed to Other Programs/Activities" or "Direct Patient Care" on the Time Survey form, as appropriate**.**

J. The Contractor shall comply with enabling legislation, regulations, administrative claiming process directives, and the PPLs of DHCS Safety Net Financing Division incorporated by reference in Exhibit E, Provision 1, which define program specific allowable CMAA.

K. The Contractor shall provide to the State, comprehensive Medi-Cal Administrative Claiming Plan, in the format specified by the State. The claiming plan must be approved by the State and this agreement must be signed by both parties prior to the submission of CMAA invoices.

L. The Contractor shall not discriminate against any eligible person because of race, religion, political beliefs, color, national or ethnic origin, ancestry, mental or physical disability, medical condition, marital status, age, or sex.

M. The Contractor shall ensure all applicable State and federal requirements, as identified in Exhibit E, Provision 4, are met in performing CMAA under this agreement. It is understood and agreed that failure by the Contractor to ensure all applicable State and Federal requirements not met in performing CMAA under this agreement shall be sufficient cause for the State to deny or recoup payments to the Contractor and/or to terminate this agreement.

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N. Abide by the Business Associate Agreement (BAA) (Exhibit G), as incorporated herein and made part of this Agreement by reference. Data released to LGAs is to be used solely for the purpose of verifying Medi-Cal eligibility of the beneficiaries. The data elements used are listed in attachment A".

O. The Contractor shall submit a letter of intent to participate in the CMAA Program six (6) months prior to the termination of this agreement for the purpose of extending the term of the agreement or initiating a new agreement, whichever is preferred by DHCS.

P. When an amendment of the contract is necessary because the original projected expenditures shortfall the actual expenditures, a request must be submitted to DHCS at least 6 months prior to the end of the FY for which additional funding is necessary. If this request is not received timely, the contract will not be amended to address the insufficient funding and subsequent affected invoices will not be paid.

5. State Responsibilities

A. Review, approve, as appropriate, and process Contractor claims for reimbursement of the allowable actual costs of providing administrative activities necessary for the proper and efficient administration of the Medi-Cal Program. Reimbursement shall be made subsequent to the quarter for which a claim for CMAA is made. Any claim that cannot be approved shall be returned to the Contractor with a written explanation of the basis for disapproval.

B. Provide the Contractor with a standardized format for the CMAA Invoice and CMAA Claiming Plan which will be disseminated through policy directives issued by the State.

C. Review CMAA Claiming Plan and amendment(s) to the CMAA Claiming Plan. Any amendment that cannot be approved shall be returned to the Contractor with a written explanation of the basis for disapproval. Any amendment to the CMAA Claiming Plan shall not require a formal amendment to the agreement but may instead be effected via written approval of the amended CMAA Claiming Plan signed by DHCS.

D. Provide program monitoring and oversight including conducting site reviews at least once every four years for compliance with state and federal requirements and regulations. DHCS will retain ultimate responsibility for program oversight and policy interpretation.

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E. Submit approved CMAA Claiming Plans and amendments to the CMS for review and approval if required.

F. Make available to Contractors, training and technical support on proper administrative activities to be claimed, identifying costs related to these activities, and billing procedures. Training material is to be developed by and/or approved by DHCS.

6. Joint Responsibilities

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

7. Definitions

A. The following definitions are applicable to this Contract.

1) "CFDA number" means the number assigned to a federal program in the Catalog of Federal Domestic Assistance (CFDA).

2) "Federal award" means federal financial assistance and federal cost-reimbursement contracts that non-federal entities receive directly from federal awarding agencies or indirectly from pass-through entities. It does not include procurement contracts, under grants or contracts used to buy goods or services from vendors.

3) "Federal awarding agency" means the federal agency that provides an award directly to the recipient.

4) "Federal program" means all federal awards to a non-federal entity assigned a single number in the CDFA.

5) "Pass-through entity" means a non-federal entity that provides a federal award to a subrecipient to carry out a federal program.

6) "Recipient" means a non-federal entity that expends federal awards received directly from a federal awarding agency to carry out a federal program.

7) "Subrecipient" means a non-federal entity that expends federal awards received from a pass-through entity to carry out a federal program, but does

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not include an individual that is a beneficiary of such a program. A subrecipient may also be a recipient of other federal awards directly from a federal awarding agency. Guidance on distinguishing between a subrecipient and a vendor is provided in OMB Circular A-133

8) "Vendor" means a dealer, distributor, merchant, or other seller providing goods or services that are required for the conduct of a federal program. These goods or services may be for an organization's own use or for the use of beneficiaries of the federal program. Additional guidance on distinguishing between a subrecipient and a vendor is provided on OMB Circular A-133.

B. The definitions in Provision 8, Item A, shall be included in all of Contractor's contracts with subrecipients and vendors.

C. Additional definitions applicable to this Contract:

1) "Direct charge" means to report CMAA costs for staff that perform Medi-Cal eligible activities either 100 percent of the time or in distinct and documented blocks of time.

2) "Medi-Cal percentage" means for some CMAA, LGAs claim allowable costs based on how many members of a group of people are Medi-Cal beneficiaries; this number is the Medi-Cal percentage. Costs are discounted (i.e. reduced) by the Medi-Cal percentage when the activity is directed toward a group of people that is only partly composed of Medi-Cal eligible persons. The Medi-Cal percentage is the fraction of a total population (target population) that consists of Medi-Cal beneficiaries. The numerator is the number of clients served by the claiming unit that are Medi-Cal beneficiaries, and the denominator is the total number of clients served by the claiming unit. Discount methods approved by DHCS and CMS for calculating the Medi-Cal percentage discount may be utilized.

Exhibit F

Contractor's Release

Instructions to Contractor:

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

Submission of Final Invoice

Pursuant to **contract number** 18-95007 entered into between the Department of Health Care Services (DHCS) and the Contractor (identified below), the Contractor does acknowledge that final payment has been requested via **invoice number(s)** _____, in the **amount(s) of $** _____ and **dated** _____.
If necessary, enter "See Attached" in the appropriate blocks and attach a list of invoice numbers, dollar amounts and invoice dates.

Release of all Obligations

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

Repayments Due to Audit Exceptions / Record Retention

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

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

Recycled Product Use Certification

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

Reminder to Return State Equipment/Property (If Applicable)

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

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

Patents / Other Issues

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

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

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

Signature of Contractor or Official Designee: _____ Date: _____

Printed Name/Title of Person Signing: Kimberly Bunn, Public Health Fiscal and Administrative Officer

Distribution: Accounting (Original) Program

Exhibit G
HIPAA Business Associate Addendum

I. Recitals

A. This Contract (Agreement) has been determined to constitute a business associate relationship under the Health Insurance Portability and Accountability Act of 1996, Public Law 104-191 (“HIPAA”), the Health Information Technology for Economic and Clinical Health Act, Public Law 111-005 ('the HITECH Act"), 42 U.S.C. section 17921 et seq., and their implementing privacy and security regulations at 45 CFR Parts 160 and 164 (“the HIPAA regulations”).

B. The Department of Health Care Services (“DHCS”) wishes to disclose to Business Associate certain information pursuant to the terms of this Agreement, some of which may constitute Protected Health Information (“PHI”), including protected health information in electronic media (“ePHI”), under federal law, and personal information ("PI") under state law.

C. As set forth in this Agreement, Contractor, here and after, is the Business Associate of DHCS acting on DHCS' behalf and provides services, arranges, performs or assists in the performance of functions or activities on behalf of DHCS and creates, receives, maintains, transmits, uses or discloses PHI and PI. DHCS and Business Associate are each a party to this Agreement and are collectively referred to as the "parties.”

D. The purpose of this Addendum is to protect the privacy and security of the PHI and PI 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 DHCS must enter into a contract containing specific requirements with Contractor prior to the disclosure of PHI to Contractor, as set forth in 45 CFR Parts 160 and 164 and the HITECH Act, and the Final Omnibus Rule as well as the Alcohol and Drug Abuse patient records confidentiality law 42 CFR Part 2, and any other applicable state or federal law or regulation. 42 CFR section 2.1(b)(2)(B) allows for the disclosure of such records to qualified personnel for the purpose of conducting management or financial audits, or program evaluation. 42 CFR Section 2.53(d) provides that patient identifying information disclosed under this section may be disclosed only back to the program from which it was obtained and used only to carry out an audit or evaluation purpose or to investigate or prosecute criminal or other activities, as authorized by an appropriate court order.

E. The terms used in this Addendum, 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.

II. Definitions

A. Breach shall have the meaning given to such term under HIPAA, the HITECH Act, the HIPAA regulations, and the Final Omnibus Rule.

B. Business Associate shall have the meaning given to such term under HIPAA, the HITECH Act, the HIPAA regulations, and the final Omnibus Rule.

C. Covered Entity shall have the meaning given to such term under HIPAA, the HITECH Act, the HIPAA regulations, and Final Omnibus Rule.

D. Electronic Health Record shall have the meaning given to such term in the HITECH Act, including, but not limited to, 42 U.S.C Section 17921 and implementing regulations.

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HIPAA Business Associate Addendum

E. Electronic Protected Health Information (EPHI) means individually identifiable health information transmitted by electronic media or maintained in electronic media, including but not limited to electronic media as set forth under 45 CFR section 160.103.

F. Individually Identifiable Health Information means health information, including demographic information collected from an individual, that is created or received by a health care provider, health plan, employer or health care clearinghouse, and relates to the past, present or future physical or mental health or condition of an individual, the provision of health care to an individual, or the past, present, or future payment for the provision of health care to an individual, that identifies the individual or where there is a reasonable basis to believe the information can be used to identify the individual, as set forth under 45 CFR section 160.103.

G. Privacy Rule shall mean the HIPAA Regulation that is found at 45 CFR Parts 160 and 164.

H. Personal Information shall have the meaning given to such term in California Civil Code section 1798.29.

I. Protected Health Information means individually identifiable health information that is transmitted by electronic media, maintained in electronic media, or is transmitted or maintained in any other form or medium, as set forth under 45 CFR section 160.103.

J. Required by law, as set forth under 45 CFR section 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 PHI or PI, or confidential data that is essential to the ongoing operation of the Business Associate’s organization and intended for internal use; or interference with system operations in an information system.

M. Security Rule shall mean the HIPAA regulation that is found at 45 CFR Parts 160 and 164.

N. Unsecured PHI shall have the meaning given to such term under the HITECH Act, 42 U.S.C. section 17932(h), any guidance issued pursuant to such Act, and the HIPAA regulations.

III. Terms of Agreement

A. Permitted Uses and Disclosures of PHI by Business Associate

Permitted Uses and Disclosures. Except as otherwise indicated in this Addendum, Business Associate may use or disclose PHI only to perform functions, activities or services specified in this Agreement, for, or on behalf of DHCS, provided that such use or disclosure would not violate the

Exhibit G
HIPAA Business Associate Addendum

HIPAA regulations, if done by DHCS. Any such use or disclosure must, to the extent practicable, be limited to the limited data set, as defined in 45 CFR section 164.514(e)(2), or, if needed, to the minimum necessary to accomplish the intended purpose of such use or disclosure, in compliance with the HITECH Act and any guidance issued pursuant to such Act, the HIPAA regulations, the Final Omnibus Rule and 42 CFR Part 2.

1. ***Specific Use and Disclosure Provisions.*** Except as otherwise indicated in this Addendum, Business Associate may:

    a. ***Use and disclose for management and administration.*** Use and disclose PHI for the proper management and administration of the Business Associate provided that such disclosures are required by law, or the Business Associate obtains reasonable assurances from the person to whom the information is disclosed that it will remain confidential and will be used or further disclosed only as required by law or for the purpose for which it was disclosed to the person, and the person notifies the Business Associate of any instances of which it is aware that the confidentiality of the information has been breached.

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

B. Prohibited Uses and Disclosures

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

2. Business Associate shall not directly or indirectly receive remuneration in exchange for PHI, except with the prior written consent of DHCS and as permitted by 42 U.S.C. section 17935(d)(2).

C. Responsibilities of Business Associate

Business Associate agrees:

1. ***Nondisclosure.*** Not to use or disclose Protected Health Information (PHI) other than as permitted or required by this Agreement or as required by law.

2. ***Safeguards.*** To implement administrative, physical, and technical safeguards that reasonably and appropriately protect the confidentiality, integrity, and availability of the PHI, including electronic PHI, that it creates, receives, maintains, uses or transmits on behalf of DHCS, in compliance with 45 CFR sections 164.308, 164.310 and 164.312, and to prevent use or disclosure of PHI other than as provided for by this Agreement. Business Associate shall implement reasonable and appropriate policies and procedures to comply with the standards, implementation specifications and other requirements of 45 CFR section 164, subpart C, in compliance with 45 CFR section 164.316. Business Associate shall develop and maintain a written information privacy and security program that includes administrative, technical and physical safeguards appropriate to the size and complexity of the Business Associate's operations and the nature and scope of its activities, and

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which incorporates the requirements of section 3, Security, below. Business Associate will provide DHCS with its current and updated policies.

3. ***Security***. To 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, the Business Associate Data Security Requirements;

   b. Achieving and maintaining compliance with the HIPAA Security Rule (45 CFR Parts 160 and 164), as necessary in conducting operations on behalf of DHCS under this Agreement;

   c. Providing a level and scope of security that is at least comparable to the level and scope of security established by the Office of Management and Budget in OMB Circular No. A-130, Appendix III - Security of Federal Automated Information Systems, which sets forth guidelines for automated information systems in Federal agencies; and

   d. In case of a conflict between any of the security standards contained in any of these enumerated sources of security standards, the most stringent shall apply. The most stringent means that safeguard which provides the highest level of protection to PHI from unauthorized disclosure. Further, Business Associate must comply with changes to these standards that occur after the effective date of this Agreement.

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

D. ***Mitigation of Harmful Effects***. To mitigate, to the extent practicable, any harmful effect that is known to Business Associate of a use or disclosure of PHI by Business Associate or its subcontractors in violation of the requirements of this Addendum.

E. ***Business Associate's Agents and Subcontractors***.

1. To enter into written agreements with any agents, including subcontractors and vendors, to whom Business Associate provides PHI or PI received from or created or received by Business Associate on behalf of DHCS, that impose the same restrictions and conditions on such agents, subcontractors and vendors that apply to Business Associate with respect to such PHI and PI under this Addendum, and that comply with all applicable provisions of HIPAA, the HITECH Act the HIPAA regulations, and the Final Omnibus Rule, including the requirement that any agents, subcontractors or vendors implement reasonable and appropriate administrative, physical, and technical safeguards to protect such PHI and PI. Business associates are directly liable under the HIPAA Rules and subject to civil and, in some cases, criminal penalties for making uses and disclosures of protected health information that are not authorized by its contract or required by law. A business associate also is directly liable and subject to civil penalties for failing to safeguard electronic protected health information in accordance with the HIPAA Security Rule. A "business associate" also is a subcontractor that creates, receives, maintains, or transmits protected health information on behalf of another business associate. Business Associate shall incorporate, when applicable, the relevant provisions of this Addendum into each subcontract or sub-award to such agents, subcontractors and vendors, including the requirement that any security incidents or breaches of unsecured PHI or PI be reported to Business Associate.

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HIPAA Business Associate Addendum

2. In accordance with 45 CFR section 164.504(e)(1)(ii), upon Business Associate's knowledge of a material breach or violation by its subcontractor of the agreement between Business Associate and the subcontractor, Business Associate shall:

   a. 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 DHCS; or

   b. Immediately terminate the agreement if the subcontractor has breached a material term of the agreement and cure is not possible.

F. ***Availability of Information to DHCS and Individuals.*** To provide access and information:

1. To provide access as DHCS may require, and in the time and manner designated by DHCS (upon reasonable notice and during Business Associate's normal business hours) to PHI in a Designated Record Set, to DHCS (or, as directed by DHCS), to an Individual, in accordance with 45 CFR section 164.524. Designated Record Set means the group of records maintained for DHCS that includes medical, dental and billing records about individuals; enrollment, payment, claims adjudication, and case or medical management systems maintained for DHCS health plans; or those records used to make decisions about individuals on behalf of DHCS. Business Associate shall use the forms and processes developed by DHCS for this purpose and shall respond to requests for access to records transmitted by DHCS within fifteen (15) calendar days of receipt of the request by producing the records or verifying that there are none.

2. If Business Associate maintains an Electronic Health Record with PHI, and an individual requests a copy of such information in an electronic format, Business Associate shall provide such information in an electronic format to enable DHCS to fulfill its obligations under the HITECH Act, including but not limited to, 42 U.S.C. section 17935(e).

3. If Business Associate receives data from DHCS that was provided to DHCS by the Social Security Administration, upon request by DHCS, Business Associate shall provide DHCS with a list of all employees, contractors and agents who have access to the Social Security data, including employees, contractors and agents of its subcontractors and agents.

G. ***Amendment of PHI.*** To make any amendment(s) to PHI that DHCS directs or agrees to pursuant to 45 CFR section 164.526, in the time and manner designated by DHCS.

H. ***Internal Practices.*** To make Business Associate's internal practices, books and records relating to the use and disclosure of PHI received from DHCS, or created or received by Business Associate on behalf of DHCS, available to DHCS or to the Secretary of the U.S. Department of Health and Human Services in a time and manner designated by DHCS or by the Secretary, for purposes of determining DHCS' compliance with the HIPAA regulations. 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 Business Associate, Business Associate shall so certify to DHCS and shall set forth the efforts it made to obtain the information.

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I. ***Documentation of Disclosures***. To document and make available to DHCS or (at the direction of DHCS) to an Individual such disclosures of PHI, and information related to such disclosures, necessary to respond to a proper request by the subject Individual for an accounting of disclosures of PHI, in accordance with the HITECH Act and its implementing regulations, including but not limited to 45 CFR section 164.528 and 42 U.S.C. section 17935(c). If Business Associate maintains electronic health records for DHCS as of January 1, 2009, Business Associate 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 Business Associate acquires electronic health records for DHCS after January 1, 2009, Business Associate 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.

J. ***Breaches and Security Incidents.*** During the term of this Agreement, Business Associate agrees to implement reasonable systems for the discovery and prompt reporting of any breach or security incident, and to take the following steps:

1. ***Notice to DHCS.*** (1) To notify DHCS **immediately** upon the discovery of a suspected security incident that involves data provided to DHCS by the Social Security Administration. This notification will be **by telephone call plus email or fax** upon the discovery of the breach. (2) To notify DHCS **within 24 hours by email or fax** of the discovery of unsecured PHI or PI in electronic media or in any other media if the PHI or PI was, or is reasonably believed to have been, accessed or acquired by an unauthorized person, any suspected security incident, intrusion or unauthorized access, use or disclosure of PHI or PI in violation of this Agreement and this Addendum, 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.

   Notice shall be provided to the DHCS Program Contract Manager, the DHCS Privacy Officer and the DHCS Information Security Officer. If the incident occurs after business hours or on a weekend or holiday and involves data provided to DHCS by the Social Security Administration, notice shall be provided by calling the DHCS EITS Service Desk. Notice shall be made using the "DHCS Privacy Incident Report" form, including all information known at the time. Business Associate shall use the most current version of this form, which is posted on the DHCS Privacy Office website (www.dhcs.ca.gov, then select "Privacy" in the left column and then "Business Use" near the middle of the page) or use this link:
   http://www.dhcs.ca.gov/formsandpubs/laws/priv/Pages/DHCSBusinessAssociatesOnly.aspx

   Upon discovery of a breach or suspected security incident, intrusion or unauthorized access, use or disclosure of PHI or PI, Business Associate shall take:

   a. Prompt corrective action to mitigate any risks or damages involved with the breach and to protect the operating environment; and

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

Exhibit G
HIPAA Business Associate Addendum

2. ***Investigation and Investigation Report.*** To immediately investigate such security incident, breach, or unauthorized access, use or disclosure of PHI or PI. If the initial report did not include all of the requested information marked with an asterisk, then within 72 hours of the discovery, Business Associate shall submit an updated "DHCS 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 DHCS Program Contract Manager, the DHCS Privacy Officer, and the DHCS Information Security Officer:

3. ***Complete Report.*** To provide a complete report of the investigation to the DHCS Program Contract Manager, the DHCS Privacy Officer, and the DHCS Information Security Officer within ten (10) working days of the discovery of the breach or unauthorized use or disclosure. If all of the required information was not included in either the initial report, or the Investigation Report, then a separate Complete Report must be submitted. The report shall be submitted on the "DHCS 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, the HIPAA regulations and/or state law. 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 DHCS requests information in addition to that listed on the "DHCS Privacy Incident Report" form, Business Associate shall make reasonable efforts to provide DHCS with such information. 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 "DHCS Privacy Incident Report" form. DHCS will review and approve or disapprove the determination of whether a breach occurred, is reportable to the appropriate entities, if individual notifications are required, and the corrective action plan.

4. ***Notification of Individuals.*** If the cause of a breach of PHI or PI is attributable to Business Associate or its subcontractors, agents or vendors, Business Associate shall notify individuals of the breach or unauthorized use or disclosure when notification is required under state or federal law and shall pay any costs of such notifications, as well as any costs associated with the breach. The notifications shall comply with the requirements set forth in 42 U.S.C. section 17932 and its implementing regulations, including, but not limited to, the requirement that the notifications be made without unreasonable delay and in no event later than 60 calendar days. The DHCS Program Contract Manager, the DHCS Privacy Officer, and the DHCS 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.

5. ***Responsibility for Reporting of Breaches.*** If the cause of a breach of PHI or PI is attributable to Business Associate or its agents, subcontractors or vendors, Business Associate is responsible for all required reporting of the breach as specified in 42 U.S.C. section 17932 and its implementing regulations, including notification to media outlets and to the Secretary. If a breach of unsecured PHI involves more than 500 residents of the State of California or its jurisdiction, Business Associate shall notify the Secretary of the breach immediately upon discovery of the breach. If Business Associate 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 DHCS in addition to Business Associate, Business Associate shall notify DHCS, and DHCS and Business Associate may take appropriate action to prevent duplicate reporting. The breach reporting requirements of this paragraph are in addition to the reporting requirements set forth in subsection 1, above.

6. ***DHCS Contact Information.*** To direct communications to the above referenced DHCS staff, the Contractor shall initiate contact as indicated herein. DHCS reserves the right to make changes to

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the contact information below by giving written notice to the Contractor. Said changes shall not require an amendment to this Addendum or the Agreement to which it is incorporated.

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

K. ***Termination of Agreement.*** In accordance with Section 13404(b) of the HITECH Act and to the extent required by the HIPAA regulations, if Business Associate knows of a material breach or violation by DHCS of this Addendum, it shall take the following steps:

1. Provide an opportunity for DHCS to cure the breach or end the violation and terminate the Agreement if DHCS does not cure the breach or end the violation within the time specified by Business Associate; or
2. Immediately terminate the Agreement if DHCS has breached a material term of the Addendum and cure is not possible.

L. ***Due Diligence.*** Business Associate shall exercise due diligence and shall take reasonable steps to ensure that it remains in compliance with this Addendum 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 Addendum.

M. ***Sanctions and/or Penalties***. Business Associate understands that a failure to comply with the provisions of HIPAA, the HITECH Act and the HIPAA regulations that are applicable to Business Associate may result in the imposition of sanctions and/or penalties on Business Associate under HIPAA, the HITECH Act and the HIPAA regulations.

IV. Obligations of DHCS

DHCS agrees to:

A. ***Notice of Privacy Practices***. Provide Business Associate with the Notice of Privacy Practices that DHCS produces in accordance with 45 CFR section 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 (select “Privacy in the left column and “Notice of Privacy Practices” on the right side of the page).

B. ***Permission by Individuals for Use and Disclosure of PHI***. Provide the Business Associate with any changes in, or revocation of, permission by an Individual to use or disclose PHI, if such changes affect the Business Associate’s permitted or required uses and disclosures.

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HIPAA Business Associate Addendum

C. ***Notification of Restrictions.*** Notify the Business Associate of any restriction to the use or disclosure of PHI that DHCS has agreed to in accordance with 45 CFR section 164.522, to the extent that such restriction may affect the Business Associate's use or disclosure of PHI.

D. ***Requests Conflicting with HIPAA Rules.*** Not request the Business Associate to use or disclose PHI in any manner that would not be permissible under the HIPAA regulations if done by DHCS.

V. Audits, Inspection and Enforcement

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

1. Failure to detect or

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

B. If Business Associate is the subject of an audit, compliance review, or complaint investigation by the Secretary or the Office of Civil Rights, U.S. Department of Health and Human Services, that is related to the performance of its obligations pursuant to this HIPAA Business Associate Addendum, Business Associate shall notify DHCS and provide DHCS with a copy of any PHI or PI that Business Associate provides to the Secretary or the Office of Civil Rights concurrently with providing such PHI or PI to the Secretary. Business Associate is responsible for any civil penalties assessed due to an audit or investigation of Business Associate, in accordance with 42 U.S.C. section 17934(c).

VI. Termination

A. ***Term.*** The Term of this Addendum shall commence as of the effective date of this Addendum and shall extend beyond the termination of the contract and shall terminate when all the PHI provided by DHCS to Business Associate, or created or received by Business Associate on behalf of DHCS, is destroyed or returned to DHCS, in accordance with 45 CFR 164.504(e)(2)(ii)(I).

B. ***Termination for Cause.*** In accordance with 45 CFR section 164.504(e)(1)(ii), upon DHCS' knowledge of a material breach or violation of this Addendum by Business Associate, DHCS shall:

1. Provide an opportunity for Business Associate to cure the breach or end the violation and terminate this Agreement if Business Associate does not cure the breach or end the violation within the time specified by DHCS; or

2. Immediately terminate this Agreement if Business Associate has breached a material term of this Addendum and cure is not possible.

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

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

VII. Miscellaneous Provisions

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

B. ***Amendment.*** The parties acknowledge that federal and state laws relating to electronic data security and privacy are rapidly evolving and that amendment of this Addendum may be required to provide for procedures to ensure compliance with such developments. The parties specifically agree to take such action as is necessary to implement the standards and requirements of HIPAA, the HITECH Act, the HIPAA regulations and other applicable laws relating to the security or privacy of PHI. Upon DHCS' request, Business Associate agrees to promptly enter into negotiations with DHCS concerning an amendment to this Addendum embodying written assurances consistent with the standards and requirements of HIPAA, the HITECH Act, the HIPAA regulations or other applicable laws. DHCS may terminate this Agreement upon thirty (30) days written notice in the event:

1. Business Associate does not promptly enter into negotiations to amend this Addendum when requested by DHCS pursuant to this Section; or

2. Business Associate does not enter into an amendment providing assurances regarding the safeguarding of PHI that DHCS in its sole discretion, deems sufficient to satisfy the standards and requirements of HIPAA and the HIPAA regulations.

C. ***Assistance in Litigation or Administrative Proceedings.*** Business Associate shall make itself and any subcontractors, employees or agents assisting Business Associate in the performance of its obligations under this Agreement, available to DHCS at no cost to DHCS to testify as witnesses, or otherwise, in the event of litigation or administrative proceedings being commenced against DHCS, its directors, officers or employees based upon claimed violation of HIPAA, the HIPAA regulations or other laws relating to security and privacy, which involves inactions or actions by the Business Associate, except where Business Associate or its subcontractor, employee or agent is a named adverse party.

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D. ***No Third-Party Beneficiaries.*** Nothing express or implied in the terms and conditions of this Addendum is intended to confer, nor shall anything herein confer, upon any person other than DHCS or Business Associate and their respective successors or assignees, any rights, remedies, obligations or liabilities whatsoever.

E. ***Interpretation***. The terms and conditions in this Addendum shall be interpreted as broadly as necessary to implement and comply with HIPAA, the HITECH Act, the HIPAA regulations and applicable state laws. The parties agree that any ambiguity in the terms and conditions of this Addendum shall be resolved in favor of a meaning that complies and is consistent with HIPAA, the HITECH Act and the HIPAA regulations.

F. ***Regulatory References.*** A reference in the terms and conditions of this Addendum to a section in the HIPAA regulations means the section as in effect or as amended.

G. ***Survival.*** The respective rights and obligations of Business Associate under Section VI.D of this Addendum shall survive the termination or expiration of this Agreement.

H. ***No Waiver of Obligations***. No change, waiver or discharge of any liability or obligation hereunder on any one or more occasions shall be deemed a waiver of performance of any continuing or other obligation, or shall prohibit enforcement of any obligation, on any other occasion.

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Attachment A
Business Associate Data Security Requirements

I. Personnel Controls

A. ***Employee Training.*** All workforce members who assist in the performance of functions or activities on behalf of DHCS, or access or disclose DHCS PHI or PI must complete information privacy and security training, at least annually, at Business Associate's expense. Each workforce member who receives information privacy and security training must sign a certification, indicating the member's name and the date on which the training was completed. These certifications must be retained for a period of six (6) years following contract termination.

B. ***Employee Discipline.*** Appropriate sanctions must be applied against workforce members who fail to comply with privacy policies and procedures or any provisions of these requirements, including termination of employment where appropriate.

C. ***Confidentiality Statement.*** All persons that will be working with DHCS PHI or PI must sign a confidentiality statement that includes, at a minimum, General Use, Security and Privacy Safeguards, Unacceptable Use, and Enforcement Policies. The statement must be signed by the workforce member prior to access to DHCS PHI or PI. The statement must be renewed annually. The Contractor shall retain each person's written confidentiality statement for DHCS inspection for a period of six (6) years following contract termination.

D. ***Background Check.*** Before a member of the workforce may access DHCS PHI or PI, a thorough background check of that worker must be conducted, with evaluation of the results to assure that there is no indication that the worker may present a risk to the security or integrity of confidential data or a risk for theft or misuse of confidential data. The Contractor shall retain each workforce member's background check documentation for a period of three (3) years following contract termination.

II. Technical Security Controls

A. ***Workstation/Laptop encryption.*** All workstations and laptops that process and/or store DHCS PHI or PI must be encrypted using a FIPS 140-2 certified algorithm which is 128bit or higher, such as Advanced Encryption Standard (AES). The encryption solution must be full disk unless approved by the DHCS Information Security Office.

B. ***Server Security.*** Servers containing unencrypted DHCS PHI or PI must have sufficient administrative, physical, and technical controls in place to protect that data, based upon a risk assessment/system security review.

C. ***Minimum Necessary.*** Only the minimum necessary amount of DHCS PHI or PI required to perform necessary business functions may be copied, downloaded, or exported.

D. ***Removable media devices.*** All electronic files that contain DHCS PHI or PI data must be encrypted when stored on any removable media or portable device (i.e. USB thumb drives, floppies, CD/DVD, smartphones, backup tapes etc.). Encryption must be a FIPS 140-2 certified algorithm which is 128bit or higher, such as AES.

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E. ***Antivirus software.*** All workstations, laptops and other systems that process and/or store DHCS PHI or PI must install and actively use comprehensive anti-virus software solution with automatic updates scheduled at least daily.

F. ***Patch Management.*** All workstations, laptops and other systems that process and/or store DHCS PHI or PI must have critical security patches applied, with system reboot if necessary. There must be a documented patch management process which determines installation timeframe based on risk assessment and vendor recommendations. At a maximum, all applicable patches must be installed within 30 days of vendor release.

G. ***User IDs and Password Controls.*** All users must be issued a unique user name for accessing DHCS PHI or PI. Username must be promptly disabled, deleted, or the password changed upon the transfer or termination of an employee with knowledge of the password, at maximum within 24 hours. Passwords are not to be shared. Passwords must be at least eight characters and must be a non-dictionary word. Passwords must not be stored in readable format on the computer. Passwords must be changed every 90 days, preferably every 60 days. Passwords must be changed if revealed or compromised. Passwords must be composed of characters from at least three of the following four groups from the standard keyboard:

- Upper case letters (A-Z)
- Lower case letters (a-z)
- Arabic numerals (0-9)
- Non-alphanumeric characters (punctuation symbols)

H. ***Data Destruction.*** When no longer needed, all DHCS PHI or PI must be cleared, purged, or destroyed consistent with NIST Special Publication 800-88, Guidelines for Media Sanitization such that the PHI or PI cannot be retrieved.

I. ***System Timeout.*** The system providing access to DHCS PHI or PI must provide an automatic timeout, requiring re-authentication of the user session after no more than 20 minutes of inactivity.

J. ***Warning Banners.*** All systems providing access to DHCS PHI or PI must display a warning banner stating that data is confidential, systems are logged, and system use is for business purposes only by authorized users. User must be directed to log off the system if they do not agree with these requirements.

K. ***System Logging*****.** The system must maintain an automated audit trail which can identify the user or system process which initiates a request for DHCS PHI or PI, or which alters DHCS PHI or PI. The audit trail must be date and time stamped, must log both successful and failed accesses, must be read only, and must be restricted to authorized users. If DHCS PHI or PI is stored in a database, database logging functionality must be enabled. Audit trail data must be archived for at least 3 years after occurrence.

L. ***Access Controls.*** The system providing access to DHCS PHI or PI must use role based access controls for all user authentications, enforcing the principle of least privilege.

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M. ***Transmission encryption.*** All data transmissions of DHCS PHI or PI outside the secure internal network must be encrypted using a FIPS 140-2 certified algorithm which is 128bit or higher, such as AES. Encryption can be end to end at the network level, or the data files containing PHI can be encrypted. This requirement pertains to any type of PHI or PI in motion such as website access, file transfer, and E-Mail.

N. ***Intrusion Detection***. All systems involved in accessing, holding, transporting, and protecting DHCS PHI or PI that are accessible via the Internet must be protected by a comprehensive intrusion detection and prevention solution.

III. Audit Controls

A. ***System Security Review.*** All systems processing and/or storing DHCS PHI or PI must have at least an annual system risk assessment/security review which provides assurance that administrative, physical, and technical controls are functioning effectively and providing adequate levels of protection. Reviews should include vulnerability scanning tools.

B. ***Log Reviews.*** All systems processing and/or storing DHCS PHI or PI must have a routine procedure in place to review system logs for unauthorized access.

C. ***Change Control.*** All systems processing and/or storing DHCS PHI or PI must have a documented change control procedure that ensures separation of duties and protects the confidentiality, integrity and availability of data.

IV. Business Continuity / Disaster Recovery Controls

A. ***Emergency Mode Operation Plan.*** Contractor must establish a documented plan to enable continuation of critical business processes and protection of the security of electronic DHCS PHI or PI in the event of an emergency. Emergency means any circumstance or situation that causes normal computer operations to become unavailable for use in performing the work required under this Agreement for more than 24 hours.

B. ***Data Backup Plan.*** Contractor must have established documented procedures to backup DHCS PHI to maintain retrievable exact copies of DHCS PHI or PI. The plan must include a regular schedule for making backups, storing backups offsite, an inventory of backup media, and an estimate of the amount of time needed to restore DHCS PHI or PI should it be lost. At a minimum, the schedule must be a weekly full backup and monthly offsite storage of DHCS data.

V. Paper Document Controls

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

B. ***Escorting Visitors.*** Visitors to areas where DHCS PHI or PI is contained shall be escorted and DHCS PHI or PI shall be kept out of sight while visitors are in the area.

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C. ***Confidential Destruction.*** DHCS PHI or PI must be disposed of through confidential means, such as cross cut shredding and pulverizing.

D. ***Removal of Data.*** DHCS PHI or PI must not be removed from the premises of the Contractor except with express written permission of DHCS.

E. ***Faxing.*** Faxes containing DHCS PHI or PI shall not be left unattended and fax machines shall be in secure areas. Faxes shall contain a confidentiality statement notifying persons receiving faxes in error to destroy them. Fax numbers shall be verified with the intended recipient before sending the fax.

F. ***Mailing.*** Mailings of DHCS PHI or PI shall be sealed and secured from damage or inappropriate viewing of PHI or PI to the extent possible. Mailings which include 500 or more individually identifiable records of DHCS PHI or PI in a single package shall be sent using a tracked mailing method which includes verification of delivery and receipt, unless the prior written permission of DHCS to use another method is obtained.

CALIFORNIA CIVIL RIGHTS LAWS CERTIFICATION

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

1. CALIFORNIA CIVIL RIGHTS LAWS: For contracts over $100,000 executed or renewed after January 1, 2017, the contractor certifies compliance with the Unruh Civil Rights Act (Section 51 of the Civil Code) and the Fair Employment and Housing Act (Section 12960 of the Government Code); and

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

CERTIFICATION

<table>
<tr><td>I, the official named below, certify under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Proposer/Bidder Firm Name (Printed)

County of Mono</td><td>Federal ID Number

95-6005661</td></tr>
<tr><td colspan="2">By (Authorized Signature)</td></tr>
<tr><td colspan="2">Printed Name and Title of Person Signing

Kimberly Bunn, Fiscal and Administrative Services Officer</td></tr>
<tr><td>Date Executed</td><td>Executed in the County and State of

County of Mono, California</td></tr>
</table>

CCC 04/2017

CERTIFICATION

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

Contractor/Bidder Firm Name (Printed)	*Federal ID Number*
County of Mono	95-6005661
By (Authorized Signature)	
Printed Name and Title of Person Signing Kimberly Bunn, Fiscal and Administrative Services Officer	
Date Executed	*Executed in the County of* Mono

CONTRACTOR CERTIFICATION CLAUSES

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

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

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

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

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

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

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

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

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

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

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

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

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

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

6. SWEATFREE CODE OF CONDUCT:

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

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

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

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

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

DOING BUSINESS WITH THE STATE OF CALIFORNIA

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

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

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

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

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

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

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

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

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

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

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

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

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

5. CORPORATE QUALIFICATIONS TO DO BUSINESS IN CALIFORNIA:

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

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

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

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

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

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

OFFICE OF THE CLERK
OF THE BOARD OF SUPERVISORS

REGULAR AGENDA REQUEST

Print

MEETING DATE April 10, 2018

Departments: District Attorney

TIME REQUIRED 5 Minutes

SUBJECT At-Will Contract with John Estridge for the District Attorney Investigator II Position

PERSONS APPEARING BEFORE THE BOARD Tim Kendall

AGENDA DESCRIPTION:

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

Proposed resolution approving a contract with John Estridge as District Attorney Investigator II and prescribing the compensation, appointment and conditions of said employment.

RECOMMENDED ACTION:

Announce fiscal impact. Approve resolution R18-___, Approving an Employment Agreement with John Estridge for the Position of Mono County District Attorney Investigator II. Authorize the Board Chair to execute said contract on behalf of the County.

FISCAL IMPACT:

The cost for this position for the remainder of the 2017/2018 fiscal year approximately $23,926.15 in salary and $7,742.45 in benefits. For FY 2018-2019 $103,680.00 salary and $49,502.96 in benefits. This amount is already accounted for in the DA Department's budget.

CONTACT NAME: Elizabeth Pelichowski

PHONE/EMAIL: X5554 /

SEND COPIES TO:

MINUTE ORDER REQUESTED:

☑ YES ☐ NO

ATTACHMENTS:

Click to download
Staff Report
Resolution
Agreement

History

Time	Who	Approval
4/5/2018 8:19 AM	County Administrative Office	Yes
4/5/2018 10:31 AM	County Counsel	Yes
4/5/2018 9:40 AM	Finance	Yes

County of Mono
Office of the District Attorney

www.monocountydistrictattorney.org

Bridgeport Office:
Main St. Court House, P.O. Box 617
Bridgeport, CA. 93517
Tel:(760)932-5550 fax: (760)932-5551

Mammoth Office:
Sierra Center Mall, P.O. Box 2053
Mammoth Lakes, CA. 93546
Tel:(760)924-1710 fax: (760)924-1711

***Tim Kendall* - District Attorney**

TO: Honorable Board of Supervisors

FROM: Tim Kendall, District Attorney

DATE: April 2, 2018

Request for Regular Agenda Item.
Board of Supervisors approve an "At Will" contract with John Estridge.

Subject
At-Will Contract with John Estridge for the District Attorney Investigator II Position.

Recommendation
Approval of said Contract with John Estridge.

Discussion
On February 1, 2018, Chris Callinan was promoted into the Chief Investigator position leaving the District Attorney Investigator II position vacant.

An open recruitment took place for 6 weeks and 4 applications were received. An interview panel comprised of both Mono County representatives and as well as members from outside the County conducted interviews on March 29, 2018. The panel was unanimous on its choice.

John Estridge has been with the Sheriff's Department for the past 16 years, serving as the Sheriff's Detective for the last 10 years. Along with handling the normal responsibilities as a Deputy Sheriff, Mr. Estridge has served multiple roles while at the Sheriff's Department including serving as a trainer within the Department. He has established himself as an expert in many areas including firearms. He has worked several major cases and his knowledge, skills and experience is highly valued. He will be a tremendous asset for the District Attorney's Office and a great resource for other allied agencies.

Mr. Estridge has shown that he is a loyal and valued county employee and will continue to be a great representative for the County of Mono and the Office of the District Attorney.

Fiscal Impact

For the remainder of the 2017/2018 fiscal year approximately $23,926.15 in salary and $7,742.45 in benefits. For FY 2018-2019 $103,680.00 salary and $49,502.96 in benefits. This amount is already accounted for in the DA Department's budget.

RESOLUTION NO. R18-

A RESOLUTION OF THE MONO COUNTY BOARD OF SUPERVISORS APPROVING AN EMPLOYMENT AGREEMENT WITH JOHN ESTRIDGE FOR THE POSITION OF MONO COUNTY DISTRICT ATTORNEY INVESTIGATOR II

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; and

NOW, THEREFORE, BE IT RESOLVED by the Mono County Board of Supervisors that the Employment Agreement of John Estridge, 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. Estridge. The Chairman of the Board of Supervisors shall execute said Agreement on behalf of the County.

PASSED, APPROVED and **ADOPTED** this 10th day of April, 2018, by the following vote, to wit:

AYES:

NOES:

ABSENT:

ABSTAIN:

_____
Bob Gardner, Chair
Mono County Board of Supervisors

ATTEST:

_____
Clerk of the Board

APPROVED AS TO FORM:

_____
County Counsel

Agreement Regarding the Employment Of John Estridge

This Agreement is entered into this 17th day of April, 2018, by and between John Estridge and the County of Mono.

I. RECITALS

The County currently employs Mr. Estridge as a deputy sheriff/coroner. Effective April 17, 2018, the County wishes to employ Mr. Estridge as a DA Investigator II on a full-time basis on the terms and conditions set forth in this Agreement. Mr. Estridge wishes to accept continued employment with the County on said terms and conditions.

II. AGREEMENT

1. The term of this Agreement shall be April 17, 2018, until April 17, 2021, unless earlier terminated by either party in accordance with this Agreement. The County shall notify Mr. Estridge in writing no later than October 17, 2020, whether it intends to negotiate a renewal of this Agreement. In the event the County fails to provide such notice, Mr. Estridge 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 County cures the breach and notifies Mr. Estridge 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. Estridge as a result of the cured breach. If County does not cure the breach, then the Agreement shall automatically renew for another three years on the same terms in effect at the time of renewal.

2. Commencing April 17, 2018, Mr. Estridge shall be employed by Mono County as a DA Investigator II, serving at the will and pleasure of the District Attorney in accordance with the terms and conditions of this Agreement. Mr. Estridge accepts such continued employment. The District Attorney shall be deemed the "appointing authority" for all purposes with respect to Mr. Estridge's employment.

3. Effective April 17, 2018, Mr. Estridge's salary shall be $8,640 per month (pro-rated for the month of April 2018 based on the start date). The Board may unilaterally increase Mr. Estridge's compensation in its discretion at any time while this Agreement is in effect. Should a wage increase be granted under the MOU with the Deputy Sheriff's Association (DSA), this Agreement will be reopened for discussion and potential re-negotiation with respect Mr. Estridge's salary. During such negotiations the County shall consider and discuss the issue

of increased compensation with Mr. Estridge in good faith, but the County's decision whether or not to grant such additional compensation shall be final and non-appealable. In addition, this Agreement will be reopened within the first 30 days of the third year of the Agreement for discussion and possible renegotiation with respect to Mr. Estridge's salary or any other provision of this Agreement that the parties may mutually wish to discuss. After considering and discussing such issues in good faith, the County's decision shall be final and non-appealable.

4. Mr. Estridge's employment is not exempt from the payment of overtime or compensatory time-off under the Fair Labor Standards Act, and he shall therefore be entitled to earn overtime or compensatory time-off for work in excess of 40 hours per week in accordance with applicable state and federal laws and County policies. Because he is not an exempt employee, Mr. Estridge understands that he will not receive Merit Leave (Administrative Leave).

5. To the extent deemed appropriate by the District Attorney, the County shall pay the professional dues, subscriptions, and other educational expenses necessary for Mr. Estridge's full participation in applicable professional associations, or for her/his continued professional growth and for the good of the County.

6. To the extent not inconsistent with the foregoing or any other provision of this Agreement, Mr. Estridge 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 (currently 3% at 50 for Mr. Estridge), CalPERS medical insurance, County dental and vision coverage, and life insurance. 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," adopted by Resolution R14-54 of the Mono County Board of Supervisors, as the same may be amended from time to time and unilaterally implemented by the County.

7. Mr. Estridge understands and agrees that this 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. Estridge 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. Estridge'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).

8. Consistent with the "at will" nature of Mr. Estridge's employment, the District Attorney may terminate Mr. Estridge's employment at any time during this agreement, without cause. However, should there be a change in the incumbent holding the office of District Attorney, Mr. Estridge's employment shall continue for six (6) months following such change (i.e., following the date when the new District Attorney takes office), unless termination for grounds as specified in section 520 of the Mono County Personnel Rules, as the same may be amended from time to time, is determined to exist by the County Administrative Officer under advice of County Counsel, subject to review with the Board of Supervisors in closed session. In either event, this Agreement shall automatically terminate concurrently with the effective date of the termination. Mr. Estridge 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 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 District Attorney may, in his discretion, take during Mr. Estridge's employment. Mr. Estridge further understands that any termination of his at-will employment under this Agreement will not entitle him to resume his former County employment or to be placed in any other County employment.

9. In the event that such a termination without cause occurs after April 17, 2019 (i.e., after the first twelve months of employment), Mr. Estridge shall receive as severance pay a lump sum equal to three months' salary. In the event that such a termination without cause occurs after April 17, 2020 (i.e., after the first twenty-four months of employment), Mr. Estridge 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. Estridge 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. Estridge shall receive severance pay equal to six months' salary in the event that termination occurs after the County has notified Mr. Estridge 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.

10. Notwithstanding the foregoing, Mr. Estridge shall not be entitled to any severance pay in the event that the District Attorney has grounds to discipline him on or about the time he gives him notice of termination. For purposes of this provision, grounds for discipline include but are not limited to those specified in Section 520 of the Mono County Personnel Rules or any successor Code provision, as the same may be amended from time to time. Mr. Estridge 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.

11. Mr. Estridge 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. Estridge shall not be entitled to any severance pay or additional compensation of any kind after the effective date of such resignation.

12. This Agreement constitutes the entire agreement of the parties with respect to the employment of Mr. Estridge. Consistent with Mr. Estridge's uninterrupted employment status, this Agreement shall have no effect on any sick leave or vacation time that Mr. Estridge may have accrued as of the effective date of this Agreement nor on his original date of hire or total years of service as a County employee, to the extent the same may be relevant in determining such accruals or Mr. Estridge's date of eligibility for or vesting of any non-salary benefits or for any other purpose. In accordance with the Memorandum of Understanding which governed Mr. Estridge's employment prior to execution of this Agreement, any sick leave which Mr. Estridge had accrued may be converted to service credit with CalPers. Such sick leave shall have no cash value.

13. 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. Estridge'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. Estridge's sole remedy in response to any failure by the County to comply with this Agreement shall be traditional mandamus.

14. Mr. Estridge acknowledges that this Agreement is executed voluntarily by him, without duress or undue influence on the part or on behalf of the County. Mr. Estridge 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 is hereby executed this 10th day of April, 2018.

EMPLOYEE

_____
John Estridge

THE COUNTY OF MONO

_____
By: Bob Gardner, Chair
Board of Supervisors

APPROVED AS TO FORM:

_____
STACEY SIMON
County Counsel

OFFICE OF THE CLERK
OF THE BOARD OF SUPERVISORS

REGULAR AGENDA REQUEST

Print

MEETING DATE	April 10, 2018		
Departments: CAO			
TIME REQUIRED	20 minutes	**PERSONS APPEARING BEFORE THE BOARD**	Tony Dublino
SUBJECT	Spring 2018 Recreation Projects on Public Lands		

AGENDA DESCRIPTION:

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

Presentation by Tony Dublino regarding potential Spring 2018 recreation projects on Inyo and Humboldt-Toiyabe National Forest and Bureau of Land Management lands for possible County funding using $50,000 in recreation funding approved for FY 2017/18. Potential projects include the opening and cleaning of restrooms through Memorial Day at Virginia and/or Shingle Mill trailheads; Twin Lakes boat launch signage, tables and vegetation maintenance; improved trail markers for Horsetail and/or Barney Lakes, interpretive panels for Rosachi Ranch, Leavitt Lake gate, signage and barricading; OHV signage eastside Mt. Patterson; Kavannah Ridge Patrol; sand and reseal hot tub boardwalks and remove trash at Wet Willy's and/or Hilltop; Travertine bathroom cleaning; sign repair in Adobe Valley; road grading and boulder placement at various locations; shooting area cleanup at various locations; road and site repair and grading at Lee Vining Canyon campgrounds; Mono Basin Visitor Center maintenance; Inyo National Forest sign repair; Lundy/Parker trailhead signs and parking improvements; backlogged maintenance for trails and campgrounds; repair washout on Lee Vining Canyon trail; renting port-a-potties for high use areas/times; extended open season for Lee Vining Canyon campgrounds.

RECOMMENDED ACTION:

Authorize staff to execute all necessary contracts and approvals to expend $50,000 on performing enhancements to Public Recreation in May and June 2018.

FISCAL IMPACT:

Up to $50,000, currently appropriated in 17/18 budget for recreation purposes.

CONTACT NAME: Tony Dublino

PHONE/EMAIL: 760.932.5415 / tdublino@mono.ca.gov

SEND COPIES TO:

MINUTE ORDER REQUESTED:

☑ YES ☐ NO

ATTACHMENTS:

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Staff Report

History

Time	Who	Approval
4/4/2018 6:04 PM	County Administrative Office	Yes
4/5/2018 10:32 AM	County Counsel	Yes
4/5/2018 2:18 PM	Finance	Yes

County of Mono

County Administrative Office

Leslie L. Chapman
County Administrative Officer

Tony Dublino
Assistant County Administrative Officer

Dave Butters
Human Resources Director

Jay Sloane
Risk Manager

Date: April 10, 2018
To: Honorable Board of Supervisors
From: Tony Dublino, Assistant CAO

Subject: Spring 2018 Recreation Projects

Recommended Action:
Authorize staff to execute all necessary contracts and approvals to expend $50,000 on performing enhancements to Pubic Recreation in May and June 2018.

Fiscal Impact:
Up to $50,000, currently appropriated in FY17/18 budget for recreational purposes. Authorize staff to execute any necessary agreements to implement the projects, to the extent funding allows,

Discussion:
At the March 6 Board meeting, staff requested Board direction on how to proceed in regard to the $50,000 in recreation funding that had been appropriated in FY17/18.

The resulting direction was for staff to contact the federal agencies (Inyo National Forest, Humboldt-Toiyabe National Forest, and Bureau of Land Management) to obtain a list of needed recreation projects that would provide an ***immediate*** benefit to recreational users.

Agency representatives were contacted and asked to provide a list of projects that were consistent with the available funding and the desired timeframe. Each agency provided a short list of projects that met the above criteria. Each of the projects shared one additional criteria: agencies did not expect to be able to implement them without assistance.

The submitted projects are as follows:

<u>Humboldt-Toiyabe National Forest:</u>

- Opening and cleaning of Virginia Lake Trailhead restroom and/or provide porta-potties through Memorial day
- Opening and Cleaning of Shingle Mill Trailhead restroom through Memorial Day
- Sonora Bridge Picnic Area Accessibility Project
- Twin Lakes Boat Launch signage, tables, and vegetation maintenance
- Trail maintenance on several area trails
- Improved Trail Markers for Horsetail Falls & Barney Lake

- Rosachi Ranch Trail interpretive panels

- Leavitt Lake – Replace/repair gate to prevent OHV erosion during wet season
- Leavitt Lake – OHV summer signage
- Leavitt Lake – OHV barricading for non-motorized toad habitat
- OHV sign eastside Mt. Patterson at Star City
- Kavannah Ridge patrol for off-road travel due to snow banks in early season

BLM:

- Hot tub boardwalks sanded and resealed (Wild Willy's and Hill Top, both in Long Valley)
- Travertine bathroom cleaning (located in Bridgeport, once a week on a regular basis)
- Sign (fire prevention) repair in Adobe Valley - sanded and resealed
- Trash removal in Long Valley near hot tubs (continuous - no trash receptacles)
- Road grading and boulder placement along areas where off-road travel is occurring - mostly in Long Valley, but near Bodie and Bridgeport as well
- Shooting area clean-up near Conway Ranch, Topaz and Bodie

Inyo National Forest:

(from INF)

- Grading/repair work of roads/sites at Lower Lee Vining CG, Aspen CG, and Moraine CG
- Maintenance at the Mono Basin Visitor Center, including window replacement
- Various Trailhead/Wayfinding sign painting, repair, replacement

(from Mono Basin RPAC)

- Lundy/May Trailhead restroom signage
- Parker Lake Trailhead signage on human waste BMPs
- Parker Lake Trailhead parking improvements and signage
- Lundy Trailhead parking and signage
- Campgrounds backlogged maintenance issues
- Backlogged trail maintenance
- Lee Vining Canyon trail –repairing wash out
- Renting porta potties in certain locations/times of high use
- Open campgrounds 1 week before fishing opener – Lee Vining Creek Canyon
- Keep Lee Vining Canyon campgrounds open until close of fishing season

Staff engaged agencies in discussions about the type of agreements that would be required in order to carry out these projects on behalf of the agencies. There were a variety of possible approaches identified, from simple letters of authorization, to more formal agreements. All agencies expressed confidence that agreements for the listed projects could be expedited as necessary to implement projects this spring.

Staff recommends that the Board authorize staff to obtain necessary authorizations and agreements in order to implement a number of the above projects, up to the $50,000 appropriation. Because there is no chance that all the projects will be implemented, staff recommends a simple prioritization that would pass projects through two filters: 1. Which projects are “shovel ready” with no additional review required, and; 2. Which of those projects will positively impact the greatest numbers of recreational users in Spring and Summer of 2018.

If you have any questions regarding this item, please contact me at (760) 932-5415.

Respectfully submitted,

Tony Dublino
Assistant CAO

Post Office Box 696 74 N. School Street, Annex I Bridgeport, CA 93517
Phone: (760) 932-5400 Facsimile: (760) 932-5411

OFFICE OF THE CLERK
OF THE BOARD OF SUPERVISORS

REGULAR AGENDA REQUEST

Print

MEETING DATE April 10, 2018

Departments: Agricultural Commissioner

TIME REQUIRED PUBLIC HEARING: 9:45 AM - 15 minutes (10 minute presentation; 5 minute discussion)

SUBJECT Fee for Inspection of Hay and other Forage to North American Invasive Species Management Association (NAISMA) Standards

PERSONS APPEARING BEFORE THE BOARD Nathan D. Reade, Agricultural Commissioner

AGENDA DESCRIPTION:

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

The Inyo / Mono Counties' Agricultural Commissioner's Office (CAC) is requesting that a fee be established for annual fees to maintain NAISMA inspection authority for weed-free certification of forage.

RECOMMENDED ACTION:

1. Conduct a public hearing on proposed fees for inspection and NAISMA certification for hay and other forage; 2. Approve resolution R18-___, Establishing a fee for North American Invasive Species Management Association (NAISMA) weed-free certification of forage.

FISCAL IMPACT:

Assuming hay producers decide to participate in the program as expected and request certification of 200 acres in total for the County, the proposed fees will fully cover the cost of the program and there will be no fiscal impact to the County's general fund.

CONTACT NAME: Jennifer Sartan

PHONE/EMAIL: 760-873-7860 / jsarten@inyocounty.us

SEND COPIES TO:

MINUTE ORDER REQUESTED:

☑ YES ☐ NO

ATTACHMENTS:

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Staff Report
Resolution

History

Time	Who	Approval
4/5/2018 8:35 AM	County Administrative Office	Yes
4/5/2018 10:44 AM	County Counsel	Yes
4/5/2018 9:02 AM	Finance	Yes

COUNTIES OF INYO AND MONO

AGRICULTURE • WEIGHTS & MEASURES • OWENS VALLEY MOSQUITO ABATEMENT PROGRAM • EASTERN SIERRA WEED MANAGEMENT AREA

MAMMOTH LAKES MOSQUITO ABATEMENT DISTRICT • INYO COUNTY COMMERCIAL CANNABIS PERMIT OFFICE

Date: April 10, 2018

To: Honorable Board of Supervisors

From: Nathan D. Reade, Agricultural Commissioner

Subject: Fee for Inspection of Hay and other Forage to North American Invasive Species Management Association (NAISMA) Standards

Recommended Action:

Request Board A) conduct a public hearing on proposed fees for inspection and NAISMA certification for hay and other forage, and B) approve a resolution entitled "A Resolution of the Board of Supervisors, County of Mono, State of California, establishing a fee for North American Invasive Species Management Association (NAISMA) weed-free certification of forage".

Fiscal Impact:

Assuming hay producers decide to participate in the program as expected and request certification of 200 acres, the proposed fees will fully cover the cost of the program and there will be no fiscal impact to the general fund.

Discussion:

The Inyo/Mono Counties' Agricultural Commissioner's Office (CAC) has been conducting weed-free forage inspections for, and issuing Certificates of Quarantine Compliance to, area hay growers since the time that the CAC office was established. A weed-free forage certifying agency known as NAISMA has created separate standards for this type of certification. In recent years, many federal agencies have made certification to NAISMA standards a requirement for certain purchase contracts. CAC would like to provide the opportunity to our local growers to offer forage to buyers that require NAISMA certification by becoming a local NAISMA certifying agency.

Annual certification fees to maintain NAISMA inspection authority for CAC staff will cost the county $200. In addition to this fee, CAC will need to buy and then sell to grower's special twine that designates NAISMA certified hay bales, which represents an estimated $1,200 cost to the county. For this first year of certification, CAC proposes buying twine sufficient to process 200 acres of hay. Based on these estimates, the proposed fee for twine and inspection staff certification would be $7.00 per acre. At this rate, the county's additional costs to certify to the higher NAISMA standards would be covered through fee revenue.

207 WEST SOUTH STREET | BISHOP, CA 93514 |PHONE 760.873.7860 | FAX 760.872.1610 |
WWW.INYOMONOAGRICULTURE.COM

R18-__

A RESOLUTION OF THE MONO COUNTY BOARD OF SUPERVISORS ESTABLISHING A FEE FOR NORTH AMERICAN INVASIVE SPECIES MANAGEMENT ASSOCIATION WEED-FREE CERTIFICATION OF FORAGE

WHEREAS, California Government Code section 66016 authorizes a local government to charge fees for cost recovery; and

WHEREAS, the Inyo and Mono Counties Agricultural Commissioner's Office would like to offer weed-free forage certification for hay and other forage produced in Inyo and Mono Counties to local farmers meeting North American Invasive Species Management Association (NAISMA) Standards; and

WHEREAS, the Inyo and Mono Counties Agricultural Commissioner's Office has conducted a fee study which concluded that the costs associated with certification of hay and other forage as outlined above is $7.00 per acre of land; and

WHEREAS, the Board of Supervisors conducted a noticed public hearing on April 10, 2018, concerning the enactment of the proposed fee;

NOW, THEREFORE, THE BOARD OF SUPERVISORS OF THE COUNTY OF MONO RESOLVES that fees for weed-free hay and other forage certification by the Inyo and Mono Counties Agricultural Commissioner's Office or its designee to meet NAISMA standards are hereby set at $7.00 per acre certified.

PASSED, APPROVED and **ADOPTED** this _____ day of _____, 2018, by the following vote, to wit:

AYES:

NOES:

ABSENT:

ABSTAIN:

_____
Bob Gardner, Chair
Mono County Board of Supervisors

ATTEST:

_____
Clerk of the Board

APPROVED AS TO FORM:

_____
County Counsel

OFFICE OF THE CLERK
OF THE BOARD OF SUPERVISORS

REGULAR AGENDA REQUEST

Print

MEETING DATE	April 10, 2018		
Departments: CAO			
TIME REQUIRED	30 minutes	**PERSONS APPEARING BEFORE THE BOARD**	Tony Dublino, Cattleman's Association
SUBJECT	Long Valley and Little Round Valley Irrigated Meadows-threats to habitat and grazing		

AGENDA DESCRIPTION:

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

Presentation by the Cattleman's Association about the impacts of the elimination of irrigation requirements in LADWP Grazing Leases in the Long Valley and Little Round Valley areas.

RECOMMENDED ACTION:

Receive presentation and provide any direction to staff.

FISCAL IMPACT:

None at this time.

CONTACT NAME: Tony Dublino

PHONE/EMAIL: 760.932.5415 / tdublino@mono.ca.gov

SEND COPIES TO:

MINUTE ORDER REQUESTED:

☐ YES ☑ NO

ATTACHMENTS:

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Staff Report

History

Time	Who	Approval
4/5/2018 9:54 AM	County Administrative Office	Yes
4/5/2018 10:34 AM	County Counsel	Yes
4/5/2018 2:18 PM	Finance	Yes

County of Mono

County Administrative Office

Leslie L. Chapman
County Administrative Officer

Tony Dublino
Assistant County Administrative Officer

Dave Butters
Human Resources Director

Jay Sloane
Risk Manager

Date: April 10, 2018

To: Honorable Board of Supervisors

From: Tony Dublino, Assistant CAO

Subject: **Elimination of irrigation requirements in LADWP Grazing Leases in the Long Valley and Little Round Valleys**

Recommended Action:
Receive presentation and provide any direction to staff

Fiscal Impact:
None at this time.

Discussion:

The Board received correspondence as part of the April 3, 2018 Board meeting that described potential impacts from the elimination of irrigation on thousands of acres of leased grazing lands within the Long Valley and Little Round Valley.

As requested by the Board, members of the ranching community will present information and perspective on this issue.

The Board is requested to provide direction to staff on next steps and the desired level of County involvement in this issue.

If you have any questions regarding this item, please contact me at (760) 932-5415.

Respectfully submitted,

Tony Dublino
Assistant CAO

OFFICE OF THE CLERK
OF THE BOARD OF SUPERVISORS

REGULAR AGENDA REQUEST

Print

MEETING DATE	April 10, 2018		
Departments: Public Health			
TIME REQUIRED	30 Minutes	**PERSONS APPEARING BEFORE THE BOARD**	Nancy Mahannah
SUBJECT	Proposed Amendments to Chapter 7.92 of the Mono County Code Pertaining to the County's Smoking Regulations		

AGENDA DESCRIPTION:

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

Following the March 13, 2018, presentation to the Board and pursuant to Board direction, staff is bringing back two variations of amended MCC 7.92 pertaining to smoking policies (one with regulations pertaining to multi-unit housing and one without). Both variations include the creation of smoke free zones 20 feet from business doorways, windows and ventilation systems and in outdoor dining; inclusion of electronic cigarettes and vaping in the definition of smoking; and the elimination of flavored and menthol tobacco sales in the county.

RECOMMENDED ACTION:

Receive presentation on proposed amendments to Mono County Code (MCC) Chapter 7.92, including suggested changes to smoking policies related to smoke-free zones, sale of flavored tobacco, enforcement and prohibitions, and potentially multi-unit housing. Following discussion, decide which variation of proposed ordinance to adopt (with or without regulations pertaining to multi-unit housing). Introduce, read title, and waive further reading of proposed ordinance No. Ord18 -___, amending Mono County Code Chapter 7.92 pertaining to the County's smoking regulations. Provide any desired direction to staff.

FISCAL IMPACT:

There is no impact to the Mono County General Fund. Implementation of ordinance amendments would be funded through the Tobacco Tax and Health Protection Act of 1988 and The California Healthcare, Research and Prevention Tobacco Tax Act of 2016.

CONTACT NAME: Nancy Mahannah

PHONE/EMAIL: 760.924.4621 / nmahannah@mono.ca.gov

SEND COPIES TO:

Nancy Mahannah

Dustlyne Beavers

Sandra Pearce

MINUTE ORDER REQUESTED:

☑ YES ☐ NO

ATTACHMENTS:

Click to download
Staff Report
Existing MCC Chapter 7.92
Ordinance with MUH provisions
Attachment A to Ordinance - with MUH provisions
Ordinance without MUH provisions
Attachment A to Ordinance without MUH provisions

History

Time	Who	Approval
4/5/2018 8:25 AM	County Administrative Office	Yes
4/4/2018 10:43 AM	County Counsel	Yes
4/5/2018 9:04 AM	Finance	Yes

MONO COUNTY HEALTH DEPARTMENT
Public Health

P.O. BOX 476, BRIDGEPORT, CA 93517 PHONE (760) 932-5580 • FAX (760) 932-5284
P.O. BOX 3329, MAMMOTH LAKES, CA 93546 PHONE (760) 924-1830 • FAX (760) 924-1831

DATE: April 10, 2018

TO: Honorable Board of Supervisors

FROM: Nancy Mahannah, Public Health Program Manager

SUBJECT: Proposed Amendments to Chapter 7.92 of the Mono County Code Pertaining to the County's Smoking Regulations

Recommendation

- Receive presentation on proposed amendments to Mono County Code (MCC) Chapter 7.92, including suggested changes to smoking policies related to smoke-free zones, sale of flavored tobacco, enforcement and prohibitions, and potentially multi-unit housing.
- Following discussion, decide which variation of proposed ordinance to adopt (with or without regulations pertaining to multi-unit housing). Introduce, read title, and waive further reading of proposed ordinance No. Ord18 -___, amending Mono County Code Chapter 7.92 pertaining to the County's smoking regulations.
- Provide any desired direction to staff.

Discussion

Cigarette smoking is the leading cause of preventable death, responsible for more than 480,000 deaths per year in the United States, including more than 41,000 deaths resulting from secondhand smoke exposure. For every person who dies because of smoking, at least 30 people live with a serious smoking-related illness. Smoking harms nearly every organ of the body and causes cancer, heart disease, stroke, lung diseases, diabetes, and chronic obstructive pulmonary disease (COPD), which includes emphysema and chronic bronchitis. https://www.cdc.gov/tobacco/data_statistics/fact_sheets/index.htm

The California Tobacco Control Program (CTCP) under the California Department of Public Health (CDPH) has been a leader for over 25 years in keeping tobacco out of the hands of youth, helping tobacco users quit, and ensuring that all Californians can live, work, play, and learn in tobacco-free environments. Since the program inception in 1989, there has been a decline in the number of adult smokers by more than 50 percent. California's efforts are credited with saving more than 1,000,000 lives and saving over $134 billion in healthcare costs for the state. CTCP empowers local health agencies to promote health and quality of life by advocating for social norms that create a tobacco-free environment.

This is accomplished through funding community interventions which focus on policy, system, and environmental change in four priority areas:

1. Limit Tobacco Promoting Influences.
2. Reduce Exposure to Secondhand Smoke, Tobacco Smoke Residue, Tobacco Waste, and other Tobacco Products.
3. Reduce the Availability of Tobacco.
4. Promote Tobacco Cessation.
   https://archive.cdph.ca.gov/programs/tobacco/Pages/Welcome.aspx

Mono County already has an established Tobacco Ordinance (MCC Chapter 7.92, adopted 7/02), which prohibits smoking within 20 feet from County buildings.

- During the September 5, 2017 presentation to the Board, state and local background research findings and the results of local surveys were presented, which presentation can be found at the below link: https://www.monocounty.ca.gov/sites/default/files/fileattachments/board_of_supervisors/meeting/16637/09_september_05_2017.pdf (pages 150-255).
- During the February 13, 2018 presentation to the Board, local background research findings and the results of local surveys were presented, which presentation can be found at the below link: https://monohealth.com/public-health/page/tobacco-education-program
- Following the March 13, 2018, presentation to the Board and pursuant to Board direction, staff is bringing back two variations of amended MCC 7.92 pertaining to smoking policies (one with regulations pertaining to multi-unit housing and one without). Both variations include the creation of smoke free zones 20 feet from business doorways, windows and ventilation systems and in outdoor dining; inclusion of electronic cigarettes and vaping in the definition of smoking; and the elimination of flavored and menthol tobacco sales in the county.

Fiscal impact

There is no impact to the Mono County General Fund.

Implementation of ordinance amendments would be funded through the Tobacco Tax and Health Protection Act of 1988 and The California Healthcare, Research and Prevention Tobacco Tax Act of 2016.

For questions regarding this item, please call Nancy Mahannah at (760) 924-4621.

Submitted by: Nancy Mahannah, Public Health Program Manager
Reviewed by: Sandra Pearce, Public Health Director

Chapter 7.92 - TOBACCO

Sections:

7.92.010 - Definitions.

A. "County" shall mean the county of Mono.

B. "County building" shall mean any county-owned building including, but not limited to, the Bridgeport courthouse, Bridgeport annexes I and II, the Bridgeport sheriff and probation department buildings, the county road shops and all community and senior centers.

C. "Smoke or smoking" means the carrying or holding of a lighted pipe, cigar or cigarette of any kind or the lighting, emitting or exhaling the smoke of a pipe, cigar or cigarette of any kind.

(Ord. 02-06 § 1 (part), 2002.)

7.92.020 - Prohibitions—County buildings.

A. Smoking shall be prohibited within twenty feet from main entrances, open windows, ventilation intake systems and covered entryways of any county building.

B. Signs shall be posted in all county buildings which shall have wording similar to the following: "NO SMOKING WITHIN 20 FEET OF MAIN ENTRANCES, EXITS, OPEN WINDOWS, VENTILATION INTAKE SYSTEMS AND COVERED ENTRYWAYS."

(Ord. 02-06 § 1 (part), 2002.)

7.92.030 - Violation and enforcement.

A. Any person who violates any provision of this article, upon conviction thereof, shall be guilty of an infraction and subject to a fine (not including court-imposed mandatory penalties) of twenty dollars for the first violation, thirty dollars for the second violation, and forty dollars for any subsequent violation.

B. A schedule of court-imposed mandatory penalties applicable to the above fine amounts is available from the clerk of the Mono County superior court.

(Ord. 02-06 § 1 (part), 2002.)

ORDINANCE NO. ORD18-___

AN ORDINANCE OF THE MONO COUNTY BOARD OF SUPERVISORS AMENDING CHAPTER 7.92 OF THE MONO COUNTY CODE PERTAINING TO THE COUNTY'S SMOKING AND TOBACCO POLICY

WHEREAS, Chapter 7.92 of the Mono County Code contains regulations and prohibitions pertaining to second-hand smoke and tobacco; and

WHEREAS, the National Institute on Drug Abuse has concluded that nicotine in tobacco products is a powerfully addictive drug, which has been identified as the most widespread example of drug dependence in the U.S.; and

WHEREAS, the Mono County Board of Supervisors acknowledges that substantial scientific evidence exists that shows a causal relationship between smoking and/or exposure to second-hand smoke and serious health conditions; and

WHEREAS, the Mono County Board of Supervisors acknowledges that secondhand aerosol emitted from electronic smoking devices and secondhand marijuana smoke has been identified by the Office of Environmental Health Hazard Assessment's (OEHHA) Reproductive and Cancer Hazard Assessment Branch as a health hazard; and

WHEREAS, nonsmokers who live in multi-unit dwellings can be exposed to neighbors' secondhand smoke and the Surgeon General has concluded that eliminating smoking in indoor spaces is the only way to fully protect nonsmokers from secondhand smoke exposure and that separating smokers from nonsmokers, cleaning the air, and ventilating buildings cannot completely prevent secondhand smoke exposure; and

WHEREAS, a local ordinance that authorizes residential rental agreements to include a prohibition on smoking tobacco within rental units is not prohibited by California law; and

WHEREAS, the federal Family Smoking Prevention and Tobacco Control Act (FSPTCA), enacted in 2009, prohibited candy- and fruit-flavored cigarettes, largely because these flavored products were marketed to youth and young adults; and

WHEREAS, it is in the public interest to ban the sale of such flavored tobacco products in the unincorporated areas of Mono County; and

WHEREAS, the Mono County Board of Supervisors now wishes to update Chapter 7.92 of the Mono County Code to reflect these and other findings.

NOW, THEREFORE, THE BOARD OF SUPERVISORS OF THE COUNTY OF MONO ORDAINS as follows:

SECTION ONE: Chapter 7.92 of the Mono County Code is hereby amended in its entirety to read as set forth in Attachment "A", attached hereto and incorporated herein by this reference.

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 so 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 _____, 2018, by the following vote, to wit:

AYES:
NOES:
ABSTAIN:
ABSENT:

_____
Bob Gardner, Chair
Mono County Board of Supervisors

ATTEST:

_____
Clerk of the Board

APPROVED AS TO FORM:

_____
County Counsel

ATTACHMENT A

SMOKING POLICIES AND RESTRICTIONS

Sections:

7.92.10 - Definitions.

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

B. “County” shall mean the County of Mono.

C. “County Building” shall mean any County-owned building including, but not limited to, the Bridgeport courthouse, Bridgeport annexes I and II, the Bridgeport sheriff and probation department buildings, the County road shops and all community and senior centers.

D. “Business” means any sole proprietorship, partnership, joint venture, corporation, association, or any other entity formed for profit-making purposes or that has an Employee, as defined in this section.

E. “Characterizing Flavor” means a distinguishable taste or aroma, other than the taste or aroma of Tobacco or Cannabis, imparted by Tobacco or Cannabis, either prior to or during use of the Tobacco Product or Cannabis or any byproduct produced by the Tobacco Product or Cannabis, including, but not limited to, tastes or aromas relating to menthol, mint, wintergreen, any fruit, chocolate, vanilla, honey, candy, cocoa, dessert, alcoholic beverage, herb, nut or spice; provided, however, that a Tobacco Product or Cannabis shall not be determined to have a Characterizing Flavor solely because of the use of additives or flavorings or the provision of ingredient information.

F. “Dining Area” means any area available to or customarily used by the general public, that is designed, established, or regularly used for consuming food or drink.

G. "Electronic Smoking Device" means an electronic device that can be used to deliver an inhaled dose of nicotine, Tobacco, Cannabis, or any other substances, including any component, part or accessory of such a device, whether or not sold separately.

H. "Employee" means any Person who is employed; retained as an independent contractor by any Employer, as defined in this section; or any Person who volunteers his or her services for an Employer, association, nonprofit, or volunteer entity.

I. "Employer" means any Person, partnership, corporation, association, nonprofit or other entity which employs or retains the service of one or more Persons, or supervises volunteers.

J. "Enclosed Area" means:

1. an area in which outside air cannot circulate freely to all parts of the area, and includes an area that has:

    a. any type of overhead cover whether or not that cover includes vents or other openings and at least three walls or other vertical constraints to airflow including, but not limited to, vegetation of any height, whether or not those boundaries include vents or other openings; or

    b. four walls or other vertical constraints to airflow including, but not limited to, vegetation that exceeds six feet in height, whether or not those boundaries include vents or other openings.

K. "Flavored Tobacco Product" means any Tobacco Product that imparts a Characterizing Flavor.

L. "Flavored Cannabis Product" means Cannabis that imparts a Characterizing Flavor when smoked.

M. "Labeling" means written, printed, or graphic matter upon any Tobacco Product or any of its Packaging, or accompanying such Tobacco Product.

N. "Manufacturer" means any Person, including any repacker or relabeler, who manufactures, fabricates, assembles, processes, or labels a Tobacco Product; or imports a finished Tobacco Product for sale or distribution into the United States.

O. "Multi-Unit Residence" means any residential structure with two (2) or more Units and has at least one or more shared walls, floors, or ceilings. Additionally, a residential structure that has two (2) or more Units and has a shared ventilation system is considered a Multi-Unit Residence.

A Multi-Unit Residence **does not** include the following:

1. a single-family residence with a detached in-law or secondary dwelling unit;

2. a single, contiguous residence in which rent is shared by the residents; and

3. A hotel or motel that meets the requirements of California Civil Code section 1940, subdivision (b) (2).

P. "Multi-Unit Residence Common Area" means any indoor or outdoor common area of a Multi-Unit Residence accessible to and usable by more than one residence, including but not limited to halls, lobbies, laundry rooms, outdoor eating areas, play areas, swimming pools and recreation areas.

Q. "Nonprofit Entity" means any entity that meets the requirements of California Corporations Code Section 5003 as well as any corporation, unincorporated association or other entity created for charitable, religious, philanthropic, educational, political, social or similar purposes, the net proceeds of which are committed to the promotion of the objectives or purposes of the entity and not to private gain. A public agency is not a Nonprofit Entity within the meaning of this section.

R. "Packaging" means a pack, box, carton, or container of any kind or, if no other container, any wrapping (including cellophane) in which a Tobacco Product is sold or offered for sale to a consumer.

S. "Place of Employment" means any area under the legal or de facto control of an Employer, Business or Nonprofit Entity that an Employee or the general public may have cause to enter in the normal course of operations, but regardless of the hours of operation, including, for example, indoor and outdoor work areas, construction sites, vehicles used in employment or for Business purposes, taxis, Employee lounges, conference and banquet rooms, bingo and gaming facilities, long-term health facilities, warehouses, and private residences that are used as childcare or health care facilities subject to licensing requirements.

T. "Person" means any natural Person, partnership, cooperative association, corporation, personal representative, receiver, trustee, assignee, or any other legal entity.

U. "Playground" means any park or Recreational Area designated in part to be used by children that has play or sports equipment installed or has been designated or landscaped for play or sports activities, or any similar facility located on public or private school grounds, or on County property.

V. "Public Place" means any place, public or private, open to the general public regardless of any fee or age requirement, including, for example, bars, restaurants, clubs, stores, stadiums, parks, Playgrounds, taxis and buses.

W. "Reasonable Distance" means a distance of at least twenty (20) feet to ensure that occupants of a building and those entering or existing the building are not exposed to secondhand smoke created by smokers outside of the building.

X. "Recreational Area" means any area, public or private, open to the public for recreational purposes regardless of any fee requirement, including, for example, parks, gardens, sporting facilities, stadiums, and Playgrounds, but excluding those areas where the County lacks jurisdictional authority to regulate.

Y. “Service Area” means any area designed to be or regularly used by one or more Persons to receive or wait to receive a service, enter a Public Place, or make a transaction whether or not such service includes the exchange of money, including, for example, ATMs, bank teller windows, telephones, ticket lines, bus stops, and cab stands.

Z. “Smoke” or “Smoking” means to inhale, exhale, burn, or carry any lighted or heated device or pipe, or any other lighted or heated Tobacco Product or Cannabis intended for inhalation, whether natural or synthetic, in any manner or in any form including but not limited to a cigar, cigarette, cigarillo, vaporizer, joint, pipe, hookah or Electronic Smoking Device. “Smoke” includes the use of an Electronic Smoking Device that creates an aerosol or vapor, in any manner or in any form, or the use of any oral smoking device for the purpose of circumventing the prohibition of smoking in a place.

AA. "Smoking Product" means any substance or product containing nicotine, Tobacco or Cannabis that is meant to be used in conjunction with an e-cigarette or any other type of smoking or vaporizing contraption including but not limited to joints, cigarettes, cigars, bongs or pipes. “Smoking Product” also means, Indian cigarettes called "bidis", and cartridges and liquid solutions for e-cigarettes, which may be utilized for smoking, chewing, inhaling or other manner of ingestion.

BB. “Tobacco Paraphernalia” means any item designed or marketed for the consumption, use, or preparation of Tobacco Products.

CC. “Tobacco” or “Tobacco Product” means:

1. Any product containing, made, or derived from tobacco leaf or nicotine that is intended for human consumption, whether smoked, heated, chewed, absorbed, dissolved, inhaled, snorted, sniffed, or ingested by any other means, including, but not limited to cigarettes, cigars, little cigars, chewing tobacco, pipe tobacco, snuff.

2. Any electronic device that delivers nicotine or other similar substances to the Person inhaling from the device, including, but not limited to an electronic cigarette, electronic cigar, electronic pipe, or electronic hookah.

3. Notwithstanding any provision of subsections (a) and (b) to the contrary, “Tobacco Product” includes any component, part, or accessory intended or reasonably expected to be used with a Tobacco Product, whether or not sold separately. “Tobacco Product” does not include any product that has been approved by the United States Food and Drug Administration for sale as a tobacco cessation product or for other therapeutic purposes where such product is marketed and sold solely for such an approved purpose.

DD. “Tobacco Retailer” means any Person who sells, offers for sale, or does or offers to exchange for any form of consideration, Tobacco, Tobacco Products or Tobacco Paraphernalia. “Tobacco Retailing” shall mean the doing of any of these things. This definition is without regard to the quantity of Tobacco Products or Tobacco

Paraphernalia sold, offered for sale, exchanged, or offered for exchange.

EE. "Unit" means a personal dwelling space, even where lacking cooking facilities or private plumbing facilities, and includes any associated exclusive-use Enclosed Area or unenclosed area, such as for example, a private balcony, porch, deck or patio. "Unit" includes, without limitation, an apartment; a condominium; a townhouse; a room in a motel or hotel; a dormitory room.

7.92.020 – Prohibitions – locations where smoking is prohibited.

A. Except as otherwise provided in this Chapter, Smoking is prohibited in the following enclosed and unenclosed locations in the County:

1. All areas where smoking is prohibited by state or federal law, including, but not limited to, indoor workplaces, bars and restaurants (California Labor Code Section 6404.5); state, County, and city buildings (California Government Code Sections 7596 through 7598); tot lots and Playgrounds (California Health and Safety Code Section 104495); and pursuant to (California Health and Safety Code Section 11362.3).
2. County vehicles.
3. Public parks.
4. Recreational Areas.
5. Service Areas.
6. Dining Areas.
7. Public Places, when being used for a public event, including a sporting event, farmer's market, parade, craft fair, or any event which may be open to or attended by the general public, provided that Smoking is permitted on streets and sidewalks being used in a traditional capacity as pedestrian or vehicular thoroughfares, unless otherwise prohibited by this Chapter or other law.
8. Multi-Unit Residences in accordance with section 7.92.040.

B. Nothing in this Chapter prohibits any Person or Employer with legal control over any property from prohibiting Smoking on any part of such property.

7.92.030 – Reasonable smoking distance required – 20 Feet.

Smoking shall occur at a Reasonable Distance of at least twenty (20) feet outside any Enclosed Area and from entrances, operable windows, and ventilation systems of Enclosed Areas where Smoking is prohibited, including in or around Multi-Unit Housing or portions thereof where smoking is prohibited as provided in section 7.92.040 of this Chapter, to ensure that secondhand smoke does not enter the area through entrances, windows, ventilation systems or any other means so that those indoors and those entering or leaving the building are not involuntarily exposed to secondhand smoke, including any secondhand smoke from an Electronic Smoking Device or vapor.

ATTACHMENT A

7.92.040 – Multi-Unit Housing.

A. If adopted rules of the Homeowners' Association; Codes, Covenants & Restrictions (CC&Rs), or any individual lease for a Multi-Unit Residence contain legally enforceable provisions prohibiting Smoking in all or in any portion of the Multi-Unit Residence ("Enforceable Restrictions"), then the following provisions shall apply, as applicable, to those areas within the Multi-Unit Residence where Smoking is so prohibited:

1. No Person with legal control over a Multi-Unit Residence Common Area or other area in which Smoking is prohibited shall knowingly permit Smoking in any nonsmoking area that is under the Person's control or knowingly permit the presence of ash trays, ash cans, or other receptacles designed for or primarily used for disposal of Smoking waste within the area. Such Person with legal control over a common or other area in which Smoking is prohibited shall maintain such area free of Tobacco litter and waste.

2. Additional Smoking-related prohibitions for Multi-Unit Residences:

    a. No Person shall Smoke in any nonsmoking area.

    b. No Person shall intimidate or harass any Person who seeks compliance with an Enforceable Restriction or with this Chapter. Moreover, no Person shall intentionally or recklessly expose another Person to secondhand smoke in response to that Person's effort to achieve compliance with an Enforceable Restriction or this Chapter. Violation of this subsection shall constitute a misdemeanor.

    c. Causing, permitting, aiding, or abetting a violation of any provision of an Enforceable Restriction, or this Chapter, shall also constitute a violation of this Chapter.

3. Notwithstanding subsection (1) a Person with legal control over a Multi-Unit Residence Common Area, or Authorized Representative of such Person may designate a portion of said area as a Smoking area provided that at all times the designated Smoking area complies with subsection (4) below.

4. A designated Smoking area:

    a. Shall be an unenclosed and clearly delineated area, as described in this subsection;

    b. Shall be located at least 20 feet in any direction from any operable doorway, window, opening or other vent into an Enclosed Area that is located at the Multi-Unit Residence;

    c. Shall comply with section 7.92.030 and shall not include, and shall be at least 20 feet in any direction from, the following areas at a Multi-Unit Residence or portion thereof, where smoking is prohibited:

        i. Playground or similar area where primarily children play; and

ii. Areas with improvements that facilitate physical activity including Playgrounds and swimming pools;

5. Signage at Multi-Unit Residences, or those portions of Multi-Unit Residences where smoking is prohibited, shall comply with section 7.92.050.

6. Required terms in a lease and a purchase and sale agreement for Units covered by this section:

    a. Every lease or other rental agreement for the occupancy of a Unit in a Multi-Unit Residence entered into after the date this Chapter takes effect, and which has been designated as nonsmoking pursuant to subdivision A of this section, shall include the following:

        i. A provision stating in substance that it is a material breach of the lease/rental agreement for the tenant, or any other Person subject to the control of the tenant or present by invitation or permission of the tenant, to: (i) Smoke in any existing Unit or in any common area of the property other than a designated Smoking area; and (ii) violate any law, rule or regulation prohibiting Smoking anywhere on the property;

        ii. A clear description of all areas on the property where Smoking is allowed or prohibited and a clear statement indicating that Smoking is prohibited at least 20-feet from any Enclosed Area, window or ventilation.

        iii. A clause expressly conveying third-party beneficiary status to all tenants and lawful occupants of the Multi-Unit Residence as to the Smoking provisions of the agreement.

    b. Every agreement for the purchase and sale of any Multi-Unit Residence or any new or existing Unit in a Multi-Unit Residence entered into after the date this Chapter takes effect, and which has been designated as nonsmoking pursuant to subdivision A of this section, shall include the following:

        i. A provision stating in substance that it is a material breach of the agreement for any resident of the Multi-Unit Residence or Unit, or any other Person subject to the control of a resident or present by invitation or permission of a resident, to: (i) Smoke in an existing Unit or in any common area of the property other than a designated Smoking area unless the property has any existing Units; and (ii) violate any law, rule or regulation prohibiting Smoking anywhere on the property;

        ii. A clear description of all areas on the property where Smoking is allowed or prohibited and a clear statement indicating that

Smoking is prohibited at least 20-feet from any Enclosed Area, window or ventilation.

iii. A provision expressly conveying third-party beneficiary status to all property owners and lawful occupants of the Multi-Unit Residence as to the Smoking provisions of the agreement.

c. This Chapter shall not create liability in a landlord, property manager, property owner, or homeowners' association for a breach of any Smoking provision in a lease or other rental agreement for the occupancy of a Unit in a Multi-Unit Residence, or in an agreement for the purchase and sale agreement of a Multi-Unit Residence or any Unit therein.

d. Failure to enforce any Smoking provision required by this Chapter shall not affect the right to enforce such provision in the future, nor shall a waiver of any breach constitute a waiver of any subsequent breach or a waiver of the provision itself.

B. Notwithstanding any other provision of this Chapter, smoking or vaporizing of marijuana for medical purposes, as permitted by California Health and Safety Code sections 11362.7 *et seq*., in any Unit of a Multi-Unit Residence is not prohibited by this Chapter; such use of marijuana may be prohibited or regulated by individual leases, HOA rules or CC&Rs, other provisions of this Code, state law, or federal law.

7.92.050 – Posting of signs.

Posting of signs shall be the responsibility of the owner, operator, manager or other Person having control of the place where Smoking is prohibited by this Chapter in cooperation with the Mono County Public Health Department. Except in facilities owned or leased by County, state, or federal governmental entities, "No Smoking" signs with letters of not less than one-half inch in height or the international "No Smoking" symbol (consisting of a pictorial representation of a burning cigarette enclosed in a red circle with a red bar across it) shall be clearly posted where Smoking is prohibited in accordance with this Chapter. Where applicable, all signs shall clearly state that Smoking is prohibited within 20 feet of any Enclosed Area as defined in subsection I of section 7.92.010 and within 20 feet of entrances, operable windows and ventilation systems. The requirement to post signs pursuant to this section shall not apply to the inside of Units of Multi-Unit Residences. Any owner, manager, operator, Employer or Employee or other Person having control of a place where Smoking is prohibited by this Chapter shall not be deemed to be in violation of this Chapter if signs have been posted in a manner consistent with the requirements of this section. For purposes of this Chapter, the Mono County Public Health Department shall be responsible for the posting of signs in regulated facilities owned or leased in whole or in part by the County.

7.92.060 - Duty of person, employer, business or nonprofit entity.

Notwithstanding any other provision of this Chapter, any owner, landlord, Employer, Business, Nonprofit Entity, or any other Person who controls any property, establishment, or Place of Employment regulated by this chapter may declare any part of such area in which Smoking would otherwise be permitted to be a nonsmoking area.

7.92.070 - Sale of flavored tobacco products prohibited.

A. Except as provided in subsection D, it shall be a violation of this Chapter for any Tobacco Retailer or any of the Tobacco Retailer's agents or Employees to sell or offer for sale, or to possess with intent to sell or offer for sale, any Flavored Tobacco Product.

B. There shall be a rebuttable presumption that a Tobacco Retailer in possession of Flavored Tobacco Products, including but not limited to individual Flavored Tobacco Products, packages of Flavored Tobacco Products, or any combination thereof, possesses such Flavored Tobacco Products with the intent to sell or offer them for sale.

C. There shall be a rebuttable presumption that a Tobacco Product is a Flavored Tobacco Product if a Tobacco Retailer, Manufacturer, or any Employee or agent of a Tobacco Retailer or Manufacturer has:

    1. Made a public statement or claim that the Tobacco Product imparts a Characterizing Flavor;

    2. Used text and/or images on the Tobacco Product's Labeling or Packaging to explicitly or implicitly indicate that the Tobacco Product imparts a Characterizing Flavor; or

    3. Taken action directed to consumers that would be reasonably expected to cause consumers to believe the Tobacco Product imparts a Characterizing Flavor.

D. Any Tobacco Retailer whose inventory includes Flavored Tobacco Products at the time this Chapter becomes effective may continue to sell the Flavored Tobacco Product(s) until the supply is exhausted but shall not thereafter order new supplies.

7.92.080 – Penalties and enforcement.

A. Unless the applicable section of this Chapter provides that violation is a misdemeanor, any Person or Business violating any provision of this Chapter, upon conviction thereof, shall be guilty of an infraction and subject to a fine (not including court-imposed mandatory penalties) of $100.00 for the first violation, $200.00 for the second violation, and $500.00 for any subsequent violation. For purposes of this Chapter, each day of noncompliance shall be considered a separate violation.

B. The provisions of this Chapter may be enforced through civil and/or criminal proceedings including, but not limited to, action for nuisance abatement pursuant to Mono County Code Chapter 7.20, administrative citation pursuant to Mono County Code Chapter 1.12,

following the procedures set forth in subsection D, and/or injunctive relief. In any enforcement action, the County may seek reimbursement for the costs of investigation, inspection or monitoring leading to the establishment of the violation, and for the reasonable costs of preparing and bringing the enforcement action. The remedies provided by this section 7.92.080 are nonexclusive, cumulative and in addition to any other remedy the County may have at law or in equity.

C. The Mono County Public Health Director or his/her designee ("Director") is authorized to enforce, on behalf of the County, the provisions of this Chapter, and to refer such enforcement to the Mono County Code Compliance Division as provided in subsection D below. Any Person may request that the Director investigate a violation of this Chapter by filing a written complaint with the Public Health Department.

D. The following procedures may be followed by the Director upon receipt of a written complaint and shall be followed prior to referring enforcement to Mono County Code Compliance:

1. The Director shall contact the owner, operator or manager of the establishment, Multi-Unit Residence or facility (the "establishment") or Person that is the subject of the complaint to investigate the nature and extent of the violation and may conduct such additional investigation as may be necessary, to determine whether the violation occurred.

2. If the Director concludes that a violation occurred, he or she shall provide to the owner, operator or manager of the establishment or Person committing the violation a copy of the provisions of this Chapter and such advisory assistance to avoid future violations as may be necessary to achieve compliance.

3. Upon receipt of a second written complaint involving the same Person or establishment, the Director shall attempt to meet with the owner, operator or manager or Person alleged to have violated this Chapter to further investigate the matter and shall conduct such additional investigation as may be necessary. If it is determined that a subsequent violation has occurred, the Director shall mail, certified mail, postage prepaid, return receipt requested, a written directive to the owner, operator, manager or other Person, explaining in detail the steps required in order to achieve future compliance and advising that the County may initiate enforcement proceedings pursuant to Chapters 1.12 or 7.20, or pursue such other enforcement as is authorized by law, in the event of a subsequent violation.

4. Upon receipt of a third written complaint regarding the same Person or establishment, the Director may refer the matter to Mono County Code Compliance for further investigation and enforcement pursuant to Chapters 1.12 and/or 7.20, provided that the Code Compliance Division confirms that it has sufficient resources available to process the complaint.

5. Any violation determined by the Code Compliance Division to have occurred following issuance of a Notice of Violation in accordance with Chapter 1.12, shall constitute cause for issuance of an Administrative Citation under that Chapter, except that the amount of the penalty imposed for each violation shall be as set

forth in subsection 7.92.080.A. and the hearing officer for any administrative appeal shall be a member of the Board of Supervisors or its designee.

E. The Director, and Code Compliance Specialist if applicable, shall maintain clear and thorough records and logs of all investigations and communications made in relation to every written complaint filed with the Public Health Department pursuant to this section.

ORDINANCE NO. ORD18-___

AN ORDINANCE OF THE MONO COUNTY BOARD OF SUPERVISORS AMENDING CHAPTER 7.92 OF THE MONO COUNTY CODE PERTAINING TO THE COUNTY'S SMOKING AND TOBACCO POLICY

WHEREAS, Chapter 7.92 of the Mono County Code contains regulations and prohibitions pertaining to second-hand smoke and tobacco; and

WHEREAS, the National Institute on Drug Abuse has concluded that nicotine in tobacco products is a powerfully addictive drug, which has been identified as the most widespread example of drug dependence in the U.S.; and

WHEREAS, the Mono County Board of Supervisors acknowledges that substantial scientific evidence exists that shows a causal relationship between smoking and/or exposure to second-hand smoke and serious health conditions; and

WHEREAS, the Mono County Board of Supervisors acknowledges that secondhand aerosol emitted from electronic smoking devices and secondhand marijuana smoke has been identified by the Office of Environmental Health Hazard Assessment's (OEHHA) Reproductive and Cancer Hazard Assessment Branch as a health hazard; and

WHEREAS, the federal Family Smoking Prevention and Tobacco Control Act (FSPTCA), enacted in 2009, prohibited candy- and fruit-flavored cigarettes, largely because these flavored products were marketed to youth and young adults; and

WHEREAS, it is in the public interest to ban the sale of such flavored tobacco products in the unincorporated areas of Mono County; and

WHEREAS, the Mono County Board of Supervisors now wishes to update Chapter 7.92 of the Mono County Code to reflect these and other findings.

NOW, THEREFORE, THE BOARD OF SUPERVISORS OF THE COUNTY OF MONO ORDAINS as follows:

SECTION ONE: Chapter 7.92 of the Mono County Code is hereby amended in its entirety to read as set forth in Attachment "A", attached hereto and incorporated herein by this reference.

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 so 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 _____, 2018, by the following vote, to wit:

AYES:
NOES:
ABSTAIN:
ABSENT:

_____
Bob Gardner, Chair
Mono County Board of Supervisors

ATTEST: **APPROVED AS TO FORM:**

_____ _____
Clerk of the Board **County Counsel**

ATTACHMENT A

SMOKING POLICIES AND RESTRICTIONS

Sections:

7.92.10 - Definitions.

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

B. “County” shall mean the County of Mono.

C. “County Building” shall mean any County-owned building including, but not limited to, the Bridgeport courthouse, Bridgeport annexes I and II, the Bridgeport sheriff and probation department buildings, the County road shops and all community and senior centers.

D. “Business” means any sole proprietorship, partnership, joint venture, corporation, association, or any other entity formed for profit-making purposes or that has an Employee, as defined in this section.

E. “Characterizing Flavor” means a distinguishable taste or aroma, other than the taste or aroma of Tobacco or Cannabis, imparted by Tobacco or Cannabis, either prior to or during use of the Tobacco Product or Cannabis or any byproduct produced by the Tobacco Product or Cannabis, including, but not limited to, tastes or aromas relating to menthol, mint, wintergreen, any fruit, chocolate, vanilla, honey, candy, cocoa, dessert, alcoholic beverage, herb, nut or spice; provided, however, that a Tobacco Product or Cannabis shall not be determined to have a Characterizing Flavor solely because of the use of additives or flavorings or the provision of ingredient information.

F. "Dining Area" means any area available to or customarily used by the general public, that is designed, established, or regularly used for consuming food or drink.

G. "Electronic Smoking Device" means an electronic device that can be used to deliver an inhaled dose of nicotine, Tobacco, Cannabis, or any other substances, including any component, part or accessory of such a device, whether or not sold separately.

H. "Employee" means any Person who is employed; retained as an independent contractor by any Employer, as defined in this section; or any Person who volunteers his or her services for an Employer, association, nonprofit, or volunteer entity.

I. "Employer" means any Person, partnership, corporation, association, nonprofit or other entity which employs or retains the service of one or more Persons, or supervises volunteers.

J. "Enclosed Area" means:

1. an area in which outside air cannot circulate freely to all parts of the area, and includes an area that has:

    a. any type of overhead cover whether or not that cover includes vents or other openings and at least three walls or other vertical constraints to airflow including, but not limited to, vegetation of any height, whether or not those boundaries include vents or other openings; or

    b. four walls or other vertical constraints to airflow including, but not limited to, vegetation that exceeds six feet in height, whether or not those boundaries include vents or other openings.

K. "Flavored Tobacco Product" means any Tobacco Product that imparts a Characterizing Flavor.

L. "Flavored Cannabis Product" means Cannabis that imparts a Characterizing Flavor when smoked.

M. "Labeling" means written, printed, or graphic matter upon any Tobacco Product or any of its Packaging, or accompanying such Tobacco Product.

N. "Manufacturer" means any Person, including any repacker or relabeler, who manufactures, fabricates, assembles, processes, or labels a Tobacco Product; or imports a finished Tobacco Product for sale or distribution into the United States.

O. "Multi-Unit Residence" means any residential structure with two (2) or more Units and has at least one or more shared walls, floors, or ceilings. Additionally, a residential structure that has two (2) or more Units and has a shared ventilation system is considered a Multi-Unit Residence.

A Multi-Unit Residence **does not** include the following:

1. a single-family residence with a detached in-law or secondary dwelling unit;

2. a single, contiguous residence in which rent is shared by the residents; and

3. A hotel or motel that meets the requirements of California Civil Code section 1940, subdivision (b) (2).

P. "Multi-Unit Residence Common Area" means any indoor or outdoor common area of a Multi-Unit Residence accessible to and usable by more than one residence, including but not limited to halls, lobbies, laundry rooms, outdoor eating areas, play areas, swimming pools and recreation areas.

Q. "Nonprofit Entity" means any entity that meets the requirements of California Corporations Code Section 5003 as well as any corporation, unincorporated association or other entity created for charitable, religious, philanthropic, educational, political, social or similar purposes, the net proceeds of which are committed to the promotion of the objectives or purposes of the entity and not to private gain. A public agency is not a Nonprofit Entity within the meaning of this section.

R. "Packaging" means a pack, box, carton, or container of any kind or, if no other container, any wrapping (including cellophane) in which a Tobacco Product is sold or offered for sale to a consumer.

S. "Place of Employment" means any area under the legal or de facto control of an Employer, Business or Nonprofit Entity that an Employee or the general public may have cause to enter in the normal course of operations, but regardless of the hours of operation, including, for example, indoor and outdoor work areas, construction sites, vehicles used in employment or for Business purposes, taxis, Employee lounges, conference and banquet rooms, bingo and gaming facilities, long-term health facilities, warehouses, and private residences that are used as childcare or health care facilities subject to licensing requirements.

T. "Person" means any natural Person, partnership, cooperative association, corporation, personal representative, receiver, trustee, assignee, or any other legal entity.

U. "Playground" means any park or Recreational Area designated in part to be used by children that has play or sports equipment installed or has been designated or landscaped for play or sports activities, or any similar facility located on public or private school grounds, or on County property.

V. "Public Place" means any place, public or private, open to the general public regardless of any fee or age requirement, including, for example, bars, restaurants, clubs, stores, stadiums, parks, Playgrounds, taxis and buses.

W. "Reasonable Distance" means a distance of at least twenty (20) feet to ensure that occupants of a building and those entering or existing the building are not exposed to secondhand smoke created by smokers outside of the building.

X. "Recreational Area" means any area, public or private, open to the public for recreational purposes regardless of any fee requirement, including, for example, parks,

gardens, sporting facilities, stadiums, and Playgrounds, but excluding those areas where the County lacks jurisdictional authority to regulate.

Y. “Service Area” means any area designed to be or regularly used by one or more Persons to receive or wait to receive a service, enter a Public Place, or make a transaction whether or not such service includes the exchange of money, including, for example, ATMs, bank teller windows, telephones, ticket lines, bus stops, and cab stands.

Z. “Smoke” or “Smoking” means to inhale, exhale, burn, or carry any lighted or heated device or pipe, or any other lighted or heated Tobacco Product or Cannabis intended for inhalation, whether natural or synthetic, in any manner or in any form including but not limited to a cigar, cigarette, cigarillo, vaporizer, joint, pipe, hookah or Electronic Smoking Device. “Smoke” includes the use of an Electronic Smoking Device that creates an aerosol or vapor, in any manner or in any form, or the use of any oral smoking device for the purpose of circumventing the prohibition of smoking in a place.

AA. "Smoking Product" means any substance or product containing nicotine, Tobacco or Cannabis that is meant to be used in conjunction with an e-cigarette or any other type of smoking or vaporizing contraption including but not limited to joints, cigarettes, cigars, bongs or pipes. “Smoking Product” also means, Indian cigarettes called "bidis", and cartridges and liquid solutions for e-cigarettes, which may be utilized for smoking, chewing, inhaling or other manner of ingestion.

BB. “Tobacco Paraphernalia” means any item designed or marketed for the consumption, use, or preparation of Tobacco Products.

CC. “Tobacco” or “Tobacco Product” means:

1. Any product containing, made, or derived from tobacco leaf or nicotine that is intended for human consumption, whether smoked, heated, chewed, absorbed, dissolved, inhaled, snorted, sniffed, or ingested by any other means, including, but not limited to cigarettes, cigars, little cigars, chewing tobacco, pipe tobacco, snuff.

2. Any electronic device that delivers nicotine or other similar substances to the Person inhaling from the device, including, but not limited to an electronic cigarette, electronic cigar, electronic pipe, or electronic hookah.

3. Notwithstanding any provision of subsections (a) and (b) to the contrary, “Tobacco Product” includes any component, part, or accessory intended or reasonably expected to be used with a Tobacco Product, whether or not sold separately. “Tobacco Product” does not include any product that has been approved by the United States Food and Drug Administration for sale as a tobacco cessation product or for other therapeutic purposes where such product is marketed and sold solely for such an approved purpose.

DD. “Tobacco Retailer” means any Person who sells, offers for sale, or does or offers to

exchange for any form of consideration, Tobacco, Tobacco Products or Tobacco Paraphernalia. “Tobacco Retailing” shall mean the doing of any of these things. This definition is without regard to the quantity of Tobacco Products or Tobacco Paraphernalia sold, offered for sale, exchanged, or offered for exchange.

EE. “Unit” means a personal dwelling space, even where lacking cooking facilities or private plumbing facilities, and includes any associated exclusive-use Enclosed Area or unenclosed area, such as for example, a private balcony, porch, deck or patio. “Unit” includes, without limitation, an apartment; a condominium; a townhouse; a room in a motel or hotel; a dormitory room.

7.92.020 – Prohibitions – locations where smoking is prohibited.

A. Except as otherwise provided in this Chapter, Smoking is prohibited in the following enclosed and unenclosed locations in the County:

1. All areas where smoking is prohibited by state or federal law, including, but not limited to, indoor workplaces, bars and restaurants (California Labor Code Section 6404.5); state, County, and city buildings (California Government Code Sections 7596 through 7598); tot lots and Playgrounds (California Health and Safety Code Section 104495); and pursuant to (California Health and Safety Code Section 11362.3).
2. County vehicles.
3. Public parks.
4. Recreational Areas.
5. Service Areas.
6. Dining Areas.
7. Public Places, when being used for a public event, including a sporting event, farmer’s market, parade, craft fair, or any event which may be open to or attended by the general public, provided that Smoking is permitted on streets and sidewalks being used in a traditional capacity as pedestrian or vehicular thoroughfares, unless otherwise prohibited by this Chapter or other law.

B. Nothing in this Chapter prohibits any Person or Employer with legal control over any property from prohibiting Smoking on any part of such property.

7.92.030 – Reasonable smoking distance required – 20 Feet.

Smoking shall occur at a Reasonable Distance of at least twenty (20) feet outside any Enclosed Area and from entrances, operable windows, and ventilation systems of Enclosed Areas where Smoking is prohibited, to ensure that secondhand smoke does not enter the area through entrances, windows, ventilation systems or any other means so that those indoors and those entering or leaving the building are not involuntarily exposed to secondhand smoke, including any secondhand smoke from an Electronic Smoking Device or vapor.

7.92.040 – PLACEHOLDER.

7.92.050 – Posting of signs.

Posting of signs shall be the responsibility of the owner, operator, manager or other Person having control of the place where Smoking is prohibited by this Chapter in cooperation with the Mono County Public Health Department. Except in facilities owned or leased by County, state, or federal governmental entities, "No Smoking" signs with letters of not less than one-half inch in height or the international "No Smoking" symbol (consisting of a pictorial representation of a burning cigarette enclosed in a red circle with a red bar across it) shall be clearly posted where Smoking is prohibited in accordance with this Chapter. Where applicable, all signs shall clearly state that Smoking is prohibited within 20 feet of any Enclosed Area as defined in subsection I of section 7.92.010 and within 20 feet of entrances, operable windows and ventilation systems. Any owner, manager, operator, Employer or Employee or other Person having control of a place where Smoking is prohibited by this Chapter shall not be deemed to be in violation of this Chapter if signs have been posted in a manner consistent with the requirements of this section. For purposes of this Chapter, the Mono County Public Health Department shall be responsible for the posting of signs in regulated facilities owned or leased in whole or in part by the County.

7.92.060 - Duty of person, employer, business or nonprofit entity.

Notwithstanding any other provision of this Chapter, any owner, landlord, Employer, Business, Nonprofit Entity, or any other Person who controls any property, establishment, or Place of Employment regulated by this chapter may declare any part of such area in which Smoking would otherwise be permitted to be a nonsmoking area.

7.92.070 - Sale of flavored tobacco products prohibited.

A. Except as provided in subsection D, it shall be a violation of this Chapter for any Tobacco Retailer or any of the Tobacco Retailer's agents or Employees to sell or offer for sale, or to possess with intent to sell or offer for sale, any Flavored Tobacco Product.

B. There shall be a rebuttable presumption that a Tobacco Retailer in possession of Flavored Tobacco Products, including but not limited to individual Flavored Tobacco Products, packages of Flavored Tobacco Products, or any combination thereof, possesses such Flavored Tobacco Products with the intent to sell or offer them for sale.

C. There shall be a rebuttable presumption that a Tobacco Product is a Flavored Tobacco Product if a Tobacco Retailer, Manufacturer, or any Employee or agent of a Tobacco Retailer or Manufacturer has:

    1. Made a public statement or claim that the Tobacco Product imparts a Characterizing Flavor;

    2. Used text and/or images on the Tobacco Product's Labeling or Packaging to explicitly or implicitly indicate that the Tobacco Product imparts a Characterizing Flavor; or

3. Taken action directed to consumers that would be reasonably expected to cause consumers to believe the Tobacco Product imparts a Characterizing Flavor.

D. Any Tobacco Retailer whose inventory includes Flavored Tobacco Products at the time this Chapter becomes effective may continue to sell the Flavored Tobacco Product(s) until the supply is exhausted but shall not thereafter order new supplies.

7.92.080 – Penalties and enforcement.

A. Unless the applicable section of this Chapter provides that violation is a misdemeanor, any Person or Business violating any provision of this Chapter, upon conviction thereof, shall be guilty of an infraction and subject to a fine (not including court-imposed mandatory penalties) of $100.00 for the first violation, $200.00 for the second violation, and $500.00 for any subsequent violation. For purposes of this Chapter, each day of noncompliance shall be considered a separate violation.

B. The provisions of this Chapter may be enforced through civil and/or criminal proceedings including, but not limited to, action for nuisance abatement pursuant to Mono County Code Chapter 7.20, administrative citation pursuant to Mono County Code Chapter 1.12, following the procedures set forth in subsection D, and/or injunctive relief. In any enforcement action, the County may seek reimbursement for the costs of investigation, inspection or monitoring leading to the establishment of the violation, and for the reasonable costs of preparing and bringing the enforcement action. The remedies provided by this section 7.92.080 are nonexclusive, cumulative and in addition to any other remedy the County may have at law or in equity.

C. The Mono County Public Health Director or his/her designee ("Director") is authorized to enforce, on behalf of the County, the provisions of this Chapter, and to refer such enforcement to the Mono County Code Compliance Division as provided in subsection D below. Any Person may request that the Director investigate a violation of this Chapter by filing a written complaint with the Public Health Department.

D. The following procedures may be followed by the Director upon receipt of a written complaint and shall be followed prior to referring enforcement to Mono County Code Compliance:

1. The Director shall contact the owner, operator or manager of the establishment, (the "establishment") or Person that is the subject of the complaint to investigate the nature and extent of the violation and may conduct such additional investigation as may be necessary, to determine whether the violation occurred.

2. If the Director concludes that a violation occurred, he or she shall provide to the owner, operator or manager of the establishment or Person committing the violation a copy of the provisions of this Chapter and such advisory assistance to avoid future violations as may be necessary to achieve compliance.

3. Upon receipt of a second written complaint involving the same Person or establishment, the Director shall attempt to meet with the owner, operator or manager or Person alleged to have violated this Chapter to further investigate

the matter and shall conduct such additional investigation as may be necessary. If it is determined that a subsequent violation has occurred, the Director shall mail, certified mail, postage prepaid, return receipt requested, a written directive to the owner, operator, manager or other Person, explaining in detail the steps required in order to achieve future compliance and advising that the County may initiate enforcement proceedings pursuant to Chapters 1.12 or 7.20, or pursue such other enforcement as is authorized by law, in the event of a subsequent violation.

4. Upon receipt of a third written complaint regarding the same Person or establishment, the Director may refer the matter to Mono County Code Compliance for further investigation and enforcement pursuant to Chapters 1.12 and/or 7.20, provided that the Code Compliance Division confirms that it has sufficient resources available to process the complaint.

5. Any violation determined by the Code Compliance Division to have occurred following issuance of a Notice of Violation in accordance with Chapter 1.12, shall constitute cause for issuance of an Administrative Citation under that Chapter, except that the amount of the penalty imposed for each violation shall be as set forth in subsection 7.92.080.A. and the hearing officer for any administrative appeal shall be a member of the Board of Supervisors or its designee.

E. The Director, and Code Compliance Specialist if applicable, shall maintain clear and thorough records and logs of all investigations and communications made in relation to every written complaint filed with the Public Health Department pursuant to this section.

OFFICE OF THE CLERK
OF THE BOARD OF SUPERVISORS

REGULAR AGENDA REQUEST

Print

MEETING DATE April 10, 2018

TIME REQUIRED

SUBJECT Closed Session--Human Resources

PERSONS APPEARING BEFORE THE BOARD

AGENDA DESCRIPTION:

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

CONFERENCE WITH LABOR NEGOTIATORS. Government Code Section 54957.6. Agency designated representative(s): Stacey Simon, Leslie Chapman, Dave Butters, Janet Dutcher, and Anne Larsen. 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.

RECOMMENDED ACTION:

FISCAL IMPACT:

CONTACT NAME:
PHONE/EMAIL: /

SEND COPIES TO:

MINUTE ORDER REQUESTED:

☐ YES ☑ NO

ATTACHMENTS:

Click to download
No Attachments Available

History

Time	Who	Approval

OFFICE OF THE CLERK
OF THE BOARD OF SUPERVISORS

REGULAR AGENDA REQUEST

Print

MEETING DATE April 10, 2018

TIME REQUIRED

SUBJECT Closed Session: Workers' Compensation

PERSONS APPEARING BEFORE THE BOARD

AGENDA DESCRIPTION:

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

CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION. Subdivision (a) of Government Code section 54956.9. Name of case: Worker's compensation claim of Mark Hanson.

RECOMMENDED ACTION:

FISCAL IMPACT:

CONTACT NAME:

PHONE/EMAIL: /

SEND COPIES TO:

MINUTE ORDER REQUESTED:

☐ YES ☑ NO

ATTACHMENTS:

Click to download
No Attachments Available

History

Time	Who	Approval
4/5/2018 9:48 AM	County Administrative Office	Yes
4/5/2018 10:33 AM	County Counsel	Yes
4/5/2018 9:35 AM	Finance	Yes

OFFICE OF THE CLERK
OF THE BOARD OF SUPERVISORS

REGULAR AGENDA REQUEST

Print

MEETING DATE April 10, 2018

Departments: CAO, County Counsel, Community Development, Public Health, Economic Development,

TIME REQUIRED 1 hour

SUBJECT Cannabis Regulatory Package - Workshop on Remaining Policy Questions

PERSONS APPEARING BEFORE THE BOARD Tony Dublino

AGENDA DESCRIPTION:

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

Presentation by Tony Dublino regarding final policy questions and options on the regulation of commercial cannabis in Mono County.

RECOMMENDED ACTION:

Consider policy questions and options, and provide direction to staff on the final regulatory package to be presented for adoption.

FISCAL IMPACT:

None.

CONTACT NAME: Tony Dublino

PHONE/EMAIL: 760.932.5415 / tdublino@mono.ca.gov

SEND COPIES TO:

MINUTE ORDER REQUESTED:

☑ YES ☐ NO

ATTACHMENTS:

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Staff Report

History

Time	Who	Approval
4/5/2018 1:56 PM	County Administrative Office	Yes
4/5/2018 12:34 PM	County Counsel	Yes

4/5/2018 2:22 PM	Finance	Yes

County of Mono

County Administrative Office

Leslie L. Chapman
County Administrative Officer

Tony Dublino
Assistant County Administrative Officer

Dave Butters
Human Resources Director

Jay Sloane
Risk Manager

Date: April 10, 2018

To: Honorable Board of Supervisors

From: Tony Dublino, Assistant CAO

Subject: Cannabis Regulatory Program Update and Workshop

Recommended Action:
Consider policy questions and options, provide direction to staff on the final regulatory package to be presented at adoption hearings.

Fiscal Impact:
None.

Discussion:
The County had intended to initiate Public Hearings on April 3rd to consider and adopt the proposed Cannabis Regulatory Program, but a necessary Planning Commission meeting on March 22nd was cancelled due to extreme weather and the process was delayed. Despite the unfortunate delay, it presents an opportunity to refine Board direction on the few policy questions that still remain, which will provide for a more streamlined adoption process.

On March 13, the Board provided direction on several policy issues. Since that time, staff has developed language to reflect that direction and included it in the proposed regulations. Nonetheless, there are still areas where the Board's intent is not exactly clear, and areas where staff members disagree on the best approach. Today, those final issues will be discussed so the Board can provide input and direction prior to the Public Hearing and introduction of the ordinance.

1. **Cannabis deliveries**. This refers to all potential types of cannabis delivery businesses – including delivery businesses that do not have a retail storefront, and/or a retail cannabis business that offer delivery in conjunction with a retail storefront operation. The proposed language in Chapter 5.60 would ban all types of cannabis delivery:

All sales and dispensing of cannabis and cannabis products shall be conducted in-person and entirely within the licensed premises of the cannabis retailer. The delivery of any cannabis or cannabis products to a consumer is prohibited within the unincorporated area of the County.

Additional Information and comments:

- State law and regulations do not ban deliveries. Furthermore, the Type 9-Non-Storefront Retailer license issued by the Bureau of Cannabis Control authorizes licensees to conduct retail cannabis sales exclusively by delivery, provided the licensee has a licensed premises which is a physical

location from which commercial cannabis activities are conducted.

- The Town of Mammoth Lakes Ordinance includes a ban on deliveries.
- From Mono County Public Health: Aside from receiving packages and frozen foods at one's home, deliveries are a rarity in Mono County. Allowing cannabis delivery creates a new and unique service in Mono County, normalizing it for youth. While deliveries are not banned by State law, the Town of Mammoth Lakes has prohibited cannabis delivery services, and prohibition is also recommended by the Public Health Institute.
- From Mono County Economic Development: Jurisdictions which have banned delivery services are finding that underground/black market delivery services are surfacing to meet demand. Lack of control over this service potentially means greater risk for youth access/exposure.

Option 1a: Proceed with language as drafted
Option 1b: Allow cannabis delivery service in conjunction with a cannabis retailer.

2. **On-site consumption**. This refers to all types of on-site consumption of cannabis products, and would include 'taste testing' or 'tasting rooms' where customers could sample products before purchase. This would prohibit on-site consumption (smoked or ingested) on the premises of any cannabis business. The proposed language:

No cannabis shall be smoked, ingested or otherwise consumed on the premises of any cannabis business.

Additional Information and Comments:

- Under State law, a local jurisdiction may allow for the smoking, vaporizing and ingesting of cannabis or cannabis products on the premises of a licensed retailer or microbusiness provided the following are met:
    - Access to the area where cannabis consumption is allowed is restricted to persons 21 years of age and old;
    - Cannabis consumption is not visible from any public place or nonage-restricted area; and
    - Sale or consumption of alcohol or tobacco is not allowed on the premises.
- The Town of Mammoth Lakes ordinance bans on-site consumption in retail locations.
- From Mono County Public Health: This policy is recommended by the Public Health Institute. Allowing cannabis use at retail shops may expose employees to secondhand smoke, and as edible products take longer to process, may increase rates of impaired driving.
- From Mono County Economic Development: the absence of a legal, controlled location in which to smoke or consume cannabis products may inadvertently increase the incidence of smoking illegally in public spaces (parks, campgrounds, trails, backroads, parking lots, etc.). This situation potentially creates a greater risk of cannabis visibility and exposure to youth and to the general public.

Option 2a: Proceed with language as drafted
Option 2b: Allow for the on-site consumption of cannabis in specified areas of cannabis businesses.

3. **Specialized Business Model** would restrict cannabis retailers to selling only cannabis and cannabis-related products and accessories (no clothing, hats, etc.). Mono's proposed language is:

A permittee shall be a specialized business, which only sells cannabis, cannabis products, and cannabis accessories. Cannabis and cannabis products must be produced and distributed by persons licensed in the State.

Additional Information and Comments:

- Under State law and regulation, a retailer may sell non-cannabis products on a licensed premises if the licensee remains in compliance with any local regulations related to those products. This excludes alcohol and alcohol products and tobacco and tobacco products from sale at any license

premises.

- The Town of Mammoth Lakes ordinance includes a ban on some products such as those attractive to children or youth, those exceeding potency limits, those including additives such as nicotine, caffeine, or alcohol, and/or those including hazardous food. It does not include a ban on other non-cannabis items such as clothing.
- From Mono County Public Health: The Public Health Institute recommends a specialized business model in which only cannabis and cannabis accessories are sold. Selling additional items such as branded merchandise allows for walking advertising in the community and normalization of cannabis for youth.
- From Mono County Economic Development: The prohibition on selling t-shirts, hats, stickers, etc. seems to be an excessive restriction for small business, and is not a state regulation nor included in the TOML ordinance.

Option 3a: Proceed with language as drafted.
Option 3b: Allow for the sale of non-cannabis items (such as clothing, hats, etc.)

4. **Flavored cannabis.** Mono's proposed language prohibits the sale of flavored smokable cannabis whether the added flavor is natural or artificial. Applicable sections of Mono's proposed ordinance include:

(Definitions)
"Characterizing flavor" means a distinguishable taste or aroma, created by adding any natural or artificial flavor, before or after harvest, other than the taste or aroma of cannabis, imparted by cannabis or a cannabis product when smoked including, but not limited to, tastes or aromas relating to any fruit, chocolate, vanilla, honey, candy, dessert, alcoholic beverage, menthol, mint, wintergreen, herb, nut or spice.

"Flavored cannabis" or "Flavored cannabis product" means any cannabis or cannabis product that imparts a characterizing flavor when smoked or vaped.

(Prohibitions)
Cannabis retailers are prohibited from selling and advertising for sale the following:
Flavored cannabis or cannabis products for inhalation.

Additional Information and Comments:

- State law does not prohibit the sale of flavored smokable cannabis or flavored smokable cannabis products.
- The Town of Mammoth Lakes ordinance does not prohibit the sale of flavored cannabis products.
- From Mono County Public Health: The Public Health Institute recommends banning flavored smokable cannabis products as these products are particularly attractive to youth. Prohibition of added flavor does not include the natural flavors produced by terpenes in cannabis, but rather flavor that is added either before or after harvest to mask the natural taste of cannabis. Flavored smokable cannabis includes flavored cannabis flower, combustibles, and vaping liquids, but does not include edible products such as tinctures and baked goods.
- From Mono County Economic Development: flavored smokable products are a typical part of cannabis retail merchandise and sales revenue. This prohibition is neither state law nor in the TOML ordinance.

Option 4a: Proceed with language as drafted.
Option 4b: Allow for the sale of flavored cannabis products
Option 4c: Restrict the definition of 'flavor' to those flavors attractive to youth.

5. **Cultivation cap and application review process**. Following Board direction, staff discussed various approaches to prioritization. Due to the inherent challenges with any subjective evaluation,

staff is recommending the following as an initial approach (that could be amended in time, as necessary) The proposed language is described as follows:

5.60.060 Limit on the number of Cannabis Operation Permits for cultivation; selection process

- *There will be a limit of 10 cultivation permits.*
- *Applications must be hand-delivered to the Mammoth Community Development office.*
- *Applications will be date stamped and initialed at the time they are received.*
- *Applications for cultivation permits will be processed in the order in which they are received, commencing on the date the ordinance takes effect.*
- *After it has been date stamped, if an application for a cultivation permit is determined to be less than substantially complete (i.e., if a required application component is missing or clearly inadequate), the applicant will be notified of the deficiency and will have ten days to submit the missing information or component without affecting the date-stamp priority. This notification may be given more than once (i.e., anytime staff requires additional information) and each time the applicant will have ten days to correct without affecting priority.*
- *Should the applicant fail to complete the application within ten days after any notice of deficiency, the application will be rejected and must be re-submitted. Upon resubmittal, it will be given a new date stamp and therefore lose its position in line.*
- *Application denials, or failure to correct incomplete applications within the time provided, will result in the next-received application entering the processing system.*

Option 5a: Proceed with language as drafted.
Option 5b: Develop an alternative evaluation method following, approval of regulations, and bring back to Board for approval at the earliest opportunity.

6. **Effect of criminal convictions**. The draft ordinance contains the following language pertaining to grounds for denying a permit as well as requirements for operating a commercial cannabis business. These provisions would apply to all permittees, owners, supervisors and employees:

5.60.080 (E)(2) *- (Grounds for denial of a permit)*

Any applicant, property owner, supervisor or employee has been convicted of a felony or a drug related misdemeanor reclassified by Section 1170.18 of the California Penal Code (Proposition 47) within the past ten (10) years unless the Approving Authority determines that the conviction is not substantially related to the operation for which a permit is sought and/or that sufficient evidence of rehabilitation has been provided. A conviction within the meaning of this section means a plea or verdict of guilty or a conviction following a plea of nolo contendere.

5.60.120 (A)(25) *– (Operating Requirements)*

No property owner, supervisor or employee may have been convicted of a felony or a drug related misdemeanor reclassified by Section 1170.18 of the California Penal Code (Proposition 47) within the past ten (10) years unless the Approving Authority determines that the conviction is not substantially related to the operation for which a permit is sought and/or that sufficient evidence of rehabilitation has been provided. A conviction within the meaning of this section means a plea or verdict of guilty or a conviction following a plea of nolo contendere.

Additional Information and Comments:

- Under State law, applicants and owners are required to submit a complete list of criminal convictions, excluding juvenile adjudications and traffic infractions, along with a statement of rehabilitation for each conviction. Applicants and owners are also required to submit a copy of their completed application for electronic fingerprint images submitted to the Department of Justice. The State, to determine whether to issue a license to an applicant who has been convicted of a criminal offense that is substantially related to the qualifications, functions, or duties of the business for which the application is made, will conduct a review of the nature

of the crime, conviction, circumstances, and evidence of rehabilitation. The State does not make these requirements applicable to employees of licensed businesses.

- From the Mono County Sheriff: Employees should be included among those for whom a background check is required for security and safety reasons.
- From the Mono County Counsel: There are provisions in the California Labor Code which prohibit employers (but not the County as a permitting agency) from inquiring into and/or making employment decisions based on certain types of criminal history. Public comment received by the Board indicated that requiring criminal background checks of employees would put cannabis businesses, as employers, in a difficult situation by forcing them to inquire into and/or make hiring decisions based on criminal background history. However, many other jurisdictions require employee background checks as recommended by the Sheriff, suggesting that cannabis businesses have been able to conform to these requirements without violating state law. Nevertheless, options 6b and 6c propose alternatives to mitigate the issue – 6b being a more narrowly tailored approach and 6c being more broad.

Option 6a: Leave language as is.
Option 6b: Modify language to exclude convictions described in Labor Code §§ 432.7 & 432.8 as to employees only.
Option 6c: Remove employees from the list of persons for whom a criminal background check is required.

7. **Warning Signs at Retail locations**. At the last cannabis workshop, there was discussion regarding protections built into the ordinance for pregnant and lactating women. As media plans can be expensive and unsustainable, the concept of a warning sign has been introduced as a recommendation for the ordinance. A warning sign would provide free education to customers at every visit. The following language has been introduced for the Board's consideration. Mono's current proposed language:

5.60.120 *Commercial cannabis operating requirements.*

Posting of a warning sign shall be the responsibility of the permittee in cooperation with the Mono County Public Health Department. Retailers must display a warning sign in a prominent location within the premises with letters of not less than one-half inch in height, and must clearly state the following information:

WARNING

Are you pregnant or breastfeeding? *According to the U.S. Centers for Disease Control (CDC), marijuana use during pregnancy can be harmful to your baby's health, including causing low birth weight and developmental problems.*

Driving while high is a DUI. *Marijuana use increases your risk of motor vehicle crashes.*

Not for Kids or Teens! *Starting marijuana use young or using frequently may lead to problem use and, according to the CDC, may harm the developing teen brain.*

Marijuana use may be associated with ***greater risk of developing schizophrenia*** *or other psychoses. Risk is highest for frequent users.*

Smoking marijuana long-term may ***make breathing problems worse****.*

Mono County Ordinance Chapter 5.60.120

Option 7a: Proceed with language as drafted.
Option 7b: Modify or remove the language at the Board's discretion.

If you have any questions regarding this item, please contact me at (760) 932-5415.

Respectfully submitted,

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Assistant CAO