

# Agenda



## County of Inyo Board of Supervisors

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

**NOTICE TO THE PUBLIC:** This meeting is accessible to the public both in person and via Zoom webinar. Individual Board members may participate remotely in accordance with applicable open meeting law requirements. In-person meetings will be conducted in accordance with local and State Department of Public Health orders and guidance and requirements of the California Division of Occupational Safety and Health (CalOSHA).

The Zoom webinar is accessible to the public at <https://zoom.us/j/868254781>. The meeting may also be accessed by telephone at the following numbers: (669) 900-6833; (346) 248-7799; (253) 215-8782; (929) 205-6099; (301) 715-8592; (312) 626-6799. Webinar ID: 868 254 781.

Anyone unable to attend the Board meeting in person who wishes to make either a general public comment or a comment on a specific agenda item prior to the meeting, or as the item is being heard, may do so either in writing or by utilizing the Zoom "hand-raising" feature when appropriate during the meeting (the Chair will call on those who wish to speak). Generally, speakers are limited to three minutes. Written public comment, limited to **250 words or less**, may be emailed to the Assistant Clerk of the Board at [boardclerk@inyocounty.us](mailto:boardclerk@inyocounty.us). Your comments may or may not be read aloud, but all comments will be made a part of the record. Please make sure to submit a separate email for each item that you wish to comment upon.

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

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

### **June 28, 2022 - 10:00 A.M.**

1. **PLEDGE OF ALLEGIANCE**
2. **PUBLIC COMMENT** (Comments may be time-limited)
3. **COUNTY DEPARTMENT REPORTS**

**CONSENT AGENDA** (Items that are considered routine and are approved in a single motion; approval recommended by the County Administrator)

4. **County Administrator - Library** - Request Board authorize payment of Inyo County Free Library's portion of the Inland Library System pension liability in an amount not to exceed \$17,500.
5. **Health & Human Services** - Request Board ratify and approve Amended Grant Agreement Number 17-10320 A03 between the County of Inyo and the California Department of Public Health, increasing the grant by \$1,143,226.00 to an amount not to exceed \$1,377,124 for the period July 1, 2021 to June 30, 2022, and authorize the Assistant HHS Director to sign.

6. **Health & Human Services - Behavioral Health** - Request Board approve the contract between the County of Inyo and Anne Sippi Clinic Treatment Group of Bakersfield, CA for the provision of residential placement for adults conserved under the Lanterman Petris Short Act, in an amount not to exceed \$81,000 for the period of July 1, 2022 through June 30, 2023, contingent upon the Board's approval the Fiscal Year 2022-2023 Budget, and authorize the Chairperson to sign the contract and HIPAA Business Associate Agreement, contingent upon all appropriate signatures being obtained.
7. **Health & Human Services - Behavioral Health** - Request Board approve the agreement between the County of Inyo and Bakersfield Behavioral Healthcare Hospital, LLC of Bakersfield, California for the provision of psychiatric inpatient services in an amount not to exceed \$50,000 for the period of July 1, 2022 through June 30, 2023, contingent upon the Board's approval of the Fiscal Year 2022-2023 Budget, and authorize the Chairperson to sign, contingent upon all appropriate signatures being obtained.
8. **Health & Human Services - Behavioral Health** - Request Board: A) declare The SmithWaters Group of Sacramento, CA a sole-source provider of Mental Health Patients' Rights Advocacy; B) approve the agreement between the County of Inyo and The SmithWaters Group for the provision of Mental Health Patients' Rights Advocacy in an amount not to exceed \$21,600 for the period of July 1, 2022 through June 30, 2023, contingent upon the Board's approval of the Fiscal Year 2022-2023 Budget; and C) authorize the Chairperson to sign the contract and HIPAA Business Agreement, contingent upon all appropriate signatures being obtained.
9. **Health & Human Services - Behavioral Health** - Request Board: A) declare I.D.E.A. Consulting of Davis, CA a sole-source provider of consulting services; B) approve the contract between the County of Inyo and I.D.E.A. Consulting for the provision of consulting services, in an amount not to exceed \$15,000 for the period of July 1, 2022 through June 30, 2023, contingent upon the Board's approval of the Fiscal Year 2022-2023 Budget; and C) authorize the Chairperson to sign the contract and HIPAA Business Associate Agreement, contingent upon all appropriate signatures being obtained.
10. **Probation** - Request Board approve Amendment No. 4 to the Agreement between the County of Inyo and the County of Tuolumne to extend the Agreement from July 1, 2022 to June 30, 2023 with the daily rate per youth placed at the Mother Lode Regional Juvenile Detention Facility at \$175.00 per day with a guarantee of one (1) bed at the Tuolumne Juvenile Hall and \$210.00 per day for every subsequent bed used by Inyo County, contingent upon the Board's approval of the Fiscal Year 2022-2023 Budget, and authorize the Chairperson and Chief Probation Officer to sign.
11. **Public Works** - Request Board:
  - A) Declare Flight Tech, Inc. of Englewood, CO a sole-source provider of flight procedure design services;
  - B) Approve the Master Service Agreement between the County of Inyo and Flight Tech, Inc. of Englewood, CO for the provision of flight procedure design services for the period beginning June 30, 2022 and ending when terminated as defined in Article 8, contingent upon the Board's approval of future budgets, and authorize the Chairperson to sign, contingent upon all appropriate signatures being obtained; and
  - C) Approve the Memorandum of Understanding (MOU) with Mammoth Lakes Tourism and authorize the Chairperson to sign.



12. **Veterans Service Office** - Request Board authorize the Chairperson to sign the California Department of Veterans Affairs Annual Medi-Cal Cost Avoidance Program Certificate of Compliance for Fiscal Year 2022-2023 and the California Department of Veterans Affairs Annual Subvention Certificate of Compliance for Fiscal Year 2022-2023.

**DEPARTMENTAL** (To be considered at the Board's convenience)

13. **County Administrator - Advertising County Resources** - Request Board receive Inyo County Film Commissioner Chris Langley's annual written report on local filming activity.
14. **Board of Supervisors** - Request Board approve and authorize the Chairperson to sign a letter supporting Mammoth Lakes Trails and Public Access Foundation's grant application for funding to support the Eastern Sierra Sustainable Recreation Partnership.
15. **Water Department** - Request Board adopt the 2022-2023 Fiscal Year Lower Owens River Project Annual Work Plan, implementation of which is contingent on approval by the Los Angeles Board of Water and Power Commissioners.
16. **Clerk of the Board** - Request Board approve the minutes of the regular Board of Supervisors meetings of June 7, June 14, and June 21, 2022.

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

- 10:15 A.M. 17. **Clerk of the Board** - Request Board: A) hold public hearing regarding proposed resolution titled, "Resolution of the Inyo County Board of Supervisors, in its role as the local Board of Equalization, Approving Assessment Appeals Local Rules," and B) approve the resolution and authorize the Chairperson to sign.
- 10:20 A.M. 18. **Board of Supervisors - Supervisor Griffiths** - Request Board receive a presentation from Doug McAllister, Vice President of External Affairs for Frontier Communications, on the company's infrastructure upgrade project in the Bishop area.

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

19. ***PUBLIC COMMENT*** (*Comments may be time-limited*)

**BOARD MEMBERS AND STAFF REPORTS**



# County of Inyo



## County Administrator - Library

### CONSENT - ACTION REQUIRED

**MEETING:** June 28, 2022

**FROM:** Nancy Masters

**SUBJECT:** Approval of Payment of Inland Library System Pension Obligation

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**RECOMMENDED ACTION:**

Request Board authorize payment of Inyo County Free Library's portion of the Inland Library System pension liability in an amount not to exceed \$17,500.

**SUMMARY/JUSTIFICATION:**

Inyo County Free Library has been a member of Inland Library System (ILS), a cooperative system of libraries in Southern California, since before 1974. Inland Library System members receive the benefit of California Library Services Act funds that provide services such as subscriptions to e-materials and resource sharing. Through the many years of membership, Inyo County Free Library has received extensive benefits. There are currently 19 libraries that are ILS members.

In 1977, the eleven member libraries, including Inyo, entered into a joint powers agreement that enabled ILS to conduct its own affairs. In 1978, ILS requested that its employees be included in the San Bernardino County retirement system, now known as SBCERA. During those years, nine ILS employees were part of SBCERA. With the retirement of the last employee in 2019, SBCERA informed ILS in 2020 that a pension obligation of \$2,506,253.03 was due. After seeking legal advice and much discussion, ILS agreed to pay the pension obligation, which is allocated proportionally according to population and year of membership. Inyo County Free Library's obligation is now \$17,007.93. The request is to approve up to \$17,500.

**BACKGROUND/HISTORY OF BOARD ACTIONS:**

**ALTERNATIVES AND CONSEQUENCES OF NEGATIVE ACTION:**

It is recommended that your Board approve the payment of the Inland Library System pension obligation. If Inyo County Free Library does not pay its share of the cost, Inland Library System will likely be subject to litigation. This would involve each library that is a member of Inland Library System.

**OTHER AGENCY INVOLVEMENT:**

Auditor-Controller, County Counsel, Senior Budget Analyst

**FINANCING:**

Funds have been identified as a result of salary and other savings in the Library's Fiscal Year 2021-2022 budget. There are sufficient funds in the Library Budget 066700, in Other Agency Contribution (5539) to cover this expense.

**ATTACHMENTS:**

1. San Bernardino County Employees' Retirement Association letter
2. Inyo Board of Supervisors Resolution No. 1977-63
3. Inland Library System Joint Powers Agreement - 1977
4. Inland Library System Retirement Resolution - 1978
5. San Bernardino County Employees' Retirement Association Resolution No. 2021-3

**APPROVALS:**

Nancy Masters	Created/Initiated - 6/22/2022
Darcy Ellis	Approved - 6/23/2022
Leslie Chapman	Approved - 6/23/2022
John Vallejo	Approved - 6/23/2022
Amy Shepherd	Final Approval - 6/23/2022



San Bernardino County Employees' Retirement Association

348 W. Hospitality Lane, Suite 100  
San Bernardino, CA 92408  
P: 909.885.7980

May 26, 2022

Inland Library System  
c/o Michael Jimenez  
San Bernardino County  
777 East Rialto Avenue  
San Bernardino, CA 92415

Re: Termination Payments

Dear Mr. Jimenez:

In connection with the termination of Inland Library System (system), a total of \$748,966.68 is currently due SBCERA for the system's terminal funding obligation. This updated amount includes interest on all amounts not received as of May 26, 2022. Any outstanding portion will continue to accrue interest at 6.75% per annum. As a participating employer, the system is responsible to pay this obligation. All members of the system are jointly and severally liable for the terminal funding obligation.

According to the system, the intent is to divide the liability accordingly:

Revised Portion, with Interest

Inyo County Free Library	\$ 17,007.93
Riverside County Library System	364,113.18
Unassigned Riverside County Amt	319,127.43
<b>OUTSTANDING LIABILITY</b>	<b>\$700,248.54</b>

SBCERA is indifferent as to how the payment is divided within the membership of Inland Library System – the entire obligation must be paid before any individual member agency is released of Inland Library System's liability. Payments may be sent individually or through the system's financial agent.

Any payments received after May 26, 2022, will be subject to additional interest according to SBCERA General Policy No. 020 – Participating Employer Termination and Terminal Funding Obligation. This policy can be found on our website for your use.

For electronic payments, you may use the following information:

Beneficiary Name:	SBCERA
Beneficiary's Bank:	Citizen's Business Bank, Ontario CA
ABA:	122234149
Beneficiary Acct:	238123208
OBI Text:	ILS Termination Payment

**SBCERA staff has been directed by our Board to pursue any and all legal remedies to collect on the obligations due from the system. We hope that will be unnecessary, and that the system will make its payments as it is obligated to do.**

Sincerely,



Amy McInerney  
Chief Financial Officer, SBCERA

RESOLUTION 77-63

WHEREAS, it is in the public interest for the Inyo County Free Library to participate in the Inland Library System; and

WHEREAS, The County must enter into the JOINT POWERS AGREEMENT (which is attached hereto and incorporated herein by reference) in order to participate in the Inland Library System;

NOW, THEREFORE, BE IT RESOLVED that the attached JOINT POWERS AGREEMENT is hereby approved; and

BE IT FURTHER RESOLVED that the Chairman of this Board is hereby authorized to sign said JOINT POWERS AGREEMENT indicating this Board's approval of the terms and conditions therein contained.

Passed and approved this 19th day of April, 1977.

ATTEST:

Margaret Bromley, Clerk

By [Signature]  
Deputy

BOARD OF SUPERVISORS

Public Library

City of Inyo

California

Secretary: [Signature] ZLS (12)

Date: 4-20-77

file

"The foregoing Resolution 77-63 was duly passed and adopted by the Board of Supervisors at a regular meeting held on April 19, 1977 at 19:22.

ATTEST: [Signatures]  
NOES: None  
ABSENT: None

Attest: [Signature]  
Chairman

[Signature] Dep. Clerk

AGREEMENT FOR THE JOINT EXERCISE OF  
POWERS RELATIVE TO THE  
INLAND LIBRARY SYSTEM

This Joint Powers Agreement, made under the provisions of Article 1, Chapter 5, Division 7, Title 1, of the Government Code (Section 6500 et seq.) entered into and effective this 28th day of June, 1977, by and between the COUNTY OF SAN BERNARDINO on behalf of the San Bernardino County Free Library, hereinafter referred to as "San Bernardino County", the CITY OF COLTON, on behalf of the Colton Public Library, hereinafter referred to as "Colton", the CITY OF CORONA, on behalf of the Corona Public Library, hereinafter referred to as "Corona", the CITY OF HEMET, on behalf of the Hemet Public Library, hereinafter referred to as "Hemet", the COUNTY OF INYO, on behalf of the Inyo County Free Library, hereinafter referred to as "Inyo", the CITY OF ONTARIO, on behalf of the Ontario City Library, hereinafter referred to as "Ontario", the CITY OF PALM SPRINGS, on behalf of the Palm Springs Public Library, hereinafter referred to as "Palm Springs", the PALO VERDE VALLEY LIBRARY DISTRICT, on behalf of the Palo Verde Valley District Library, hereinafter referred to as "Palo Verde", the CITY OF RIVERSIDE, on behalf of the Riverside City and County Public Library, hereinafter referred to as "Riverside", the CITY OF SAN BERNARDINO, on behalf of the San Bernardino Public Library, hereinafter referred to as "San Bernardino Public", and the CITY OF UPLAND, on behalf of the Upland Public Library, hereinafter referred to as "Upland".

WITNESSETH:

WHEREAS, the Board of Supervisors of the County of San Bernardino did on January 18, 1966, enter into a Joint Powers Agreement with the City of Colton and formed a cooperative Library System under the provisions of the Public Library Development Act of 1963, Chapter 1.5, Division 20, Part 4, of the California Education Code (Section 27111 et seq.) in order to extend and improve their respective overall services standards; and

WHEREAS, the other cities, counties, and district listed above did subsequently enter into the March 27, 1967, Agreement and its amendments of December 18, 1967, and May 4, 1970, to join and participate in a cooperative library system similar to that originally formed by the City of Colton and the County of San Bernardino; and

WHEREAS, each city, or governmental group represented, party to this Agreement, desires to form such a cooperative library system to be known as the "Inland Library System"; and

WHEREAS, the Librarians of the various libraries have developed and agreed upon a plan of library service necessitating cooperation among said libraries; and

WHEREAS, all parties wish to clarify and reallocate the duties, functions, and responsibilities for the operation of the system; and



WHEREAS, said public agencies are authorized to contract with each other for the joint exercise of any common power;

NOW, THEREFORE, the San Bernardino County Library and the aforementioned libraries in consideration of their mutual promises and the provisions hereinafter stated and the performance thereof and for other valuable and adequate considerations, agree as follows:

1. EFFECT OF AGREEMENT: This Agreement shall be a novation of the agreement entitled "Joint Powers Agreement Between the County of San Bernardino, the City of Colton, the City of Upland and the City of San Bernardino" (dated March 27, 1967) and the "First Amendment" (dated December 18, 1967) and "Second Amendment (dated May 4, 1970) thereto. There is hereby created the Inland Library System, also hereinafter called "the SYSTEM", comprised of the parties to the Agreement. The System hereby created is, through its agencies and trustees, successor to all rights and liabilities of the System as it was previously constituted pursuant to the former agreements. This Agreement shall become binding upon its ratification by all parties. The effective date of this agreement shall be the date the last party to this agreement executed the same and shall be inserted in the appropriate blanks in the first sentence of this Agreement.
2. PURPOSE OF THE AGREEMENT: The purpose of this Agreement is to form a cooperative library system hereinafter known as the "Inland Library System" or "SYSTEM" to improve and coordinate the public library functions of the parties. The SYSTEM shall perform cooperative library functions as necessary to fulfill this purpose including, but not limited to the following:
  - (a) Reception of monies under Chapter 1.5 of Division 20 of Part 4 of the Education Code of California as the same may be amended from time to time.
  - (b) Reception of benefits under the Federal Property and Administration Services Act of 1949, as amended and as the same may be amended from time to time.
  - (c) Reception of such other monies and benefits as the SYSTEM is eligible to receive.
  - (d) Coordination of reference and research services.
  - (e) Providing for interavailability of books, films, information and materials among all service outlets of the parties of

this Agreement.

- (f) Coordination of interchangeable borrowing privileges among libraries of the parties.
  - (g) Providing for cooperative in-service training, cooperative public relations, and cooperative assistance and guidance in adult, young adult, and children's services through workshops and similar programs.
  - (h) Making applications and contracts for grants from public or private entities to carry out the purposes of the SYSTEM.
  - (i) Coordination of book orders and periodical subscriptions as seem feasible.
  - (j) Undertaking other cooperative library projects which may be recommended by a majority of the Executive Council of the SYSTEM.
3. POWER OF THE SYSTEM: The Inland Library System shall have all powers, prerogatives, and authority necessary to effectively plan, operate, and administer a public library system and to establish, improve, and extend library services within the geographic boundaries of the SYSTEM. The INLAND LIBRARY SYSTEM shall do whatever is necessary to carry out the purposes of this Agreement and shall make and enter into such contracts, incur such debts and obligations, receive contributions from its members, and perform such other acts as are necessary to the accomplishment of the purposes of this Agreement. The INLAND LIBRARY SYSTEM shall constitute a separate public entity pursuant to the provisions of Government Code Section 6507. The Executive Council, or such administrative officer as it may from time to time appoint, may administer and exercise this power pursuant to the rules and regulations as adopted in the manner set out hereafter.
4. COMMON POWERS: The common powers to be exercised pursuant to this Agreement are the powers of each party to provide public library services, and the common powers shall be exercised so as to establish, aid, assist, extend, improve, and enlarge public library services in the territorial jurisdiction of each of the parties.
5. GOVERNING BODY OF SYSTEM: The INLAND LIBRARY SYSTEM will be administered by an Executive Council consisting of the Head Librarian of each member or such other person as has been designated by the governing body of such member. Governing bodies of Council members may designate alternates to sit, deliberate, and act in the absence of the appointed Council

member. The Council will elect one of its members as Chairman, who shall hold office for a one-year term. Said term shall be for the operating year. The Chairman, or the designated alternate, shall preside over all meetings of the Council. The Council shall draw up rules and regulations from time to time as they deem advisable. It shall plan and determine the use to be made of any funds received by the SYSTEM from any source and may expend such funds in accordance with such plans and determinations. The Executive Council shall direct and approve the applications for SYSTEM grants. Unless otherwise specified herein, the Executive Council shall act only upon affirmative vote of a majority of its members. The Executive Council shall supervise administration of the SYSTEM, set policy, and shall advise the various agents of the SYSTEM on actions necessary to carry out the purposes of this Agreement.

6. ADMINISTRATION OF THE SYSTEM: Subject to the supervision, policies, and advice of the Executive Council, the SYSTEM shall be administered by the designated agents as follows:
  - (a) Fiscal Agent: San Bernardino County shall act as contracting fiscal agent for the SYSTEM in accordance with provisions of the Government Code, Section 6505.5, hereby incorporated by reference. The role of the fiscal agent may be transferred to another member library upon the decision of the Executive Council and the approval of the State Library.
  - (b) Miscellaneous Agents: The Executive Council with the prior consent of the governing body of the appointee, may from time to time appoint a party hereto to act as agent for the SYSTEM and to administer such aspects of the SYSTEM for such period of time as the Executive Council may specify. Any agent so appointed shall not be required to incur any expense in connection with its agency or administration pursuant to such appointment for which express funds have not been approved in the SYSTEM's budget; however, such agent shall not be reimbursed for expenditures in excess of the amounts budgeted by the SYSTEM for such purposes.
7. ACCOUNTABILITY OF FUNDS/REPORTS OF RECEIPTS AND DISBURSEMENTS/ANNUAL AUDITS: The agreement shall provide for strict accountability of all funds and report of all receipts and disbursements.

The public officer performing the functions of auditor or controller, as determined pursuant to Section 6505.5, shall either make or contract with a certified public accountant or public accountant to make an annual audit of the accounts and records of related accounts of every agency or entity. In each case, the minimum requirements of the audit shall be those prescribed by the State Controller for special districts under Section 26909 of the Government Code and shall conform to generally accepted standards. Where an audit of an account and records is made by a certified public accountant or public accountant, a report thereof shall be filed as public records with each of the contracting parties to the agreement and also with the county auditor of the county in which each of the contracting parties is located. Such report shall be filed within 12 months of the end of the fiscal year under examination. Any costs of the audit, including contracts with, or employment of, certified public accountants or public accountants, in making an audit pursuant to this section shall be borne by the SYSTEM.

8. TITLE OF PROPERTY: Ownership of items purchased with SYSTEM funds shall be in the SYSTEM or in member libraries as the Executive Council may in each instance determine. The Executive Council may direct any party to this Agreement to acquire or transfer possession and title to personal property acquired with SYSTEM funds.
9. PROTECTION OF PROPERTY: Any party who is entrusted with SYSTEM property or SYSTEM funds shall provide an official bond or a public employees' fidelity bond in an amount satisfactory to the Executive Council, unless this requirement for such bond is waived by the Executive Council. Additionally, each party with title to SYSTEM property shall have that property included in the coverage schedule of its public and institutional property damage insurance policy. Each party entrusted with SYSTEM property shall be charged with the duty of its day-to-day maintenance. The decision to repair or replace seriously damaged or destroyed property shall be left to the discretion of the Executive Council.
10. OBLIGATION TO ACCEPT SERVICE: It is understood and agreed between the parties hereto, that SYSTEM-wide programs shall be accepted by each party. Each party shall have an affirmative obligation to cooperate in the performance and execution of all SYSTEM-wide programs and SYSTEM policies.
11. ADMINISTRATION OF MEMBER LIBRARIES: The member libraries shall administer their own public libraries independently, selecting their own books,

hiring their own personnel, and operating according to the policies and rules established by their own governing bodies.

12. NEW MEMBERS: Upon approval by majority vote of the total voting members of the Executive Council of said SYSTEM, any public entity shall be permitted to join the Inland Library System upon its execution of the said Joint Powers Agreement, and its further agreement to the Plan of Service as agreed upon by all parties to said Joint Powers Agreement; provided, however, that said permission as to joinder to the SYSTEM shall be contingent upon the State of California funds for a Public Library Services System Grant being approved by the State Librarian or contingent on the provision by said applicant public entity to said Inland Library System of an amount of money equal to the proposed Public Library Services System Grant, which is available at the time of said public entity's application for joinder to said SYSTEM.
13. LIABILITY ON SYSTEM CONTRACTS: If an unfavorable judgment is rendered and becomes final against a party to this Agreement upon a contractual obligation properly undertaken by said party as agent for the SYSTEM, then all parties to this Agreement shall contribute towards satisfaction of said judgment in proportion to the population served by each party to the total population served by the SYSTEM, not to exceed ILS resources.
14. LIABILITY FOR OTHER OCCURRENCES: Except as provided in Paragraph 13. above, each party to this Agreement, whether individually or collectively, does not assume, nor shall any party be deemed to assume, liability for:
  - (a) Any act or omission of any one party to this Agreement in performance of this Agreement; or
  - (b) The payment of worker's compensation as indemnity to officers, agents, or employees of any one party to this Agreement for injury or illness arising out of performance of this Agreement.

Notwithstanding the provision of Government Code sections 895 et seq., regarding contribution or indemnification, each member to this Agreement, for its own negligent or wrongful acts or omissions in the performance of this Agreement, and in this regard each party hereto agrees to defend and hold each and every other party to this Agreement, its officers, agents and employees, harmless from any and all claims, demands, causes of action, liabilities or losses arising out of or because of any acts done or omitted to be done by any member to this Agreement in performance of this Agreement.

15. AUTHORITY TO CONTRACT FOR GOODS AND SERVICES: Any party hereto desiring to contract with any public or private entity or individual for any goods or services to be paid for in whole or in part, either directly or by way of reimbursement to such party, with SYSTEM funds shall obtain

the approval of the Executive Council for any contract involving an expenditure of SYSTEM funds in an amount of \$500.00 or more. All contracts entered into by the various agents for the SYSTEM shall recite that the agent is acting in behalf of and for the benefit of all parties to this Agreement.

16. WITHDRAWAL: Any member library may withdraw from the Inland Library System by serving formal written notice of its intent to so withdraw at least one hundred and twenty (120) days prior to the end of the operating year. The SYSTEM shall continue to exist so long as there are two member libraries, provided that these two meet the requirements of SYSTEM membership. Libraries which withdraw are subject to such procedures governing withdrawal as the Executive Council shall beforehand have established.
17. TERMINATION OF SYSTEM: This library system may be terminated at any time by resolutions of the governing boards of all of the members in this SYSTEM at the time termination is voted. A decision to terminate shall become effective whenever designated in the termination Agreement. Upon termination, all just claims against the SYSTEM shall be paid, distribution made to the State and Federal government as required by applicable law, and the remaining assets distributed among all parties who are then members of the SYSTEM in proportion to the population of each member in relation to the total population of the SYSTEM.

IN WITNESS WHEREOF, each public agency has caused this instrument to be executed by its respective officials as duly authorized by the legislative bodies thereof.

Dated this \_\_\_\_\_ day of DEC 6 1976, 197\_\_

ATTEST: Leona Rapoport  
Clerk of Board of Supervisors

COUNTY OF SAN BERNARDINO

Barbara Hochbaum Deputy

Dennis Hansberger  
Dennis Hansberger, Chairman  
Board of Supervisors

Dated: \_\_\_\_\_, 197\_\_

ATTEST:

CITY OF COLTON

Helen A. Ramos  
City Clerk

Chas E. Belton

Dated: Nov. 1, 1977

Dated: May 27, 1977

ATTEST: Edward J. Rodriguez  
city clerk

CITY OF HEMET

Robert V. Liping Jr.

Dated: April 19, 1977

ATTEST: Margaret Bromley, Clerk  
Conrad Guzman, Deputy

COUNTY OF INYO

Herbert London  
Herbert London, Chairman  
Board of Supervisors

Dated: Paul A. Madhway

ATTEST: M. E. C. C. C.

MAYOR  
CITY OF ONTARIO

Dated: March 18, 1977

ATTEST: Judith Sumich  
JUDITH SUMICH  
DEPUTY CITY CLERK

CITY OF PALM SPRINGS

Russell J. Birch

Dated: JUN 3 1977, 197\_\_



ATTEST:

*Opal M. Ballard, Sec.*

PALO VERDE VALLEY LIBRARY, DISTRICT

*[Signature]*

Dated: March 10, 1977

ATTEST:

*Alice A. Hare*  
City Clerk

CITY OF RIVERSIDE

*[Signature]*  
Mayor

Dated: June 28, 1977

ATTEST:

*[Signature]*  
City Clerk

CITY OF SAN BERNARDINO

*[Signature]*  
Mayor

Dated: March 23, 1977

ATTEST:

*[Signature]*  
City Clerk

CITY OF UPLAND

*[Signature]*  
Mayor

Dated: July 25, 1977

ATTEST:

*[Signature]*  
City Clerk

CITY OF CORONA

*[Signature]*  
Mayor

Dated: June 17, 1977

APPROVED AS TO FORM  
*[Signature]*  
ASSISTANT CITY ATTORNEY

INLAND LIBRARY SYSTEM  
RESOLUTION NO. 001-78

A RESOLUTION OF THE EXECUTIVE COUNCIL OF THE INLAND LIBRARY SYSTEM REQUESTING THAT THE EMPLOYEES OF THE INLAND LIBRARY SYSTEM BE INCLUDED IN THE SAN BERNARDINO COUNTY RETIREMENT SYSTEM EFFECTIVE JULY 1, 1978.

WHEREAS, the Inland Library System is a separate public entity pursuant to the provisions of Government Code, Section 6507; and

WHEREAS, the Executive Council has assumed the powers of administration and operation of the System and desires that its employees be employees of the System; and

WHEREAS, the Board of Supervisors of San Bernardino County did agree to provide certain employee benefits to Inland Library System employees in action taken at their regular meeting on April 24, 1978; and

WHEREAS, the Executive Council desires that its employees receive the benefits of membership in the San Bernardino County Employees Retirement System;

NOW, THEREFORE, BE IT RESOLVED, that the Executive Council of the Inland Library System hereby requests that the Board of Retirement approve the inclusion of the Inland Library System in the San Bernardino County Employees Retirement System effective July 1, 1978.

PASSED, APPROVED AND ADOPTED THIS eleventh day of May, 1978.

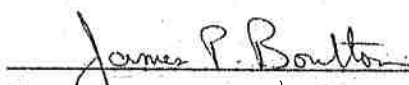
AYES: Martine Hornburg, Colton  
Cynthia Dee, Corona  
James Boulton, Hemet  
Jay Ector, Inyo  
James Housel, Ontario  
Catherine Lucas, Riverside  
Barbara Anderson, San Bernardino County  
Stephen Whitney, San Bernardino Public  
Linda Yao, Upland

NOES: None

ABSENT: Henry Weiss, Palm Springs  
Alice Rosenberger, Palo Verde

ATTEST:

  
Secretary

  
James P. Boulton, Chairperson  
Inland Library System Executive Council

## **SBCERA Resolution No. 2021-3**

### **RESOLUTION OF THE BOARD OF RETIREMENT DEEMING INLAND LIBRARY SYSTEM AS A WITHDRAWN EMPLOYER FROM THE SAN BERNARDINO COUNTY EMPLOYEES' RETIREMENT ASSOCIATION AND ESTABLISHING THE TERMINAL FUNDING OBLIGATION**

**WHEREAS**, San Bernardino County Employees' Retirement Association was created pursuant to the County Employees' Retirement Law of 1937 and is administered by the Board of Trustees (hereinafter referred to as the "Board");

**WHEREAS**, SBCERA is a cost sharing, multiple-employer defined benefit public pension plan;

**WHEREAS**, SBCERA serves approximately 43,000 members and beneficiaries, and 17 participating employers;

**WHEREAS**, pursuant to the California Constitution Article XVI section 17, the Board has broad authority over sound actuarial funding of employee retirement benefits;

**WHEREAS**, the Board has sole and exclusive fiduciary responsibility over the assets to ensure funding and competency of the assets for prompt delivery of benefits and related services to the participants and beneficiaries;

**WHEREAS**, to ensure proper funding and competency of the assets, pursuant to Government Code section 31453.5, the Board may determine County or District contributions on the basis of normal contributions rate, as well as the portion of liability not provided by the normal contribution rate;

**WHEREAS**, pursuant to Government Code section 31454.7, under all circumstances, the County and Districts shall each remain liable to the retirement system for their respective share of any unfunded actuarial liability of the system, as determined by the Board;

**WHEREAS**, as part of the Board's fiduciary responsibility to ensure proper funding, the Board adopted General Policy No. 020, to establish the funding obligation of participating employers that terminate their participating in the SBCERA pursuant to Government Code sections 31564 and 31564.2, and/or participating employer ceasing to have employees to a regular position included in SBCERA membership with no intent of filing such positions (Attachment 1);

**WHEREAS**, in all cases, such participating employer shall be deemed a terminating employer liable for the unfunded actuarial accrued liability;

**WHEREAS**; General Policy No. 020 prescribes the methodology for calculating terminating employers unfunded liability;

**WHEREAS**, the Inland Library System is a Joint Powers Authority entity created on June 28, 1977 through a joint powers agreement consisting of the County of San Bernardino, City of Colton, City of Corona, City of Hemet, City of Inyo, City of Ontario, City of Palm Springs, Palo Verde Valley Library District, City of Riverside, City of San Bernardino, and the City of Upland (Attachment 2);

**WHEREAS**, on May 11, 1978, the Inland Library System, by Resolution of the Executive Council of the Inland Library System, approved inclusion of its employees in SBCERA membership; thereby, becoming a participating employer of SBCERA effective July 1, 1978 (Attachment 3);

**WHEREAS**, on May 27, 2019, the Inland Library System's last active employee terminated;

**WHEREAS**, the Inland Library System ceases to have employees to a regular position included in SBCERA membership and has no intent of filing such positions; and

**WHEREAS**, Segal Consulting has calculated a final termination funding obligation for Inland Library System of \$2,506,253, which was based on a termination date of May 31, 2019. (Attachment 4).

**NOW, THEREFORE, BE IT RESOLVED** the Board affirms that due to the Inland Library ceasing to have employees to a regular position including SBCERA membership with no intent to fill such positions is a terminated employer effective May 27, 2019 obligated to pay the termination liability as calculated by SBCERA's actuary Segal Consulting.

**BE IT FURTHER RESOLVED** the Board approves and adopts the termination liability owed to SBCERA by Inland Liability System as calculated by Segal Consulting effective May 31, 2019 in the amount of \$2,506,253 in unfunded liability for all benefits except those provided by the Survivor Benefit Reserve.

**BE IT FURTHER RESOLVED** the Board authorizes a lump sum payment or annual installment payments subject to interest by Inland Library over a period of up to five years following approval of this Resolution.

**BE IT FURTHER RESOLVED**, the SBCERA Chief Executive Officer is authorized to execute any agreements necessary to memorialize the payment terms with Inland Library System within the existing Policy authorization, and to take steps to ensure settlement with the Inland Library System of the terminal funding obligation.

**BE IT FURTHER RESOLVED**, in the event Inland Library System fails to pay the assessed lump sum or any of the annual installment payments subject to interest, the Board shall deem such action by Inland Library System a default of its obligation, and SBCERA and the Board will pursue such legal remedies to collect from Inland Library





San Bernardino County Employees'  
Retirement Association

Origination:	09/2019
Effective:	09/2019
Last Approved:	09/2019
Last Revised:	09/2019
Next Review:	09/2022
Area:	<i>General</i>
References:	
Applicability:	<i>SBCERA systemwide</i>

## Participating Employer Termination and Terminal Funding Obligation

POLICY NO. 020

### I. PURPOSE

The Board of Retirement (Board) has a duty to establish the funding obligations of participating employers that terminate their participation in SBCERA pursuant to California Government Code Sections 31564 and 31564.2, and/or a participating employer ceasing to have employees appointed to a regular position included in SBCERA membership with the no intent of filling such positions. This policy establishes the calculation methodology for the terminating participating employer, as well as the basis for calculating member benefits.

The general principle applied in this policy is to establish the funding obligation of terminating participating employers as:

- The present value of all future benefits expected to be paid by SBCERA to the terminating participating employer's employees, retirees, beneficiaries, and terminated members as of the termination date; minus
- The value of SBCERA assets allocated to the terminating participating employer as of the termination date.

This policy provides the specific procedures to be used in determining the above two components.

The Board's primary consideration is to ensure that the funding obligation of the terminating participating employer is properly determined and settled. In particular, it is the Board's intent that:

- The SBCERA liabilities attributable to the terminating employer will be determined in a manner that is consistent with the fact that, because there will be no reassessment of the terminating participating employer's funding obligation after the termination date, all risks are being retained by SBCERA and no risks are being retained by the terminating participating employer. To accomplish this intent, the present value of all future benefits will be determined using a market-based discount rate.
- The SBCERA assets attributable to the terminating participating employer will be determined in a manner that is consistent with the contribution obligations of the remaining participating employers. To accomplish this intent, assets will be allocated to the terminating participating employer so that the contribution rate toward the Unfunded Actuarial Accrued Liability (UAAL) will be left substantially unchanged for all of SBCERA's remaining participating employers.



## **II. CALCULATION METHODOLOGY**

### **A. Summary**

This policy establishes a market based approach as of the termination date. This approach dictates the use of market value of assets and requires a valuation of the liabilities on a market-consistent basis. Under this approach, the liabilities for retirees and terminated members will be calculated using all the same actuarial assumptions utilized in the most recent actuarial valuation except that the future benefit payments will be discounted to the present date using a market-based discount rate. The market-based discount rates for this purpose are the discount rates used by the Pension Benefit Guaranty Corporation (PBGC) to measure the sufficiency of assets for a corporate employer who is terminating its single-employer defined benefit pension plan.

### **B. Termination Conditions**

The Board shall require the terminating participating employer to reimburse SBCERA for the actuarial consulting fees incurred to determine its terminal funding obligation. In the event there is a dispute over the amount of those actuarial consulting fees, the Board will have sole authority to resolve the dispute. In addition to the valuation work performed by SBCERA's consulting actuary, the terminating participating employer may contract with an actuary of its own choice, at its own expense, to review the results from SBCERA's consulting actuary. The Board will have sole authority to resolve any dispute over the calculation of the terminal funding obligation.

The termination date must be at the end of a calendar month to allow a proper determination of the market value of the SBCERA assets.

As part of the termination process, the Board and the terminating participating employer will enter into an agreement stipulating the provisions for the settlement of the terminal funding obligation.

### **C. Present Value of Future Benefits**

The benefits payable by SBCERA to current and former employees of the terminating participating employer will be as follows:

- All active members of the terminating participating employer on the termination date will receive SBCERA benefits for their credited service time up to the termination date. As a result, they will take on the same status as terminated members.
- All vested terminated and retired terminated members (and beneficiaries) will continue to receive future benefits from SBCERA.

The future benefits to be paid to SBCERA members of the terminating participating employer will include those payable to:

- Current retirees and/or beneficiaries of retirees with service while employed at the terminating participating employer prior to the termination date;
- Current members of the terminating participating employer as of the termination date; and
- Former members of the terminating participating employer entitled to either deferred vested benefits or a refund of their accumulated contributions plus credited interest.

The present value of benefits will be determined based on:

- The service retirement and or other benefits associated with the members' years of service with SBCERA as of the termination date, for which they are entitled to SBCERA benefits;
- Expected future cost-of-living adjustments on those benefits;
- For employees and deferred vested members, expected final average compensation (including the effect of any reciprocity benefits);
- For employees and deferred vested members, their expected age at retirement; and
- For retired members and beneficiaries of the retirees, the SBCERA benefits earned for service with the terminating participating employer.

The determination of the present value of future benefits will be based upon the actuarial assumptions most recently adopted by the Board at the time of the determination, except that future benefit payments will be discounted to the termination date using market-based interest rate assumptions.

No consideration will be given to future Board provided benefits.

## D. Market-Based Approach for Valuing Liabilities with No Reassessments

1. The determination of the present value of future benefits will be based upon the actuarial assumptions most recently adopted by the Board at the time of the determination, except that future benefit payments will be discounted to the termination date using market-based interest rate assumptions. The market-based interest assumptions selected for this purpose are the discount rates used by the Pension Benefit Guaranty Corporation (PBGC) to measure the sufficiency of assets for a corporate employer who is terminating its single-employer defined benefit pension plan. These PBGC rates are generally lower than the expected earnings based on the discount rate used in SBCERA's actuarial valuation.
2. There will be no reassessment of the terminating participating employer's terminal funding obligation after the termination date under this approach.

## E. Determination of Terminating Participating Employer's Assets

SBCERA is a cost-sharing multiple-employer plan defined benefit pension plan. As a result, there is no ongoing separate accounting of SBCERA's assets by employer except in instances when, in the Board's opinion, separate accounting is necessary to maintain equity among employers. The SBCERA assets attributable to contributions of the terminating participating employer and its employees as of the termination date will be determined as follows:

Step 1:	Determine the Actuarial Accrued Liability of the terminating participating employer as of SBCERA's most recent actuarial valuation irrespective of the participating employer's termination.
Step 2:	Determine the UAAL of the terminating participating employer as of the most recent actuarial valuation by dividing the terminating participating employer's annual required UAAL contribution amount by the UAAL amortization factor. The amortization factor will generally equal the UAAL contribution amount for the cost group that includes the terminating participating employer divided by the UAAL for that cost group. The terminating participating employer's UAAL contribution rate, annual payroll, and UAAL amortization factor will be determined as of the most recent actuarial valuation date. The UAAL contribution rate will be determined before any rate adjustments resulting from distribution from the Cost-of- Living Reserve to provide for future

	cost-of-living benefits.
Step 3:	<p>Determine the non-investment change in assets from the most recent actuarial valuation date to the actuarial termination date as:</p> <ul style="list-style-type: none"> <li>• The total contributions by the terminating participating employer since the most recent actuarial valuation date; plus</li> <li>• The total contributions by employees of the terminating participating employer since the most recent actuarial valuation date; minus</li> <li>• The total benefit and refund payments since the most recent actuarial valuation date to retirees, beneficiaries, and former employees of the employer.</li> </ul>
Step 4:	<p>Determine the accumulated assets as of the termination date as:</p> <p><math>(\text{Step 1} - \text{Step 2}) \times \text{Ratio A} \times (1 + j) + \text{Step 3} \times (1 + j/2)</math></p> <p>Where:</p> <p><math>j</math> = The net rate of return on the market value of SBCERA's total assets from the most recent actuarial valuation date to the date of the participating employer's termination.</p> <p>Ratio A = (Total SBCERA assets at market value as of the most recent actuarial valuation date) divided by (Total SBCERA assets at actuarial value date as of the most recent valuation date)</p>
Step 5:	<p>Determine the portion of any of SBCERA's reserves or designations from which the terminating participating employer will not benefit because of the termination. An adjustment will be made as appropriate to include these reserves or designations in the terminating employer's assets.</p>

## F. Settlement of Terminal Funding Obligation

The terminating participating employer's terminal funding obligation will be the excess, if any, of the present value of future benefits over the employer's accumulated assets, as determined under this policy. Settlement of the terminal funding obligation will be made either in a lump sum or, if allowed by the Board, annual installment payments by the employer over a period of up to five years following termination unless the Board determines a longer installment period is appropriate. Annual installment payment arrangements are subject to interest. The rate of interest used shall be the then-current actuarial assumed discount rate less 0.50%, unless the Board deems otherwise.

### Attachments

No Attachments

### Applicability

SBCERA, SBCERA Internal



# County of Inyo



## Health & Human Services

### CONSENT - ACTION REQUIRED

**MEETING:** June 28, 2022

**FROM:** Melissa Best-Baker

**SUBJECT:** Immunization Local Assistance Federal Grant Agreement between County of Inyo and the California Department of Public Health

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**RECOMMENDED ACTION:**

Request Board ratify and approve Amended Grant Agreement Number 17-10320 A03 between the County of Inyo and the California Department of Public Health, increasing the grant by \$1,143,226.00 to an amount not to exceed \$1,377,124 for the period July 1, 2021 to June 30, 2022, and authorize the Assistant HHS Director to sign.

**SUMMARY/JUSTIFICATION:**

This item is coming before your Board late due to administrative challenges faced by the Public Health and Prevention Division during COVID-19 surges and staff vacancies during FY 21-22. This grant amendment increases the immunization grant amount by \$1,143,266.00 to support the division in procuring supplies, personnel, and/or services in order to support COVID-19 response. The Department intends to use this funding primarily to purchase updated vaccine storage equipment and back-up power supply to ensure vaccine viability.

Amendment No. 3 to the original Immunization contract states that funding will be available for the fiscal year beginning July 1, 2021 and ending June 30, 2022. However, the division has received confirmation that the funding amount will be rolled over to the next fiscal year, and an additional amendment will be brought before your Board when it becomes available. Therefore, the Department is requesting that your Board approve Amendment Number 3 despite the identified end date of June 30, 2022.

**BACKGROUND/HISTORY OF BOARD ACTIONS:**

N/A

**ALTERNATIVES AND CONSEQUENCES OF NEGATIVE ACTION:**

You can choose not to authorize Health and Human Services to sign the agreement which would mean that HHS would not be able to invoice CDPH for immunization funding pursuant to the grant.

**OTHER AGENCY INVOLVEMENT:**

Community Healthcare Providers, Schools and Pharmacies

**FINANCING:**

Funding for this grant is recognized as revenue in the Health budget (045100) in State Grants (4498).

**ATTACHMENTS:**

1. Amended Local Assistance Grant
2. Local Assistance Grant
3. Scope of Work

**APPROVALS:**

Melissa Best-Baker	Created/Initiated - 5/18/2022
Darcy Ellis	Approved - 5/19/2022
Anna Scott	Approved - 6/16/2022
Genoa Meneses	Approved - 6/16/2022
Melissa Best-Baker	Approved - 6/16/2022
John Vallejo	Approved - 6/16/2022
Amy Shepherd	Approved - 6/16/2022
Anna Scott	Final Approval - 6/16/2022

## CALIFORNIA IMMUNIZATION PROGRAM

Awarded By

**THE CALIFORNIA DEPARTMENT OF PUBLIC HEALTH, hereinafter “Department”**

**TO**

**Inyo County Health and Human Services, hereinafter “Grantee”**

**Implementing the project, “To assist local health departments (LHDs) in preventing and controlling vaccine-preventable diseases (VPDs) in the local health jurisdiction (LHJ),” hereinafter “Project”**

### AMENDED GRANT AGREEMENT NUMBER 17-10320, A03

The Department amends this Grant and the Grantee accepts and agrees to use the Grant funds as follows:

**AUTHORITY:** The Department has authority to grant funds for the Project under Health and Safety Code, Section 120325-120380, which requires immunizations against childhood diseases prior to school admittance and Federal Grant numbers 6 NH23IP922612-02-02, 6 NH23IP922612-02-03, and 6 NH23IP922612-02-04.

**PURPOSE FOR AMENDMENT:** The purpose of the Grant amendment is to increase funding in the amount of \$1,143,226 for FY2021-22 to allow the Grantee to continue performing the same services identified in Exhibit A, Grant Application, and provide more of the same Coronavirus Disease 2019 services in response to the CARES ACT.

**Amendments** are shown as: Text additions are displayed in **bold and underline**. Text deletions are displayed as strike through text (i.e., ~~Strike~~).

**AMENDED GRANT AMOUNT:** this amendment is to increase the grant by \$1,143,226 and is amended to read: **\$1,377,124 (One Million Three Hundred Seventy-Seven Thousand One Hundred Twenty-Four Dollars)** ~~\$233,898 (Two Hundred Thirty Three Thousand Eight Hundred Ninety Eight)~~.

Exhibit B – Budget Detail and Payment Provisions, paragraph 4.A. is hereby replaced as shown below.

#### 4. Amounts Payable

A. The amounts payable under this Grant shall not exceed ~~\$233,898~~ **\$1,377,124**.

**PROJECT REPRESENTATIVES.** The Project Representatives during the term of this Grant will be:

<b>California Department of Public Health, Immunization Branch</b>	<b>Grantee: Inyo County Health and Human Services</b>
Name: Noemi Marin	Name: Ann Scott, HHS Deputy Director
Address: 850 Marina Bay Pkwy., Bldg. P, 2 <sup>nd</sup> Fl.	Address: P.O. Drawer H
City, ZIP: Richmond, CA 94804	City, ZIP: Independence, CA 93526
Phone: (510) 620-3737	Phone: (760) 873-7868
Fax: (510) 620-3774	Fax: (760) 873-7800
E-mail: noemi.marin@cdph.ca.gov	E-mail: ascott@inyocounty.us

Direct all inquiries to:

<b>California Department of Public Health, Immunization Branch</b>	<b>Grantee: Inyo County Health and Human Services</b>
Attention: Roland Rafol	Attention: Ann Scott, HHS Deputy Director
Address: 850 Marina Bay Pkwy., Bldg. P, 2 <sup>nd</sup> Fl.	Address: P.O. Drawer H
City, Zip: Richmond, CA 94804	City, Zip: Independence, CA 93526
Phone: (510) 412-6053	Phone: (760) 873-7868
Fax: (510) 620-3774	Fax: (760) 873-7868
E-mail: roland.rafol@cdph.ca.gov	E-mail: ascott@inyocounty.us

All payments from CDPH to the Grantee; shall be sent to the following address:

<b>Remittance Address</b>
<b>Grantee:</b> County of Inyo
Attention “Cashier”: Melissa Best-Baker
Address: P.O. Drawer H
City, Zip: Independence, CA 93526
Phone: (760) 878-0232
Fax: (760) 878-0266
E-mail: mbestbaker@inyocounty.us



Either party may make changes to the Project Representatives, or remittance address, by giving a written notice to the other party. Said changes shall not require an amendment to the agreement. Note: Remittance address changes will require the Grantee to submit a completed CDPH 9083 Governmental Entity Taxpayer ID Form or STD 204 Payee Data Record Form which can be requested through the CDPH Project Representatives for processing.

All other terms and conditions of this Grant shall remain the same.

IN WITNESS THEREOF, the parties have executed this Grant on the dates set forth below.

Executed By:

Date:

\_\_\_\_\_

\_\_\_\_\_  
Marilyn Mann, Director  
Inyo County Health and Human Services  
163 May Street  
Bishop, CA 93514

Date:

\_\_\_\_\_

\_\_\_\_\_  
Javier Sandoval, Chief  
Contracts Management Unit  
California Department of Public Health  
1616 Capitol Avenue, Suite 74.262, MS 1802  
P.O. Box 997377  
Sacramento, CA 95899-7377

**FY 2019-20 Federal Compliance Requirements of the Immunization Grant No. 1 NH23IP922612-01-00**

This section requires Subrecipient signature to acknowledge that the Subrecipient has reviewed and understand the Federal Compliance Requirements of the Immunization Grant. See enclosed copy of the Award Attachments under which this funding is issued.

Marilynn Mann, Director Health and Human Services

Print Name and Title of Person Signing

*Marilynn Mann*  
Signature of Person Signing

8/27/19

Date

**CDPH Immunization Branch  
Subrecipient Information Form Update  
FY 2019-2020**

Date Form Completed: \_\_\_\_\_

**This is the information that will appear on your grant agreement cover page.**

**Organization**

Federal Tax ID #	956005445	CDPH Contract/Grant#	17-10320
Data Universal Number System (DUNS) #	010706687		
Official Organization Name (Based on DUNS)	Is this the County's Dept. of Public Health DUNS? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No County of Inyo		
Mailing Address	207A West South St., Bishop, CA 93514		
Street Address (If Different)	_____		
County	Inyo		
Phone	760-873-7868	Fax	760-873-7800
Website	www.inyocounty.us		
County Personnel Salaries Available on the County Public Website	x Yes <input type="checkbox"/> No		

## CDPH Immunization Branch Scope of Work for Local Health Departments FY 2019-22

### 1. Vaccine Accountability and Management

**Goal 1.1** Maintain viability of IZB supplied vaccine to ensure vaccine effectiveness and reduce vaccine waste.

Required Activities	Performance Measures
<p>a. Annually, make sure all relevant staff within LHD-operated clinics (routine, mass vaccination, or special immunization outreach) are properly trained on current policies and procedures for proper vaccine storage and handling outlined in each participation agreement/addendum for the receipt of IZB supplied vaccines (317, Vaccines for Children [VFC], state general fund).</p>	<p>1. Updated Vaccine Management Plans for each LHD facility.</p> <p>2. Completed EZIZ Lessons for Key Practice Staff.</p> <p>3. Documentation of completed trainings.</p>
<p>b. Develop and implement a training plan for provider facilities outside LHDs receiving IZB supplied doses (state or 317 Outbreak). Focus the plan on proper vaccine management, vaccine storage and handling requirements, and administration prior to the distribution of IZB-supplied vaccines.</p>	<p>1. Training plan developed and implemented.</p> <p>2. Completed trainings/Documentation of completed trainings.</p> <p>3. Completed and signed Vaccine Management Plans.</p>
<p>c. Develop and implement a plan to verify that 317 Outbreak and state general fund immunizations administered by providers outside the LHDs adhere to policies for vaccine management. Conduct Quality Assurance verifications (such as random temperature log review, on site vaccination clinic assessments, review of vaccine losses, etc.) at least every other year, in a sample of sites receiving vaccines.</p>	<p>1. Developed and implemented Quality Assurance Plan.</p> <p>2. Completion of Mass Vaccination Hourly Temperature Logs/Electronic Data Files.</p> <p>3. Temperature Documentation on CDPH provided Logs for all IZB-supplied vaccines/Electronic Temperature Files.</p> <p>4. Completed Quality Assurance verifications in a minimum sample of 10% of sites receiving vaccines.</p>
<p>d. Promote and encourage adoption of CDPH and CDC storage and handling guidelines among all healthcare providers providing immunization services in the community.</p>	<p>Documentation of storage and handling best practices promotion efforts.</p>

**Goal 1.2** Facilitate compliance with current protocols, policies, and procedures for vaccine accountability for LHD facilities and partners that receive IZB-supplied vaccine.

Required Activities	Performance Measures
<p>a. Make sure all relevant staff involved in vaccine ordering, management, and accountability activities within local health department-operated clinics adhere to all program requirements as outlined in the VFC/317 Provider Participation Agreements and Addendums. Complete annual VFC/317 program recertification.</p>	<p>Completed annual program recertification and corresponding educational lessons for all key practice staff.</p>
<p>b. Promote adherence to eligibility guidelines corresponding to VFC, Section 317, and state general fund vaccines. Upon release of the Immunization Branch's Vaccine Eligibility Guidelines, IMM-1142, disseminate guidance to all relevant staff involved in vaccine ordering, management, and accountability activities within local health department operated pediatric and adult immunization clinics.</p>	<p>Documentation of provided guidance.</p>
<p>c. Verify that processes are in place such that IZB-supplied (317, VFC, state) vaccines are administered to eligible individuals following</p>	<p>LHD developed protocols, inclusive of eligibility guidelines, for each vaccine</p>

## CDPH Immunization Branch

### Scope of Work for Local Health Departments FY 2019-22

- outlined eligibility guidelines for each vaccine funding source.
- d. Comply with federal policies regarding vaccine re-distribution. Publicly funded VFC and 317 vaccines must be distributed directly to the location at which the provider will administer the vaccines.
- funding source.  
Documentation of procedures.

## 2. Access to and Utilization of Quality Immunization Services

**Goal 2.1** Improve access to and receipt of all ACIP-recommended immunizations, especially for low income and underserved community members.

Required Activities	Performance Measures
a. Use a current, local jurisdiction-specific referral list to support an immunization safety net. This may include referral to other programs that connect patients to services.	Referral list completed and updated on an annual basis.
b. Be responsive to problems Medi-Cal members report related to access to immunization services. <sup>1</sup> Work with the corresponding Medi-Cal Managed Care Plan (MCP) to resolve problems. After attempts to work with MCP, if still unable to resolve, collect details and escalate to Senior Field Representative or other designated Immunization Branch staff person.	Maintain log of access problems resolved at local level or reported to CDPH.
c. For all LHD facilities that are VFC providers, participate in and support provider compliance and quality improvement <sup>2</sup> visits in conjunction with the CDPH Immunization Branch. Assist with the implementation of corrective action plans, strategies to reduce missed opportunities for vaccination, and linkage/referral to medical homes.	# of clinics with corrective actions that were all completed within the specified time frame.

## 3. California Immunization Registry (CAIR)<sup>3</sup>

**Goal 3.1** Promote and optimize<sup>4</sup> the use of CAIR in the jurisdiction.

Required Activities	Performance Measures
a. Enter all IZB-supplied vaccine doses administered by LHD or partners, including influenza doses, into CAIR.	# LHD clinics participating in CAIR/# all LHD clinics. % of LHD clinic doses entered into the registry within 14 days. # state flu doses entered by end of flu season/ # state flu doses administered.
b. For LHDs with primary care clinics, use manage patient status functionality to remove inactive patients at least once a year.	Inactive patients marked as inactive in CAIR.
c. In LHD primary care clinics, utilize CAIR data to identify and improve low or lagging infant or adolescent vaccination coverage levels.	Low infant or adolescent CAIR coverage rate identified and improved.
d. Review monthly CAIR usage reports <sup>5</sup> to identify priority non-participating VFC sites that need to be recruited/retained.	# of VFC Sites identified for priority recruitment /retention contact.

<sup>1</sup> Requirements for Medi-Cal immunization services are summarized here: <http://izcoordinators.org/vaccine-programs/medi-cal-and-pharmacy-resources/>.

<sup>2</sup> Immunization Quality Improvement for Providers (IQIP), formerly known as AFIX

<sup>3</sup> CAIR refers to the statewide system connecting CAIR2 with the San Diego Immunization Registry and Healthy Futures.

<sup>4</sup> If have EHR, move from manual data entry to data exchange (upload from EHR) to bidirectional data exchange, to optimize CAIR use. See <http://cairweb.org/docs/CAIR2-Communications/IMM-1266> and <http://cairweb.org/docs/CAIR2-Communications/IMM-1260>.

**CDPH Immunization Branch**  
**Scope of Work for Local Health Departments FY 2019-22**

Communicate priority sites to Local CAIR Rep (LCR).	
e. Invite CAIR staff to participate in local provider trainings in order to promote CAIR.	Number of trainings with CAIR participation/Number of trainings held.

**Goal 3.2** Connect local Immunization Information Systems (IIS) so CAIR becomes a statewide system.  
**For San Diego and San Joaquin Counties only**

Required Activities	Performance Measures
a. Implement data sharing with CAIR2, including: <ul style="list-style-type: none"> <li>a. Attend scheduled planning meetings with CAIR2 staff</li> <li>b. Comply with agreed upon timelines</li> <li>c. Complete data transfer testing, including both inbound to CAIR2 and outbound back to local IIS.</li> <li>d. Share bulk historical loads of existing patients and immunizations to CAIR2 to initiate data sharing</li> </ul>	Full historical data load completed.
b. Initiate and maintain ongoing electronic data sharing with CAIR2 (HL7).	Ongoing data sharing continues.

## 4. Perinatal Hepatitis B Prevention

**Goal 4.1** Reduce the incidence of perinatal hepatitis B virus (HBV) infection in the jurisdiction.

Required Activities	Performance Measures
<p><b>Note:</b> Coordinate perinatal HBV prevention efforts with your LHD's Maternal Child and Adolescent Health (MCAH) program, as activities 4.1a-4.1c may also help fulfill title V requirements and MCAH Scope of Work Activities.</p> <p>a. Educate medical providers and hospital staff about the screening, care, and reporting of pregnant women who test positive for hepatitis B and their infants according to the guidance outlined below:  <a href="#">Guidance for Prenatal Providers</a>  <a href="#">Guidance for Labor and Delivery Hospitals</a>  <a href="#">Guidance for Pediatric Providers</a></p>	<ol style="list-style-type: none"> <li>1. Number and percentage of HBsAg-positive pregnant women identified in the reporting period who were enrolled prior to delivery.</li> <li>2. Number and percentage of HBsAg-positive pregnant women identified in the reporting period with an HBV DNA test result during pregnancy.</li> <li>3. Number and percent of PEP errors in the reporting period with completed LHJ follow-up.</li> </ol>
<p>b. Educate identified HBsAg-positive pregnant women about their HBV status and provide the appropriate information on prevention of perinatal hepatitis B transmission, based on current ACIP recommendations and the guidance outlined below:  <a href="#">Perinatal Hepatitis B Prevention Program Coordinator Handbook</a></p>	HBsAg positive pregnant women identified.

<sup>5</sup> Monthly CAIR usage reports for VFC providers are posted here: <http://izcoordinators.org/cair-reports/>.

## CDPH Immunization Branch

### Scope of Work for Local Health Departments FY 2019-22

<p>c. Collect and submit requested data to CDPH on HBsAg-positive pregnant women and their infants according to the guidance outlined below:  <a href="#">Perinatal Hepatitis B Prevention Program Coordinator Handbook</a></p>	<ol style="list-style-type: none"> <li>1. Number and percentage of infants born to HBsAg-positive mothers in the reporting period who received PEP according to ACIP recommendations.</li> <li>2. Number and percentage of infants born to HBsAg-positive mothers who completed the HBV vaccine series by 12 months of age.</li> <li>3. Number and percentage of infants born to HBsAg-positive mothers who have completed PVS testing by 24 months of age.</li> <li>4. Number and percentage of infants closed to case management with complete information within 24 months.</li> </ol>
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## 5. Education, Information, Training, and Partnerships

**Goal 5.1** Provide and/or promote educational activities and information to health care providers, schools and childcare centers, and other immunization stakeholders to promote best practices for immunizations and the importance of timely vaccinations.

Required Activities	Performance Measures
<p>a. Based on local priorities and resources, disseminate print and/or electronic communications among providers, school, general public and other immunization stakeholders in their jurisdiction.</p>	<p>Summary of efforts conducted to distribute materials in print or electronically to immunization stakeholders.</p>

Note: Depending on funding, CDPH may offer select hard-copy materials to all VFC Providers through the Online VFC store. If the VFC store is available, LHDs may choose to not provide the select materials to VFC providers in their jurisdiction (refer these providers to the VFC store instead).

CDPH will inform LHDs on centralized communication activities from the Immunization Branch (select print materials to VFC providers, electronic communications to VFC providers, electronic communications and resources to schools, electronic communications resources to pharmacies, electronic communications and resources to community-based organizations/other stakeholders, traditional media and social media to reach general public). LHDs may supplement any gaps in communication with local efforts.

**Goal 5.2** Develop partnerships and collaborative activities in order to expand immunization services, promote best practices and improve coverage rates among children, adolescent and adults.

Required Activities	Performance Measures
<p>a. Engage* with at least 3 types of partners** in conducting educational activities or trainings. (See definitions below)</p>	<ol style="list-style-type: none"> <li>1. Number of partner types (provider, school, social service/other partners) engaged with.</li> <li>2. Summary of activities conducted with each partner type.</li> </ol>

\*Partnership engagement should be based on commitment to perform agreed-upon activities (e.g. joint training, mass vaccination clinic, collaboration to include immunization messaging in communications or event, promotional efforts).



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- \*\*LHJ will engage with at least one “provider” partner, one “school” partner and one “social service or other” partner:
- “Provider partner” may include hospitals, federally qualified health centers (FQHCs), long term care facilities, birth facilities, professional associations (local ACOG or WIC chapters), pharmacies, health plans and community clinics.
  - “School partner” may include child care providers, school or school district, County Department of Education, college, school nurses association or other school-related organizations.
  - “Social service and other partners” may include WIC, MCAH, social service agencies, migrant health, homeless shelters, drug-treatment centers, jails, faith-based organizations, local business or community-based organizations.

## 6. Prevention, Surveillance and Control of Vaccine Preventable Disease (VPD)

**Goal 6.1** Conduct surveillance to identify VPD cases and/or outbreaks, and implement recommended prevention and control activities.

Required Activities	Performance Measures
a. Ensure that appropriate clinical specimens are tested and relevant epidemiologic information is collected for VPDs requiring immediate public health action.	<ol style="list-style-type: none"> <li>1. Percentage of measles specimens submitted for molecular characterization.</li> <li>2. Percentage of <i>Neisseria meningitidis</i> specimens/isolates submitted for molecular characterization.</li> <li>3. Percentage of pertussis cases &lt;4 months of age with complete maternal prenatal provider information.</li> </ol>
b. Implement appropriate public health activities for the control and prevention of cases and/or outbreaks of VPDs that are reportable to CDPH in accordance with CDPH recommendations. (Coordinate with your local Maternal, Child and Adolescent Health program.)	Percentage of infant pertussis cases where mother was unimmunized during the appropriate window during pregnancy for which a communication regarding prenatal Tdap immunization was made to the prenatal care provider. <sup>6</sup>
c. Obtain vaccine and assist with the organization and implementation of efforts to vaccinate susceptible individuals, if appropriate.	Completed outbreak response request <sup>7</sup> with plan for doses and target population (as appropriate).

**Goal 6.2** Collect and submit requested data to CDPH on VPD cases and outbreaks.

Required Activities	Performance Measures
a. Report VPDs and other conditions reportable to CDPH Immunization Branch per CDPH instructions listed here: <a href="https://www.cdph.ca.gov/programs/CID/DCDC/CDPH%20Document%20Library/Immunization/ReportingGuidanceforLHJs.pdf">https://www.cdph.ca.gov/programs/CID/DCDC/CDPH%20Document%20Library/Immunization/ReportingGuidanceforLHJs.pdf</a>	<ol style="list-style-type: none"> <li>1. Percentage of measles cases reported immediately to CDPH.</li> <li>2. Percent of meningococcal disease cases in high school and college students reported immediately to CDPH.</li> <li>3. Percentage of case reports submitted to</li> </ol>

<sup>6</sup> Sending a letter re: standard of care is the minimum acceptable communication, with copy to LHD Maternal Child and Adolescent Health (MCAH) program. See *Template Letter for Prenatal Care Providers with Pregnant Patients that did not Receive Prenatal Tdap Appropriately and Infants Developed Pertussis*.

<sup>7</sup> The Immunization Branch provides a form for requesting vaccine from CDPH.

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	CDPH via an electronic communicable disease reporting system (CalREDIE or other) in the recommended timeframe.
b. Collect and submit CDPH-requested VPD case and outbreak data.	<ol style="list-style-type: none"> <li>1. Percentage of infant pertussis cases &lt;4 months of age for whom maternal Tdap status is known.</li> <li>2. Percentage of confirmed hepatitis A cases for whom hepatitis A risk factors are known.</li> <li>3. Percentage of meningococcal disease cases for whom high school or college attendance status is known.</li> </ol>

## 7. Childcare and School Immunization Entry Requirements

**Goal 7.1** Decrease the proportion of pupils who are overdue for required immunizations or admitted conditionally.

Required Activities	Performance Measures
a. Provide guidance, training, and support for compliance with entry immunization requirements by all childcare centers and schools within the jurisdiction.	Percentage of schools with kindergarteners in the jurisdiction that have completed the annual immunization assessment.
b. At least annually, visit schools with 10 or more kindergarteners that reported > 10% were either conditionally admitted or overdue for required immunization; provide guidance and support follow-up until these students are up to date.	Percentage of schools with 10 or more kindergarteners where the proportion of students are either conditionally admitted or overdue for required immunization is greater than 10%.  Target %: By next school year, less than 3% of schools have $\geq 10\%$ of kindergarteners either conditional or overdue.

## 8. Influenza

**Goal 8.1** Strengthen capacity to protect against seasonal influenza and to prepare for a pandemic.

Required Activities	Performance Measures
a. <u>To assist your LHD emergency preparedness lead in fulfilling its emergency preparedness grant requirements, utilize IZB-supplied influenza vaccine or other 317-funded vaccines to support at least one mass immunization exercise/year. Confirm your LHD emergency preparedness program has entered all doses into CAIR within 14 days of administration, as per the emergency preparedness grant requirement.</u>	Mass vaccination exercise completed by local health department, including immunization and preparedness program staff.
b. Utilize IZB-supplied influenza vaccine to immunize jurisdiction against influenza; doses may be shared with local partners.	Number of doses of influenza vaccine administered.  Target #: Administration of at least 9f% of previous season's doses total.



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**Glossary of Acronyms and Terms**

<b>Abbreviation or term</b>	<b>Definition</b>
317 vaccine	Vaccine provided to LHD clinics and partners for uninsured adults and for outbreak purposes.
ACIP	Advisory Committee on Immunization Practices
ACOG	American College of Obstetricians and Gynecologists
AFIX	Assessment, Feedback, Incentive, eXchange
CAIR	California Immunization Registry
CalREDIE	California Reportable Disease Information Exchange
CDC	Centers for Disease Control and Prevention
CDPH	California Department of Public Health
DNA	Deoxyribonucleic Acid
EHR	Electronic Health Record
EZIZ	An Immunization Branch-operated website (eziz.org) with immunization training and resource materials.
FQHC	Federally Qualified Health Center
HBsAg	Hepatitis B Surface Antigen
HBV	Hepatitis B Vaccine
HL7	Health Level 7 (standards for data exchange)
IIS	Immunization Information System
IQIP	Immunization Quality Improvement for Providers
IZB	Immunization Branch (of CDPH)
IZB-supplied vaccine	Vaccine ordered through the CDPH Immunization Branch and supplied to LHD clinics or partners using state or federal (VFC and 317) funding sources.
LCR	Local CAIR representative (on CDPH IZB staff)
LHD	Local Health Department

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Abbreviation or term	Definition
LHD Primary Care Clinic	Clinic run or housed in LHD that serves as a medical home for its patients. Includes federally qualified health centers or look-alikes that are operated or housed in LHDs
LHJ	Local Health Jurisdiction
MCAH	Maternal Child and Adolescent Health
MCP	Medi-Cal Managed Care Plan
PEP	Post Exposure Prophylaxis
PVS	Post-Vaccination Serology
Tdap	Tetanus, Diphtheria, and Pertussis
TK/K	Transitional Kindergarten/Kindergarten
VFC	Vaccines for Children Program
VPDs	Vaccine-Preventable Disease(s)
WIC	Women, Infants, and Children

## AWARD ATTACHMENTS

California Department of Public Health

1 NH23IP922612-01-00

### 1. Terms and Conditions

## FUNDING RESTRICTIONS AND LIMITATIONS

**Cost Limitations as stated in Appropriations Acts.** Recipients must follow applicable fiscal year appropriations law in effect at the time of award. See AR-32 Appropriations Act, General Requirements: <https://www.cdc.gov/grants/additionalrequirements/ar-32.html>.

**Though Recipients are required to comply with all applicable appropriations restrictions, please find below specific ones of note:** CDC notes that the cited section for each below provision may change annually.

A. Cap on Salaries (Division H, Title II, General Provisions, Sec. 202): None of the funds appropriated in this title shall be used to pay the salary of an individual, through a grant or other extramural mechanism, at a rate in excess of Executive Level II.

Note: The salary rate limitation does not restrict the salary that an organization may pay an individual working under an HHS contract or order; it merely limits the portion of that salary that may be paid with federal funds.

B. Gun Control Prohibition (Div. H, Title II, Sec. 210): None of the funds made available in this title may be used, in whole or in part, to advocate or promote gun control.

C. Lobbying Restrictions (Div. H, Title V, Sec. 503):

- 503(a): No part of any appropriation contained in this Act or transferred pursuant to section 4002 of Public Law 111-148 shall be used, other than for normal and recognized executive-legislative relationships, for publicity or propaganda purposes, for the preparation, distribution, or use of any kit, pamphlet, booklet, publication, electronic communication, radio, television, or video presentation designed to support or defeat the enactment of legislation before the Congress or any State or local legislature or legislative body, except in presentation to the Congress or any State or local legislature itself, or designed to support or defeat any proposed or pending regulation, administrative action, or order issued by the executive branch of any State or local government itself.
- 503 (b): No part of any appropriation contained in this Act or transferred pursuant to section 4002 of Public Law 111-148 shall be used to pay the salary or expenses of any grant or contract recipient, or agent acting for such recipient, related to any activity designed to influence the enactment of legislation, appropriations, regulation, administrative action, or Executive order proposed or pending before the Congress or any State government, State legislature or local legislature or legislative body, other than for normal and recognized executive-legislative relationships or participation by an agency or officer of a State, local or tribal government in policymaking and administrative processes within the executive branch of that government.
- 503(c): The prohibitions in subsections (a) and (b) shall include any activity to advocate or promote any proposed, pending or future federal, state or local tax increase, or any proposed, pending, or future requirement or restriction on any legal consumer product, including its sale or marketing, including but not limited to the advocacy or promotion of gun control.

For additional information, see Additional Requirement 12 at <http://www.cdc.gov/grants/additionalrequirements/index.html>.

D. Needle Exchange (Div. H, Title V, Sec. 520): Notwithstanding any other provision of this Act, no funds appropriated in this Act shall be used to carry out any program of distributing sterile needles or syringes for the hypodermic injection of any illegal drug.

E. Blocking access to pornography (Div. H, Title V, Sec. 521): (a) None of the funds made available in this Act may be used to maintain or establish a computer network unless such network blocks the viewing, downloading, and exchanging of pornography; (b) Nothing in subsection (a) shall limit the use of funds necessary for any federal, state, tribal, or local law enforcement agency or any other entity carrying out criminal investigations, prosecution, or adjudication activities.

## REPORTING REQUIREMENTS

**Audit Requirement Domestic Organizations** An organization that expends \$750,000 or more in a fiscal year in federal awards shall have a single or program-specific audit conducted for that year in accordance with the provisions of 45 CFR Part 75. The audit period is an organization's fiscal year. The audit must be completed along with a data collection form (SF-SAC), and the reporting package shall be submitted within the earlier of 30 days after receipt of the auditor's report(s), or nine (9) months after the end of the audit period. The audit report must be sent to:

Federal Audit Clearing House Internet Data Entry System Electronic Submission:  
[https://harvester.census.gov/facides/\(S\(0vkw1zaelyzjibnahocga5i0\)\)/account/login.aspx](https://harvester.census.gov/facides/(S(0vkw1zaelyzjibnahocga5i0))/account/login.aspx)

AND

Office of Grants Services, Financial Assessment and Audit Resolution Unit  
Electronic Copy to: OGS.Audit.Resolution@cdc.gov

Audit requirements for Subrecipients to whom 45 CFR 75 Subpart F applies: The recipient must ensure that the subrecipients receiving CDC funds also meet these requirements. The recipient must also ensure to take appropriate corrective action within six months after receipt of the subrecipient audit report in instances of non-compliance with applicable federal law and regulations (45 CFR 75 Subpart F and HHS Grants Policy Statement). The recipient may consider whether subrecipient audits necessitate adjustment of the recipient's own accounting records. If a subrecipient is not required to have a program-specific audit, the recipient is still required to perform adequate monitoring of subrecipient activities. The recipient shall require each subrecipient to permit the independent auditor access to the subrecipient's records and financial statements. The recipient must include this requirement in all subrecipient contracts.

**Required Disclosures for Federal Awardee Performance and Integrity Information System (FAPIS):** Consistent with 45 CFR 75.113, applicants and recipients must disclose in a timely manner, in writing to the CDC, with a copy to the HHS Office of Inspector General (OIG), all information related to violations of federal criminal law involving fraud, bribery, or gratuity violations potentially affecting the federal award. Subrecipients must disclose, in a timely manner in writing to the prime recipient (pass through entity) and the HHS OIG, all information related to violations of federal criminal law involving fraud, bribery, or gratuity violations potentially affecting the federal award. Disclosures must be sent in writing to the assigned GMS/GMO identified in the NOA, and to the HHS OIG at the following address:

U.S. Department of Health and Human Services  
Office of the Inspector General  
ATTN: Mandatory Grant Disclosures, Intake Coordinator  
330 Independence Avenue, SW  
Cohen Building, Room 5527  
Washington, DC 20201

Fax: (202)-205-0604 (Include "Mandatory Grant Disclosures" in subject line) or  
Email: MandatoryGranteeDisclosures@oig.hhs.gov

Recipients must include this mandatory disclosure requirement in all subawards and contracts under this award.

Failure to make required disclosures can result in any of the remedies described in 45 CFR 75.371. Remedies for noncompliance, including suspension or debarment (See 2 CFR parts 180 and 376, and 31 U.S.C. 3321).

CDC is required to report any termination of a federal award prior to the end of the period of performance due to material failure to comply with the terms and conditions of this award in the OMB-designated integrity and performance system accessible through SAM (currently FAPIIS) (45 CFR 75.372(b)). CDC must also notify the recipient if the federal award is terminated for failure to comply with the federal statutes, regulations, or terms and conditions of the federal award (45 CFR 75.373(b)).

In addition, if the total value of currently active grants, cooperative agreements, and procurement contracts from all federal awarding agencies exceeds \$10,000,000 for any period of time during the period of performance of this federal award, the recipient must maintain the currency of information reported to the System for Award Management (SAM) and made available in the designated integrity and performance system (currently the Federal Awardee Performance and Integrity Information System (FAPIIS)) about civil, criminal, or administrative proceedings described in section 1 of this award term and condition. This is a statutory requirement under section 872 of Public Law 110-417, as amended (41 U.S.C. 2313). As required by section 3010 of Public Law 111-212, all information posted in the designated integrity and performance system on or after April 15, 2011, except past performance reviews required for federal procurement contracts, will be publicly available.

*1. Proceedings About Which You Must Report*

Submit the information required about each proceeding that:

- a. Is in connection with the award or performance of a grant, cooperative agreement, or procurement contract from the federal government;
- b. Reached its final disposition during the most recent five year period; and
- c. If one of the following:
  - (1) A criminal proceeding that resulted in a conviction, as defined in paragraph 5 of this award term and condition;
  - (2) A civil proceeding that resulted in a finding of fault and liability and payment of a monetary fine, penalty, reimbursement, restitution, or damages of \$5,000 or more;
  - (3) An administrative proceeding, as defined in paragraph 5 of this award term and condition, that resulted in a finding of fault and liability and your payment of either a monetary fine or penalty of \$5,000 or more or reimbursement, restitution, or damages in excess of \$100,000; or

- (4) Any other criminal, civil, or administrative proceeding if:
- (i) It could have led to an outcome described in paragraph 2.c.(1), (2), or (3) of this award term and condition;
  - (ii) It had a different disposition arrived at by consent or compromise with an acknowledgement of fault on your part; and
  - (iii) The requirement in this award term and condition to disclose information about the proceeding does not conflict with applicable laws and regulations.

## *2. Reporting Procedures*

Enter in the SAM Entity Management area the information that SAM requires about each proceeding described in section 1 of this award term and condition. You do not need to submit the information a second time under assistance awards that you received if you already provided the information through SAM because you were required to do so under federal procurement contracts that you were awarded.

## *3. Reporting Frequency*

During any period of time when you are subject to this requirement in section 1 of this award term and condition, you must report proceedings information through SAM for the most recent five year period, either to report new information about any proceeding(s) that you have not reported previously or affirm that there is no new information to report. Recipients that have federal contract, grant, and cooperative agreement awards with a cumulative total value greater than \$10,000,000 must disclose semiannually any information about the criminal, civil, and administrative proceedings.

## *4. Definitions*

For purposes of this award term and condition:

- a. Administrative proceeding means a non-judicial process that is adjudicatory in nature in order to make a determination of fault or liability (e.g., Securities and Exchange Commission Administrative proceedings, Civilian Board of Contract Appeals proceedings, and Armed Services Board of Contract Appeals proceedings). This includes proceedings at the federal and state level but only in connection with performance of a federal contract or grant. It does not include audits, site visits, corrective plans, or inspection of deliverables.
- b. Conviction, for purposes of this award term and condition, means a judgment or conviction of a criminal offense by any court of competent jurisdiction, whether entered upon a verdict or a plea, and includes a conviction entered upon a plea of nolo contendere.
- c. Total value of currently active grants, cooperative agreements, and procurement contracts includes—
  - (1) Only the federal share of the funding under any federal award with a recipient cost share or match;
  - (2) The value of all expected funding increments under a federal award and options, even if not yet exercised.

## **GENERAL REQUIREMENTS**

**Travel Cost:** In accordance with HHS Grants Policy Statement, travel costs are allowable when the travel will provide a direct benefit to the project or program. To prevent disallowance of cost, the recipient is responsible for ensuring travel costs are clearly stated in their budget narrative and are applied in accordance with their organization's established travel policies and procedures. The recipient's established travel policies and procedures must also meet the requirements of 45 CFR Part 75.474.

**Food and Meals:** Costs associated with food or meals are allowable when consistent with applicable federal regulations and HHS policies. See <https://www.hhs.gov/grants/contracts/contract-policies-regulations/efficient-spending/index.html>. In addition, costs must be clearly stated in the budget narrative and be consistent with organization approved policies. Recipients must make a determination of reasonableness and organization approved policies must meet the requirements of 45 CFR Part 75.432.

**Inventions:** Acceptance of grant funds obligates recipients to comply with the standard patent rights clause in 37 CFR Part 401.14.

**Publications:** Publications, journal articles, etc. produced under a CDC grant supported project must bear an acknowledgment and disclaimer, and include the award number. For example:

This publication (journal article, etc.) was supported by Grant or Cooperative Agreement number 5UXXXXXXX, funded by the Centers for Disease Control and Prevention. Its contents are solely the responsibility of the authors and do not necessarily represent the official views of the Centers for Disease Control and Prevention or the Department of Health and Human Services.

**Acknowledgment Of Federal Support:** When issuing statements, press releases, requests for proposals, bid solicitations and other documents describing projects or programs funded in whole or in part with federal money, all awardees receiving federal funds, including and not limited to state and local governments and recipients of federal research grants, shall clearly state:

- Percentage of the total costs of the program or project which will be financed with federal money,
- Dollar amount of federal funds for the project or program, and
- Percentage and dollar amount of the total costs of the project or program that will be financed by non-governmental sources.

**Copyright Interests Provision:** This provision is intended to ensure that the public has access to the results and accomplishments of public health activities funded by CDC. Pursuant to applicable grant regulations and CDC's Public Access Policy, Recipient agrees to submit into the National Institutes of Health (NIH) Manuscript Submission (NIHMS) system an electronic version of the final, peer-reviewed manuscript of any such work developed under this award upon acceptance for publication, to be made publicly available no later than 12 months after the official date of publication. Also at the time of submission, Recipient and/or the Recipient's submitting author must specify the date the final manuscript will be publicly accessible through PubMed Central (PMC). Recipient and/or Recipient's submitting author must also post the manuscript through PMC within twelve (12) months of the publisher's official date of final publication; however, the author is strongly encouraged to make the subject manuscript available as soon as possible. The recipient must obtain prior approval from the CDC for any exception to this provision.

The author's final, peer-reviewed manuscript is defined as the final version accepted for journal publication, and includes all modifications from the publishing peer review process, and all graphics and supplemental material associated with the article. Recipient and its submitting authors working under this award are responsible for ensuring that any publishing or copyright agreements concerning submitted article reserve adequate right to fully comply with this provision and the license reserved by CDC. The manuscript will be hosted in both



PMC and the CDC Stacks institutional repository system. In progress reports for this award, recipient must identify publications subject to the CDC Public Access Policy by using the applicable NIHMS identification number for up to three (3) months after the publication date and the PubMed Central identification number (PMCID) thereafter.

**Disclaimer for Conference/Meeting/Seminar Materials:** If a conference/meeting/seminar is funded by a grant, cooperative agreement, sub-grant and/or a contract, the recipient must include the following statement on conference materials, including promotional materials, agenda, and internet sites:

Funding for this conference was made possible (in part) by the Centers for Disease Control and Prevention. The views expressed in written conference materials or publications and by speakers and moderators do not necessarily reflect the official policies of the Department of Health and Human Services, nor does the mention of trade names, commercial practices, or organizations imply endorsement by the U.S. Government.

**Logo Use for Conference and Other Materials:** Neither the Department of Health and Human Services (HHS) nor the CDC logo may be displayed if such display would cause confusion as to the funding source or give false appearance of Government endorsement. Use of the HHS name or logo is governed by U.S.C. Part 1320b-10, which prohibits misuse of the HHS name and emblem in written communication. A non-federal entity is not authorized to use the HHS name or logo governed by U.S.C. Part 1320b-10. The appropriate use of the HHS logo is subject to review and approval of the HHS Office of the Assistant Secretary for Public Affairs (OASPA). Moreover, the HHS Office of the Inspector General has authority to impose civil monetary penalties for violations (42 CFR Part 1003).

Additionally, the CDC logo cannot be used by the recipient without the express, written consent of CDC. The Program Official/Project Officer identified in the NOA can assist with facilitating such a request. It is the responsibility of the recipient to request consent for use of the logo in sufficient detail to ensure a complete depiction and disclosure of all uses of the Government logos. In all cases for utilization of Government logos, the recipient must ensure written consent is received. Further, the HHS and CDC logo cannot be used by the recipient without a license agreement setting forth the terms and conditions of use.

**Equipment and Products:** To the greatest extent practical, all equipment and products purchased with CDC funds should be American-made. CDC defines equipment as tangible non-expendable personal property (including exempt property) charged directly to an award having a useful life of more than one year AND an acquisition cost of \$5,000 or more per unit. However, consistent with recipient policy, a lower threshold may be established. Please provide the information to the Grants Management Officer to establish a lower equipment threshold to reflect your organization's policy.

The recipient may use its own property management standards and procedures, provided it observes provisions in applicable grant regulations found at 45 CFR Part 75.

**Federal Information Security Management Act (FISMA):** All information systems, electronic or hard copy, that contain federal data must be protected from unauthorized access. This standard also applies to information associated with CDC grants. Congress and the OMB have instituted laws, policies and directives that govern the creation and implementation of federal information security practices that pertain specifically to grants and contracts. The current regulations are pursuant to the Federal Information Security



Management Act (FISMA), Title III of the E-Government Act of 2002, PL 107-347.

FISMA applies to CDC recipients only when recipients collect, store, process, transmit or use information on behalf of HHS or any of its component organizations. In all other cases, FISMA is not applicable to recipients of grants, including cooperative agreements. Under FISMA, the recipient retains the original data and intellectual property, and is responsible for the security of these data, subject to all applicable laws protecting security, privacy, and research. If/When information collected by a recipient is provided to HHS, responsibility for the protection of the HHS copy of the information is transferred to HHS and it becomes the agency's responsibility to protect that information and any derivative copies as required by FISMA. For the full text of the requirements under Federal Information Security Management Act (FISMA), Title III of the E-Government Act of 2002 Pub. L. No. 107-347, please review the following website: <https://www.gpo.gov/fdsys/pkg/PLAW-107publ347/pdf/PLAW-107publ347.pdf>.

**Pilot Program for Enhancement of Contractor Employee Whistleblower Protections:**

Recipients are hereby given notice that the 48 CFR section 3.908, implementing section 828, entitled "Pilot Program for Enhancement of Contractor Employee Whistleblower Protections," of the National Defense Authorization Act (NDAA) for Fiscal Year (FY) 2013 (Pub. L. 112-239, enacted January 2, 2013), applies to this award.

Federal Acquisition Regulations

As promulgated in the Federal Register, the relevant portions of 48 CFR section 3.908 read as follows (note that use of the term "contract," "contractor," "subcontract," or "subcontractor" for the purpose of this term and condition, should be read as "grant," "recipient," "subgrant," or "subrecipient"):

3.908 Pilot program for enhancement of contractor employee whistleblower protections.

3.908-1 Scope of section.

(a) This section implements 41 U.S.C. 4712.

(b) This section does not apply to-

- (1) DoD, NASA, and the Coast Guard; or
- (2) Any element of the intelligence community, as defined in section 3(4) of the National Security Act of 1947 (50 U.S.C. 3003(4)). This section does not apply to any disclosure made by an employee of a contractor or subcontractor of an element of the intelligence community if such disclosure-
  - (i) Relates to an activity of an element of the intelligence community; or
  - (ii) Was discovered during contract or subcontract services provided to an element of the intelligence community.

3.908-2 Definitions.

As used in this section-

"Abuse of authority" means an arbitrary and capricious exercise of authority that is inconsistent with the mission of the executive agency concerned or the successful performance of a contract of such agency.

"Inspector General" means an Inspector General appointed under the Inspector General Act of 1978 and any Inspector General that receives funding from, or has oversight over contracts awarded for, or on behalf of, the executive agency concerned.

3.908-3 Policy.

(a) Contractors and subcontractors are prohibited from discharging, demoting, or otherwise discriminating against an employee as a reprisal for disclosing, to any of the entities listed at paragraph (b) of this subsection, information that the employee reasonably believes is evidence of gross mismanagement of a federal contract, a gross waste of federal funds, an abuse of authority relating to a federal contract, a substantial and specific danger to public health or safety, or a violation of law, rule, or regulation related to a federal contract (including the competition for or negotiation of a contract). A reprisal is prohibited even if it is undertaken at the request of an executive branch official, unless the request takes the form of a non-discretionary directive and is within the authority of the executive branch official making the request.

(b) Entities to whom disclosure may be made.

- (1) A Member of Congress or a representative of a committee of Congress.
- (2) An Inspector General.
- (3) The Government Accountability Office.
- (4) A federal employee responsible for contract oversight or management at the relevant agency.
- (5) An authorized official of the Department of Justice or other law enforcement agency.
- (6) A court or grand jury.
- (7) A management official or other employee of the contractor or subcontractor who has the responsibility to investigate, discover, or address misconduct.

(c) An employee who initiates or provides evidence of contractor or subcontractor misconduct in any judicial or administrative proceeding relating to waste, fraud, or abuse on a federal contract shall be deemed to have made a disclosure.

3.908-9 Contract clause.

Contractor Employee Whistleblower Rights and Requirement to Inform Employees of Whistleblower Rights (Sept. 2013)

(a) This contract and employees working on this contract will be subject to the whistleblower rights and remedies in the pilot program on Contractor employee whistleblower protections established at 41 U.S.C. 4712 by section 828 of the National Defense Authorization Act for Fiscal Year 2013 (Pub. L. 112-239) and FAR 3.908.

(b) The Contractor shall inform its employees in writing, in the predominant language of the workforce, of employee whistleblower rights and protections under 41 U.S.C. 4712, as described in section 3.908 of the Federal Acquisition Regulation.

(c) The Contractor shall insert the substance of this clause, including this paragraph (c), in all subcontracts over the simplified acquisition threshold.

**CDPH Immunization Branch  
Funding Application for Immunization Branch Subvention Grant Funds**

**Exhibit B - Budget A1**

	Budget (*Year 1) 07/01/2017 to 06/30/2018	Budget (**Year 2) 07/01/2018 to 06/30/2019	Budget (**Year 3) 07/01/2019 to 06/30/2020	Budget (**Year 4) 07/01/2020 to 06/30/2021	Budget (**Year 5) 07/01/2021 to 06/30/2022
I. County of Inyo	\$ 39,543	\$ 39,543	\$ 37,170	\$ 37,170	\$ 37,170
II. (Subgrantee, if any)	\$ -	\$ -	\$ -	\$ -	\$ -
Total	\$ 39,543	\$ 39,543	\$ 37,170	\$ 37,170	\$ 37,170

\*Year 1 Budget, FY 2017-18 is 100% Prevention and Public Health Funds (PPHF) Funded

\*\*Program will provide funding source as it becomes available for the subsequent fiscal years.

<b>Total Funding for 5-Year Term:</b>	<b>\$ 190,596</b>
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**CDPH Immunization Branch  
Funding Application for Immunization Subvention Grant Funds**

**Exhibit B - Budget A1  
Year 3  
(07/01/2019 - 06/30/2020)**

Grant Agreement #: 17-10320

Form 5C

	% of time or hours on project	Monthly salary range or hourly rate	Total
<b>I. Personnel</b>			
Public Health Nurse/Registered Nurse	20%	\$ 40.94 \$	17,033.00
Office Tech III	15%	\$ 27.82 \$	8,681.00
		\$	-
		\$	-
		\$	-
		\$	-
		\$	-
		\$	-
		\$	-
<b>Total Personnel Expenses</b>		\$	<b>25,714.00</b>
<b>II. Fringe Benefits (39.1855% of Personnel)</b>		\$	<b>10,076.00</b>
<b>III. Operating Expenses or General Expenses</b>		\$	<b>880.00</b>
Office/Clinic Supplies		\$	880.00
Printing		\$	-
Health Education		\$	-
Other		\$	-
<b>IV. Equipment Expenses</b>		\$	-
<b>V. Travel Expenses</b>		\$	<b>500.00</b>
In-State Travel		\$	500.00
Out-of-State Travel		\$	-
(The Grantee shall be reimbursed for the actual claimed and invoiced)			
<b>VI. Subgrantee Expenses (if any)</b>		\$	-
_____ (Name of Subgrantee)			
<b>VII. Indirect Costs (Approved ___% of total Personnel Costs or total Direct Costs)</b>		\$	-
<input type="checkbox"/> Approved ___% of total Personnel Costs			
<input type="checkbox"/> Approved ___% of total Direct Costs			
<b>VIII. Total Expenses</b>		\$	<b>37,170.00</b>

**CDPH Immunization Branch  
Funding Application for Immunization Subvention Grant Funds**

**Exhibit B - Budget A1  
Year 4  
(07/01/2020 - 06/30/2021)**

Grant Agreement #: 17-10320

Form 5D

<b>I. Personnel</b>	<b>% of time or hours on project</b>	<b>Monthly salary range or hourly rate</b>	<b>Total</b>
Public Health Nurse/Registered Nurse	20%	\$ 40.94 \$	17,033.00
Office Tech III	15%	\$ 27.82 \$	8,681.00
		\$ -	-
		\$ -	-
		\$ -	-
		\$ -	-
		\$ -	-
		\$ -	-
		\$ -	-
<b>Total Personnel Expenses</b>		<b>\$ -</b>	<b>25,714.00</b>
<b>II. Fringe Benefits (39.1855% of Personnel)</b>		<b>\$ -</b>	<b>10,076.00</b>
<b>III. Operating Expenses or General Expenses</b>		<b>\$ -</b>	<b>880.00</b>
Office/Clinic Supplies		\$ -	880.00
Printing		\$ -	-
Health Education		\$ -	-
Other		\$ -	-
<b>IV. Equipment Expenses</b>		<b>\$ -</b>	<b>-</b>
<b>V. Travel Expenses</b>		<b>\$ -</b>	<b>500.00</b>
In-State Travel		\$ -	500.00
Out-of-State Travel		\$ -	-
(The Grantee shall be reimbursed for the actual claimed and invoiced)			
<b>VI. Subgrantee Expenses (if any)</b>		<b>\$ -</b>	<b>-</b>
_____ (Name of Subgrantee)			
<b>VII. Indirect Costs (Approved ___% of total Personnel Costs or total Direct Costs)</b>		<b>\$ -</b>	<b>-</b>
<input type="checkbox"/> Approved ___% of total Personnel Costs			
<input type="checkbox"/> Approved ___% of total Direct Costs			
<b>VIII. Total Expenses</b>		<b>\$ -</b>	<b>37,170.00</b>

**CDPH Immunization Branch  
Funding Application for Immunization Subvention Grant Funds**

**Exhibit B - Budget A1  
Year 5  
(07/01/2021 - 06/30/2022)**

Grant Agreement #: 17-10320

Form 5E

<b>I. Personnel</b>	<b>% of time or hours on project</b>	<b>Monthly salary range or hourly rate</b>	<b>Total</b>
Public Health Nurse/Registered Nurse	20%	\$ 40.94	\$ 17,033.00
Office Tech III	15%	\$ 27.82	\$ 8,681.00
		\$	-
		\$	-
		\$	-
		\$	-
		\$	-
		\$	-
		\$	-
		\$	-
<b>Total Personnel Expenses</b>		\$	<b>25,714.00</b>
<b>II. Fringe Benefits (39.1855% of Personnel)</b>		\$	<b>10,076.00</b>
<b>III. Operating Expenses or General Expenses</b>		\$	<b>880.00</b>
Office/Clinic Supplies		\$	880.00
Printing		\$	-
Health Education		\$	-
Other		\$	-
<b>IV. Equipment Expenses</b>		\$	-
<b>V. Travel Expenses</b>		\$	<b>500.00</b>
In-State Travel		\$	500.00
Out-of-State Travel		\$	-
(The Grantee shall be reimbursed for the actual claimed and invoiced)			
<b>VI. Subgrantee Expenses (if any)</b>		\$	-
_____ (Name of Subgrantee)			
<b>VII. Indirect Costs (Approved ___% of total Personnel Costs or total Direct Costs)</b>		\$	-
<input type="checkbox"/> Approved ___% of total Personnel Costs			
<input type="checkbox"/> Approved ___% of total Direct Costs			
<b>VIII. Total Expenses</b>		<b>\$</b>	<b>37,170.00</b>

**CDPH Immunization Branch**  
**Scope of Work for Local Health Departments FY 2020-22**

**Purpose**

The purpose of this grant is to assist local health departments (LHDs) in preventing and controlling vaccine-preventable diseases in the local health jurisdiction (LHJ).

**Related Statutes**

California Health & Safety Code sections:

- 120130 requires the Local Health Officer to properly report to CDPH those diseases listed as reportable, which include vaccine-preventable diseases.
- 120175 requires the Local Health Officer to take measures as may be necessary to prevent the spread or occurrence of additional cases of reportable diseases (which includes reportable vaccine-preventable diseases).
- 120350 requires Local Health Officers to organize and maintain a program to make available the immunizations required for admittance to child care facilities and schools.

**Services to be Performed by the Grantee**

The Grantee is to implement activities to:

- Assess and improve coverage levels in the jurisdiction of all vaccines recommended by the Advisory Committee on Immunization Practices (ACIP) to protect the population.
- Detect, report, and control vaccine-preventable diseases in the jurisdiction.

The LHD must agree to the following inclusive objectives and conduct the following activities. Many of the services to be performed are also conditions for federal funding of the CDPH Immunization Branch (IZB) and/or statutory requirements of State and LHDs. The level of local assistance grant funding to be awarded is not represented as sufficient for support of all the required activities; a significant amount of local support and funding is expected. Local assistance grant funds must not be used to supplant (i.e., replace) local funds currently being expended for immunization services and activities.

Grantee agrees to assign the responsibility of monitoring each program component:

1) Vaccine Accountability and Management; 2) Access to and Utilization of Quality Immunization Services; 3) California Immunization Registry (CAIR)<sup>3</sup>; 4) Perinatal Hepatitis B Prevention; 5) Education, Information, Training, and Partnerships; 6) Prevention, Surveillance and Control of Vaccine Preventable Disease (VPD); 7) Childcare and School Immunization Entry Requirements; 8) Influenza; and 9) COVID-19 Vaccination.

Grantee will monitor grant fund expenditures to maximize the utilization of the funding for achieving the goals and objectives. Grant invoices shall be reviewed and submitted quarterly to the CDPH Immunization Branch.

The Immunization Coordinator is required to participate in meetings, webinars, and conference calls as requested by the CDPH Immunization Branch including, but not limited to, the CDPH Immunization Branch's Immunization Coordinators' Meeting, New Immunization Coordinator Orientation (offered annually and required for all new Immunization Coordinators), regional coordinators' meetings, and conference calls related to influenza, outbreak control, perinatal hepatitis B, changes in policies and procedures, and other important issues.

**CDPH Immunization Branch**  
**Scope of Work for Local Health Departments FY 2020-22**

**1. Vaccine Accountability and Management**

**Goal 1.1** Maintain viability of IZB supplied vaccine to ensure vaccine effectiveness and reduce vaccine waste.

Required Activities	Performance Measures
a. Annually, make sure all relevant staff within LHD-operated clinics (routine, mass vaccination, or special immunization outreach) are properly trained on current policies and procedures for proper vaccine storage and handling outlined in each participation agreement/addendum for the receipt of IZB supplied vaccines (317, Vaccines for Children [VFC], state general fund).	<ol style="list-style-type: none"> <li>1. Updated Vaccine Management Plans for each LHD facility.</li> <li>2. Completed EZIZ Lessons for Key Practice Staff.</li> <li>3. Documentation of completed trainings.</li> </ol>
b. Develop and implement a training plan for provider facilities outside LHDs receiving IZB supplied doses (state or 317 Outbreak). Focus the plan on proper vaccine management, vaccine storage and handling requirements, and administration prior to the distribution of IZB-supplied vaccines.	<ol style="list-style-type: none"> <li>1. Training plan developed and implemented.</li> <li>2. Completed trainings/Documentation of completed trainings.</li> <li>3. Completed and signed Vaccine Management Plans.</li> </ol>
c. Develop and implement a plan to verify that 317 Outbreak and state general fund immunizations administered by providers outside the LHDs adhere to policies for vaccine management. Conduct Quality Assurance verifications (such as random temperature log review, on site vaccination clinic assessments, review of vaccine losses, etc.) at least every other year, in a sample of sites receiving vaccines.	<ol style="list-style-type: none"> <li>1. Developed and implemented Quality Assurance Plan.</li> <li>2. Completion of Mass Vaccination Hourly Temperature Logs/Electronic Data Files.</li> <li>3. Temperature Documentation on CDPH provided Logs for all IZB-supplied vaccines/Electronic Temperature Files.</li> <li>4. Completed Quality Assurance verifications in a minimum sample of 10% of sites receiving vaccines.</li> </ol>
d. Promote and encourage adoption of CDPH and CDC storage and handling guidelines among all healthcare providers providing immunization services in the community.	Documentation of storage and handling best practices promotion efforts.

**Goal 1.2** Facilitate compliance with current protocols, policies, and procedures for vaccine accountability for LHD facilities and partners that receive IZB-supplied vaccine.

Required Activities	Performance Measures
a. Make sure all relevant staff involved in vaccine ordering, management, and accountability activities within local health department-operated clinics adhere to all program requirements as outlined in the VFC/317 Provider Participation Agreements and Addendums. Complete annual VFC/317 program recertification.	Completed annual program recertification and corresponding educational lessons for all key practice staff.



**CDPH Immunization Branch  
Scope of Work for Local Health Departments FY 2020-22**

<p>b. Promote adherence to eligibility guidelines corresponding to VFC, Section 317, and state general fund vaccines. Upon release of the Immunization Branch’s Vaccine Eligibility Guidelines, IMM-1142, disseminate guidance to all relevant staff involved in vaccine ordering, management, and accountability activities within local health department operated pediatric and adult immunization clinics.</p>	<p>Documentation of provided guidance.</p>
<p>c. Verify that processes are in place such that IZB-supplied (317, VFC, state) vaccines are administered to eligible individuals following outlined eligibility guidelines for each vaccine funding source.</p>	<p>LHD developed protocols, inclusive of eligibility guidelines, for each vaccine funding source.</p>
<p>d. Comply with federal policies regarding vaccine re-distribution. Publicly funded VFC and 317 vaccines must be distributed directly to the location at which the provider will administer the vaccines.</p>	<p>Documentation of procedures.</p>

**2. Access to and Utilization of Quality Immunization Services**

**Goal 2.1** Improve access to and receipt of all ACIP-recommended immunizations, especially for low income and underserved community members.

<b>Required Activities</b>	<b>Performance Measures</b>
<p>a. Use a current, local jurisdiction-specific referral list to support an immunization safety net. This may include referral to other programs that connect patients to services.</p>	<p>Referral list completed and updated on an annual basis.</p>
<p>b. Be responsive to problems Medi-Cal members report related to access to immunization services.<sup>1</sup> Work with the corresponding Medi-Cal Managed Care Plan (MCP) to resolve problems. After attempts to work with MCP, if still unable to resolve, collect details and escalate to Senior Field Representative or other designated Immunization Branch staff person.</p>	<p>Maintain log of access problems resolved at local level or reported to CDPH.</p>
<p>c. For all LHD facilities that are VFC providers, participate in and support provider compliance and quality improvement<sup>2</sup> visits in conjunction with the CDPH Immunization Branch. Assist with the implementation of corrective action plans, strategies to reduce missed opportunities for vaccination, and linkage/referral to medical homes.</p>	<p># of clinics with corrective actions that were all completed within the specified time frame.</p>

<sup>1</sup> Requirements for Medi-Cal immunization services are summarized here: <http://izcoordinators.org/vaccine-programs/medi-cal-and-pharmacy-resources/>.

<sup>2</sup> Immunization Quality Improvement for Providers (IQIP), formerly known as AFIX

**CDPH Immunization Branch  
Scope of Work for Local Health Departments FY 2020-22**

**3. California Immunization Registry (CAIR)<sup>3</sup>**

**Goal 3.1** Promote and optimize<sup>4</sup> the use of CAIR in the jurisdiction.

Required Activities	Performance Measures
a. Enter all IZB-supplied vaccine doses administered by LHD or partners, including influenza doses, into CAIR.	# LHD clinics participating in CAIR/# all LHD clinics. % of LHD clinic doses entered into the registry within 14 days. # state flu doses entered by end of flu season/ # state flu doses administered.
b. For LHDs with primary care clinics, use manage patient status functionality to remove inactive patients at least once a year.	Inactive patients marked as inactive in CAIR.
c. In LHD primary care clinics, utilize CAIR data to identify and improve low or lagging infant or adolescent vaccination coverage levels.	Low infant or adolescent CAIR coverage rate identified and improved.
d. Review monthly CAIR usage reports <sup>5</sup> to identify priority non-participating VFC sites that need to be recruited/retained. Communicate priority sites to Local CAIR Rep (LCR).	# of VFC Sites identified for priority recruitment /retention contact.
e. Invite CAIR staff to participate in local provider trainings in order to promote CAIR.	Number of trainings with CAIR participation/Number of trainings held.

**Goal 3.2** Connect local Immunization Information Systems (IIS) so CAIR becomes a statewide system.  
**For San Diego and San Joaquin Counties only**

Required Activities	Performance Measures
a. Implement data sharing with CAIR2, including: <ul style="list-style-type: none"> <li>a. Attend scheduled planning meetings with CAIR2 staff</li> <li>b. Comply with agreed upon timelines</li> <li>c. Complete data transfer testing, including both inbound to CAIR2 and outbound back to local IIS.</li> <li>d. Share bulk historical loads of existing patients and immunizations to CAIR2 to initiate data sharing</li> </ul>	Full historical data load completed.
b. Initiate and maintain ongoing electronic data sharing with CAIR2 (HL7).	Ongoing data sharing continues.

<sup>3</sup> CAIR refers to the statewide system connecting CAIR2 with the San Diego Immunization Registry and Healthy Futures.

<sup>4</sup> If have EHR, move from manual data entry to data exchange (upload from EHR) to bidirectional data exchange, to optimize CAIR use. See <http://cairweb.org/docs/CAIR2-Communications/IMM-1266> and <http://cairweb.org/docs/CAIR2-Communications/IMM-1260>.

<sup>5</sup> Monthly CAIR usage reports for VFC providers are posted here: <http://izcoordinators.org/cair-reports/>.

**CDPH Immunization Branch  
Scope of Work for Local Health Departments FY 2020-22**

**4. Perinatal Hepatitis B Prevention**

**Goal 4.1** Reduce the incidence of perinatal hepatitis B virus (HBV) infection in the jurisdiction.

Required Activities	Performance Measures
<p>Note: Coordinate perinatal HBV prevention efforts with your LHD’s Maternal Child and Adolescent Health (MCAH) program, as activities 4.1a-4.1c may also help fulfill title V requirements and MCAH Scope of Work Activities.</p> <p>a. Educate medical providers and hospital staff about the screening, care, and reporting of pregnant women who test positive for hepatitis B and their infants according to the guidance outlined below:  <a href="#">Guidance for Prenatal Providers</a>  <a href="#">Guidance for Labor and Delivery Hospitals</a>  <a href="#">Guidance for Pediatric Providers</a></p>	<ol style="list-style-type: none"> <li>1. Number and percentage of HBsAg-positive pregnant women identified in the reporting period who were enrolled prior to delivery.</li> <li>2. Number and percentage of HBsAg-positive pregnant women identified in the reporting period with an HBV DNA test result during pregnancy.</li> <li>3. Number and percent of PEP errors in the reporting period with completed LHJ follow-up.</li> </ol>
<p>b. Educate identified HBsAg-positive pregnant women about their HBV status and provide the appropriate information on prevention of perinatal hepatitis B transmission, based on current ACIP recommendations and the guidance outlined below:  <a href="#">Perinatal Hepatitis B Prevention Program Coordinator Handbook</a></p>	<p>HBsAg positive pregnant women identified.</p>
<p>c. Collect and submit requested data to CDPH on HBsAg-positive pregnant women and their infants according to the guidance outlined below:  <a href="#">Perinatal Hepatitis B Prevention Program Coordinator Handbook</a></p>	<ol style="list-style-type: none"> <li>1. Number and percentage of infants born to HBsAg-positive mothers in the reporting period who received PEP according to ACIP recommendations.</li> <li>2. Number and percentage of infants born to HBsAg-positive mothers who completed the HBV vaccine series by 12 months of age.</li> <li>3. Number and percentage of infants born to HBsAg-positive mothers who have completed PVS testing by 24 months of age.</li> <li>4. Number and percentage of infants closed to case management with complete information within 24 months.</li> </ol>

**CDPH Immunization Branch  
Scope of Work for Local Health Departments FY 2020-22**

**5. Education, Information, Training, and Partnerships**

**Goal 5.1** Provide and/or promote educational activities and information to health care providers, schools and childcare centers, and other immunization stakeholders to promote best practices for immunizations and the importance of timely vaccinations.

Required Activities	Performance Measures
a. Based on local priorities and resources, disseminate print and/or electronic communications among providers, school, general public and other immunization stakeholders in their jurisdiction.	Summary of efforts conducted to distribute materials in print or electronically to immunization stakeholders.

Note: Depending on funding, CDPH may offer select hard-copy materials to all VFC Providers through the Online VFC store. If the VFC store is available, LHDs may choose to not provide the select materials to VFC providers in their jurisdiction (refer these providers to the VFC store instead).

CDPH will inform LHDs on centralized communication activities from the Immunization Branch (select print materials to VFC providers, electronic communications to VFC providers, electronic communications and resources to schools, electronic communications resources to pharmacies, electronic communications and resources to community-based organizations/other stakeholders, traditional media and social media to reach general public). LHDs may supplement any gaps in communication with local efforts.

**Goal 5.2** Develop partnerships and collaborative activities in order to expand immunization services, promote best practices and improve coverage rates among children, adolescent and adults.

Required Activities	Performance Measures
a. Engage* with at least 3 types of partners** in conducting educational activities or trainings. (See definitions below)	<ol style="list-style-type: none"> <li>1. Number of partner types (provider, school, social service/other partners) engaged with.</li> <li>2. Summary of activities conducted with each partner type.</li> </ol>

\*Partnership engagement should be based on commitment to perform agreed-upon activities (e.g. joint training, mass vaccination clinic, collaboration to include immunization messaging in communications or event, promotional efforts).

\*\*LHJ will engage with at least one “provider” partner, one “school” partner and one “social service or other” partner:

- “Provider partner” may include hospitals, federally qualified health centers (FQHCs), long term care facilities, birth facilities, professional associations (local ACOG or WIC chapters), pharmacies, health plans and community clinics.
- “School partner” may include child care providers, school or school district, County Department of Education, college, school nurses association or other school-related organizations.
- “Social service and other partners” may include WIC, MCAH, social service agencies, migrant health, homeless shelters, drug-treatment centers, jails, faith-based organizations, local business or community-based organizations.

**CDPH Immunization Branch**  
**Scope of Work for Local Health Departments FY 2020-22**

**6. Prevention, Surveillance and Control of Vaccine Preventable Disease (VPD)**

**Goal 6.1** Conduct surveillance to identify VPD cases and/or outbreaks, and implement recommended prevention and control activities.

Required Activities	Performance Measures
a. Ensure that appropriate clinical specimens are tested and relevant epidemiologic information is collected for VPDs requiring immediate public health action.	<ol style="list-style-type: none"> <li>1. Percentage of measles specimens submitted for molecular characterization.</li> <li>2. Percentage of <i>Neisseria meningitidis</i> specimens/isolates submitted for molecular characterization.</li> <li>3. Percentage of pertussis cases &lt;4 months of age with complete maternal prenatal provider information.</li> </ol>
b. Implement appropriate public health activities for the control and prevention of cases and/or outbreaks of VPDs that are reportable to CDPH in accordance with CDPH recommendations. (Coordinate with your local Maternal, Child and Adolescent Health program.)	Percentage of infant pertussis cases where mother was unimmunized during the appropriate window during pregnancy for which a communication regarding prenatal Tdap immunization was made to the prenatal care provider. <sup>6</sup>
c. Obtain vaccine and assist with the organization and implementation of efforts to vaccinate susceptible individuals, if appropriate.	Completed outbreak response request <sup>7</sup> with plan for doses and target population (as appropriate).

**Goal 6.2** Collect and submit requested data to CDPH on VPD cases and outbreaks.

Required Activities	Performance Measures
a. Report VPDs and other conditions reportable to CDPH Immunization Branch per CDPH instructions listed here: <a href="https://www.cdph.ca.gov/programs/CID/DCDC/CDPH%20Document%20Library/Immunization/ReportingGuidanceforLHJs.pdf">https://www.cdph.ca.gov/programs/CID/DCDC/CDPH%20Document%20Library/Immunization/ReportingGuidanceforLHJs.pdf</a>	<ol style="list-style-type: none"> <li>1. Percentage of measles cases reported immediately to CDPH.</li> <li>2. Percent of meningococcal disease cases in high school and college students reported immediately to CDPH.</li> <li>3. Percentage of case reports submitted to CDPH via an electronic communicable disease reporting system (CaIREDIE or other) in the recommended timeframe.</li> </ol>
b. Collect and submit CDPH-requested VPD case and outbreak data.	<ol style="list-style-type: none"> <li>1. Percentage of infant pertussis cases &lt;4 months of age for whom maternal Tdap status is known.</li> <li>2. Percentage of confirmed hepatitis A cases for whom hepatitis A risk factors are known.</li> </ol>

<sup>6</sup> Sending a letter re: standard of care is the minimum acceptable communication, with copy to LHD Maternal Child and Adolescent Health (MCAH) program. See [Template Letter for Prenatal Care Providers with Pregnant Patients that did not Receive Prenatal Tdap Appropriately and Infants Developed Pertussis](#).

<sup>7</sup> The Immunization Branch provides a form for requesting vaccine from CDPH.

**CDPH Immunization Branch  
Scope of Work for Local Health Departments FY 2020-22**

	3. Percentage of meningococcal disease cases for whom high school or college attendance status is known.
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**7. Childcare and School Immunization Entry Requirements**

**Goal 7.1** Decrease the proportion of pupils who are overdue for required immunizations or admitted conditionally.

Required Activities	Performance Measures
a. Provide guidance, training, and support for compliance with entry immunization requirements by all childcare centers and schools within the jurisdiction.	Percentage of schools with kindergarteners in the jurisdiction that have completed the annual immunization assessment.
b. At least annually, visit schools with 10 or more kindergarteners that reported > 10% were either conditionally admitted or overdue for required immunization; provide guidance and support follow-up until these students are up to date.	Percentage of schools with 10 or more kindergarteners where the proportion of students are either conditionally admitted or overdue for required immunization is greater than 10%. Target %: By next school year, less than 3% of schools have $\geq 10\%$ of kindergarteners either conditional or overdue.

**8. Influenza**

**Goal 8.1** Strengthen capacity to protect against seasonal influenza and to prepare for a pandemic.

Required Activities	Performance Measures
a. <u>To assist your LHD emergency preparedness lead in fulfilling its emergency preparedness grant requirements, utilize IZB-supplied influenza vaccine or other 317-funded vaccines to support at least one mass immunization exercise/year. Confirm your LHD emergency preparedness program has entered all doses into CAIR within 14 days of administration, as per the emergency preparedness grant requirement.</u>	Mass vaccination exercise completed by local health department, including immunization and preparedness program staff.
b. Utilize IZB-supplied influenza vaccine to immunize jurisdiction against influenza; doses may be shared with local partners.	Number of doses of influenza vaccine administered. Target #: Administration of at least 9f% of previous season's doses total.
c. Enhance influenza vaccination coverage as a critical part of COVID-19 response work, in order to mitigate the impact of influenza on the health care system, avoid diagnostic confusion with COVID, and build local vaccination capacity. Enhancing coverage includes: supporting/promoting partner efforts to vaccinate vulnerable populations against	Summary report of activities completed.

**CDPH Immunization Branch  
Scope of Work for Local Health Departments FY 2020-22**

<p>influenza; augmenting direct influenza vaccination services (e.g., additional mass vaccination clinics); expanding use of CAIR for tracking influenza doses; and/or, developing enhanced messaging and education to promote influenza vaccination among high-risk populations</p>	
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**9. COVID-19 Vaccination**

**Goal 9.1** Organize an effective COVID-19 vaccination response at the local level.

<b>Required Activities</b>	<b>Performance Measures</b>
<p>a. Develop and implement a COVID-19 vaccination plan that incorporates the three phases of vaccine availability, ensures equitable vaccination access at each phase, and encourages widespread vaccine acceptance and uptake.</p>	<p>LHD COVID-19 Vaccination Planning Template completed and submitted to IZB-CDPH.</p>

**CDPH Immunization Branch  
Scope of Work for Local Health Departments FY 2020-22**

**Glossary of Acronyms and Terms**

Abbreviation or term	Definition
317 vaccine	Vaccine provided to LHD clinics and partners for uninsured adults and for outbreak purposes.
ACIP	Advisory Committee on Immunization Practices
ACOG	American College of Obstetricians and Gynecologists
AFIX	Assessment, Feedback, Incentive, eXchange
CAIR	California Immunization Registry
CalREDIE	California Reportable Disease Information Exchange
CDC	Centers for Disease Control and Prevention
CDPH	California Department of Public Health
COVID-19	Coronavirus Disease 2019
DNA	Deoxyribonucleic Acid
EHR	Electronic Health Record
EZIZ	An Immunization Branch-operated website (eziz.org) with immunization training and resource materials.
FQHC	Federally Qualified Health Center
HBsAg	Hepatitis B Surface Antigen
HBV	Hepatitis B Vaccine
HL7	Health Level 7 (standards for data exchange)
IIS	Immunization Information System
IQIP	Immunization Quality Improvement for Providers
IZB	Immunization Branch (of CDPH)
IZB-supplied vaccine	Vaccine ordered through the CDPH Immunization Branch and supplied to LHD clinics or partners using state or federal (VFC and 317) funding sources.
LCR	Local CAIR representative (on CDPH IZB staff)
LHD	Local Health Department



**CDPH Immunization Branch  
Scope of Work for Local Health Departments FY 2020-22**

Abbreviation or term	Definition
LHD Primary Care Clinic	Clinic run or housed in LHD that serves as a medical home for its patients. Includes federally qualified health centers or look-alikes that are operated or housed in LHDs
LHJ	Local Health Jurisdiction
MCAH	Maternal Child and Adolescent Health
MCP	Medi-Cal Managed Care Plan
PEP	Post Exposure Prophylaxis
PVS	Post-Vaccination Serology
Tdap	Tetanus, Diphtheria, and Pertussis
TK/K	Transitional Kindergarten/Kindergarten
VFC	Vaccines for Children Program
VPDs	Vaccine-Preventable Disease(s)
WIC	Women, Infants, and Children



# County of Inyo



## Health & Human Services - Behavioral Health

### CONSENT - ACTION REQUIRED

**MEETING:** June 28, 2022

**FROM:** Lucy Vincent

**SUBJECT:** Approval of Contract between County of Inyo and Anne Sippi Clinic Treatment Group

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**RECOMMENDED ACTION:**

Request Board approve the contract between the County of Inyo and Anne Sippi Clinic Treatment Group of Bakersfield, CA for the provision of residential placement for adults conserved under the Lanterman Petris Short Act, in an amount not to exceed \$81,000 for the period of July 1, 2022 through June 30, 2023, contingent upon the Board's approval the Fiscal Year 2022-2023 Budget, and authorize the Chairperson to sign the contract and HIPAA Business Associate Agreement, contingent upon all appropriate signatures being obtained.

**SUMMARY/JUSTIFICATION:**

Anne Sippi Clinic Treatment Group provides specialized services that meet the recovery needs of persons with severe mental illness who are ready to step down from a locked facility to a less restrictive environment. These persons are often conserved under the Lanterman Petris Short (LPS) Act. The Anne Sippi transitional social rehabilitation program offers an array of services to support and encourage recovery, including a work experience program (in a ranch or urban setting). We are currently using this contract. The Anne Sippi program also meets the specific needs of persons with hearing impairments as well as severe mental illness. In the past, we have successfully placed several adults in this facility who then stepped down to living independently or with family members. The Department respectfully requests your Board's approval of the contract.

**BACKGROUND/HISTORY OF BOARD ACTIONS:**

N/A

**ALTERNATIVES AND CONSEQUENCES OF NEGATIVE ACTION:**

Your Board could choose not to approve this contract. Appropriate placements are difficult to obtain and there is no guarantee that another facility that offers proper care will be found. The (conserved) adults would then remain in a locked psychiatric setting or may have repeated incarcerations.

**OTHER AGENCY INVOLVEMENT:**

Inyo County Courts

**FINANCING:**

100% Mental Health Realignment Funds (clients may be able to partially reimburse with SSI payments). This

expense will be budgeted in Mental Health (045200) in Support & Care (5508). No County General Funds.

**ATTACHMENTS:**

1. Anne Sippi Clinic Contract
2. HIPAA Business Associate Agreement

**APPROVALS:**

Lucy Vincent	Created/Initiated - 6/15/2022
Darcy Ellis	Approved - 6/15/2022
Lucy Vincent	Approved - 6/15/2022
Anna Scott	Approved - 6/15/2022
Melissa Best-Baker	Approved - 6/15/2022
John Vallejo	Approved - 6/15/2022
Amy Shepherd	Approved - 6/16/2022
Anna Scott	Final Approval - 6/16/2022

**AGREEMENT BETWEEN COUNTY OF INYO  
AND ANNE SIPPI CLINIC TREATMENT GROUP  
FOR THE PROVISION OF RESIDENTIAL TREATMENT SERVICES**

**INTRODUCTION**

WHEREAS, the County of Inyo (hereinafter referred to as "County") may have the need for the Residential treatment services of Anne Sippi Clinic Treatment Group of Bakersfield, California (hereinafter referred to as "Contractor"), and in consideration of the mutual promises, covenants, terms, and conditions hereinafter contained, the parties hereby agree as follows:

**TERMS AND CONDITIONS**

**1. SCOPE OF WORK.**

The Contractor shall furnish to the County, upon its request, those services and work set forth in Attachment **A**, attached hereto and by reference incorporated herein. Requests by the County to the Contractor to perform under this Agreement will be made by Kimball C. Pier, Ph.D., LMFT, whose title is: HHS Deputy Director of Behavioral Health. Requests to the Contractor for work or services to be performed under this Agreement will be based upon the County's need for such services. The County makes no guarantee or warranty, of any nature, that any minimum level or amount of services or work will be requested of the Contractor by the County under this Agreement. County by this Agreement incurs no obligation or requirement to request from Contractor the performance of any services or work at all, even if County should have some need for such services or work during the term of this Agreement.

Services and work provided by the Contractor at the County's request under this Agreement will be performed in a manner consistent with the requirements and standards established by applicable federal, state, and County laws, ordinances, regulations, and resolutions. Such laws, ordinances, regulations, and resolutions include, but are not limited to those which are referred to in this Agreement.

**2. TERM.**

The term of this Agreement shall be from 7/1/2022 to 6/30/2023 unless sooner terminated as provided below.

**3. CONSIDERATION.**

A. Compensation. County shall pay to Contractor in accordance with the Schedule of Fees (set forth as Attachment **B**) for the services and work described in Attachment **A** which are performed by Contractor at the County's request.

B. Travel and per diem. Contractor will not be paid or reimbursed for travel expenses or per diem which Contractor incurs in providing services and work requested by County under this Agreement.

C. No additional consideration. Except as expressly provided in this Agreement, Contractor shall not be entitled to, nor receive from County, any additional consideration, compensation, salary, wages, or other type of remuneration for services rendered under this Agreement. Specifically, Contractor shall not be entitled, by virtue of this Agreement, to consideration in the form of overtime, health insurance benefits, retirement benefits, disability retirement benefits, sick leave, vacation time, paid holidays, or other paid leaves of absence of any type or kind whatsoever.

D. Limit upon amount payable under Agreement. The total sum of all payments made by the County to Contractor for services and work performed under this Agreement shall not exceed Eighty One Thousand Dollars and no \_\_\_\_\_ cents (\$ 81,000.00 ) (hereinafter referred to as "contract limit"). County expressly reserves the right to deny any payment or reimbursement requested by Contractor for services or work performed which is in excess of the contract limit.

E. Billing and payment. Contractor shall submit to the County, once a month, an itemized statement of all services and work described in Attachment **A**, which were done at the County's request. This statement will be submitted to the County not later than the fifth (5th) day of the month. The statement

to be submitted will cover the period from the first (1st) day of the preceding month through and including the last day of the preceding month. This statement will identify the date on which the services and work were performed and describe the nature of the services and work which were performed on each day. Upon timely receipt of the statement by the fifth (5th) day of the month, County shall make payment to Contractor on the last day of the month.

F. Federal and State taxes.

(1) Except as provided in subparagraph (2) below, County will not withhold any federal or state income taxes or social security from any payments made by County to Contractor under the terms and conditions of this Agreement.

(2) County will withhold California State income taxes from payments made under this Agreement to non-California resident independent contractors when it is anticipated that total annual payments to Contractor under this Agreement will exceed one thousand four hundred ninety-nine dollars (\$1,499.00).

(3) Except as set forth above, County has no obligation to withhold any taxes or payments from sums paid by County to Contractor under this Agreement. Payment of all taxes and other assessments on such sums is the sole responsibility of Contractor. County has no responsibility or liability for payment of Contractor's taxes or assessments.

(4) The total amounts paid by County to Contractor, and taxes withheld from payments to non-California residents, if any, will be reported annually to the Internal Revenue Service and the California State Franchise Tax Board. To facilitate this reporting, Contractor shall complete and submit to the County an Internal Revenue Service (IRS) Form W-9 upon executing this Agreement.

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

Contractor's obligation is to perform, in a timely manner, those services and work identified in Attachment A which are requested by the County. It is understood by Contractor that the performance of these services and work will require a varied schedule. Contractor will arrange his/her own schedule, but will coordinate with County to ensure that all services and work requested by County under this Agreement will be performed within the time frame set forth by County.

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

A. Any licenses, certificates, or permits required by the federal, state, county, and municipal governments, for contractor to provide the services and work described in Attachment **A** must be procured by Contractor and be valid at the time Contractor enters into this Agreement or as otherwise may be required. Further, during the term of this Agreement, Contractor must maintain such licenses, certificates, and permits in full force and effect. Licenses, certificates, and permits may include, but are not limited to, driver's licenses, professional licenses or certificates, and business licenses. Such licenses, certificates, and permits will be procured and maintained in force by Contractor at no expense to the County. Contractor will provide County, upon execution of this Agreement, with evidence of current and valid licenses, certificates, and permits which are required to perform the services identified in Attachment **A**. Where there is a dispute between Contractor and County as to what licenses, certificates, and permits are required to perform the services identified in Attachment **A**, County reserves the right to make such determinations for purposes of this Agreement.

B. Contractor warrants that it is not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in covered transactions by any federal department or agency. Contractor also warrants that it is not suspended or debarred from receiving federal funds as listed in the List of Parties Excluded from Federal Procurement or Non-procurement Programs issued by the General Services Administration available at: <http://www.sam.gov>.

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

Contractor shall provide such office space, supplies, equipment, vehicles, reference materials, and telephone service as is necessary for Contractor to provide the services identified in Attachment **A** to this Agreement. County is not obligated to reimburse or pay Contractor, for any expense or cost incurred by

Contractor in procuring or maintaining such items. Responsibility for the costs and expenses incurred by Contractor in providing and maintaining such items is the sole responsibility and obligation of Contractor.

## **7. COUNTY PROPERTY.**

A. Personal Property of County. Any personal property such as, but not limited to, protective or safety devices, badges, identification cards, keys, etc. provided to Contractor by County pursuant to this Agreement are, and at the termination of this Agreement remain, the sole and exclusive property of County. Contractor will use reasonable care to protect, safeguard, and maintain such items while they are in Contractor's possession. Contractor will be financially responsible for any loss or damage to such items, partial or total, which is the result of Contractor's negligence.

B. Products of Contractor's Work and Services. Any and all compositions, publications, plans, designs, specifications, blueprints, maps, formulas, processes, photographs, slides, video tapes, computer programs, computer disks, computer tapes, memory chips, soundtracks, audio recordings, films, audio-visual presentations, exhibits, reports, studies, works of art, inventions, patents, trademarks, copyrights, or intellectual properties of any kind which are created, produced, assembled, compiled by, or are the result, product, or manifestation of, Contractor's services or work under this Agreement are, and at the termination of this Agreement remain, the sole and exclusive property of the County. At the termination of the Agreement, Contractor will convey possession and title to all such properties to County.

## **8. INSURANCE.**

For the duration of this Agreement Contractor shall procure and maintain insurance of the scope and amount specified in Attachment **D** and with the provisions specified in that attachment.

## **9. STATUS OF CONTRACTOR.**

All acts of Contractor, its agents, officers, and employees, relating to the performance of this Agreement, shall be performed as independent contractors, and not as agents, officers, or employees of County. Contractor, by virtue of this Agreement, has no authority to bind or incur any obligation on behalf of County. Except as expressly provided in Attachment **A**, Contractor has no authority or responsibility to exercise any rights or power vested in the County. No agent, officer, or employee of the Contractor is to be considered an employee of County. It is understood by both Contractor and County that this Agreement shall not under any circumstances be construed or considered to create an employer-employee relationship or a joint venture. As an independent contractor:

A. Contractor shall determine the method, details, and means of performing the work and services to be provided by Contractor under this Agreement.

B. Contractor shall be responsible to County only for the requirements and results specified in this Agreement, and except as expressly provided in this Agreement, shall not be subjected to County's control with respect to the physical action or activities of Contractor in fulfillment of this Agreement.

C. Contractor, its agents, officers, and employees are, and at all times during the term of this Agreement shall, represent and conduct themselves as independent contractors, and not as employees of County.

## **10. DEFENSE AND INDEMNIFICATION.**

Contractor shall hold harmless, defend and indemnify County and its officers, officials, employees and volunteers from and against any and all liability, loss, damage, expense, costs (including without limitation costs and fees of litigation) of every nature arising out of or in connection with Contractor's performance of work hereunder or its failure to comply with any of its obligations contained in the agreement, except such loss or damages which was caused by the sole negligence or willful misconduct of the County.

## **11. RECORDS AND AUDIT.**

A. Records. Contractor shall prepare and maintain all records required by the various provisions of this Agreement, federal, state, county, municipal, ordinances, certification and licensing regulations, and directions. Records shall be permanent, either typewritten or legibly written in ink and shall be kept on all patients accepted for treatment. All health records of discharged patients shall be completed and filed within thirty (30) days after termination of each episode of treatment and such records shall be kept for a minimum of seven (7) years, except for minors whose records shall be kept at least until one (1) year after the minor has reached the age of 18, but in no case less than seven (7) years consistent with California Code of Regulations, Title 22 Section 75054, and 75343. All psychologist records shall also be maintained on each patient for seven years from the patient's discharge date, or in the case of a minor, seven years after the minor reaches 18 years of age consistent with California Business and Professions Code Section 2919.

B. Inspections and Audits. Any authorized representative of County shall have access to any books, documents, papers, records, including, but not limited to, financial records of Contractor, which County determines to be pertinent to this Agreement, for the purposes of making audit, evaluation, examination, excerpts, and transcripts during the period such records are to be maintained by Contractor. Further, County has the right, at all reasonable times, to audit, inspect, or otherwise evaluate the work performed or being performed under this Agreement.

## **12. NONDISCRIMINATION.**

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

## **13. PATIENTS RIGHTS.**

Contractor shall comply with applicable patients' rights provisions in W&I Division 5, Part I; Title 9, California Code of Regulations, Subchapter 4; and other applicable law in the provision of services to patients hereunder. Contractor shall adopt and post in a conspicuous place a written policy on patient rights in accordance with Section 70707 of Title 22 of the California Code of Regulations and Section 5325.1 of the Welfare and Institutions Code. Complaints by patients or beneficiaries with regard to substandard conditions may be investigated by the County's Patients' Rights Advocate, County or State Department of Mental Health, or by the Joint Commission on Accreditation of Healthcare Organization, or such other agency, as required by law or regulation. Contractor is responsible for posting information on grievance and appeal processes accessible to individuals and their beneficiaries receiving services at the facility. Contractor shall make available for use by patients or beneficiaries at Contractor sites, without requiring either written or verbal request, grievance and appeal forms and Inyo County Mental Health self-addressed envelopes.

## **14. CANCELLATION.**

This Agreement may be canceled by County without cause, and at will, for any reason by giving to Contractor thirty (30) days' written notice of such intent to cancel. Contractor may cancel this Agreement without cause, and at will, for any reason whatsoever by giving thirty (30) days' written notice of such intent to cancel to County.

## **15. ASSIGNMENT.**

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

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

**16. DEFAULT.**

If the Contractor abandons the work, or fails to proceed with the work and services requested by County in a timely manner, or fails in any way as required to conduct the work and services as required by County, County may declare the Contractor in default and terminate this Agreement upon five (5) days' written notice to Contractor. Upon such termination by default, County will pay to Contractor all amounts owing to Contractor for services and work satisfactorily performed to the date of termination.

**17. WAIVER OF DEFAULT.**

Waiver of any default by either party to this Agreement shall not be deemed to be waiver of any subsequent default. Waiver of any breach of any provision of this Agreement shall not be deemed to be a waiver of any other or subsequent breach, and shall not be construed to be a modification of the terms of this Agreement unless this Agreement is modified as provided in paragraph twenty-three (23) below.

**18. CONFIDENTIALITY.**

Contractor further agrees to comply with the various provisions of the federal, state, and county laws, regulations, and ordinances providing that information and records kept, maintained, or accessible by Contractor in the course of providing services and work under this Agreement, shall be privileged, restricted, or confidential. Contractor agrees to keep confidential all such information and records. Disclosure of such confidential, privileged, or protected information shall be made by Contractor only with the express written consent of the County. Any disclosure of confidential information by Contractor without the County's written consent is solely and exclusively the legal responsibility of Contractor in all respects.

Notwithstanding anything in the Agreement to the contrary, names of persons receiving public social services are confidential and are to be protected from unauthorized disclosure in accordance with Title 45, Code of Federal Regulations Section 205.50, the Health Insurance Portability and Accountability Act of 1996, and Sections 10850 and 14100.2 of the Welfare and Institutions Code, and regulations adopted pursuant thereto. For the purpose of this Agreement, all information, records, and data elements pertaining to beneficiaries shall be protected by the provider from unauthorized disclosure.

**19. CONFLICTS.**

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

**20. POST AGREEMENT COVENANT.**

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

**21. SEVERABILITY.**

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



**22. FUNDING LIMITATION.**

The ability of County to enter this Agreement is based upon available funding from various sources. In the event that such funding fails, is reduced, or is modified, from one or more sources, County has the option to cancel, reduce, or modify this Agreement, or any of its terms within ten (10) days of its notifying Contractor of the cancellation, reduction, or modification of available funding. Any reduction or modification of this Agreement made pursuant to this provision must comply with the requirements of paragraph twenty-three (23) (Amendment).

**23. AMENDMENT.**

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

**24. NOTICE.**

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

County of Inyo	
<u>HHS-Behavioral Health</u>	Department
<u>1360 North Main Street, Suite 124</u>	Address
<u>Bishop, CA 93514</u>	City and State

Contractor:	
<u>Anne Sippi Clinic Treatment Group</u>	Name
<u>18200 Hwy 178</u>	Address
<u>Bakersfield, CA 93306</u>	City and State

**25. ENTIRE AGREEMENT.**

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

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**AGREEMENT BETWEEN COUNTY OF INYO  
AND ANNE SIPPI CLINIC TREATMENT GROUP  
FOR THE PROVISION OF RESIDENTIAL TREATMENT SERVICES**

IN WITNESS THEREOF, THE PARTIES HERETO HAVE SET THEIR HANDS AND SEALS THIS  
\_\_\_\_ DAY OF \_\_\_\_\_, \_\_\_\_\_.

**COUNTY OF INYO**

By: \_\_\_\_\_  
Signature

\_\_\_\_\_  
Type or Print Name

Dated: \_\_\_\_\_

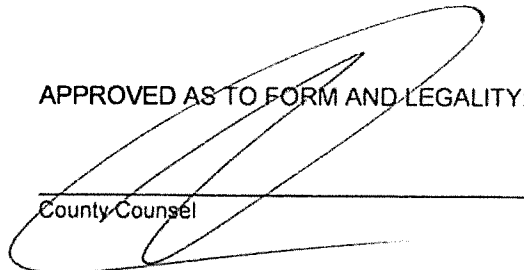
**CONTRACTOR**

By:   
Signature

Nick Damian  
Type or Print Name

Dated: June 15, 2022

APPROVED AS TO FORM AND LEGALITY:

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

APPROVED AS TO ACCOUNTING FORM:

\_\_\_\_\_  
County Auditor

APPROVED AS TO PERSONNEL REQUIREMENTS:

\_\_\_\_\_  
Personnel Services

APPROVED AS TO INSURANCE REQUIREMENTS:

\_\_\_\_\_  
County Risk Manager

**ATTACHMENT A**

**AGREEMENT BETWEEN COUNTY OF INYO  
AND ANNE SIPPI CLINIC TREATMENT GROUP  
FOR THE PROVISION OF RESIDENTIAL TREATMENT SERVICES**

**TERM:**

**FROM:** 7/1/2022 **TO:** 6/30/2023

**SCOPE OF WORK:**

See attached scope of work. Contractor is required to enter into a HIPAA Business Associate Agreement herein as attached.

**TRANSITIONAL SOCIAL REHABILITATION PROGRAM  
SERVICES AND REQUIREMENTS  
SCOPE OF WORK**

**PROGRAM STANDARDS AND REQUIREMENTS**

**(A) To be certified as a Transitional Social Rehabilitation program shall provide:**

- (1) Services that provide a therapeutic environment in which clients are supported in their efforts to acquire and apply interpersonal and independent living skills.

The program shall also assist the client in developing a personal community support system to substitute for the programs supportive environment, to minimize the the risk of hospitalization, and enhance the capability for independent living upon discharge from the program.

The planned length of stay in the program shall be in accordance with the client's assessed need, with the goal of transitioning the client to a lower level care within one (1) year; however, a length of stay exceeding a maximum total of 18 months is optimal but not required.

The reasons for a length of stay beyond one (1) year shall be documented in the client's case record.

- (2) A minimum staffing ratio of at least one (1) full time equivalent direct care staff for each 2.5 clients served.

Greater number of staff shall be present during times where there are numbers or clients in programmed activities.

Staff schedules shall be determined by the program based on the numbers of clients in the program during specific hours of the day, level of care provided by the program, and the range of services provided by the facility.

All scheduled hours in the facility shall be considered part of this required full-time equivalent staffing ratio.

**SERVICE REQUIREMENTS**

**(A) Structured day and evening services shall be available seven (7) days a week. Services in all programs shall include but not limited to:**

- (1) Individual and group counseling;

(2) Crisis Intervention;

(3) Planned activities;

(4) Counseling with available members of the clients family, when indicated in the client's treatment/rehabilitation program plan;

(5) The development of the community support systems for clients to maximize their utilization of non-mental health community resources, including educational opportunities;

(6) Pre-vocational or vocational counseling;

(7) Client advocacy, including assisting clients to develop their own advocacy skills;

(8) An activity program that encourages socialization, program and community involvement, which links the client to resources that are available after leaving the program; and

(9) Use of the residential environment to assist clients in the acquisition testing, and or refinement of community living and interpersonal skills.

**(B) In addition to the services in the Section (II A), Transitional Social Rehabilitation Programs shall provide services that emphasize the development of vocational skills and linkages to services offering employment or job placement.**

### **III. MEDICAL REQUIREMENTS**

Medical and psychiatric policies and practices of all programs shall be in writing and shall include, but not limited to:

(A) A plan for the monitoring of medications by a person licensed to prescribe or dispense prescription drugs;

(B) Screening for medical complications which may contribute to disability conducted by a physician, nurse practitioner or physician assistant and a plan for follow-up.

1. The screening for medical complications shall occur within 30-day calendar days prior to or

after admission.

2. If a client refuses screening for medical complications, the program shall document the refusal in the client case record.

(C) Client education, provided by a licensed program staff or licensed consultants, about the role of medications and their potential side effects, with the goal of client becoming responsible for his or her own medication;

(D) Entries in client case records indicating all prescribed and non-prescribed medications;

(E) Provisions for program staff to discuss medication issues with a person licensed to prescribe or dispense prescription drugs;

(F) Provisions for secure central storage of medication, including medication requiring appropriate refrigeration when necessary; and,

(G) Encouragement to clients, when part of the treatment/rehabilitation plan, to be personally responsible for holding, managing and safeguarding all of their medications.

#### **IV. Treatment/Rehabilitation plan and document requirements**

(A) Each program shall have an admission agreement, signed on entry by the client or an authorized representative, describing the services to be provided and the expectations and rights of client regarding house rules, client involvement in the program, and fees.

The client shall receive a copy of the signed admission agreement.

(B) There shall be written assessment of each client on admission that includes at the least:

- (1) Health and psychiatric histories;
- (2) Psychosocial skills;
- (3) Social support skills;
- (4) Current psychological, educational, vocational, and other functional limitations;
- (5) Medical needs, as reported;

A copy of each executed assessment shall be provided to the County's Placement Coordinator along with monthly invoicing.

(C) Program staff and client shall work together to develop a written treatment

rehabilitation plan specifying goals and objectives as well as identifying the staff and client responsibilities for their achievement.

Clients shall be involved in an ongoing review of progress towards reaching their established goals and be involved in the planning and evaluation of their treatment goals. The plan shall contain at least the following elements:

- (1) Statement of specific rehabilitation plan
- (2) Description of specific services to address identified treatment needs
- (3) Documentation of reviews by staff and client of the treatment/ rehabilitation plan

at least

every 30 days.

- (4) Anticipated length of stay needed to accomplish identified goals, and methods to evaluate the achievement of these goals.

(D) If an individual treatment/rehabilitation plan requires services to be provided by another or agency, there shall be documented evidence in the client's case record of communication between all persons responsible for the treatment /rehabilitation plan.

(E) The agency or program shall arrange for clients to attend community programs when needs are identified in the treatment/ rehabilitation plan that cannot be met by the facility, but can be met in the community

(F) The admission assessment, treatment/rehabilitation plan, and discharge summary shall be prepared by staff who has received training development and preparation of these documents.

1. Training provided for in this subsection shall consist of one or more of the following presentation methods:

- (a) Formal classroom instruction
- (b) Oral presentation ;
- (c) Videotape, film, or audiovisual presentation;
- (d) Audio-tape presentation; or
- (e) Performing the duties, on the job, under the direct supervision of the instructor.

(G) Admission and discharge criteria of all programs shall be written and shall be consistent with program goals.

(H) The program shall have written policies and procedures for orientating new clients to the facility programs.

(I) The range of services provided shall be discussed prior to the admission with the prospective client or an authorized representative so that program's services are clearly understood.

## **V. CLIENT INVOLVEMENT REQUIREMENTS**

(A) Each client shall be involved in the development and implantation of his/her treatment/rehabilitation plan.

(B) Clients shall be involved, depending on capability, in the operation of the household. This shall include participation of the formulation and monitoring of house rules, as well as in the daily operation of the facility, including but not limited cooking, cleaning, menu planning and active planning.

(C) Clients shall be encouraged to participate in program evaluations and reviews.

## **VI. PHYSICAL ENVIRONMENT REQUIREMENTS**

(A) The program shall meet of Section 5453 (a) of the Welfare and Institutions (W&I) Code.

(B) Program location shall allow for access by clients to community resources and public transportation.

## **VII. STAFF CHARACTERISTICS, QUALIFICATIONS AND DUTY REQUIREMENTS**

(A) The program shall meet the staffing requirements of section 5453 (b) of the Welfare and Institutions Code.

(B) The program shall document the use of the multidisciplinary professional consultation and staff when necessary to meet the specific diagnostic and treatment needs of clients.

(C) Paraprofessionals and persons who have been clients of mental health services shall be utilized as volunteers in the program when consistent with the program design and services provided.

(D) All social rehabilitation facilities shall have a program director.



The program director shall be on the premises the number hours necessary to manage and administer the program component or the facility in compliance with applicable laws and regulations.

(E) The program director of a certified Transitional Residential Treatment Program or a Certified Long Term Residential Treatment Program shall have the following qualifications prior to employment:

(1) A Bachelor's Degree in Psychology, Social Work, or any other major which includes at least 24

semester units in one or more of the following subject areas:

- (a) Psychology
- (b) Social Work
- (c) Sociology
- (d) Behavioral Sciences
- (e) Psychiatric Nursing; and

(2) One (1) year of full-time work experience in community program that serves clients who have a mental illness.

Such experience must be in the direct provision of services to clients, of which four (4) months must be in a position of supervising direct care staff.

(3) As an alternative to the Bachelor's Degree and experience required in paragraphs (1) and (2) of this subsection, a total of three years of experience in providing direct services in the community to persons with mental illness, of which six (6) months must be in a position of supervising direct care staff, and graduation from high school or possession of a GED may be substituted.

(F) All direct care staff shall have graduated from high school or possess a GED and have a minimum or one (1) year full time experience, or its part-time equivalent, working in a program serving people with mental disabilities,

Such experience must be in direct provision of services to clients.

If the employee does not have the required experience, the program shall document a specific plan of supervision and in-service training for the employee to perform the job.

The plan should include but not be limited to the frequency and number of hours of training, the subjects to be covered, and a description of the supervision to be provided.

## **VII. ADMINISTRATIVE POLICES AND PROCEDURES**

**(A) The organizational entity legally responsible for program administration, under applicable law and regulation, shall:**

- (1) Have written policies defining the purpose, goals, and services of the organization.**
- (2) Establish and maintain financial records in accordance with generally accepted accounting principles and annual budget.**

**(B) Each program shall be directed by a designated individual who is responsible for its overall administration and management.**

**(C) Each residential program shall have an individual(s) designated as the administrator of the facility.**

**The program shall identify the qualifications, experience, skills and knowledge required of an individual who is designated the facility administrator.**

**These requirements shall at least satisfy the minimum requirements established by the Community Care Licensing Division of the Department of Social Services for this position.**

**(D) The agency of the program shall have a financial plan of operation that is consistent with the goals and purpose of the organization and in accordance with generally accepted accounting practices and legal requirements.**

## **IX. OTHER REQUIREMENTS**

**The following will be required of residential facilities applying for certification as a Transitional Social Rehabilitation Facility. This will be an addition to the requirement as indicated above.**

### **A. Staffing requirements**

**(1) Facilities must have psychiatric professional licensed staff either through direct employment or contracted by the facility.**

**(2) Facilities must have nursing staff.**

**(3) Facilities must inform The County within 24 hours of any staff changes that may affect this contract.**

(4) Facility will have adequate number of staff to monitor the clients during the sleeping hours.

(5) The content of group or individual sessions shall be within the scope of practice of the individual providing that service.

(6) Staff assigned to assist in physically restraining clients must receive prior training from appropriate agencies.

(7) Physical restraints placed on clients must be under direct supervision of a licensed mental health professional.

## **B. ADMINISTRATIVE REQUIREMENTS**

(1) If the legal owner/administrator of the facility is a Corporation, notes from meetings may be requested by Department of Behavioral Health to the extent possible.

(2) Facilities shall have capabilities to transmit documents to and from the Department of Behavioral Health.

(3) Confidentiality of client's records shall be maintained at all times whether in written or verbal form in compliance with HIPPA and other federal, State or local regulations or statutes.

## **C. ADMINISTRATIVE COMPLIANCE**

(1) Administrator of Transitional Facilities shall inform the designated case managers 30 days prior to the expiration of the Needs and Appraisal. The monthly invoicing that CONTRACTORS submit to COUNTY shall include a due date for each client's Needs and Appraisal.

(2) The Facility Treatment Plan shall be developed and implanted within five (5) days after the Needs and Appraisal is updated.

(3) The monthly summaries for each client must include progress notes from direct care staff, licensed clinicians and psychiatrists including medication information.

(4) The facility shall develop and implement documentation demonstrating the client's participation in activities provided by the facility.

(5) The facility shall maintain record of the training providing to clients including attendance of off-site day programs.

**(6) Training activities as outlined for clients shall be limited and measurable.**

**(7) Training for clients shall developed with the goal of stabilizing the client in order to transition to a lower level. Any services and training provided by the facility shall be approved by the DBH designated case manager.**

**(8) Documentation shall be consistent with the goals identified in the Needs/Appraisal and Facility Treatment Plan.**

**(9) Monthly notes shall be made available to DBH staff review in a reciprocal manner between DBH and the contracted facility.**

#### **D. SPECIFIC SERVICES**

**(1) Training in hygiene and grooming may include hands-on assistance when needed.**

**(2) In cases of incontinence, clients shall be physically assisted if needed.**

**(3) Training in budgeting shall include clients keeping and maintaining records of transactions.**

**(4) Clients shall be afforded the opportunity to learn cooking skills under the direction of appropriate staff.**

**(5) Clients shall be encouraged o learn independent living skills with personal assistance when warranted.**

**(6) Facilities shall provide special diets are prescribed by treating physician.**

**(7) Clients shall be trained to access support systems in the community.**

**(8) Facilities shall develop and implement plans for community re-integration.**

**(9) Facilities shall provide individual sessions to assist clients to develop appropriate skills in social interactions using "Normal" settings.**

**(10) Efforts shall be made to normalize the client's living arrangements at all times.**

**(11) Training shall be provided to clients to use transportation systems.**

**(12) Training in medication shall be provided to clients by licensed staff.**

(13) Individual sessions shall be implemented to counsel clients to attain general insight into their mental illness by licensed staff.

### **ADDITIONAL REQUIREMENTS**

The Contractor for the Transitional Social Rehabilitation Program will provide services for clients who have severe and persistent mental illness who have experienced a decrease in social functioning to the extent that they are in a crisis or need a therapeutic community to facilitate movement to more independent living. The objectives of the program are to intervene in a crisis, support community integration, and severe as an alternative to hospitalization. The goal is to rehabilitate the client in order to decrease the need for future hospitalizations.

#### **I. TRANSITIONAL PROGRAM**

To be certified as a Transitional Social Rehabilitation Program, facility shall provide: A therapeutic residential community including a range of social rehabilitation activities for individuals who are in remission from an acute stage of illness, and interim support to facilitate movement towards the highest possible level of functioning. Clients may receive day, outpatient and other treatment services outside the transitional residence. The planned length of stay shall be in accordance with the client's assessed needs, but under no circumstances may the length of stay extend beyond 18 months.

Additional staff shall be on duty program hours to provide specialized services and structured evening services. When there is only one (1) staff on premises there needs to be staff on call who can report for duty within 60 minutes after being contacted if needed. The staffing ratio is one (1) full time staff to 2.5 clients. The Transitional program is designed for clients who are discharged from or are being admitted to State Mental Hospitals, IMDs or locked MHRCs.

#### **II. ADMISSION CRITERIA**

Transitional Social Rehabilitation Program is an intense, high expectation program designed to assist a person to develop self-help skills that will enable them to function independently in the community. The following is the admission criteria:

1. All clients must have received treatment or evaluation prior to admission and have a current open mental health chart with the county of record.
2. All clients will have primary diagnosis of mental disability. (The psychiatric diagnosis must reflect a severe, persistent mental illness or a maladaptive reaction to a mental health crisis. The primary diagnosis cannot be dementia, mental retardation, or substance abuse/dependence).

- 3. Clients must be between the ages of 18 and older.**
- 4. Clients must be recovered from acute psychiatric symptoms, such as being injurious to self or others, and/or destructive of property.**
- 5. Clients must be in need of residential treatment services to assist them gain the ability to function in a less restrictive living situation.**

**ATTACHMENT B**

**AGREEMENT BETWEEN COUNTY OF INYO  
AND ANNE SIPPI CLINIC TREATMENT GROUP  
FOR THE PROVISION OF RESIDENTIAL TREATMENT SERVICES**

**TERM:**

**FROM:** 7/1/2022 **TO:** 6/30/2023

**SCHEDULE OF FEES:**

See Attached Schedule of Fees.



## Usual & Customary Daily Rate Sheet

### **ASC Clinic**

2457 Endicott Street  
Los Angeles, CA 90032

### **Riverside Ranch**

18200 Highway 178  
Bakersfield, CA 93306

Two Hundred Twenty Dollars (\$220.00) per day

Services include but are not limited to:

- ❖ Screening/ Admission Assessments
- ❖ Individualized Treatment and Care Plans
- ❖ Medication review by Medical Director & multi-disciplinary Treatment Team
- ❖ Group Therapy Services/ Individual Therapy
- ❖ Community Outings & Re-Integration
- ❖ Educational Groups
- ❖ Contracted Day Services Programs
- ❖ Court & Conservatorship Evaluations/ Testimonies
- ❖ Referral Services
- ❖ Quarterly IPP reviews
- ❖ Summary Behavioral Reports
- ❖ Local Transportation to Appointments



**ATTACHMENT C**

**AGREEMENT BETWEEN COUNTY OF INYO  
AND ANNE SIPPI CLINIC TREATMENT GROUP  
FOR THE PROVISION OF RESIDENTIAL TREATMENT SERVICES**

**TERM:**

**FROM:** 7/1/2022 **TO:** 6/30/2023

**SEE ATTACHED INSURANCE PROVISIONS**

## Attachment C: 2022 Insurance Requirements for Professional Services

Services related to transitional social rehabilitation

Contractor shall procure and maintain for the duration of the contract insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the work hereunder by the Contractor, its agents, representatives, or employees.

### MINIMUM SCOPE AND LIMIT OF INSURANCE

Coverage shall be at least as broad as:

1. **Commercial General Liability (CGL):** Insurance Services Office Form CG 00 01 covering CGL on an “occurrence” basis, including products and completed operations, property damage, bodily injury and personal & advertising injury with limits no less than **\$1,000,000** per occurrence, **\$3,000,000** general aggregate limit. For contracts involving work with or service to minors (i.e., people under the age of 18 in California), sexual assault and misconduct (“SAM”) coverage is required with limits no less than those listed in this paragraph for other types of loss. The general liability policy shall contain, or be endorsed to contain, additional insured status. Proof of additional insured status must be submitted along with a certificate of insurance showing general liability coverage limits. See “Other Insurance Provisions” below.
2. **Automobile Liability:** Insurance Services Office Form Number CA 0001 covering, Code 1 (any auto), or if Contractor has no owned autos, Code 8 (hired) and 9 (non-owned), with limit no less than **\$1,000,000** per accident for bodily injury and property damage. *Provision may be waived with signed letter on contractor’s letterhead certifying that no auto or mobile equipment will be used for/during the execution of the contract.* See “Other Insurance Provisions” below.
3. **Workers’ Compensation** insurance as required by the State of California, with **Statutory Limits**, and Employer’s Liability Insurance with limit of no less than **\$1,000,000** per accident for bodily injury or disease. *Provision may be waived with signed letter on contractor’s letterhead certifying that contractor has no employees.* See “Other Insurance Provisions” below.
4. **Professional Liability (Errors and Omissions)** Insurance appropriate to the Contractor’s profession, with limit no less than **\$1,000,000** per occurrence or claim, **\$3,000,000** aggregate. Check with Risk Management if Professional Liability is required for the contract to which these requirements are attached.
5. **Cyber (sometimes known as “security and privacy”) Liability Insurance**, with limits not less than **\$1,000,000** per occurrence or claim, **\$2,000,000** policy aggregate. Coverage shall be sufficiently broad to respond to the duties and obligations as is undertaken by contractor in this agreement and shall include, but not be limited to, claims involving infringement of intellectual property, including but not limited to infringement of copyright, trademark, trade dress, invasion of privacy violations, information theft, damage to or destruction of electronic information, release of private information, alteration of electronic information, extortion and network security. The policy shall provide coverage for breach response costs as well as regulatory fines and penalties as well as credit monitoring expenses with limits sufficient to respond to these obligations. Professional liability or general liability may be endorsed to include cyber coverage.

If the Contractor maintains broader coverage and/or higher limits than the minimums shown above, Inyo County requires and shall be entitled to the broader coverage and/or the higher limits maintained by the contractor. Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage shall be available to Inyo County.

## Attachment C: 2022 Insurance Requirements for Professional Services

Services related to transitional social rehabilitation

### OTHER INSURANCE PROVISIONS

The insurance policies are to contain, or be endorsed to contain, the following provisions:

**Additional Insured Status:** Inyo County, its officers, officials, employees, and volunteers are to be covered as additional insureds on the CGL policy with respect to liability arising out of work or operations performed by or on behalf of the Contractor including materials, parts, or equipment furnished in connection with such work or operations. General liability coverage can be provided in the form of an endorsement to the Contractor's insurance (at least as broad as ISO Form CG 20 10 11 85 or if not available, through the addition of **both** CG 20 10, CG 20 26, CG 20 33, or CG 20 38; **and** CG 20 37 if a later edition is used).

**Primary Coverage:** For any claims related to this contract, the **Contractor's insurance coverage shall be primary and non-contributory** and at least as broad as ISO CG 20 01 04 13 as respects Inyo County, its officers, officials, employees, and volunteers. Any insurance or self-insurance maintained by Inyo County, its officers, officials, employees, or volunteers shall be excess of the Contractor's insurance and shall not contribute with it. This requirement shall also apply to any Excess or Umbrella liability policies.

**Umbrella or Excess Policy:** The Contractor may use Umbrella or Excess Policies to provide the liability limits as required in this agreement. This form of insurance will be acceptable provided that all of the Primary and Umbrella or Excess Policies shall provide all of the insurance coverages herein required, including, but not limited to, primary and non-contributory, additional insured, Self-Insured Retentions (SIRs), indemnity, and defense requirements. The Umbrella or Excess policies shall be provided on a true "following form" or broader coverage basis, with coverage at least as broad as provided on the underlying Commercial General Liability insurance. No insurance policies maintained by the Additional Insureds, whether primary or excess, and which also apply to a loss covered hereunder, shall be called upon to contribute to a loss until the Contractor's primary and excess liability policies are exhausted.

**Notice of Cancellation:** Each insurance policy required above shall state that coverage shall not be canceled, except with notice to Inyo County.

**Waiver of Subrogation:** Contractor hereby grants to Inyo County a waiver of any right to subrogation which any insurer of said Contractor may acquire against Inyo County by virtue of the payment of any loss under such insurance. Contractor agrees to obtain any endorsement that may be necessary to affect this waiver of subrogation, but this provision applies regardless of whether or not Inyo County has received a waiver of subrogation endorsement from the insurer.

**Self-Insured Retentions:** Self-insured retentions must be declared to and approved by Inyo County. Inyo County may require the Contractor to purchase coverage with a lower retention or provide proof of ability to pay losses and related investigations, claim administration, and defense expenses within the retention. The policy language shall provide, or be endorsed to provide, that the self-insured retention may be satisfied by either the named insured or Inyo County. The CGL and any policies, including Excess liability policies, may not be subject to a self-insured retention (SIR) or deductible that exceeds \$25,000 unless approved in writing by Inyo County. Any and all deductibles and SIRs shall be the sole responsibility of Contractor or subcontractor who procured such insurance and shall not apply to the Indemnified Additional Insured Parties. Inyo County may deduct from any amounts otherwise due Contractor to fund the SIR/deductible. Policies shall NOT contain any self-insured retention (SIR) provision that limits the satisfaction of the SIR to the Named. The policy must also provide that Defense costs, including the

## **Attachment C: 2022 Insurance Requirements for Professional Services**

Services related to transitional social rehabilitation

Allocated Loss Adjustment Expenses, will satisfy the SIR or deductible. Inyo County reserves the right to obtain a copy of any policies and endorsements for verification.

**Acceptability of Insurers:** Insurance is to be placed with insurers authorized to conduct business in the state with a current A.M. Best's rating of no less than A:VII, unless otherwise acceptable to Inyo County.

**Claims Made Policies:** If any of the required policies provide coverage on a claims-made basis:

1. The Retroactive Date must be shown and must be before the date of the contract or the beginning of contract work.
2. Insurance must be maintained and evidence of insurance must be provided for at least five (5) years after completion of the contract of work.
3. If coverage is canceled or non-renewed, and not replaced with another claims-made policy form with a Retroactive Date prior to the contract effective date, the Contractor must purchase "extended reporting" coverage for a minimum of five (5) years after completion of contract work.

**Verification of Coverage:** Contractor shall furnish Inyo County with original certificates and amendatory endorsements or copies of the applicable policy language effecting coverage required by this clause **and a copy of the Declarations and Endorsement Page of the CGL policy and any Excess policies listing all policy endorsements.** All certificates and endorsements and copies of the Declarations and Endorsements pages are to be received and approved by Inyo County before work commences. However, failure to obtain the required documents prior to the work beginning shall not waive the Contractor's obligation to provide them. Inyo County reserves the right to require complete, certified copies of all required insurance policies, including endorsements required by these specifications, at any time. Inyo County reserves the right to modify these requirements, including limits, based on the nature of the risk, prior experience, insurer, coverage, or other special circumstances.

**Subcontractors:** Contractor shall require and verify that all subcontractors maintain insurance meeting all the requirements stated herein, and Contractor shall ensure that Inyo County is an additional insured on insurance required from subcontractors.

**Duration of Coverage:** CGL & Excess liability policies for any construction related work, including, but not limited to, maintenance, service, or repair work, shall continue coverage for a minimum of 5 years for Completed Operations liability coverage. Such Insurance must be maintained and evidence of insurance must be provided for at least five (5) years after completion of the contract of work.

**Special Risks or Circumstances:** Inyo County reserves the right to modify these requirements, including limits, based on the nature of the risk, prior experience, insurer, coverage, or other special circumstances.  
-end-

**COUNTY OF INYO**  
**HIPAA BUSINESS ASSOCIATE AGREEMENT**

This Business Associate Agreement (“Agreement”) is made by and between the Inyo County Health and Human Services Behavioral Health Division, referred to herein as Covered Entity (“CE”), and Anne Sippi Clinic Treatment Group, referred to herein as Business Associate (“BA”). This Agreement is effective as of \_\_\_\_\_, (the “Agreement Effective Date”).

**RECITALS**

CE wishes to disclose certain information to BA pursuant to the terms of the contract between BA and the California Institute of Mental Health (“CIMH”), herein referred to as (“Contract”), some of which may constitute Protected Health Information (“PHI”) defined below.

CE and BA intend to protect the privacy and provide for the security of PHI disclosed to BA pursuant to the Contract in compliance with 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”), and regulations promulgated thereunder by the U.S. Department of Health and Human Services (the “HIPAA Regulations”) and other applicable laws.

As part of the HIPAA Regulations, the Privacy Rule and the Security Rule (defined below) require CE to enter into a contract containing specific requirements with BA prior to the disclosure of PHI, as set forth in, but not limited to, Title 45, Sections 164.314(a), 164.502(e) and 164.504(e) of the Code of Federal Regulations (“C.F.R.”) and contained in this Agreement.

In consideration of the mutual promises below and the exchange of information pursuant to this Agreement, the parties agree as follows:

**1. Definitions**

- a. **Breach** shall have the meaning given to such term under the HITECH Act [42 U.S.C. Section 17921].
- b. **Business Associate** shall have the meaning given to such term under the Privacy Rule, the Security Rule, and the HITECH Act, including but not limited to, 42 U.S.C. Section 17938 and 45 C.F.R. Section 160.103.
- c. **Covered Entity** shall have the meaning given to such term under the Privacy Rule and the Security Rule, including, but not limited to, 45 C.F.R. Section 160.103.
- d. **Data Aggregation** shall have the meaning given to such term under the Privacy Rule, including, but not limited to, 45 C.F.R. Section 164.501.
- e. **Designated Record Set** shall have the meaning given to such term under the Privacy Rule, including, but not limited to, 45 C.F.R. Section 164.501.
- f. **Electronic Protected Health Information** means Protected Health Information that is maintained in or transmitted by electronic media.

- g. **Electronic Health Record** shall have the meaning given to such term in the HITECT Act, including, but not limited to, 42 U.S.C. Section 17921.
- h. **Health Care Operations** shall have the meaning given to such term under the Privacy Rule, including, but not limited to, 45 C.F.R. Section 164.501.
- i. **Privacy Rule** shall mean the HIPAA Regulation that is codified at 45 C.F.R. Parts 160 and 164, Subparts A and E.
- j. **Protected Health Information or PHI** means any information, whether oral or recorded in any form or medium: (i) that relates to the past, present or future physical or mental 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; and (ii) that identifies the individual or with respect to which there is a reasonable basis to believe the information can be used to identify the individual, and shall have the meaning given to such term under the Privacy Rule, including, but not limited to, 45 C.F.R. Section 164.501. Protected Health Information includes Electronic Protected Health Information [45 C.F.R. Sections 160.103, 164.501].
- k. **Protected Information** shall mean PHI provided by CE to BA or created or received by BA on CE's behalf.
- l. **Security Rule** shall mean the HIPAA Regulation that is codified at 45 C.F.R. Parts 160 and 164, Subparts A and C.
- m. **Unsecured PHI** shall have the meaning given to such term under the HITECH Act and any guidance issued pursuant to such Act including, but not limited to, 42 U.S.C. Section 17932(h).

## 2. **Obligations of Business Associate**

- a. **Permitted Uses.** BA shall not use Protected Information except for the purpose of performing BA's obligations under the Contract and as permitted under the Contract and Agreement. Further, BA shall not use Protected Information in any manner that would constitute a violation of the Privacy Rule or the HITECH Act if so used by CE. However, BA may use Protected Information (i) for the proper management and administration of BA, (ii) to carry out the legal responsibilities of BA, or (iii) for Data Aggregation purposes for the Health Care Operations of CE [45 C.F.R. Sections 164.504(e)(2)(ii)(A) and 164.504(e)(4)(i)].
- b. **Permitted Disclosures.** BA shall not disclose Protected Information except for the purpose of performing BA's obligations under the Contract and as permitted under the Contract and Agreement. BA shall not disclose Protected Information in any manner that would constitute a violation of the Privacy Rule or the HITECH Act if so disclosed by CE. However, BA may disclose Protected Information (i) for the proper management and administration of BA; (ii) to carry out the legal responsibilities of BA; (iii) as required by law; or (iv) for Data Aggregation purposes for the Health Care Operations of CE. If BA discloses Protected Information to a third party, BA must obtain, prior to making any such disclosure, (i) reasonable written assurances from such third party that such Protected Information will be held confidential as provided pursuant to this Agreement and only disclosed as required by law or for the purposes for which was disclosed to such third party, and (ii) a written agreement from such third party to immediately notify BA of any breaches of confidentiality of the Protected Information, to the extent it has obtained knowledge of such breach [42 U.S.C. Section 17932; 45 C.F.R. Sections 164.504(e)(2)(i), 164.504(e)(2)(i)(B), 164.504(e)(2)(ii)(A) and 164.504(e)(4)(ii)].

- c. **Prohibited Uses and Disclosures.** BA shall not use or disclose Protected Information for fundraising or marketing purposes. BA shall not disclose Protected Information to a health plan for payment or health care operations purposes if the patient has requested this special restriction, and has paid out of pocket in full for the health care item or service to which the PHI solely relates [42 U.S.C. Section 17935(a)]. BA shall not directly or indirectly receive remuneration in exchange for Protected Information, except with the prior written consent of CE and as permitted by the HITECH Act, 42 U.S.C. section 17935(d)(2); however, this prohibition shall not affect payment by CIMH to BA for services provided pursuant to the Contract.
- d. **Appropriate Safeguards.** BA shall implement appropriate safeguards as are necessary to prevent the use or disclosure of Protected Information otherwise than as permitted by the Contract that reasonably and appropriately protect the confidentiality, integrity and availability of the Protected Information, in accordance with 45 C.F.R. Sections 164.308, 164.310, and 164.312. [45 C.F.R. Section 164.504(e)(2)(ii)(B); 45 C.F.R. Section 164.308(b)]. BA shall comply with the policies and procedures and documentation requirements of the HIPAA Security Rule, including, but not limited to, 45 C.F.R. Section 164.316. [42 U.S.C. Section 17931].
- e. **Reporting of Improper Access, Use or Disclosure.** BA shall report to CE in writing of any access, use or disclosure of Protected Information not permitted by the Contract and Agreement, and any Breach of Unsecured PHI of which it becomes aware without unreasonable delay and in no case later than ten (10) calendar days after discovery [42 U.S.C. Section 17921; 45 C.F.R. Section 164.504(e)(2)(ii)(C); 45 C.F.R. Section 164.308(b)].
- f. **Business Associate's Agents.** BA shall ensure that any agents, including subcontractors, to whom it provides Protected Information, agree in writing to the same restrictions and conditions that apply to BA with respect to such PHI and implement the safeguards required by paragraph c above with respect to Electronic PHI [45 C.F.R. Section 164.504(e)(2)(ii)(D); 45 C.F.R. Section 164.308(b)]. BA shall implement and maintain sanctions against agents and subcontractors that violate such restrictions and conditions and shall mitigate the effects of any such violation (see 45 C.F.R. Sections 164.530(f) and 164.530(e)(1)).
- g. **Access to Protected Information.** BA shall make Protected Information maintained by BA or its agents or subcontractors in Designated Record Sets available to CE for inspection and copying within ten (10) days of a request by CE to enable CE to fulfill its obligations under the Privacy Rule, including, but not limited to, 45 C.F.R. Section 164.524 [45 C.F.R. Section 164.504(e)(2)(ii)(E)]. If BA maintains an Electronic Health Record, BA shall provide such information in electronic format to enable CE to fulfill its obligations under the HITECH Act, including, but not limited to, 42 U.S.C. Section 17935(e).
- h. **Amendment of PHI.** Within ten (10) days of receipt of a request from CE for an amendment of Protected Information or a record about an individual contained in a Designated Record Set, BA or its agents or subcontractors shall make such Protected Information available to CE for amendment and incorporate any such amendment to enable CE to fulfill its obligations under the Privacy Rule, including, but not limited to, 45 C.F.R. Section 164.526. If any individual requests an amendment of Protected Information directly from BA or its agents or subcontractors, BA must notify CE in writing within five (5) days of the request. Any approval or denial of amendment of Protected Information maintained by BA or its agents or subcontractors shall be the responsibility of CE [45 C.F.R. Section 164.504(e)(2)(ii)(F)].
- i. **Accounting Rights.** Within ten (10) days of notice by CE of a request for an accounting of disclosures of Protected Information, BA and its agents or subcontractors shall make available to CE the information required to provide an accounting of disclosures to enable CE to fulfill its

obligations under the Privacy Rule, including, but not limited to, 45 C.F.R. Section 164.528, and the HITECH Act, including but not limited to 42 U.S.C. Section 17935(c), as determined by CE. BA agrees to implement a process that allows for an accounting to be collected and maintained by BA and its agents or subcontractors for at least six (6) years prior to the request. However, accounting of disclosures from an Electronic Health Record for treatment, payment or health care operations purposes are required to be collected and maintained for only three (3) years prior to the request, and only to the extent that BA maintains an electronic health record and is subject to this requirement. At a minimum, the information collected and maintained shall include: (i) the date of disclosure; (ii) the name of the entity or person who received Protected Information and, if known, the address of the entity or person; (iii) a brief description of Protected Information disclosed and (iv) a brief statement of purpose of the disclosure that reasonably informs the individual of the basis for the disclosure, or a copy of the individuals' authorization, or a copy of the written request for disclosure. In the event that the request for an accounting is delivered directly to BA or its agents or subcontractors, BA shall within five (5) days of a request forward it to CE in writing. It shall be CE's responsibility to prepare and deliver any such accounting requested. BA shall not disclose any Protected Information except as set forth in Sections 2.b. of this Agreement [45 C.F.R. Sections 164.504(e)(2)(ii)(G) and 165.528].

- j. **Governmental Access to Records.** BA shall make its internal practices, books and records relating to the use and disclosure of Protected Information available to CE and to the Secretary of the U.S. Department of Health and Human Services (the "Secretary") for purposes of determining BA's compliance with the Privacy Rule [45 C.F.R. Section 164.504(e)(2)(ii)(H)]. BA shall provide to CE a copy of any Protected Information that BA provides to the Secretary concurrently with providing such Protected Information to the Secretary.
- k. **Minimum Necessary.** BA (and its agents or subcontractors) shall request, use and disclose only the minimum amount of Protected Information necessary to accomplish the purpose of the request, use, or disclosure. [42 U.S.C. Section 17935(b); 45 C.F.R. Section 164.514(d)(3)] BA understands and agrees that the definition of "minimum necessary" is in flux and shall keep itself informed of guidance issued by the Secretary with respect to what constitutes "minimum necessary."
- l. **Data Ownership.** BA acknowledges that BA has no ownership rights with respect to the Protected Information.
- m. **Notification of Breach.** During the term of the Contract, BA shall notify CE within twenty-four (24) hours of any suspected or actual breach of security, intrusion or unauthorized use or disclosure of PHI of which BA becomes aware and/or any actual or suspected use or disclosure of data in violation of any applicable federal or state laws or regulations. BA shall take (i) prompt corrective action to cure any such deficiencies and (ii) any action pertaining to such unauthorized disclosure required by applicable federal and state laws and regulations.
- n. **Breach Pattern or Practice by Covered Entity.** Pursuant to 42 U.S.C. Section 17934(b), if the BA knows of a pattern of activity or practice of the CE that constitutes a material breach or violation of the CE's obligations under the Contract or Agreement or other arrangement, the BA must take reasonable steps to cure the breach or end the violation. If the steps are unsuccessful, the BA must terminate the Contract or other arrangement if feasible, or if termination is not feasible, report the problem to the Secretary of DHHS. BA shall provide written notice to CE of any pattern of activity or practice of the CE that BA believes constitutes a material breach or violation of the CE's obligations under the Contract or Agreement or other arrangement within five (5) days of discovery and shall meet with CE to discuss and attempt to resolve the problem as one of the reasonable steps to cure the breach or end the violation.



- o. **Audits, Inspection and Enforcement.** Within ten (10) days of a written request by CE, BA and its agents or subcontractors shall allow CE to conduct a reasonable inspection of the facilities, systems, books, records, agreements, policies and procedures relating to the use or disclosure of Protected Information pursuant to this Agreement for the purpose of determining whether BA has complied with this Agreement; provided, however, that (i) BA and CE shall mutually agree in advance upon the scope, timing and location of such an inspection, and (ii) CE shall protect the confidentiality of all confidential and proprietary information of BA to which CE has access during the course of such inspection. The fact that CE inspects, or fails to inspect, or has the right to inspect, BA's facilities, systems, books, records, agreements, policies and procedures does not relieve BA of its responsibility to comply with this Agreement, nor does CE's (i) failure to detect or (ii) detection, but failure to notify BA or require BA's remediation of any unsatisfactory practices, constitute acceptance of such practice or a waiver of CE's enforcement rights under the Contract or Agreement. BA shall notify CE within ten (10) days of learning that BA has become the subject of an audit, compliance review, or complaint investigation by the Office for Civil Rights.

### 3. Termination

- a. **Material Breach.** A breach by BA of any provision of this Agreement, as determined by CE, shall constitute a material breach of the Contract and shall provide grounds for immediate termination of the Contract, any provision in the Contract to the contrary notwithstanding. [45 C.F.R. Section 164.504(e)(2)(iii)].
- b. **Judicial or Administrative Proceedings.** CE may terminate the Contract, effective immediately, if (i) BA is named as a defendant in a criminal proceeding for a violation of HIPAA, the HITECH Act, the HIPAA Regulations or other security or privacy laws or (ii) a finding or stipulation that the BA has violated any standard or requirement of HIPAA, the HITECH Act, the HIPAA Regulations or other security or privacy laws is made in any administrative or civil proceeding in which the party has been joined.
- c. **Effect of Termination.** Upon termination of the Contract for any reason, BA shall, at the option of CE, return or destroy all Protected Information that BA or its agents or subcontractors still maintain in any form, and shall retain no copies of such Protected Information. If return or destruction is not feasible, as determined by CE, BA shall continue to extend the protections of Section 2 of this Agreement to such information, and limit further use of such PHI to those purposes that make the return or destruction of such PHI infeasible. [45 C.F.R. Section 164.504(e)(ii)(2)(I)]. If CE elects destruction of the PHI, BA shall certify in writing to CE that such PHI has been destroyed.

### 4. Disclaimer

CE makes no warranty or representation that compliance by BA with this Agreement, HIPAA, the HITECH Act, or the HIPAA Regulations will be adequate or satisfactory for BA's own purposes. BA is solely responsible for all decisions made by BA regarding the safeguarding of PHI.

### 5. Amendment

The parties acknowledge that state and federal laws relating to data security and privacy are rapidly evolving and that amendment of the Contract of Agreement 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 Privacy Rule, the Security Rule, and other applicable laws relating to the security or confidentiality of PHI. The parties understand and agree that CE must receive satisfactory written assurance from BA that BA will adequately

safeguard all Protected Information. Upon the request of either party, the other party agrees to promptly enter into negotiations concerning the terms of an amendment to this Agreement embodying written assurances consistent with the standards and requirements of HIPAA, the HITECH Act, the Privacy Rule, the Security Rule or other applicable laws. CE may terminate the Contract upon thirty (30) days written notice in the event (i) BA does not promptly enter into negotiations to amend the Contract or Agreement when requested by CE pursuant to this Section or (ii) BA does not enter into an amendment to the Contract or Agreement providing assurances regarding the safeguarding of PHI that CE, in its sole discretion, deems sufficient to satisfy the standards and requirements of applicable laws.

**6. Assistance in Litigation of Administrative Proceedings**

BA shall make itself, and any subcontractors, employees or agents assisting BA in the performance of its obligations under the Contract or Agreement, available to CE, at no cost to CE, to testify as witnesses, or otherwise, in the event of litigation or administrative proceedings being commenced against CE, its directors, officers or employees based upon a claimed violation of HIPAA by the BA, the HITECH Act, the Privacy Rule, the Security Rule, or other laws relating to security and privacy, except where BA or its subcontractor, employee or agent is named adverse party.

**7. No Third-Party Beneficiaries**

Nothing express or implied in the Contract or Agreement is intended to confer, nor shall anything herein confer, upon any person other than CE, BA and their respective successors or assigns, any rights, remedies, obligations or liabilities whatsoever.

**8. Effect on Contract**

Except as specifically required to implement the purposes of this Agreement, or to the extent inconsistent with this Agreement, all other terms of the Contract shall remain in full force and effect.

**9. Interpretation**

The provisions of this Agreement shall prevail over any provisions in the Contract that may conflict or appear inconsistent with any provision in this Agreement. This Agreement and the Contract shall be interpreted as broadly as necessary to implement and comply with HIPAA, the HITECH Act, the Privacy Rule and the Security Rule. The parties agree that any ambiguity in this Agreement shall be resolved in favor of a meaning that complies and is consistent with HIPAA, the HITECH Act, the Privacy Rule and the Security Rule.

IN WITNESS WHEREOF, the parties hereto have duly executed this Agreement as of the Agreement Effective Date.

COVERED ENTITY

BUSINESS ASSOCIATE

County of Inyo

Anne Sippi Clinic Treatment Group

By: \_\_\_\_\_

By:  \_\_\_\_\_

Print Name: \_\_\_\_\_

Print Name: Nick Damian

Title: \_\_\_\_\_

Title: Chief Operating Officer

Date: \_\_\_\_\_

Date: June 15, 2022



# County of Inyo



## Health & Human Services - Behavioral Health

### CONSENT - ACTION REQUIRED

**MEETING:** June 28, 2022

**FROM:** Lucy Vincent

**SUBJECT:** Request for Approval of Agreement between the County of Inyo and Bakersfield Behavioral Healthcare Hospital, LLC

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**RECOMMENDED ACTION:**

Request Board approve the agreement between the County of Inyo and Bakersfield Behavioral Healthcare Hospital, LLC of Bakersfield, California for the provision of psychiatric inpatient services in an amount not to exceed \$50,000 for the period of July 1, 2022 through June 30, 2023, contingent upon the Board's approval of the Fiscal Year 2022-2023 Budget, and authorize the Chairperson to sign, contingent upon all appropriate signatures being obtained.

**SUMMARY/JUSTIFICATION:**

Bakersfield Behavioral Healthcare Hospital is an acute inpatient psychiatric facility that is willing to admit Inyo County residents in need of this level of care when beds are available. These patients are often transferred from the Crisis Stabilization Unit (CSU) in Ridgecrest as the access point to care, often under Welfare and Institutions Code (WIC) 5150. Access to inpatient psychiatric hospital beds is extremely challenging given the small number of beds available as well as the distance to the nearest hospital across county lines. As Ridgecrest CSU is located in Kern County, there is greater access to this hospital located in Bakersfield. Since the 2018-2019 fiscal year, we have accessed Bakersfield Behavioral Healthcare Hospital, LLC and paid for services as necessary through the invoice process. Services without a contract are allowed due to the emergent nature of the services. However, Medi-Cal regulations require that if one hospital is used more frequently by a County, a contract must be pursued between the County and the facility (disproportionate use). A contract also allows for a negotiated rate and ease of payment processing. We respectfully request approval of this contract.

**BACKGROUND/HISTORY OF BOARD ACTIONS:**

N/A

**ALTERNATIVES AND CONSEQUENCES OF NEGATIVE ACTION:**

Inyo County HHS Behavioral Health as the Mental Health Plan is fiscally responsible for payment for these hospital costs. A good faith effort to contract with this disproportionate use facility is required. The alternative is to process each invoice for payment, coming to the Board on multiple occasions.

**OTHER AGENCY INVOLVEMENT:**

DHCS, hospitals and agencies designated to place involuntary holds under WIC Section 5150.

**FINANCING:**

100% Mental Health Realignment Funds for Adults, MediCal as allowed for beneficiaries under age 21. This contract is budgeted in Mental Health (045200) in Support & Care w/1099 (5508). No County General Funds.

**ATTACHMENTS:**

1. Bakersfield Behavioral Healthcare Hospital Contract
2. HIPAA Business Associate Agreement

**APPROVALS:**

Lucy Vincent	Created/Initiated - 6/10/2022
Darcy Ellis	Approved - 6/10/2022
Lucy Vincent	Approved - 6/10/2022
Anna Scott	Approved - 6/13/2022
Melissa Best-Baker	Approved - 6/15/2022
John Vallejo	Approved - 6/15/2022
Amy Shepherd	Approved - 6/16/2022
Anna Scott	Final Approval - 6/16/2022

**AGREEMENT BETWEEN COUNTY OF INYO  
AND Bakersfield Behavioral Healthcare Hospital, LLC  
FOR THE PROVISION OF HOSPITAL INPATIENT PSYCHIATRIC SERVICES**

**AGREEMENT**

WHEREAS, the County of Inyo will likely have the need for the provision of psychiatric and other professional medical services including evaluation and treatment of persons who meet the qualifications for involuntary detention, evaluation, and treatment as a result of a mental disorder (hereinafter "Hospital Inpatient Psychiatric Services") pursuant to and in accordance with the Bronzan-McCorquodale Act (herein "BMA") and its predecessor, the Short-Doyle Act, in conjunction with the Lanterman-Petris-Short Act (herein "LPS") Acts, as set forth in the California Welfare and Institutions Code (herein "W&I"), and related California and federal law. (All references in this Agreement to BMA shall constitute references also to the Short-Doyle Act to the extent, if any, that the Short-Doyle Act is applicable.)

WHEREAS, the County of Inyo Behavioral Health Services Program (herein "BHS") has certain obligations to assure the provision of psychiatric and other professional medical services, including evaluation and treatment, to persons who meet the W&I qualifications for involuntary detention, evaluation, and treatment as the result of a mental disorder.

WHEREAS, the County of Inyo (hereinafter referred to as "County") hereby contracts with **Bakersfield Behavioral Healthcare Hospital, LLC** hereinafter "Contractor"; collectively "the Parties") for the provision of Hospital Inpatient Psychiatric Services.

NOW THEREFORE, in consideration of the mutual promises, covenants, terms, and conditions hereinafter contained, the Parties agree as follows:

**TERMS AND CONDITIONS**

**1. SCOPE OF WORK.**

The Contractor shall furnish to the County, upon its request, those services and work set forth in Attachment **A**, attached hereto and incorporated by reference. The County makes no guarantee or warranty, of any nature, that any minimum level or amount of services or work will be requested of the Contractor by the County under this Agreement. County by this Agreement incurs no obligation or requirement to request from Contractor the performance of any services or work at all, even if County should have some need for such services or work during the term of this Agreement.

**2. TERM.**

The term of this Agreement shall be from July 1, 2022 to June 30<sup>th</sup>, 2023 unless sooner terminated as provided for in paragraph 16 of this Agreement.

**3. CONSIDERATION.**

A. Compensation. County shall pay to Contractor in accordance with the Schedule of Fees set forth as Attachment **B-1** attached hereto and incorporated by reference for the services and work described in this Agreement which are performed by Contractor at the County's request.

B. No additional consideration. Except as expressly provided in this Agreement, Contractor shall not be entitled to, nor receive, from County any additional consideration, compensation, salary, wages, or other type of remuneration for services rendered under this Agreement. Specifically, Contractor shall not be entitled, by virtue of this Agreement, to consideration in the form of overtime, health insurance

benefits, retirement benefits, disability retirement benefits, sick leave, vacation time, paid holidays, or other paid leaves of absence of any type or kind whatsoever.

C. Limit upon amount payable under Agreement. The total sum of all payments made by the County to Contractor for services and work performed under this Agreement shall not exceed Fifty Thousand Dollars and no cents (\$ 50,000.00) (hereinafter referred to as "contract limit"). County expressly reserves the right to deny any payment or reimbursement requested by Contractor for services or work performed which is in excess of the contract limit.

D. Billing and payment. Billing and payment terms and conditions are set forth in Attachment B attached hereto and incorporated by reference.

E. Federal and State taxes.

- (1) Except as provided in subparagraph (2) below, County will not withhold any federal or state income taxes or social security from any payments made by County to Contractor under the terms and conditions of this Agreement.
- (2) County will withhold California State income taxes from payments made under this Agreement to non-California resident independent contractors when it is anticipated that total annual payments to Contractor under this Agreement will exceed one thousand four hundred ninety-nine dollars (\$1,499.00).
- (3) Except as set forth above, County has no obligation to withhold any taxes or payments from sums paid by County to Contractor under this Agreement. Payment of all taxes and other assessments on such sums is the sole responsibility of Contractor. County has no responsibility or liability for payment of Contractor's taxes or assessments.
- (4) The total amounts paid by County to Contractor, and taxes withheld from payments to non-California residents, if any, will be reported annually to the Internal Revenue Service and the California State Franchise Tax Board. To facilitate this reporting, Contractor shall complete and submit to the County an Internal Revenue Service (IRS) Form W-9 upon executing this Agreement.

F. Utilization Controls. As an express condition precedent to maturing the County's payment obligations under this Agreement, Contractor shall adhere to the County's Quality Management Plan including utilization controls, DMH Letters/Notices, as well as Sections 5777(g) and 5778(n) of the Welfare and Institutions Code and regulations adopted pursuant thereto.

**4. DESIGNATION OF FACILITY FOR INVOLUNTARY TREATMENT.**

County hereby designates Contractor as a facility for involuntary and intensive treatment as provided in Sections 5150, 5250, and 5350 *et seq.* of the Welfare and Institutions Code. Contractor hereby represents and warrants that it is approved for involuntary treatment by the California State Department of Mental Health and complies with certification review hearing procedures required by Article 4 of the Welfare and Institutions Code.

**5. TIME OF THE ESSENCE.**

Time is of the essence in the performance of this Agreement.

**6. REQUIRED LICENSES, CERTIFICATES, AND PERMITS.**

A. Any licenses, certificates, or permits required by the federal, state, county and municipal governments, for contractor to provide the services and work described in Attachment A must be procured by Contractor and be valid at the time Contractor enters into this Agreement or as otherwise may be required.

Further, during the term of this Agreement, Contractor must maintain such licenses, certificates, and permits in full force and effect. Licenses, certificates, and permits may include, but are not limited to, driver's licenses, professional licenses or certificates, and business licenses. Such licenses, certificates, and permits will be procured and maintained in force by Contractor at no expense to the County. Contractor will provide County, upon execution of this Agreement, with evidence of current and valid licenses, certificates, and permits which are required to perform the services identified in Attachment **A**. Where there is a dispute between Contractor and County as to what licenses, certificates, and permits are required to perform the services identified in Attachment **A**, County reserves the right to make such determinations for purposes of this Agreement.

**B.** Contractor further represents and warrants that it is currently, and for the duration of this Contract shall remain, licensed as a general acute care hospital or acute psychiatric hospital in accordance with Section 1250 et seq. of the Health and Safety Code and the licensing regulations contained in Titles 22 and 17 of the California Code of Regulations. Contractor further represents and warrants that it is currently, and for the duration of the Contract shall remain, certified under Title XVIII of the Federal Social Security Act.

**C.** Contractor agrees that compliance with its obligations to remain licensed as a general acute care Hospital or acute psychiatric Hospital and certified under Federal Social Security Act shall be express conditions precedent to maturing the County's payment obligations under Attachment **B** of this Agreement.

**D.** Contractor represents and warrants that all inpatient medical subcontractors will maintain licensing and certification required for the delivery of their professional services in California.

**E.** Contractor warrants that it is not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in covered transactions by any federal department or agency. Contractor also warrants that it is not suspended or debarred from receiving federal funds as listed in the List of Parties Excluded from Federal Procurement or Non-procurement Programs issued by the General Services Administration available at: <http://www.sam.gov>.

#### **7. CONTRACTOR FACILITIES.**

Contractor shall, at its own expense, provide and maintain facilities and professional, allied, and supportive paramedical personnel which will enable it to provide all necessary and appropriate psychiatric inpatient hospital services. In addition, Contractor shall provide and maintain the organizational and administrative capabilities to carry out its duties and responsibilities under this Contract and all applicable statutes and regulations pertaining to Medi-Cal providers.

#### **8. STATUS OF CONTRACTOR.**

All acts of Contractor, its agents, officers, and employees, relating to the performance of this Agreement, shall be performed as independent contractors, and not as agents, officers, or employees of County. Contractor, by virtue of this Agreement, has no authority to bind or incur any obligation on behalf of County. Except as expressly provided in Attachment **A**, Contractor has no authority or responsibility to exercise any rights or power vested in the County. No agent, officer, or employee of the Contractor is to be considered an employee of County. It is understood by both Contractor and County that this Agreement shall not under any circumstances be construed or considered to create an employer-employee relationship or a joint venture. As an independent contractor:

**A.** Contractor shall determine the method, details, and means of performing the work and services to be provided by Contractor under this Agreement.

B. Contractor shall be responsible to County only for the requirements and results specified in this Agreement and, except as expressly provided in this Agreement, shall not be subjected to County's control with respect to the physical action or activities of Contractor in fulfillment of this Agreement.

C. Contractor, its agents, officers and employees are, and at all times during the term of this Agreement shall, represent and conduct themselves as independent contractors and not as employees of County.

D. Contractor shall be solely responsible for, and shall have exclusive control over, the exercise of professional medical judgment with respect to services provided by Contractor to a Patient pursuant to this Agreement. Nothing in this Agreement is intended to, or shall be construed to, limit, condition, restrict, or otherwise control the independent exercise of professional medical judgment of Contractor by County. However, in some incidents described in Attachments **A** and **B**, County requires preauthorization for payment of services provided.

#### **9. WORKERS' COMPENSATION AND EMPLOYER LIABILITY.**

Contractor shall provide (a) workers' compensation insurance coverage, in accordance with the statutory limits, and (b) employer's liability in the minimum amount of \$1,000,000 per accident for all Contractor's employees utilized in providing work and services pursuant to this Agreement. By executing a copy of this Agreement, Contractor acknowledges its obligations and responsibilities to its employees under the California Labor Code, and warrants that Contractor has complied and will comply during the term of this Agreement with all provisions of the California Labor Code with regard to its employees. Contractor, at the time of execution of this Agreement, will provide County with evidence of the required workers' compensation and employer's liability insurance coverage.

The insurer shall agree to waive all rights of subrogation against the County, its officers, officials, employees, and volunteers for losses arising from work performed by the Contractor for the County.

Contractor expressly waives its immunity for injuries to its employees and agrees that the obligation to indemnify, defend, and hold harmless provided for in this Agreement extends to any claim brought by or on behalf of any employee of the Contractor. This waiver is mutually negotiated by the parties. This waiver shall not apply to any damage resulting from the sole negligence of the County, its agents, and employees. To the extent any of the damages referenced herein were caused by or resulted from the concurrent negligence of the County, its agents or employees, the obligations provided herein to indemnify, defend, and hold harmless is valid and enforceable only to the extent of the negligence of the Contractor, its officers, agents, and employees. This insurance shall be in strict accordance with the requirements of the most current and applicable State Workers' Compensation Insurance laws.

#### **10. INSURANCE.**

For the duration of this Agreement Contractor shall procure and maintain insurance of the scope and amount specified in Attachment **C** and with the provisions specified in that attachment.

#### **11. DEFENSE AND INDEMNIFICATION.**

The parties agree to indemnify, defend and hold each other harmless for any claim, demand, loss, lawsuit, settlement, judgment, or other liability in connection with the party's performance of work under this Agreement or failure to comply with any of the obligations in this Agreement, and all related expenses which may accrue, arising from or in connection with a claim of a third party arising from a negligent or otherwise wrongful act or omission of the other party, its agents or employees in connection with the party's performance of work under this Agreement. If each party claims and is entitled to indemnity from the other, the liability of each to the other shall be determined according to principles of comparative



fault. Indemnity shall include damages, reasonable costs, reasonable expense, and reasonable attorney's fees as incurred by the party indemnified. The foregoing indemnification provision will remain in effect following the termination of this Agreement.

## 12. RECORDS.

A. The Contractor shall:

- (1) Maintain books, records, documents and other evidence, accounting procedures, and practices sufficient to reflect properly all direct and indirect costs of whatever nature claimed to have been incurred in the performance of this Contract.
- (2) Maintain such information in accordance with Medicare principles of reimbursement and generally accepted accounting principles, and shall be consistent with the requirements of the Office of Statewide Health Planning and Development.
- (3) Maintain medical records required by Sections 70747-70751 of the California Code of Regulations, and other records related to a Beneficiary's eligibility for services, the services rendered, the Beneficiary to whom the service was rendered, the date of the service, the medical necessity of the service and the quality of the care provided. Records shall be maintained in accordance with Section 51476 of Title 22 of the California Code of Regulations. The foregoing constitutes "records" for the purposes of this paragraph.
- (4) Subject the facility or office, or such part thereof as may be engaged in the performance of the Contract, and the information specified in this Paragraph at all reasonable times to inspection, audits, and reproduction by any duly authorized agents of the County, Department, Department of Mental Health, the Federal Department of Health and Human Services and Controller General of the United States. The Federal Department of Health and Human Services and Controller General of the United States are intended third party beneficiaries of this covenant.
- (5) (Preserve and make available its records relating to payments under this Contract for a period of seven (7) years from the close of the Contractor's fiscal year, or for such longer period, required by Sub-paragraphs (a) and (b) below.
  - (a) If this Contract is terminated, the records relating to the work performed prior to its termination shall be preserved and made available for a period of seven (7) years from the date of the last payment made under the Contract.
  - (b) If any litigation, claim, negotiation, audit, or other action involving the records has been stated before the expiration of the seven-year period, the related records shall be retained until completion and resolution of all issues arising therefrom or until the end of the seven-year period whichever is later.

## 13. AUDIT.

A. Agents of the County and the State Department of Mental Health shall conduct periodic audits or reviews, including onsite audits or reviews, of performance under this Contract. These audits or reviews may evaluate the following:

- (1) Level and quality of care, and the necessity and appropriateness of the services provided.
- (2) Internal procedures for assuring efficiency, economy, and quality of care.
- (3) Compliance with County Client Grievance Procedures.
- (4) Financial records when determined necessary to protect public funds.

B. The Contractor shall make adequate office space available for the review team or auditors to meet and confer. Such space must be capable of being locked and secured to protect the work of the review team or auditors during the period of their investigation.

C. Onsite reviews and audits shall occur during normal working hours with at least 72-hour notice, except that unannounced onsite reviews and requests for information may be made in those exceptional situations where arrangement of an appointment beforehand is clearly not possible or clearly inappropriate to the nature of the intended visit.

#### **14. NONDISCRIMINATION.**

The Contractor shall not discriminate in the provision of services because of race, color, religion, ancestry, gender, sexual orientation, age, national origin, or mental or physical handicap as provided by state and federal law. In addition:

A. For the purpose of this Contract, distinctions on the grounds of race, color, religion, ancestry, gender, sexual orientation, age, national origin, or mental or physical handicap include but are not limited to the following; denying a Beneficiary any services or benefit which is different, or is provided in a different manner or at a different time from that provided other Beneficiaries under this Contract; subjecting a Beneficiary to segregation or separate treatment in any manner related to his/her receipt of any service; restricting a Beneficiary in any way in the enjoyment, advantage or privilege enjoyed by others receiving any service or benefit; treating a Beneficiary any differently from others in determining whether the Beneficiary satisfied any admission, eligibility, other requirements or condition which individuals must meet in order to be provided any benefit; or assigning times or places for the provision of services on the basis of the race, color, religion, ancestry, gender, sexual orientation, age, national origin, or mental or physical handicap of the Beneficiaries to be served.

B. The Contractor shall take action to ensure that services to intended Beneficiaries are provided without regard to race, color, religion, ancestry, gender, sexual orientation, age, national origin, or mental or physical handicap.

#### **15. NONDISCRIMINATION POLICY.**

A. Contractor has adopted and shall maintain written nondiscriminatory policies, which are available and practiced by Contractor in the employment of personnel, which provide for nondiscrimination on the basis of race, color, religion, ancestry, gender, sexual orientation, national origin, age, or mental or physical handicap, or on any other basis prohibited by law.

B. Pursuant to performance contract requirements imposed on County by the California Department of Mental Health, County and Contractor, as its subcontractor for purposes of the performance contract, agree as follows:

"During the performance of this contract, Contractor and its subcontractors shall not unlawfully discriminate against any employee or applicant for employment because of race, religion, color, natural origin, ancestry, physical handicap, medical condition, marital status, age, gender, or sexual orientation. Contractors and subcontractors shall comply with the provisions of the Fair Employment and Housing Act (Government Code, Section 12900 et seq.) and the applicable regulations promulgated thereunder (California Administrative Code, Title 2, Section 7285 et seq.). The applicable regulations of the Fair Employment and Housing Commission implementing Government Code, Section 12990, set forth in Chapter 5, Division 4 of Title 2 of the California Administrative Code are incorporated into this contract by reference and made a part hereof as if set forth

in full. Contractor shall also abide by the Federal Civil Rights Act of 1964 (P.L. 88352) and all amendments thereto, and all administrative rules and regulations issued pursuant to said Act. Contractor and its subcontractors shall give written notice of their obligations under this clause to labor organizations with which they have a collective bargaining or other agreement."

**16. TERMINATION.**

This Agreement may be canceled by County without cause, and at will, for any reason by giving to Contractor sixty (30) days' written notice of such intent to cancel. Contractor may cancel this Agreement without cause, and at will, for any reason whatsoever by giving sixty (30) days' written notice of such intent to cancel to County. In the event of termination, Contractor shall be compensated in accordance with the terms of this Agreement for all services performed to the termination date. In the event a Patient remains hospitalized on the termination date, Contractor shall continue to provide services to such Patient until the Patient is discharged or otherwise transferred pursuant to paragraph 4.2 of Attachment A and shall be compensated in accordance with the terms of this Agreement for all services rendered during this time period.

**17. ASSIGNMENT.**

This is an agreement for the services of Contractor. County has relied upon the skills, knowledge, experience, and training of Contractor as an inducement to enter into this Agreement. Further, Contractor shall not assign any monies due or to become due under this Agreement without the prior written consent of County.

**18. SUBCONTRACTORS.**

Contractor acknowledges and agrees that in the event Contractor engages a subcontractor to assist in the performance of any of Contractor's obligations pursuant to this Agreement, Contractor shall remain legally responsible for performance of all of the terms and conditions applicable to Contractor hereunder.

**19. DEFAULT.**

If a party defaults in performing its obligations hereunder ("Defaulting Party") through no substantially contributing fault of the other party ("Non-defaulting Party"), the Non-defaulting Party may give the Defaulting Party written notice of the default. If the Defaulting Party fails to cure the default or initiate and diligently pursue efforts accepted by the Non-defaulting Party to cure the default within thirty (30) days after the Defaulting Party receives the notice, the Non-defaulting Party may terminate this Agreement by giving the Defaulting Party written notice of termination, effective upon the date of the notice or such later termination date as specified in the notice.

**20. WAIVER OF DEFAULT.**

Waiver of any default by either party to this Agreement shall not be deemed to be waiver of any subsequent default. Waiver of any provision or breach of this Agreement shall not be deemed to be a waiver of that provision or other provision or subsequent breach, and shall not be construed to be a modification of the terms of this Agreement unless this Agreement is modified as provided in paragraph twenty-nine (29) below.

## **21. STANDARD OF PERFORMANCE.**

Contractor shall perform all services required pursuant to this Agreement in the manner and according to the standards observed by a competent provider of inpatient hospital psychiatric services to patients involuntarily detained by reason of mental disorder.

## **22. GOVERNING LAW.**

A. Contractor agrees to comply with all applicable provisions of federal and state statutes, regulations, and other applicable law, and, to the extent consistent with applicable law, with all applicable State of California and Federal policies, including, without limitation:

- (1) W&I, Divisions 5, 6, and 9;
- (2) California Code of Regulations, Title 9;
- (3) California Code of Regulations, Title 22;
- (4) BMA, Short-Doyle and Short-Doyle/Medi-Cal policies, including without limitation, such policies as set forth in applicable DMH Letters and the applicable Cost Reporting/Data Collection ("CR/DC") Manual;
- (5) Title XIX of the U.S. Social Security Act, and
- (6) The Rehabilitation Act of 1973, Section 504 (Title 29, United States Code, Section 794 as amended from time to time).

## **23. CONFIDENTIALITY.**

Contractor further agrees to comply with the various provisions of the federal, state, and county laws, regulations, and ordinances providing that information and records kept, maintained, or accessible by Contractor in the course of providing services and work under this Agreement, shall be privileged, restricted, or confidential. Contractor agrees to keep confidential all such information and records. Disclosure of such confidential, privileged, or protected information shall be made by Contractor only with the express written consent of the County. Any disclosure of confidential information by Contractor without the County's written consent is solely and exclusively the legal responsibility of Contractor in all respects.

Notwithstanding anything in the Agreement to the contrary, names of persons receiving public social services are confidential and are to be protected from unauthorized disclosure in accordance with Title 45, Code of Federal Regulations Section 205.50, the Health Insurance Portability and Accountability Act of 1996, and Sections 10850 and 14100.2 of the Welfare and Institutions Code, and regulations adopted pursuant thereto. For the purpose of this Agreement, all information, records, and data elements pertaining to beneficiaries shall be protected by the provider from unauthorized disclosure.

## **24. USE OF INFORMATION.**

With respect to any identifiable information concerning Beneficiaries under this Contract that is obtained by the Contractor, the Contractor shall:

- (1) Not use any such information for any purpose other than carrying out the express terms of this Contract;
- (2) Promptly transmit to the County all requests for disclosure of such information;
- (3) Not disclose, except as otherwise specifically permitted by this Contract, any such information to any party other than the County without the County's prior written authorization specifying that the information may be released under Title 45, Code of Federal Regulations Section 205.50 and Sections 10850 and 14100.2 of the Welfare and Institutions Code; and regulations adopted pursuant thereto; and

- (4) At the termination of this Contract, return all such information to the County or maintain such information according to written procedures sent to the Contractor by the County.

**25. CONFLICTS.**

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

**26. POST AGREEMENT COVENANT.**

Contractor agrees not to use any confidential, protected, or privileged information which is gained from the County in the course of providing services and work under this Agreement, for any personal benefit, gain, or enhancement.

**27. SEVERABILITY.**

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

**28. FUNDING LIMITATION.**

The ability of County to enter this Agreement is based upon available funding from various sources. In the event that such funding fails, is reduced, or is modified, from one or more sources, County has the option to cancel, reduce, or modify this Agreement, or any of its terms within ten (10) days of its notifying Contractor of the cancellation, reduction, or modification of available funding. Any reduction or modification of this Agreement made pursuant to this provision must comply with the requirements of paragraph twenty-nine (29) (Amendment).

**29. AMENDMENT.**

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

**30. SOLE AUTHORIZATION.**

Inyo County BHS shall have the sole authority to act on behalf of County to authorize Contractor to provide services to any Patient pursuant to this Agreement.

**31. STAFF AVAILABILITY.**

Inyo County BHS shall provide for the availability of authorized BHS staff by pager/telephone on a 24-hour per day basis for the purposes of telephone communications between Contractor and BHS which are required pursuant to this Agreement.

**32. NOTICE.**

Any notice, request for approval, communication, amendments, additions, or deletions to this Agreement, including change of address of either party during the terms of this Agreement, which

Contractor or County shall be required or may desire to make, shall be in writing and may be personally served or sent by prepaid first class mail to the respective parties as follows:

County of Inyo Behavioral Health Services:  
Inyo County Behavioral Health Division  
1360 N. Main Street, Ste. 124  
Bishop, CA 93514

Contractor:  
Bakersfield Behavioral Healthcare Hospital, LLC  
5201 White Lane  
Bakersfield, CA 93309

**33. ENTIRE AGREEMENT.**

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

**AGREEMENT BETWEEN COUNTY OF INYO  
AND Bakersfield Behavioral Healthcare Hospital, LLC  
FOR THE PROVISION OF HOSPITAL INPATIENT PSYCHIATRIC SERVICES**

IN WITNESS THEREOF, THE PARTIES HERETO HAVE SET THEIR HANDS AND SEALS THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2022.

**COUNTY**

COUNTY OF INYO

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Dated: \_\_\_\_\_

**CONTRACTOR**

BAKERSFIELD BEHAVIORIAL HEALTH LLC

By:  \_\_\_\_\_

Name: Amy Macaluso \_\_\_\_\_

Title: CEO \_\_\_\_\_

Dated: 6/2/22 \_\_\_\_\_

APPROVED AS TO FORM AND LEGALITY:

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

APPROVED AS TO ACCOUNTING FORM:

\_\_\_\_\_  
County Auditor

APPROVED AS TO INSURANCE REQUIREMENTS:

\_\_\_\_\_  
County Risk Manager

## ATTACHMENT A

### AGREEMENT BETWEEN COUNTY OF INYO AND Bakersfield Behavioral Healthcare Hospital, LLC FOR THE PROVISION OF HOSPITAL INPATIENT PSYCHIATRIC SERVICES TERM:

FROM: July 1, 2022

TO: June 30<sup>th</sup>, 2023

#### SCOPE OF WORK:

1. Definitions. The following definitions apply for the purposes of this contract:
  - 1.1. Administrative Day. "Administrative Day" means those days authorized by a designated point of authorization or utilization review committee in an acute inpatient facility when, due to the lack of a Medi-Cal eligible nursing facility, the beneficiary stays at an acute inpatient facility beyond the beneficiary's need for acute care. The acute facility is responsible for contacting appropriate facilities within a 60-mile radius at least once each five working days until the beneficiary is placed or no longer requires that level of care. These contacts must be documented by a brief description of status and the signature of the person making the contacts. The physician's reviewer or the utilization review committee must monitor the beneficiary's chart on a weekly basis to determine if the beneficiary status has changed.
  - 1.2. Beneficiary. "Beneficiary" means any patient referred by Inyo County and certified as eligible for services under the Medi-Cal program according to Section 51001, Title 22, California Code of Regulations and any Indigent Patient.
  - 1.3. Indigent Patient. An "Indigent Patient" is any Patient provided services pursuant to this Agreement for which: (a) Patient does not have ability to pay under the Uniform Method of Determining Ability to Pay (UMDAP) and; (b) Patient is not entitled to or eligible to receive full or partial payment benefits from (1) a private insurer or other private third-party, or (2) Medi-Cal or other such public assistance program. The Patient is deemed to be an "Indigent Patient" as to such service.
  - 1.4. Patient. A Patient is defined as a person who is receiving services provided pursuant to this Agreement.
  - 1.5. Psychiatric Inpatient Hospital Services. "Psychiatric Inpatient Hospital Services" means services provided either in an acute care hospital or a free-standing psychiatric hospital for the care and treatment of an acute episode of mental illness.
  - 1.6. Non-Emergency Medical Services. County and Contractor acknowledge that a Patient may have or develop during hospitalization a non-emergency medical condition unrelated to the Patient's mental disorder. Contractor shall obtain prior authorization from County BHS for the provision of non-emergency medical services for the Patient. Such services are referred to herein as "Non-Emergency Medical Services."
2. Scope of Services. Contractor shall provide inpatient psychiatric services to Patients referred by County to Contractor for involuntary detention, evaluation, and treatment pursuant to LPS and related applicable law, including without limitation, services relating to 72-hour detention (W&I § 5150), additional 14-day certification and detention (W&I § 5250), LPS temporary conservatorship (W&I § 5353), and LPS Conservatorship (W&I § 5358).
3. Mental Health Services. Contractor shall provide inpatient hospital psychiatric services to Patients referred by County BHS and accepted by the Contractor who are in need of such services and Emergency Medical Services or Authorized Medical Services (a) as required by LPS, other provisions of W&I Divisions 5, 6, and 9, Title 9 and Title 22 of the California Code of Regulations, and other applicable law, and (b) as are medically necessary or medically indicated for care and treatment of the mental disorder of the Patient including, but not limited to, the following services:
  - 3.1. Psychiatric history, diagnosis, and evaluation of the Patient which shall include an interview, mental status evaluation, diagnosis, and clinical recommendations, promptly upon the Patient's arrival at



Contractor's facilities for evaluation and, thereafter, in accordance with requirements of LPS and applicable law.

3.2. Responsibility for providing or assuring the provision of professional medical services to perform a history and physical examination of each Patient promptly, and in any event, within twenty-four (24) hours after the Patient's admission to Hospital.

3.3. Approval of an individual treatment plan.

3.4. Psychiatric services compatible with the Patient's individual treatment plan.

3.5. Prescription of medication necessary for the treatment of the Patient's mental and physical health condition.

3.6. Discharge planning and continuing care planning.

3.7. Responsibility for providing or assuring the provision of all professional medical care and treatment of the Patient at Hospital's facilities.

Such services are referred to herein as "Mental Health Services."

#### 4. Referral by County.

4.1. Notification. Prior to transporting a proposed Patient to Contractor's facilities, County BHS shall (a) contact Contractor by telephone to advise Contractor of the proposed Patient and his or her condition, (b) provide an expected time of arrival at Contractor's facilities, (c) confirm bed-availability at Contractor's facilities for the proposed Patient, (d) Confirm Patient is medically stable for transport, and (e) authorize the provision of services to the proposed Patient.

County BHS shall be authorized and responsible for making such contacts for referral of persons to Contractor. However, County and Contractor acknowledge that County's law enforcement agencies may make such a contact in some cases. In the event Contractor receives a referral from a County law enforcement agency, Contractor shall notify BHS promptly by telephone of the referral, and request authorization from BHS for the provision of services to the person referred.

4.2. Transport Responsibility. In coordination with the Contractor, County shall be responsible, at County's expense, for causing proposed Patients to be transported to and from Contractor's facilities, which includes transportation at time of patient's discharge from the Contractor's facility. In the event a referred Patient is not admitted pursuant to paragraph 6 below, or this Agreement is terminated, County BHS shall promptly make available to the proposed Patient transportation from Contractor's facilities.

Notwithstanding the foregoing, Contractor shall be responsible for transporting such Patients and proposed Patients, at Contractor's expense, in the event Contractor undertakes or authorizes such transportation for the purpose of providing services under this Agreement without the prior approval of BHS, except in the event of a medical emergency necessitating transport to another health care facility.

4.3. Certain Substance Abusers Ineligible. County and Contractor acknowledge and agree that persons who are under the influence of alcohol, drugs, or other chemical substances, but who are not otherwise suffering from a mental disorder, shall not be eligible for referral or admission to Contractor's facilities.

4.4. Medical Condition Beyond the Capability of Contractor. County and Contractor acknowledge and agree that persons who are determined to suffer from medical conditions other than mental disorders for which Contractor is not licensed, or otherwise does not have the capability to provide care and treatment, may be determined by Contractor to be ineligible for admission. If such a condition develops after the Patient has been admitted the Contractor may transfer the Patient pursuant to paragraph 4.2.

4.5. Persons Requiring Law Enforcement Security. County shall be responsible for providing, at County's expense, continuous 24-hour security, including the presence of a law enforcement officer and other security measures as appropriate, for each Patient or proposed Patient who is in custody of the County Sheriff or other law enforcement agency as the result of arrest or conviction on criminal charges. Contractor assumes no responsibility for providing such security.

4.6. In the event Contractor reasonably determines that the security measures provided are inadequate to assure the safety and well-being of Contractor's other patients and other persons in Contractor's facilities, Contractor may:

(a) as to a proposed Patient, determine that the proposed Patient is ineligible for admission.

(b) as to a Patient already admitted, notify BHS by telephone of Contractor's determination that the Patient no longer qualifies for admission and hence, services from Contractor, and coordinate with BHS to make arrangements for discharge of the Patient and, if appropriate, his or her transfer to another facility.

5. Evaluation for Qualification for Admission. Contractor will evaluate each proposed patient promptly upon the Patient's arrival at Contractor's facilities, in order to determine if the proposed Patient meets LPS qualifications for involuntary detention and treatment. If the proposed Patient is determined to meet the LPS qualifications and otherwise to be eligible for admission, pursuant to this Agreement, Contractor shall admit him or her as an inpatient.

6. Persons Not Qualified for Admission. In the event the physician determines that the proposed Patient does not meet LPS qualifications for involuntary detention and treatment, or Contractor otherwise determines that the proposed Patient is ineligible for admission pursuant to this Agreement, Contractor shall promptly notify BHS by telephone of the determination, the basis therefor, and the planned action with respect to the release of the proposed Patient. Contractor shall also provide written confirmation of the determination to BHS within ten (10) business days (excluding weekends and holidays) after the date of notice by telephone.

7. Notice and Approval As Condition Precedent to Compensation for Medical Services. In the event of a medical emergency, Contractor shall notify BHS by telephone immediately of the reason for and nature of Emergency Medical Services provided to Patients. To the extent permitted by law, BHS reserves the right to refuse to compensate Contractor for non-emergency medical services that are delivered without BHS approval.

8. Billing Procedure as Express Condition Precedent to County's Obligation to Pay. As an express condition precedent to maturing the County's payment obligations under Attachment B of this Agreement, the Contractor shall bill for psychiatric inpatient Hospital services rendered, in whole or in part, to any available State or Federal Medi-Cal care program or under any other contractual or legal entitlement of the Patient, including, but not limited to, a private group indemnification insurance program or workers' compensation. To the extent that such coverage is available, the County payment obligation pursuant to Attachment B shall be met.

9. Telephone Progress Reports by Hospital to BHS. Contractor shall report to BHS by telephone the current status and proposed action with respect to a Patient or proposed Patient upon or about the following events:

9.1. Admission Determination. Promptly after the determination of the proposed Patient's eligibility for admission, regarding the results of the determination.

9.2. 72-Hour Hold Patients. Approximately 48-60 hours after admission of the Patient, in order to advise BHS of the likelihood of proceeding with certification of a 14-day extension of detention and treatment stay or of discharging the Patient, necessitating arrangements to assure transportation is available to the Patient if the Patient desires to return to Inyo County.

9.3. Other Procedural Events. Promptly in the event of the initiation or conclusion of habeas corpus proceedings or any other LPS or related legal procedure affecting the Patient's stay in Contractor's facility.

9.4. Discharge/Transfer. At least 12 hours prior to discharge or transfer of a Patient, or if such notice is not reasonably possible due to unforeseen circumstances, as promptly as is reasonably possible, in particular in order to assure appropriate transportation arrangements may be made and otherwise to coordinate discharge planning.

9.5. Need for Medical Services. Promptly or as otherwise provided in this Agreement in the event it is determined that a Patient needs Medical Services.

10. Discharge Report and Aftercare Plan. Promptly upon discharge of a Patient, Contractor shall transmit to County a discharge report, which shall include a copy of hospitalization records and/or medical records of the aftercare plan prepared by Contractor in accordance with applicable law, as well as such additional information as necessary or appropriate to summarize the evaluation, treatment, and other services provided to the Patient hereunder.

11. Quality of Care. As an express condition precedent to maturing the County's payment obligations under Attachment B, Contractor shall:

11.1. Assure that any and all eligible Beneficiaries receive care as required by regulations adopted pursuant to Sections 5775 *et seq.* and 14680 *et seq.* of the Welfare and Institutions Code.

11.2. Take such action as required by Contractor's Medical Staff by-laws against medical staff members who violate those by-laws, as the same may be from time to time amended.

11.3. Provide psychiatric inpatient hospital services in the same manner to Beneficiaries as it provides to all patients to whom it renders psychiatric inpatient hospital services.

11.4. Assure that any discrimination against Beneficiaries in any manner, including admission practices, placement in special or separate wings or rooms, provision of special or separate meals, shall not take place.

12. Patient Rights. Contractor shall comply with applicable patients' rights provisions in W&I Division 5, Part I; Title 9, California Code of Regulations, Subchapter 4; and other applicable law in the provision of services to patients hereunder. Contractor shall adopt and post in a conspicuous place a written policy on patient rights in accordance with Section 70707 of Title 22 of the California Code of Regulations and Section 5325.1 of the Welfare and Institutions Code. Complaints by patients and/or beneficiaries with regard to substandard conditions may be investigated by the County's Patients' Right Advocate, County, or State Department of Mental Health, or by the Joint Commission on Accreditation of Healthcare Organization, or such other agency as required by law or regulation. Contractor is responsible for posting information on grievance and appeal processes at all facilities and accessible to individuals and their beneficiaries receiving services at the facility. Contractor shall make available for use by patients or beneficiaries at Contractor sites, without requiring either written or verbal request, grievance, and appeal forms and Inyo County Mental Health self-addressed envelopes.

13. Beneficiary Evaluation of Contractor's Services. Contractor shall provide a written questionnaire to the Beneficiary at the time of the Beneficiary's admission. The questionnaire shall be approved by the County and shall offer the Beneficiary the opportunity to evaluate the care given. It shall be collected at the time of discharge and maintained in the Contractor's file to seven (7) years, and shall be made available to agents of the County, State Department of Mental Health, and the Department of Health and Human Services.

14. Beneficiary Eligibility. This Contract is not intended to change the determination of Medi-Cal eligibility for beneficiaries in any way. However, in the event a statute is enacted which redefines Medi-Cal eligibility so as to affect the provision of psychiatric inpatient hospital services under this Contract, the new definition shall apply to the terms of the Contract.

15. HIPAA Business Associate Agreement. Contractor agrees to enter into the attached HIPAA Business Associate Agreement.

## ATTACHMENT B

### AGREEMENT BETWEEN COUNTY OF INYO AND Bakersfield Behavioral Healthcare Hospital, LLC FOR THE PROVISION OF HOSPITAL INPATIENT PSYCHIATRIC SERVICES

#### TERM:

FROM: July 1, 2022

TO: June 30<sup>th</sup>, 2023

#### SCHEDULE OF FEES:

1. Rate of Compensation for Mental Health Services. Contractor shall be entitled to compensation from County only for Psychiatric Inpatient Hospital Services rendered to a Beneficiary at rates specified in Attachment B-1. The rate structure specified in Attachment B-1 of the Contract shall not include physician or medical services rendered to Beneficiaries covered under this Contract, or transportation services required in providing Psychiatric Inpatient Hospital Services. When physician, medical, or transportation services are Medi-Cal eligible services or privately insured, they shall be billed separately from the per diem rate of Psychiatric Inpatient Hospital Services.
2. Billing and Payment Guidelines. Contractor shall utilize the Uniform billing and Collection Guidelines and the Uniform Methods of Determining Ability to Pay (UMDAP) procedures prescribed by the California State Director of Mental Health to the extent required by applicable law and State Department of Mental Health guidelines and directives.
3. Statements of Beneficiary Services. Contractor shall submit written itemized statements to County for services rendered hereunder to Beneficiaries. Each statement shall identify the Beneficiary and the number and type of Units of Service provided as Mental Health Services and Medical Services respectively, and the dates on which such Units of Services were provided, and the amount of compensation requested for the services.
4. Compensation Limited to Beneficiaries. Contractor shall be entitled to compensation from County only for services rendered to a Beneficiary pursuant to County's authorization or approval of compensation as otherwise provided in this Agreement. Notwithstanding any other provision of this Agreement, Contractor shall not be entitled to bill and collect from County any compensation for services rendered to a Patient if sources of payment other than Medi-Cal are available. In the event only partial payment for a service is available from any source other than County, Contractor shall accept such payment as payment in full and shall not be entitled to payment from County for any co-payment, deductible, or any other such amount for any part of such services.
5. Rate of Compensation for Medical Services. Contractor shall be entitled to compensation rates for only Emergency and prior-approved Non-Emergency Medical Services as defined in Attachment A at the Contractor's usual and customary rates charged to private-pay patients, which rates shall also include payment for physician services rendered by hospital-based physicians through its departments of radiology, pathology, and emergency services.
6. Rate Of Compensation For Inpatient Psychiatric Hospital Services. The amounts paid to Contractor for in-patient psychiatric services rendered to a Beneficiary shall be in accordance with the rates of compensation otherwise set forth in Attachment B-1, and shall be accepted by Contractor as full and complete compensation for all such services. The per diem rate included in Attachment B-1 is considered

to be payment in full, subject to third party liability and patient share of costs, for the specialty mental health services to a Beneficiary.

7. Transmittal of Payment. County shall transmit payment to Contractor within sixty (60) days after County receives the statement for Psychiatric Inpatient Hospital Services rendered to a Beneficiary except as otherwise specified in this Agreement.

8. Medi-Cal Rate as Payment in Full for Services. Contractor covenants to accept as payment in full for any and all psychiatric inpatient hospital services payments authorized by the County pursuant to Attachment B of this Contract. Such acceptance shall be made irrespective of whether the cost of such services and related administrative expenses shall have exceeded the rate payment obligation of the County provided in Attachment B-1.

9. Contractor Determination of Indigent Patient Status: Notice; Verification.

9.1. Indigent Patient Notice. In the event Contractor determines that a Patient is an Indigent Patient, Contractor shall give County written notice of the determination, including supporting findings and documentation (herein called "Indigent Patient Notice").

An Indigent Patient Notice shall be submitted concurrently with the first statement pursuant to which Contractor requests compensation hereunder for services rendered to the applicable Patient on the basis that such services are Indigent Patient Services.

9.2. Verification. Contractor's determination shall be subject to review and approval by County upon County's verification that reasonable efforts have been made to identify payment resources, including without limitation, the determination of eligibility of the Patient for Medi-Cal or other public assistance, which approval may not be unreasonably withheld.

10. Delayed Payment for Verification of Indigent Patient Status. Payment for services to a Patient for which an initial Indigent Patient Notice has been received by County may be delayed as reasonably necessary or appropriate to allow County to verify the Contractor's determination and pursue the determination of the Patient's eligibility for Medi-Cal or other public assistance. However, such payment shall be made no later than ninety (90) days after the date on which County receives the Indigent Patient Notice and related statement, unless on or before such date for payment, the County gives Contractor written notice and verification of the Patient's coverage by an insurer or other private third-party payer or determination that the Patient is eligible for public assistance other than Medi-Cal for the services set forth on the statement.

11. Refund to County. Notwithstanding anything in this Agreement to the contrary, in the event County provides Contractor with written notice and verification of the Patient's coverage by an insurer or other private third-party payer for services for which County has already paid Contractor, Contractor shall be responsible for obtaining payment from such resources. Contractor shall refund to County the amounts for such services which were previously paid by County to Contractor no later than either the thirtieth (30th) day after Contractor receives payment from such resources or the one-hundred-twentieth (120th) day after receipt of the notice from County verifying the Patient's coverage by such resources, whichever day first occurs.

12. Customary Charges Limitation. Notwithstanding anything in the Agreement to the contrary, the County's total liability to the Contractor shall not exceed the Contractor's total customary charges for like services during each hospital fiscal year or part thereof, in which this Contract is in effect. The Department may recoup any excess of total payments above such total customary charges under Paragraph 8 of this Attachment.

**ATTACHMENT B-1**

**AGREEMENT BETWEEN COUNTY OF INYO  
AND Bakersfield Behavioral Healthcare Hospital, LLC  
FOR THE PROVISION OF HOSPITAL INPATIENT PSYCHIATRIC SERVICES**

**TERM:**

**FROM: July 1, 2022**

**TO: June 30<sup>th</sup>, 2023**

**SCHEDULE OF FEES FOR INPATIENT PSYCHIATRIC HOSPITAL SERVICES**

The fee for Inpatient Psychiatric Hospital Services, including hospital services and which Contractor agrees to provide for evaluation and treatment of a Patient pursuant to this agreement, is as follows:

<b>MEDI-CAL DAILY RATES AT CONTRACTOR'S FACILITY</b>		
<b>DESCRIPTION</b>	<b>21/22 RATE</b>	<b>22/23 RATE</b>
In-Patient Psych Adult	\$1015.00	\$1116.50
In-Patient Psych Minor	\$1045.00	\$1149.50
Administrative Day (non-treatment)	\$660.36	\$726.39

**ATTACHMENT C**

**AGREEMENT BETWEEN COUNTY OF INYO  
AND Bakersfield Behavioral Healthcare Hospital, LLC  
FOR THE PROVISION OF HOSPITAL INPATIENT PSYCHIATRIC SERVICES**

**TERM:**

**FROM: July 1, 2022**

**TO: June 30<sup>th</sup>, 2023**

**SEE ATTACHED INSURANCE PROVISIONS**

Consultant shall procure and maintain for the duration of the contract insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the work hereunder by the Consultant, its agents, representatives, or employees.

#### **MINIMUM SCOPE AND LIMIT OF INSURANCE**

Coverage shall be at least as broad as:

**Commercial General Liability (CGL):** Insurance Services Office Form CG 00 01 covering CGL on an "occurrence" basis, including products and completed operations, property damage, bodily injury and personal & advertising injury with limits no less than \$10,000,000 per occurrence. If a general aggregate limit applies, either the general aggregate limit shall apply separately to this project/location (ISO CG 25 03 or 25 04) or the general aggregate limit shall be twice the required occurrence limit. Limit may be satisfied with a CGL policy as specified above with limits no less than \$2,000,000 per occurrence, plus an umbrella or following-form excess policy with limits no less than \$10,000,000 per occurrence.

**Automobile Liability:** Insurance Services Office Form Number CA 0001 covering, Code 1 (any auto), or if Consultant has no owned autos, Code 8 (hired) and 9 (non-owned), with limit no less than \$1,000,000 per accident for bodily injury and property damage. (Limit reduced from \$5,000,000 when contract specifies contractor will not be transporting patients outside of their facility.)

**Workers' Compensation:** as required by the State of California, with Statutory Limits, and Employer's Liability Insurance with limit of no less than \$1,000,000 per accident for bodily injury or disease. (Not required if consultant provides written verification it has no employees.)

**Healthcare Professional Liability** appropriate to the Consultant's profession, with limit no less than \$1,000,000 per occurrence or claim, \$3,000,000 aggregate.

**Cyber Liability Insurance:** as required due to access and management of electronic medical records, with limits not less than **\$2,000,000** per occurrence or claim, **\$2,000,000** aggregate. Coverage shall be sufficiently broad to respond to the duties and obligations related to electronic medical records, and shall include, but not be limited to, claims involving invasion of privacy violations, information theft, damage to or destruction of electronic information, release of private information, alteration of electronic information, extortion, and network security. The policy shall provide coverage for breach response costs as well as regulatory fines and penalties as well as credit monitoring expenses with limits sufficient to respond to these obligations.

If the Consultant maintains broader coverage and/or higher limits than the minimums shown above, Inyo County requires and shall be entitled to the broader coverage and/or the higher limits maintained by the contractor. Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage shall be available to Inyo County.



## **OTHER INSURANCE PROVISIONS**

The insurance policies are to contain, or be endorsed to contain, the following provisions:

### **Additional Insured Status**

Inyo County, its officers, officials, employees, and volunteers are to be covered as additional insureds on the CGL policy with respect to liability arising out of work or operations performed by or on behalf of the Consultant including materials, parts, or equipment furnished in connection with such work or operations. General liability coverage can be provided in the form of an endorsement to the Consultant's insurance (at least as broad as ISO Form CG 20 10 11 85 or both CG 20 10, CG 20 26, CG 20 33, or CG 20 38; and CG 20 37 forms if later revisions used).

### **Primary Coverage**

For any claims related to this contract, the Consultant's insurance coverage shall be primary insurance primary coverage at least as broad as ISO CG 20 01 04 13 as respects Inyo County, its officers, officials, employees, and volunteers. Any insurance or self-insurance maintained by Inyo County, its officers, officials, employees, or volunteers shall be excess of the Consultant's insurance and shall not contribute with it.

### **Notice of Cancellation**

Each insurance policy required above shall state that coverage shall not be canceled, except with notice to Inyo County.

### **Waiver of Subrogation**

Consultant hereby grants to Inyo County a waiver of any right to subrogation which any insurer of said Consultant may acquire against Inyo County by virtue of the payment of any loss under such insurance. Consultant agrees to obtain any endorsement that may be necessary to affect this waiver of subrogation, but this provision applies regardless of whether or not Inyo County has received a waiver of subrogation endorsement from the insurer.

### **Self-Insured Retentions**

Self-insured retentions must be declared to and approved by Inyo County. Inyo County may require the Consultant to provide proof of ability to pay losses and related investigations, claim administration, and defense expenses within the retention. The policy language shall provide, or be endorsed to provide, that the self-insured retention may be satisfied by either the named insured or Inyo County.

### **Acceptability of Insurers**

Insurance is to be placed with insurers authorized to conduct business in the state with a current A.M. Best's rating of no less than A:VII, unless otherwise acceptable to Inyo County.

### **Claims Made Policies**

If any of the required policies provide coverage on a claims-made basis:

1. The Retroactive Date must be shown and must be before the date of the contract or the beginning of contract work.

2. Insurance must be maintained and evidence of insurance must be provided for at least five (5) years after completion of the contract of work.
3. If coverage is canceled or non-renewed, and not replaced with another claims-made policy form with a Retroactive Date prior to the contract effective date, the Consultant must purchase "extended reporting" coverage for a minimum of five (5) years after completion of contract work.

**Verification of Coverage**

Consultant shall furnish Inyo County with original Certificates of Insurance including all required amendatory endorsements (or copies of the applicable policy language effecting coverage required by this clause) and a copy of the Declarations and Endorsement Page of the CGL policy listing all policy endorsements to Inyo County before work begins. However, failure to obtain the required documents prior to the work beginning shall not waive the Consultant's obligation to provide them. Inyo County reserves the right to require complete, certified copies of all required insurance policies, including endorsements required by these specifications, at any time.

**Subcontractors**

Consultant shall require and verify that all subcontractors maintain insurance meeting all the requirements stated herein, and Contractor shall ensure that Inyo County is an additional insured on insurance required from subcontractors.

**Special Risks or Circumstances**

Inyo County reserves the right to modify these requirements, including limits, based on the nature of the risk, prior experience, insurer, coverage, or other special circumstances.

-end-



May 1, 2022

This letter is sent to inform you of the daily Medi-Cal rates negotiated by the host county for inpatient mental health care at Bakersfield Behavioral Healthcare Hospital, LLC.

<b>Medi-Cal Daily Rates</b>	<b>21/22</b>	<b>22/23</b>
In-Patient Psych Adult:	\$1,015.00	\$1,116.50
In-Patient Psych Minor:	\$1,045.00	\$1,149.50
Admin Rate:	\$660.36	\$726.39

The above rates have been set by this contractor's host county and approved by the Chief Executive Officer and Chief Financial Officer of Bakersfield Behavioral Healthcare Hospital, LLC.

Please send individual contracts and direct correspondence to:  
Amber Smithson, Director of Business Development at  
[amber.smithson@bakersfieldbehavioral.com](mailto:amber.smithson@bakersfieldbehavioral.com)

Amy Murphy, Chief Executive Officer  
Bakersfield Behavioral Healthcare Hospital, LLC  
5201 White Lane  
Bakersfield, CA 93309

Tristen Ivy, Interim Chief Financial Officer  
Bakersfield Behavioral Healthcare Hospital, LLC  
5201 White Lane  
Bakersfield, CA 93309

## HIPAA Business Associate Agreement

This Agreement is entered into, effective as of the 1<sup>st</sup> day of July, 2022 by and between **INYO COUNTY**, a political subdivision of the State of California ("the County") and **BAKERSFIELD BEHAVIORAL HEALTHCARE HOSPITAL, LLC** ("Business Associate").

### **RECITALS**

WHEREAS, Business Associate provides hospital inpatient psychiatric services for the County, and the Business Associate receives, has access to or creates Protected Health Information ("PHI") in order to perform such services; and

WHEREAS, the County is subject to the Administrative Simplification requirements of the Health Insurance Portability and Accountability Act of 1996, Public Law 104-191, and the regulations thereunder ("HIPAA"), including but not limited to the Privacy Standards (45 C.F.R. Parts 160 and 164), the Standards for Electronic Transactions (45 C.F.R. Parts 160 and 162) and the Security Standards (45 C.F.R. Part 142) (collectively, the "Standards"); and

WHEREAS, HIPAA requires the County to enter into a contract with Business Associate to provide for the protection of the privacy and security of PHI, and HIPAA prohibits the disclosure to or use of PHI by Business Associate if such contract is not in place; and

WHEREAS, the County and Business Associate desire to comply with HIPAA and other recent federal regulations. Pursuant to changes required under the Health Information Technology for Economic and Clinical Health Act of 2009 (the "**HITECH Act**") and under the American Recovery and Reinvestment Act of 2009 ("**ARRA**"), this Agreement also reflects federal breach notification requirements imposed on Business Associate when "Unsecured PHI" (as defined under the HIPAA Rules) is acquired by an unauthorized party and the expanded privacy and security provisions imposed on business associates; and

WHEREAS, The County desires to delegate certain of the County's duties to Business Associate and Business Associate desires to assume such duties.

NOW, THEREFORE, in consideration of the foregoing and for other good and valuable consideration, the receipt and adequacy of which is hereby acknowledged, the parties agree as follows:

### **GENERAL PROVISIONS**

1<sup>st</sup> **Section 1.01 Effect.** The terms and provisions of this Agreement are effective the 1<sup>st</sup> day of July, 2022 ("Effective Date").

**Section 1.02** Definitions. Capitalized terms used herein without definition shall have the respective meanings assigned to such terms in Exhibit A of this Agreement.

## **OBLIGATIONS OF BUSINESS ASSOCIATE**

**Section 2.01** Use and Disclosure of Protected Health Information. Business Associate agrees not to use or disclose PHI, other than as permitted or required by this Agreement or as Required by Law, or if such use or disclosure does not otherwise cause a Breach of Unsecured PHI.

**Section 2.02** Prohibited Use of PHI. Business Associate agrees not to use or disclose PHI, other than as permitted or required by this Agreement or as Required by Law, or if such use or disclosure does not otherwise cause a Breach of Unsecured PHI. Business Associate agrees to use appropriate safeguards, and comply with Subpart C of 45 C.F.R. Part 164 with respect to ePHI, to prevent use or disclosure of PHI other than as provided for by this Agreement. Business Associate agrees to mitigate, to the extent practicable, any harmful effect that is known to Business Associate as a result of a use or disclosure of PHI by Business Associate in violation of this Agreement's requirements or that would otherwise cause a Breach of Unsecured PHI.

**Section 2.03** Disclosure of PHI to Covered Entity. The County acknowledges and agrees that under the Privacy Standards the County may permit Business Associate to disclose or provide access to PHI, other than Summary Health Information, to only those employees or other persons under the control of the County who are identified by name or position by the County as the persons who are to be given access to PHI solely to carry out particular County administration functions ("Designated County Employees"). Accordingly, notwithstanding any other terms and conditions of this Agreement, Business Associate shall disclose or provide access to PHI to the County or to any Designated County Employee, only as follows:

- a. Business Associate shall disclose Summary Health Information to any Designated County Employee upon such person's request on behalf of the County for the purpose of obtaining premium bids for the provision of health insurance, HMO or stop-loss coverage for the County or modifying, amending or terminating the County;
- b. Business Associate shall disclose information that has been de-identified in accordance with 45 C.F.R. 164.502(d) and 45 C.F.R. 164.514(a) and (b) at any time for any reason.

**Section 2.04** Safeguards Against Misuse of Information. Business Associate agrees to use appropriate safeguards to prevent the use and disclosure of PHI other than as provided for by this Agreement. Additionally, Business Associate shall implement Administrative, Physical, and Technical Safeguards that reasonably and appropriately protect the confidentiality, integrity, and availability of the PHI that it creates, receives, maintains or transmits on behalf of the County as required by the Security Standards.

**Section 2.05** Reporting of Violations. Business Associate agrees to the following breach notification requirements:

- a. Business Associate agrees to report to the County any use or disclosure of PHI not

provided for by this Agreement or the Privacy Standards of which it or its officers, employees, agents or subcontractors become aware, including any Security Incident of which it becomes aware, as soon as practicable but no longer than three (3) business days after the "discovery" of such disclosure, within the meaning of the HITECH Act. In addition, Business Associate shall provide any additional information reasonably requested by the County for purposes of investigating the Breach and any other available information that the County is required to include to the individual under 45 C.F.R. 164.404(c) at the time of notification or promptly thereafter as information becomes delayed. Business Associate's notification of a Breach of Unsecured PHI under this Section shall comply in all respects with each applicable provision of section 13400 of Subtitle D (Privacy) of ARRA, the HIPAA Rules and related guidance issued by the Secretary or the delegate of the Secretary from time to time. Notwithstanding the foregoing, the County agrees that this Agreement shall constitute notice and reporting by Business Associate to the County of unsuccessful Security Incidents which are not reasonably considered by Business Associate to constitute an actual threat to an information system of Business Associate.

- b. Business Associate agrees to provide notification of any Breach of Unsecured PHI of which it becomes aware, as required under 45 C.F.R. 164.410, and any Security Incident of which it becomes aware, in violation of this Agreement to individuals, the media (as defined under the HITECH Act), the Secretary and/or any other parties as required under HIPAA, the HITECH Act, ARRA and the HIPAA Rules, subject to the prior review and written approval by the County of the content of such notification.
- c. In the event of Business Associate's use or disclosure of Unsecured PHI in violation of HIPAA, the HITECH Act or ARRA, Business Associate bears the burden of demonstrating that notice as required under this **Section 2.05** was made, including evidence demonstrating the necessity of any delay, or that the use or disclosure did not constitute a Breach of Unsecured PHI.

**Section 2.06 Agreements by Third Parties.** In accordance with 45 C.F.R. 164.502(e)(1)(ii) and 164.308(b)(2), Business Associate agrees to require that any Subcontractors that create, receive, maintain, or transmit PHI on behalf of Business Associate agree to the same restrictions, conditions, and requirements that apply to the Business Associate with respect to the same information. Business Associate shall enter into and maintain an agreement with each agent and subcontractor that has or will have access to PHI under which the agent or subcontractor is legally bound by the same restrictions with respect to PHI that apply to Business Associate pursuant to this Agreement, including implementation of reasonable and appropriate safeguards to protect PHI.

**Section 2.07 Duty to Provide Access.** To the extent Business Associate has PHI in a Designated Record Set, Business Associate agrees to provide access, at the request of the County, to the PHI in the Designated Record Set to the County or, as directed by the County, to the Individual, in order to meet requirements under 45 CFR 164.524. Any denial by Business Associate of access to PHI shall be the responsibility of, and sufficiently addressed by, Business Associate, including but not limited to, resolution of all appeals and/or complaints arising therefrom.

- a. Business Associate agrees to comply with an individual's request to restrict the disclosure

of their personal PHI in a manner consistent with 45 C.F.R. 164.522, except where such use, disclosure or request is required or permitted under applicable law.

- b. Business Associate agrees that when requesting, using or disclosing PHI in accordance with 45 C.F.R. 502(b)(1) that such request, use or disclosure shall be to the minimum extent necessary, including the use of a "limited data set" as defined in 45 C.F.R. 164.514(e)(2), to accomplish the intended purpose of such request, use or disclosure, as interpreted under related guidance issued by the Secretary from time to time.

**Section 2.08 Amendment of PHI.** Business Associate agrees to make any amendment(s) to PHI in its possession contained in a Designated Record Set that the County directs or is obligated to pursuant to 45 CFR 164.526 at the request of the County or an Individual, and within a reasonable time and manner. Business Associate agrees to maintain and make available the information required to provide an accounting of disclosures to the County as necessary to satisfy the County's obligations under 45 C.F.R. 164.528.

**Section 2.09 Duty to Make Internal Practices Available.** Business Associate agrees to make its internal practices, books, and records, including policies and procedures relating to the use and disclosure of PHI, and any PHI received from, or created or received by Business Associate on behalf of the County, available to the Secretary, in a time and manner designated by the Secretary, for purposes of Secretary determining County's compliance with Privacy Standards. To the extent that Business Associate is to carry out one or more of the County's obligation(s) under Subpart E of 45 C.F.R. Part 164, Business Associate agrees to comply with the requirements of Subpart E that apply to the County in the performance of such obligation(s).

**Section 2.10 Documenting Disclosures/Accounting.** Business Associate agrees to document any disclosures as would be required for the County to respond to a request by an Individual for an accounting of disclosures of PHI in accordance with 45 CFR 164.528. Business Associate agrees to provide to the County information collected in accordance with this Agreement, to permit the County to respond to a request by an Individual for an accounting of disclosures of PHI in accordance with 45 CFR 164.528. Business Associate also agrees to account for the following disclosures:

- a. Business Associate agrees to maintain and document disclosures of PHI and Breaches of Unsecured PHI and any information relating to the disclosure of PHI and Breach of Unsecured PHI in a manner as would be required for the County to respond to a request by an individual or the Secretary for an accounting of PHI disclosures and Breaches of Unsecured PHI.
- b. Business Associate agrees to provide to the County, or to an Individual at the County's request, information collected in accordance with this **Section 2.10**, to permit the County to respond to a request by an Individual or the Secretary for an accounting of PHI disclosures and Breaches of Unsecured PHI.
- c. Business Associate agrees to account for any disclosure of PHI used or maintained as an Electronic Health Record (as defined in Exhibit A) ("**EHR**") in a manner consistent with 45 C.F.R. 164.528 and related guidance issued by the Secretary from time to time; provided that an individual shall have the right to receive an accounting of disclosures of EHR by the Business Associate made on behalf of the County only during the three years prior to the date on which the accounting is requested [from the County/directly from the

Business Associate].

- d. In the case of an EHR that the Business Associate acquired on behalf of the County as of January 1, 2009, paragraph (c) above shall apply to disclosures with respect to PHI made by the Business Associate from such EHR on or after January 1, 2014. In the case of an EHR that the Business Associate acquires on behalf of the County after January 1, 2009, paragraph (c) above shall apply to disclosures with respect to PHI made by the Business Associate from such EHR on or after the later of January 1, 2011 or the date that it acquires the EHR.

**Section 2.11 Prohibition on the Sale of ePHI.** Business Associate agrees to comply with the "Prohibition on Sale of Electronic Health Records or Protected Health Information," as provided in section 13405(d) of Subtitle D (Privacy) of ARRA, and the "Conditions on Certain Contacts as Part of Health Care Operations," as provided in section 13406 of Subtitle D (Privacy) of ARRA and related guidance issued by the Secretary from time to time.

**Section 2.12 Individual Rights.** The County hereby delegates to Business Associate and Business Associate accepts the County's obligation to comply with Section 164.522, 164.524, 164.526 and 164.528 of the Privacy Standards.

**Section 2.13 Indemnification.** Business Associate hereby agrees to indemnify and hold the County, its employees, officers and directors, and the County harmless from and against any and all liability, payment, loss, cost, expense (including reasonable attorneys' fees and costs), or penalty incurred by the County, its employees, officers or directors or the County in connection with any claim, suit or action asserted against such entity or person resulting from the failure to fulfill any obligation of this Agreement by Business Associate, its employees, agents or subcontractors.

**Section 2.14 Request for Disclosure to an Alternative Location or Alternative Means: Restriction.** Business Associate shall permit the County participant to make a reasonable request that PHI relating to the County participant be supplied at alternative locations and/or by alternative means. Business Associate shall provide a copy of such request (and any change thereto) to the County within five (5) business days of receipt of such request. Business Associate is prohibited from agreeing to any restriction on the use or disclosure of PHI requested by a County participant without the prior approval of the County.

**Section 2.15 Authorizations.** Business Associate shall provide, upon the request of a County participant, a HIPAA-compliant authorization form that may be used by such County participant to request a use or disclosure of such County participant's PHI that is not otherwise permitted hereunder. Business Associate shall not require an authorization to use or disclose PHI unless such an authorization is required by the Privacy Standards. Business Associate shall receive prior approval from the County before attempting to obtain a County participant's authorization for the use or disclosure of PHI for any purpose, such as for marketing purposes.

**Section 2.16 Sanctions and Mitigation.** Business Associate agrees 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 in violation of this Agreement or Privacy Standard. Business Associate agrees to implement and apply sanctions against its employees, agents or



subcontractors who provide services with respect to this Agreement in the event such individual fails to comply with the applicable requirements of this Agreement.

**Section 2.17 Standard Transactions.** When Business Associate conducts in whole or part, Standard Transactions, for or on behalf of the County, Business Associate shall comply, and shall require any subcontractor or agent involved with the conduct of such Standard Transactions to comply, with each applicable requirement of 45 C.F.R. Part 162. Business Associate shall not enter into, or permit its subcontractors or agents to enter into, any trading partner agreement in connection with the conduct of Standard Transactions for or on behalf of the County that:

- a. Changes the definition, data condition or use of a data element or segment in a Standard Transaction;
- b. Adds any data elements or segments to the maximum defined data set;
- c. Uses any code or data element that is marked "not used" in the Standard Transaction's implementation specification or is not in the Standard Transaction's implementation specification; or
- d. Changes the meaning or intent of the Standard Transaction's implementation specification.

**Section 2.18 Notification of Breach.** Business Associate shall notify the County within three (3) business days after it, or any of its employees or agents, reasonably suspects that a breach of unsecured PHI as defined by 45 CFR 164.402 may have occurred. Business Associate shall exercise reasonable diligence to become aware of whether a breach of unsecured PHI may have occurred and, except as stated to the contrary in this Section, shall otherwise comply with 45 CFR 164.410 in making the required notification to the County. Business Associate shall cooperate with the County in the determination as to whether a breach of unsecured PHI has occurred and whether notification to affected individuals of the breach of unsecured PHI is required by 45 CFR 164.400 et seq., including continuously providing the County with additional information related to the suspected breach as it comes available. In the event that the County informs Business Associate that (i) the County has determined that the affected individuals must be notified because a breach of unsecured PHI has occurred and (ii) Business Associate is in the best position to notify the affected individuals of such breach, Business Associate shall immediately provide the required notice (1) within the time frame defined by 45 CFR 164.404(b) and 45 CFR 164.410, (2) in a form and containing such information reasonably requested by the County, and (3) containing the content specified in 45 CFR 164.404(d). In addition, in the event that the County indicates to Business Associate that the County will make the required notification, Business Associate shall promptly take all other actions reasonably requested by the County related to the obligation to provide a notification of a breach of unsecured PHI under 45 CFR 164.400 et seq.

**Section 2.19 Civil and Criminal Liability.** Business Associate acknowledges that, effective on the Effective Date of this Agreement, it shall be liable under the civil and criminal enforcement provisions set forth at 42 U.S.C. 1320d-5 and 1320d-6, as amended, for failure to comply with any of the use and disclosure requirements of this Agreement and any guidance issued by the Secretary from time to time with respect to such use and disclosure requirements.

## OBLIGATIONS OF THE COUNTY

**Section 3.01 Privacy Notice.** The County shall notify Business Associate of any limitation(s) in the County's Notice of Privacy Practices produced in accordance with the Privacy Rule, and any changes or limitations to such notice under 45 C.F.R. 164.520, to the extent such limitation(s) may affect Business Associate's use or disclosure of PHI.

**Section 3.02 Designated County Employees.** The County shall identify for Business Associate the Designated County Employees and shall promptly notify Business Associate of any additions to or deletions from the list of Designated County Employees.

**Section 3.03 County Certification.** The County hereby represents that it has provided certification to the Business Associate that the County documents have been amended to incorporate, and the County agrees to, the provisions required by the Privacy Standards as a precondition to disclosure of PHI to the County.

**Section 3.04 Compliance.** The County shall not request Business Associate to use or disclose PHI in any manner that would not be permissible under the Privacy Standards if done by the County.

## TERMINATION OF AGREEMENT

**Section 4.01 Term.** The term of this Agreement shall be effective as of the Effective Date and shall terminate when all of the PHI provided by County to Business Associate, or created or received by Business Associate on behalf of County, is destroyed or returned to County, or, if it is infeasible to return or destroy the PHI, protections are extended to such information in accordance with the termination provisions of Section 4.3.

**Section 4.02 Termination Upon Breach of Provisions Applicable to Protected Health Information.** Any other provision of the Agreement notwithstanding, this Agreement may be terminated by the County upon five (5) business days prior written notice to Business Associate in the event that Business Associate materially breaches any obligation of this Agreement and fails to cure the breach within such five (5) day period; provided, however, that in the event that termination of the Agreement is not feasible, in the County's sole discretion, Business Associate hereby acknowledges that the County shall have the right to report the breach to the Secretary.

**Section 4.03 Return or Destruction of Protected Health Information Upon Termination.** Upon termination of this Agreement, Business Associate shall either return to

the County or destroy all PHI which Business Associate then maintains in any form. Business Associate shall not retain any copies of PHI. Notwithstanding the foregoing, to the extent that the County agrees that it is not feasible for Business Associate to return or destroy any PHI, the provisions of this Agreement shall survive termination of the Agreement and Business Associate shall limit any further uses and disclosures of such PHI to the purpose or purposes which make the return or destruction of such PHI infeasible. The obligations of Business Associate under this Section 4 shall survive the termination of this Agreement.

**Section 4.04 The County's Right to Cure.** The County shall have the right to cure, at the expense of Business Associate, any breach of Business Associate's obligations under this Agreement. The County shall give Business Associate notice of its election to cure any such breach and Business Associate shall cooperate fully in the efforts by the County to cure Business Associate's breach. Business Associate shall pay for such services of the County within thirty (30) days of receipt of the County's request for payment.

**Section 4.05 Transition Assistance.** Following the termination of the Agreement for any reason, Business Associate agrees to provide transition services for the benefit of the County, including the continued provision of its services required under the Agreement until notified by the County that another provider of services is able to take over the provision of such services and the transfer of the PHI and other data held by Business Associate related to its services under the Agreement has been completed.

## **MISCELLANEOUS**

**Section 5.01 Regulatory References.** A reference in this Agreement to a section in the Privacy Standards or Security Standards means the section as in effect or as amended and for which compliance is required.

**Section 5.02 Modification of Agreement.** The parties acknowledge that state and federal laws relating to electronic data security and privacy are rapidly evolving and that amendment of this Agreement may be required to ensure compliance with such developments. The parties specifically agree to take such action as may be necessary to implement the standards and requirements of the Privacy Rule, the Security Rule, HIPAA, ARRA, the HITECH Act, the HIPAA Rules and other applicable state and federal laws relating to the security or confidentiality of PHI as determined solely by the County.

In the event that a federal or state law, statute, regulation, regulatory interpretation, or court/agency determination materially affects this Agreement, as is solely determined by the County, the parties agree to negotiate in good faith any necessary or appropriate revisions to this Agreement. If the parties are unable to reach an agreement concerning such revisions within the earlier of sixty (60) days after the date of notice seeking negotiations or the effective date of the change in law or regulation, or if the change in law or regulation is effective immediately, the County, in its sole discretion, may unilaterally amend this Agreement to comply with the change in law upon written notice to Business Associate.

**Section 5.03 Non-Waiver.** A failure of any party to enforce at any time any term, provision or condition of this Agreement, or to exercise any right or option herein, shall in no way operate as a waiver thereof, nor shall any single or partial exercise preclude any other right or option herein. In no way whatsoever shall a waiver of any term, provision or condition of this Agreement be valid unless in writing, signed by the waiving party, and only to the extent set forth in such writing.

**Section 5.04 Severability.** If any provision of this Agreement is found to be invalid or unenforceable by any court, such provision shall be ineffective only to the extent that it is in contravention of applicable laws without invalidation the remaining provisions hereof.

**Section 5.05 Survival.** The respective rights and obligations of Business Associate under this Agreement shall survive the termination of this Agreement.

**Section 5.06 Third Party Beneficiaries.** There are no third party beneficiaries to this Agreement.

**Section 5.07 Counterparts.** This Agreement may be executed in one or more counterparts, each of which shall be deemed an original and will become effective and binding upon the parties as of the effective date of this Agreement at such time as all the signatories hereto have signed a counterpart of this Agreement.

**Section 5.08 Notices.** Any notices required or permitted to be given hereunder by either party shall be given by telephone (if so required hereunder) or otherwise in writing: (1) by personal delivery; (2) by electronic facsimile with confirmation sent by United States first class registered or certified mail, postage prepaid, return receipt requested; (3) by bonded courier or by a nationally recognized overnight delivery service; or (4) by United States first class registered or certified mail, postage prepaid, return receipt requested, in each case addressed to:

Business Associate:

Bakersfield Behavioral Healthcare Hospital, LLC  
5201 White Lane  
Bakersfield, CA 93309

Inyo County:

County of Inyo HHS - BH  
1360 N. Main St., Ste 124  
Bishop, CA 93514

or to such other addresses as the parties may request in writing by notice given pursuant to this **Section 5.08**. Notices shall be deemed received on the earliest of personal delivery, upon delivery by electronic facsimile with confirmation from the transmitting machine that the transmission was completed, twenty-four (24) hours following deposit with a bonded courier or overnight delivery service, or seventy-two (72) hours following deposit into the U.S. Mail as required herein.

**Section 5.09 Applicable Law and Venue.** This Agreement shall be governed by and

construed in accordance with the laws of the State of California (without regard to principles of conflicts of laws).

**Section 5.10 Interpretation.** This Agreement shall be interpreted in the following manner:

- a. Any ambiguity shall be resolved in favor of a meaning that permits the County to comply with the HIPAA Rules.
- b. Any inconsistency between the Agreement's provisions and the HIPAA Rules, including all amendments, as interpreted by the HHS, court or another regulatory agency with authority over the Parties, shall be interpreted according to the interpretation of the HHS, the court or the regulatory agency.
- c. Any provision of this Agreement that differs from those mandated by the HIPAA Rules, but is nonetheless permitted by the HIPAA Rules, shall be adhered to as stated in this Agreement.

**Section 5.11 Entire Agreement.** This Agreement constitutes the entire agreement between the parties related to the subject matter of this Agreement, except to the extent that the underlying agreement imposes more stringent requirements related to the use and protection of PHI upon Business Associate. This Agreement supersedes all prior negotiations, discussions, representations or proposals, whether oral or written. This Agreement may not be modified unless done so in writing and signed by a duly authorized representative of both parties. If any provision of this Agreement, or part thereof, is found to be invalid, the remaining provisions shall remain in effect.

**Section 5.12 Assignment.** This Agreement will be binding on the successors and assigns of the County and the Business Associate. However, this Agreement may not be assigned, in whole or in part, without the written consent of the other party. Any attempted assignment in violation of this provision shall be null and void.

#### **OBLIGATIONS OF BUSINESS ASSOCIATE EFFECTIVE APRIL 20, 2005**

**Section 6.01 Electronic Health Record or "EHR."** Effective April 20, 2005, Business Associate shall comply with the HIPAA Security Rule, which shall mean the Standards for Security of Electronic Protected Health Information at 45 C.F.R. Part 160 and Subparts A and C of Part 164, as amended by ARRA and the HITECH Act. "EHR" as used in this Agreement is defined in Attachment A.

#### **OBLIGATIONS OF BUSINESS ASSOCIATE EFFECTIVE SEPTEMBER 5, 2012**

**Section 7.01 Access to PHI in an Electronic Format.** Beginning effective September 5, 2012, if Business Associate uses or maintains PHI in an Electronic Health Record, Business Associate must provide access to such information in an electronic format if so requested by an Individual. Any fee that Business Associate may charge for such electronic copy shall not

be greater than Business Associate's labor costs in responding to the request. If an Individual makes a direct request to Business Associate for access to a copy of PHI, Business Associate will promptly inform the County in writing of such request.

**Section 7.02 Prohibition on Marketing Activities.** Beginning effective September 5, 2012, Business Associate shall not engage in any marketing activities or communications with any individual unless such marketing activities or communications are allowed by the terms of the underlying agreement between Business Associate and the County and are made in accordance with ARRA or any future regulations promulgated thereunder. Notwithstanding the foregoing, payment for marketing activities should be in accordance with the ARRA or any future regulations promulgated thereunder.

**Section 7.03 Application of the Security Standards to Business Associate.** Effective September 5, 2012, Business Associate shall abide by the provisions of the Security Standards and use all appropriate safeguards to prevent use or disclosure of PHI other than as provided for by this Agreement. Without limiting the generality of the foregoing sentence, Business Associate shall: (i) adopt written policies and procedures to implement the same Administrative, Physical and Technical safeguards required of the County; and (ii) abide by the most current guidance on the most effective and appropriate Technical safeguards issued by the Secretary.

#### **OBLIGATIONS OF BUSINESS ASSOCIATE EFFECTIVE SEPTEMBER 5, 2012**

**Section 8.01** Beginning September 5, 2012, Business Associate shall not receive any remuneration, directly or indirectly, in exchange for PHI, unless so allowed by the terms of the underlying agreement between Business Associate and the County and in accordance with the ARRA and any future regulations promulgated thereunder.

#### **ADDITIONAL OBLIGATIONS OF BUSINESS ASSOCIATE UNDER THE SECURITY RULE**

**Section 9.01 Security Rule.** In accordance with the Security Rule, Business Associate agrees to:

- a. Implement the administrative safeguards set forth at 45 C.F.R. 164.308, the physical safeguards set forth at 45 C.F.R. 164.310, the technical safeguards set forth at 45 C.F.R. 164.312, and the policies and procedures set forth at 45 C.F.R. 164.316 to reasonably and appropriately protect the confidentiality, integrity and availability of the ePHI that it creates, receives, maintains or transmits on behalf of the County as required by the Security Rule. Business Associate acknowledges that, effective on the Effective Date of this Agreement, (a) the foregoing safeguards, policies and procedures requirements shall apply to Business Associate in the same manner that such requirements apply to the County, and (b) Business Associate shall be liable under the civil and criminal enforcement provisions set forth at 42 U.S.C. 1320d-5 and 1320d-6, as amended from

time to time, for failure to comply with the safeguards, policies and procedures requirements and any guidance issued by the Secretary from time to time with respect to such requirements; and

- b. Require that any agent, including a Subcontractor, to whom it provides such PHI agrees to implement reasonable and appropriate safeguards to protect the PHI; and
- c. Report to the County any Security Incident of which it becomes aware.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement effective as of the date first stated above.

**INYO COUNTY**

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

**BUSINESS ASSOCIATE**

By: *Anthony Murray*

Name: *Anthony Murray*

Title: *CEO*

Date: *6/2/22*

## EXHIBIT A

### Definitions

**"Administrative Safeguards"** shall mean the administrative actions, policies, and procedures to manage the selection, development, implementation and maintenance of security measures to protect PHI and to manage the conduct of County's workforce in relation to the protection of that PHI.

**"Business Associate"** refers to **BAKERSFIELD BEHAVIORAL HEALTHCARE HOSPITAL** and shall have the same meaning as the term "Business Associate" as defined in 45 CFR 160.103.

**"Covered Entity"** shall mean the County, **INYO COUNTY**.

**"Data Aggregation"** shall mean the combining of PHI by Business Associate with the Individually Identifiable Health Information created or received by Business Associate in its capacity as a business associate of another Covered Entity, to permit data analyses that relate to the health care operations of the County and the other covered entity.

**"Designated County Employees"** shall mean those persons designated in writing by the County to Business Associate as being included within the class of employees or other workforce members under the control of the County designated in the County as authorized to use and disclose PHI in accordance with the terms and provisions of the County.

**"Designated Record Set"** shall mean the enrollment, payment, claims adjudication and case or medical management record systems maintained by or for the County, or any other group of records maintained by or for the County and used, in whole or in part, by or for the County to make decisions about individuals. As used herein the term "record" means any item, collection or grouping of information that includes PHI and is maintained, collected, used or disseminated by or for the County.

**"Discovery"** shall mean when a breach is discovered by the County or Business Associate as of the first day on which such breach is known to the County or Business Associate, or, by exercising reasonable diligence would have been known to the County or Business Associate. The County or Business Associate shall be deemed to have knowledge of a breach if such breach is known, or by exercising reasonable diligence would have known, to any person, other than the person committing the breach, who is a workforce member or agent of the County or Business Associate.

**"Electronic Health Record" or "EHR"** shall mean an electronic record of health-related information on an individual that is created, gathered, managed, and consulted by authorized health care clinicians and staff.

**"Health Care Operations"** shall mean have the same meaning as the term "health care operations" at 45 CFR 164.501.



**"HIPAA"** shall mean the Health Insurance Portability and Accountability Act of 1996, the implementation regulations promulgated thereunder by the U.S. Department of Health and Human Services, the ARRA (as defined below) and any future regulations promulgated thereunder, all as may be amended from time to time.

**"Individual"** shall have the same meaning as the term "individual" as defined in 45 CFR 160.103, and any amendments thereto, and shall include a person who qualifies as a personal representative in accordance with 45 CFR 164.502(g).

(i) **"Individually Identifiable Health Information"** shall have the same meaning as the term "individually identifiable health information" at 45 CFR 160.103.

**"Physical Safeguards"** shall mean the physical measures, policies and procedures to protect County's electronic information systems and related buildings and equipment from natural and environmental hazards and unauthorized intrusion.

**"Privacy Standards"** shall mean the Standards of Privacy of Individually Identifiable Health Information, 45 C.F.R. Parts 160 and 164.

**"PHI" and/or "Protected Health Information"** shall mean Individually Identifiable Health Information transmitted or maintained in any form or medium that Business Associate creates or received from or on behalf of the County in the course of fulfilling its obligations under the Agreement. "Protected Health Information" shall not include (i) education records covered by the Family Education Rights and Privacy Act, as amended, 20 U.S.C. section 1232g, and (ii) records described in 20 U.S.C. section 1232g(a)(4)(B)(iv).

**"Required By Law"** shall have the same meaning as the term "required by law" in 45 CFR 164.512.

**"Secretary"** shall mean the Secretary of the United States Department of Health and Human Services.

**"Security Incident"** shall mean the attempted or successful unauthorized access, use, disclosure, modification or destruction of information or interference with system operations in an information system.

**"Security Rule"** shall mean the Standards for Security of Electronic Protected Health Information at 45 CFR Parts 160, 162, and 164.

**"Standard Transaction"** shall have the meaning set forth in 45 C.F.R. section 162.103.

**"Summary Health Information"** shall mean information, that may be Individually Identifiable Health Information and (i) that summarizes the claims history, claims expenses or type of claims experienced by individuals covered by the County; and (ii) from which the information described in 45 C.F.R. section 164.514(b)(2)(i) has been deleted, except that the

geographic information described in 45 C.F.R. section 164.514(b)(2)(i)(B) need only be aggregated to the level of a five-digit zip code.

**"Technical Safeguards"** shall mean the technology and policy and procedures for its use that protect HI and control access to it.

**"Treatment"** shall mean the provision, coordination or management of health care and related services by one or more health care providers, including the coordination or management of health care by a health care provider with a third party; consultation between health care providers relating to a patient; or the referral of a patient for health care from one health care provider to another.

Capitalized terms used, but not otherwise defined, in this Agreement shall have the same meaning ascribed to them in the Privacy Rule, the Security Rule or the American Recovery and Reinvestment Act of 2009 ("ARRA") or any future regulations promulgated or guidance issued by the Secretary, including all amendments thereto for which compliance is required, as amended by the HITECH Act, ARRA, and the HIPAA Rules.



# County of Inyo



## Health & Human Services - Behavioral Health

### CONSENT - ACTION REQUIRED

**MEETING:** June 28, 2022

**FROM:** Lucy Vincent

**SUBJECT:** Agreement between County of Inyo and The SmithWaters Group of Sacramento for provision of Patients' Rights Advocacy services

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#### **RECOMMENDED ACTION:**

Request Board: A) declare The SmithWaters Group of Sacramento, CA a sole-source provider of Mental Health Patients' Rights Advocacy; B) approve the agreement between the County of Inyo and The SmithWaters Group for the provision of Mental Health Patients' Rights Advocacy in an amount not to exceed \$21,600 for the period of July 1, 2022 through June 30, 2023, contingent upon the Board's approval of the Fiscal Year 2022-2023 Budget; and C) authorize the Chairperson to sign the contract and HIPAA Business Agreement, contingent upon all appropriate signatures being obtained.

#### **SUMMARY/JUSTIFICATION:**

The SmithWaters Group has been providing Patients' Rights Advocacy services to County of Inyo Health and Human Services, Behavioral Health since October 1, 2021. After several recruitment attempts over the span of two years failed to find a local person to serve as Patients' Rights Advocate, we secured the services of the The SmithWaters Group. In accordance with California Welfare and Institutions code 5520, "Each local mental health director shall appoint, or contract for the services of, one or more county patients' rights advocates."

The SmithWaters Group provides Patients' Rights Advocacy services in select counties throughout California.

The services they provide include, but are not limited to, the following: 5150 Certification training for staff, complaint investigation and follow-up; developing working relationships with Behavioral Health; Public Guardian and independent provider staff, including the Wellness Center and Progress House; providing training and education to providers and clients about mental health law and patients' rights as needed; distributing materials, brochures, and state mandated patients' rights handbooks and posters; providing written quarterly statics and annual report of activities; participating on Inyo County committees (QIC, BHAB, etc.) as needed; providing 24-hour phone access for staff and clients; meeting in-person with clients or staff at least on a quarterly basis, serving as liaison with the state Office of Patients' Rights (COPR), Title IX advocates and Conservators in other counties.

#### **BACKGROUND/HISTORY OF BOARD ACTIONS:**

N/A

#### **ALTERNATIVES AND CONSEQUENCES OF NEGATIVE ACTION:**

Your Board could choose not to approve this contract. This would severely impede our ability to meet the requirements under WIC 5520.

**OTHER AGENCY INVOLVEMENT:**

Courts, Acute Psychiatric Hospitals

**FINANCING:**

Mental Health funds, including Mental Health Realignment and MHSA. This expense is budgeted in Mental Health (045200), in Professional Services (5265). No County General Funds.

**ATTACHMENTS:**

1. SmithWaters Group Contract
2. HIPAA Business Associate Agreement

**APPROVALS:**

Lucy Vincent	Created/Initiated - 6/2/2022
Darcy Ellis	Approved - 6/3/2022
Lucy Vincent	Approved - 6/9/2022
Marilyn Mann	Approved - 6/13/2022
Melissa Best-Baker	Approved - 6/16/2022
John Vallejo	Approved - 6/17/2022
Amy Shepherd	Approved - 6/17/2022
Anna Scott	Final Approval - 6/17/2022

**AGREEMENT BETWEEN COUNTY OF INYO**

**AND** The SmithWaters Group  
**FOR THE PROVISION OF** Patients' Rights Advocacy **SERVICES**

**INTRODUCTION**

WHEREAS, the County of Inyo (hereinafter referred to as "County") may have the need for the Patients' Rights Advocacy services of The SmithWaters Group of Sacramento, California (hereinafter referred to as "Contractor"), and in consideration of the mutual promises, covenants, terms, and conditions hereinafter contained, the parties hereby agree as follows:

**TERMS AND CONDITIONS**

**1. SCOPE OF WORK.**

The Contractor shall furnish to the County, upon its request, those services and work set forth in Attachment A, attached hereto and by reference incorporated herein. Requests by the County to the Contractor to perform under this Agreement will be made by Kimball C. Pier, Ph.D., LMFT, whose title is: HHS Deputy Director - Behavioral Health. Requests to the Contractor for work or services to be performed under this Agreement will be based upon the County's need for such services. The County makes no guarantee or warranty, of any nature, that any minimum level or amount of services or work will be requested of the Contractor by the County under this Agreement. County by this Agreement incurs no obligation or requirement to request from Contractor the performance of any services or work at all, even if County should have some need for such services or work during the term of this Agreement.

Services and work provided by the Contractor at the County's request under this Agreement will be performed in a manner consistent with the requirements and standards established by applicable federal, state, and County laws, ordinances, regulations, and resolutions. Such laws, ordinances, regulations, and resolutions include, but are not limited to, those which are referred to in this Agreement.

**2. TERM.**

The term of this Agreement shall be from 7/1/2022 to 6/30/2023 unless sooner terminated as provided below.

**3. CONSIDERATION.**

A. Compensation. County shall pay to Contractor in accordance with the Schedule of Fees (set forth as Attachment B) for the services and work described in Attachment A which are performed by Contractor at the County's request.

B. Travel and per diem. Contractor will not be paid or reimbursed for travel expenses or per diem which Contractor incurs in providing services and work requested by County under this Agreement.

C. No additional consideration. Except as expressly provided in this Agreement, Contractor shall not be entitled to, nor receive, from County, any additional consideration, compensation, salary, wages, or other type of remuneration for services rendered under this Agreement. Specifically, Contractor shall not be entitled, by virtue of this Agreement, to consideration in the form of overtime, health insurance benefits, retirement benefits, disability retirement benefits, sick leave, vacation time, paid holidays, or other paid leaves of absence of any type or kind whatsoever.

D. Limit upon amount payable under Agreement. The total sum of all payments made by the County to Contractor for services and work performed under this Agreement shall not exceed Twenty One Thousand Six Hundred Dollars

(\$21,600.00) (hereinafter referred to as "contract limit"). County expressly reserves the right to deny any payment or reimbursement requested by Contractor for services or work performed which is in excess of the contract limit.

E. Billing and payment. Contractor shall submit to the County, once a month, an itemized statement of all services and work described in Attachment A, which were done at the County's request. This statement will be submitted to the County not later than the fifth (5th) day of the month. The statement to be submitted will cover the period from the first (1st) day of the preceding month through and including the last day of the preceding month. This statement will identify the date on which the services and work were performed and describe the nature of the services and work which were performed on each day. Upon timely receipt of the statement by the fifth (5th) day of the month, County shall make payment to Contractor on the last day of the month.

F. Federal and State taxes.

(1) Except as provided in subparagraph (2) below, County will not withhold any federal or state income taxes or social security from any payments made by County to Contractor under the terms and conditions of this Agreement.

(2) County will withhold California State income taxes from payments made under this Agreement to non-California resident independent contractors when it is anticipated that total annual payments to Contractor under this Agreement will exceed one thousand four hundred ninety nine dollars (\$1,499.00).

(3) Except as set forth above, County has no obligation to withhold any taxes or payments from sums paid by County to Contractor under this Agreement. Payment of all taxes and other assessments on such sums is the sole responsibility of Contractor. County has no responsibility or liability for payment of Contractor's taxes or assessments.

(4) The total amounts paid by County to Contractor, and taxes withheld from payments to non-California residents, if any, will be reported annually to the Internal Revenue Service and the California State Franchise Tax Board. To facilitate this reporting, Contractor shall complete and submit to the County an Internal Revenue Service (IRS) Form W-9 upon executing this Agreement.

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

Contractor's obligation is to perform, in a timely manner, those services and work identified in Attachment A which are requested by the County. It is understood by Contractor that the performance of these services and work will require a varied schedule. Contractor will arrange his/her own schedule, but will coordinate with County to ensure that all services and work requested by County under this Agreement will be performed within the time frame set forth by County.

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

A. Any licenses, certificates, or permits required by the federal, state, county, municipal governments, for contractor to provide the services and work described in Attachment A must be procured by Contractor and be valid at the time Contractor enters into this Agreement or as otherwise may be required. Further, during the term of this Agreement, Contractor must maintain such licenses, certificates, and permits in full force and effect. Licenses, certificates, and permits may include, but are not limited to, driver's licenses, professional licenses or certificates, and business licenses. Such licenses, certificates, and permits will be procured and maintained in force by Contractor at no expense to the County. Contractor will provide County, upon execution of this Agreement, with evidence of current and valid licenses, certificates and permits which are required to perform the services identified in Attachment A. Where there is a dispute between Contractor and County as to what licenses, certificates, and permits are required to perform the services identified in Attachment A, County reserves the right to make such determinations for purposes of this Agreement.

B. Contractor warrants that it is not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in covered transactions by any federal department or agency. Contractor also warrants that it is not suspended or debarred from receiving federal funds as listed in the List of Parties Excluded from Federal Procurement or Non-procurement Programs issued by the General Services Administration available at: <http://www.sam.gov>.

## **6. OFFICE SPACE, SUPPLIES, EQUIPMENT, ET CETERA.**

Contractor shall provide such office space, supplies, equipment, vehicles, reference materials, and telephone service as is necessary for Contractor to provide the services identified in Attachment A to this Agreement. County is not obligated to reimburse or pay Contractor, for any expense or cost incurred by Contractor in procuring or maintaining such items. Responsibility for the costs and expenses incurred by Contractor in providing and maintaining such items is the sole responsibility and obligation of Contractor.

## **7. COUNTY PROPERTY.**

A. Personal Property of County. Any personal property such as, but not limited to, protective or safety devices, badges, identification cards, keys, etc. provided to Contractor by County pursuant to this Agreement are, and at the termination of this Agreement remain, the sole and exclusive property of County. Contractor will use reasonable care to protect, safeguard and maintain such items while they are in Contractor's possession. Contractor will be financially responsible for any loss or damage to such items, partial or total, which is the result of Contractor's negligence.

B. Products of Contractor's Work and Services. Any and all compositions, publications, plans, designs, specifications, blueprints, maps, formulas, processes, photographs, slides, video tapes, computer programs, computer disks, computer tapes, memory chips, soundtracks, audio recordings, films, audio-visual presentations, exhibits, reports, studies, works of art, inventions, patents, trademarks, copyrights, or intellectual properties of any kind which are created, produced, assembled, compiled by, or are the result, product, or manifestation of, Contractor's services or work under this Agreement are, and at the termination of this Agreement remain, the sole and exclusive property of the County. At the termination of the Agreement, Contractor will convey possession and title to all such properties to County.

## **8. INSURANCE.**

For the duration of this Agreement Contractor shall procure and maintain insurance of the scope and amount specified in Attachment C and with the provisions specified in that attachment.

## **9. STATUS OF CONTRACTOR.**

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

A. Contractor shall determine the method, details, and means of performing the work and services to be provided by Contractor under this Agreement.

B. Contractor shall be responsible to County only for the requirements and results specified in this Agreement, and except as expressly provided in this Agreement, shall not be subjected to County's control with respect to the physical action or activities of Contractor in fulfillment of this Agreement.

C. Contractor, its agents, officers, and employees are, and at all times during the term of this Agreement shall, represent and conduct themselves as independent contractors, and not as employees of County.

**10. DEFENSE AND INDEMNIFICATION.**

Contractor shall hold harmless, defend and indemnify County and its officers, officials, employees and volunteers from and against any and all liability, loss, damage, expense, costs (including without limitation costs and fees of litigation) of every nature arising out of or in connection with Contractor's performance of work hereunder or its failure to comply with any of its obligations contained in the agreement, except such loss or damages which was caused by the sole negligence or willful misconduct of the County.

**11. RECORDS AND AUDIT.**

A. Records. Contractor shall prepare and maintain all records required by the various provisions of this Agreement, federal, state, county, municipal, ordinances, regulations, and directions. Contractor shall maintain these records for a minimum of four (4) years from the termination or completion of this Agreement. Contractor may fulfill its obligation to maintain records as required by this paragraph by substitute photographs, microphotographs, or other authentic reproduction of such records.

B. Inspections and Audits. Any authorized representative of County shall have access to any books, documents, papers, records, including, but not limited to, financial records of Contractor, which County determines to be pertinent to this Agreement, for the purposes of making audit, evaluation, examination, excerpts, and transcripts during the period such records are to be maintained by Contractor. Further, County has the right, at all reasonable times, to audit, inspect, or otherwise evaluate the work performed or being performed under this Agreement.

**12. NONDISCRIMINATION.**

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

**13. CANCELLATION.**

This Agreement may be canceled by County without cause, and at will, for any reason by giving to Contractor thirty (30) days written notice of such intent to cancel. Contractor may cancel this Agreement without cause, and at will, for any reason whatsoever by giving thirty (30) days written notice of such intent to cancel to County.

**14. ASSIGNMENT.**

This is an agreement for the services of Contractor. County has relied upon the skills, knowledge, experience, and training of Contractor as an inducement to enter into this Agreement. Contractor shall not assign or subcontract this Agreement, or any part of it, without the express written consent of County. Further, Contractor shall not assign any monies due or to become due under this Agreement without the prior written consent of County.



**15. DEFAULT.**

If the Contractor abandons the work, or fails to proceed with the work and services requested by County in a timely manner, or fails in any way as required to conduct the work and services as required by County, County may declare the Contractor in default and terminate this Agreement upon five (5) days written notice to Contractor. Upon such termination by default, County will pay to Contractor all amounts owing to Contractor for services and work satisfactorily performed to the date of termination.

**16. WAIVER OF DEFAULT.**

Waiver of any default by either party to this Agreement shall not be deemed to be waiver of any subsequent default. Waiver or breach of any provision of this Agreement shall not be deemed to be a waiver of any other or subsequent breach, and shall not be construed to be a modification of the terms of this Agreement unless this Agreement is modified as provided in paragraph twenty-two (22) below.

**17. CONFIDENTIALITY.**

Contractor further agrees to comply with the various provisions of the federal, state, and county laws, regulations, and ordinances providing that information and records kept, maintained, or accessible by Contractor in the course of providing services and work under this Agreement, shall be privileged, restricted, or confidential. Contractor agrees to keep confidential all such information and records. Disclosure of such confidential, privileged, or protected information shall be made by Contractor only with the express written consent of the County. Any disclosure of confidential information by Contractor without the County's written consent is solely and exclusively the legal responsibility of Contractor in all respects.

Notwithstanding anything in the Agreement to the contrary, names of persons receiving public social services are confidential and are to be protected from unauthorized disclosure in accordance with Title 45, Code of Federal Regulations Section 205.50, the Health Insurance Portability and Accountability Act of 1996, and Sections 10850 and 14100.2 of the Welfare and Institutions Code, and regulations adopted pursuant thereto. For the purpose of this Agreement, all information, records, and data elements pertaining to beneficiaries shall be protected by the provider from unauthorized disclosure.

**18. CONFLICTS.**

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

**19. POST AGREEMENT COVENANT.**

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

**20. SEVERABILITY.**

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

**21. FUNDING LIMITATION.**

The ability of County to enter this Agreement is based upon available funding from various sources. In the event that such funding fails, is reduced, or is modified, from one or more sources, County has the option to cancel, reduce, or modify this Agreement, or any of its terms within ten (10) days of its notifying Contractor of the cancellation, reduction, or modification of available funding. Any reduction or modification of this Agreement made pursuant to this provision must comply with the requirements of paragraph twenty-two (22) (Amendment).

**22. AMENDMENT.**

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

**23. NOTICE.**

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

County of Inyo	
<u>HHS-Behavioral Health</u>	Department
<u>1360 N Main St., Ste. 124</u>	Address
<u>Bishop, CA 93514</u>	City and State

Contractor:	
<u>Frank SmithWaters</u>	Name
<u>3666 I Street</u>	Address
<u>Sacramento, CA 95816</u>	City and State

**24. ENTIRE AGREEMENT.**

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

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**AGREEMENT BETWEEN COUNTY OF INYO**  
**AND** The SmithWaters Group  
**FOR THE PROVISION OF** Patients' Rights Advocacy **SERVICES**

IN WITNESS THEREOF, THE PARTIES HERETO HAVE SET THEIR HANDS AND SEALS  
THIS \_\_\_\_\_ DAY OF \_\_\_\_\_.

**COUNTY OF INYO**

**CONTRACTOR**

By: \_\_\_\_\_  
Signature

By:   
Signature

\_\_\_\_\_  
Print or Type Name

FRANK W. SMITHWATERS  
Print or Type Name

Dated: \_\_\_\_\_

Dated: 6/3/2022

APPROVED AS TO FORM AND LEGALITY:

County Counsel


APPROVED AS TO ACCOUNTING FORM:

  
County Auditor

APPROVED AS TO PERSONNEL REQUIREMENTS:

  
Personnel Services

APPROVED AS TO INSURANCE REQUIREMENTS:

  
County Risk Manager

**ATTACHMENT A**

**AGREEMENT BETWEEN COUNTY OF INYO**

**AND** The SmithWaters Group

**FOR THE PROVISION OF** Patients' Rights Advocacy **SERVICES**

**TERM:**

**FROM:** 7/1/2022 **TO:** 6/30/2023

**SCOPE OF WORK:**

Please see attached Scope of Work. Contractor agrees to sign attached HIPAA Business Agreement.

AGREEMENT BETWEEN COUNTY OF INYO  
AND The SmithWaters Group  
FOR THE PROVISION OF Patients' Rights Advocacy

Attachment A

Scope of Work

Contractor shall provide County with a countywide program for patients' rights advocacy for consumers of behavioral health services in all hospitals, skilled nursing facilities, board and care homes, day programs, or other behavioral health care facilities, and will provide advocacy services to clients of the Inyo County HHS Behavioral Health (ICHHS-BH) who are residing independently within Inyo County. For Inyo County resident clients placed out of Inyo County, Contractor will act as a liaison with advocates from other areas.

1. Specific duties shall include, but not be limited to, the following:
  - A. Contractor shall respond to and investigate the requests of the patients or requests made on behalf of the patients by relatives, service provider or designated caregivers. Contractor will maintain a significant regular visible presence in the County for purposes of promoting greater access and services for all members of the behavioral health community. The advocate is also available to assist with medication and problem resolution related to behavioral health issues when needed.
  - B. Contractor shall also act in behalf of patients who are unable, because of their behavioral or physical condition, to request advocacy services but are in need of such services.
  - C. Contractor shall provide training and education including but not limited to behavioral health law and patients' rights statutes and regulations to behavioral health providers located in the County of Inyo. Training and educational services will be provided to all employees of the ICHHS BH Division as well as all contracted provider employees on minimally an annual basis. Select categories of employees (including but not limited to case managers, crisis team workers, etc.) shall receive more frequent trainings and updates as needed throughout the year. Specialty trainings (5150 documenting, rights violation documentation, etc.) will be scheduled on an "as needed" basis. Educational opportunities and trainings shall also be offered to all clients and community members throughout the year. Trainings will be provided in locations throughout the county that are accessible to all.
  - D. Contractor shall ensure that recipients of behavioral health services in all Inyo County licensed health and community care facilities are notified of their rights.
  - E. Contractor shall exchange information and cooperate with California Office of Patients' Rights as well as other advocacy programs throughout California that may have need for mutual information sharing.

- F. Contractor shall meet with the ICHHS-BH designated leadership minimally on a monthly basis to discuss ongoing trends, issues and successes, and shall provide written narrative and statistical update reports on a monthly basis, with both Quarterly and Annual Summaries. Contractor shall attend and participate in all meetings as requested by the ICHHS Deputy Director of Behavioral Health or designee to provide any insight and support to the promotion of services within the County. Contractor also has significant experience working within the client community and will assist with client-related opportunities.
2. Contractor shall comply with all the requirements regarding the confidentiality of patient information and records, including but not limited to WIC Section 5328, and Title 45, Section 205.50, of the Code of Federal Regulations. Patient's Rights Advocate will conform to all other applicable Federal and State statutes and regulations, including but not limited to the Deficit Reduction Act (DRA) of 2005, the Federal False Claims Act, the Health Insurance Portability and Accountability Act (HIPAA) of 1996, the HIPAA Omnibus Final Rule, and HITECH Act of 2010, and will make her best effort to preserve data integrity and the confidentiality of protected health information.
  3. Contractor shall maintain complete documentation of all requests, including the patient's name and all advocacy activities; this information shall be presented in report form to the ICHHS BH Director or designee no later than the fifth (5th) working day of the month following the month of service. The reports shall include information regarding patient's grievance, allegations, and resolutions.
  4. Contractor shall meet with the ICHHS-BH Director or designee at reasonable times and places to facilitate open communications and resolution of problems.

**ATTACHMENT B**

**AGREEMENT BETWEEN COUNTY OF INYO**

**AND** The SmithWaters Group

**FOR THE PROVISION OF** Patients' Rights Advocacy **SERVICES**

**TERM:**

**FROM:** 7/1/2022

**TO:** 6/30/2023

**SCHEDULE OF FEES:**

The fee for monthly services is \$1800 per month and is all inclusive.

**ATTACHMENT C**

**AGREEMENT BETWEEN COUNTY OF INYO**

**AND** The SmithWaters Group

**FOR THE PROVISION OF** Patients' Rights Advocacy **SERVICES**

**TERM:**

**FROM:** 7/1/2022

**TO:** 6/30/2023

**SEE ATTACHED INSURANCE PROVISIONS**



## Attachment C: 2022 Insurance Requirements for Professional Services

Contractor shall procure and maintain for the duration of the contract insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the work hereunder by the Contractor, its agents, representatives, or employees.

### MINIMUM SCOPE AND LIMIT OF INSURANCE

Coverage shall be at least as broad as:

1. **Commercial General Liability (CGL):** Insurance Services Office Form CG 00 01 covering CGL on an “occurrence” basis, including products and completed operations, property damage, bodily injury and personal & advertising injury with limits no less than **\$1,000,000** per occurrence. If a general aggregate limit applies, either the general aggregate limit shall apply separate to this project/location (ISO CG 25 03 or 25 04) or the general aggregate limit shall be twice the required occurrence limit.
2. **Automobile Liability:** Insurance Services Office Form Number CA 0001 covering, Code 1 (any auto), or if Contractor has no owned autos, Code 8 (hired) and 9 (non-owned), with limit no less than **\$1,000,000** per accident for bodily injury and property damage. Provision may be waived with signed letter on contractor’s letterhead certifying that no auto or mobile equipment will be used for/during the execution of the contract.
3. **Workers’ Compensation** insurance as required by the State of California, with **Statutory Limits**, and Employer’s Liability Insurance with limit of no less than **\$1,000,000** per accident for bodily injury or disease. May be waived with signed letter on contractor’s letterhead certifying that contractor has no employees.
4. **Professional Liability (Errors and Omissions)** Insurance appropriate to the Contractor’s profession, with limit no less than **\$2,000,000** per occurrence or claim, **\$4,000,000** aggregate. Check with Risk Management if Professional Liability is required for the contract to which these requirements are attached.
5. **Cyber Liability Insurance**, with limits not less than **\$1,000,000** per occurrence or claim. Provision may be waived if contractor will not be receiving/storing/transmitting personally identifiable information (PII) or personal medical information (PMI). Coverage shall be sufficiently broad to respond to the duties and obligations as is undertaken by contractor in this agreement and shall include, but not be limited to, claims involving infringement of intellectual property, including but not limited to infringement of copyright, trademark, trade dress, invasion of privacy violations, information theft, damage to or destruction of electronic information, release of private information, alteration of electronic information, extortion and network security. The policy shall provide coverage for breach response costs as well as regulatory fines and penalties as well as credit monitoring expenses with limits sufficient to respond to these obligations. Professional liability or general liability may be endorsed to include cyber coverage.

If the Contractor maintains broader coverage and/or higher limits than the minimums shown above, Inyo County requires and shall be entitled to the broader coverage and/or the higher limits maintained by the contractor. Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage shall be available to Inyo County.

### OTHER INSURANCE PROVISIONS

The insurance policies are to contain, or be endorsed to contain, the following provisions:

## **Attachment C: 2022 Insurance Requirements for Professional Services**

**Additional Insured Status:** Inyo County, its officers, officials, employees, and volunteers are to be covered as additional insureds on the CGL policy with respect to liability arising out of work or operations performed by or on behalf of the Contractor including materials, parts, or equipment furnished in connection with such work or operations. General liability coverage can be provided in the form of an endorsement to the Contractor's insurance (at least as broad as ISO Form CG 20 10 11 85 or if not available, through the addition of **both** CG 20 10, CG 20 26, CG 20 33, or CG 20 38; **and** CG 20 37 if a later edition is used).

**Primary Coverage:** For any claims related to this contract, the **Contractor's insurance coverage shall be primary and non-contributory** and at least as broad as ISO CG 20 01 04 13 as respects Inyo County, its officers, officials, employees, and volunteers. Any insurance or self-insurance maintained by Inyo County, its officers, officials, employees, or volunteers shall be excess of the Contractor's insurance and shall not contribute with it. This requirement shall also apply to any Excess or Umbrella liability policies.

**Umbrella or Excess Policy:** The Contractor may use Umbrella or Excess Policies to provide the liability limits as required in this agreement. This form of insurance will be acceptable provided that all of the Primary and Umbrella or Excess Policies shall provide all of the insurance coverages herein required, including, but not limited to, primary and non-contributory, additional insured, Self-Insured Retentions (SIRs), indemnity, and defense requirements. The Umbrella or Excess policies shall be provided on a true "following form" or broader coverage basis, with coverage at least as broad as provided on the underlying Commercial General Liability insurance. No insurance policies maintained by the Additional Insureds, whether primary or excess, and which also apply to a loss covered hereunder, shall be called upon to contribute to a loss until the Contractor's primary and excess liability policies are exhausted.

**Notice of Cancellation:** Each insurance policy required above shall state that coverage shall not be canceled, except with notice to Inyo County.

**Waiver of Subrogation:** Contractor hereby grants to Inyo County a waiver of any right to subrogation which any insurer of said Contractor may acquire against Inyo County by virtue of the payment of any loss under such insurance. Contractor agrees to obtain any endorsement that may be necessary to affect this waiver of subrogation, but this provision applies regardless of whether or not Inyo County has received a waiver of subrogation endorsement from the insurer.

**Self-Insured Retentions:** Self-insured retentions must be declared to and approved by Inyo County. Inyo County may require the Contractor to purchase coverage with a lower retention or provide proof of ability to pay losses and related investigations, claim administration, and defense expenses within the retention. The policy language shall provide, or be endorsed to provide, that the self-insured retention may be satisfied by either the named insured or Inyo County. The CGL and any policies, including Excess liability policies, may not be subject to a self-insured retention (SIR) or deductible that exceeds \$25,000 unless approved in writing by Inyo County. Any and all deductibles and SIRs shall be the sole responsibility of Contractor or subcontractor who procured such insurance and shall not apply to the Indemnified Additional Insured Parties. Inyo County may deduct from any amounts otherwise due Contractor to fund the SIR/deductible. Policies shall NOT contain any self-insured retention (SIR) provision that limits the satisfaction of the SIR to the Named. The policy must also provide that Defense costs, including the Allocated Loss Adjustment Expenses, will satisfy the SIR or deductible. Inyo County reserves the right to obtain a copy of any policies and endorsements for verification.

## Attachment C: 2022 Insurance Requirements for Professional Services

**Acceptability of Insurers:** Insurance is to be placed with insurers authorized to conduct business in the state with a current A.M. Best's rating of no less than A:VII, unless otherwise acceptable to Inyo County.

**Claims Made Policies:** If any of the required policies provide coverage on a claims-made basis:

1. The Retroactive Date must be shown and must be before the date of the contract or the beginning of contract work.
2. Insurance must be maintained and evidence of insurance must be provided for at least five (5) years after completion of the contract of work.
3. If coverage is canceled or non-renewed, and not replaced with another claims-made policy form with a Retroactive Date prior to the contract effective date, the Contractor must purchase "extended reporting" coverage for a minimum of five (5) years after completion of contract work.

**Verification of Coverage:** Contractor shall furnish Inyo County with original certificates and amendatory endorsements or copies of the applicable policy language effecting coverage required by this clause **and a copy of the Declarations and Endorsement Page of the CGL policy and any Excess policies listing all policy endorsements.** All certificates and endorsements and copies of the Declarations and Endorsements pages are to be received and approved by Inyo County before work commences. However, failure to obtain the required documents prior to the work beginning shall not waive the Contractor's obligation to provide them. Inyo County reserves the right to require complete, certified copies of all required insurance policies, including endorsements required by these specifications, at any time. Inyo County reserves the right to modify these requirements, including limits, based on the nature of the risk, prior experience, insurer, coverage, or other special circumstances.

**Subcontractors:** Contractor shall require and verify that all subcontractors maintain insurance meeting all the requirements stated herein, and Contractor shall ensure that Inyo County is an additional insured on insurance required from subcontractors.

**Duration of Coverage:** CGL & Excess liability policies for any construction related work, including, but not limited to, maintenance, service, or repair work, shall continue coverage for a minimum of 5 years for Completed Operations liability coverage. Such Insurance must be maintained and evidence of insurance must be provided for at least five (5) years after completion of the contract of work.

**Special Risks or Circumstances:** Inyo County reserves the right to modify these requirements, including limits, based on the nature of the risk, prior experience, insurer, coverage, or other special circumstances.

-end-

**COUNTY OF INYO**  
**HIPAA BUSINESS ASSOCIATE AGREEMENT**

This Business Associate Agreement (“Agreement”) is made by and between the Inyo County Health and Human Services Behavioral Health Division, referred to herein as Covered Entity (“CE”), and The SmithWaters Group, referred to herein as Business Associate (“BA”). This Agreement is effective as of \_\_\_\_\_, (the “Agreement Effective Date”).

**RECITALS**

CE wishes to disclose certain information to BA pursuant to the terms of the contract between BA and the California Institute of Mental Health (“CIMH”), herein referred to as (“Contract”), some of which may constitute Protected Health Information (“PHI”) defined below.

CE and BA intend to protect the privacy and provide for the security of PHI disclosed to BA pursuant to the Contract in compliance with 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”), and regulations promulgated thereunder by the U.S. Department of Health and Human Services (the “HIPAA Regulations”) and other applicable laws.

As part of the HIPAA Regulations, the Privacy Rule and the Security Rule (defined below) require CE to enter into a contract containing specific requirements with BA prior to the disclosure of PHI, as set forth in, but not limited to, Title 45, Sections 164.314(a), 164.502(e) and 164.504(e) of the Code of Federal Regulations (“C.F.R.”) and contained in this Agreement.

In consideration of the mutual promises below and the exchange of information pursuant to this Agreement, the parties agree as follows:

**1. Definitions**

- a. **Breach** shall have the meaning given to such term under the HITECH Act [42 U.S.C. Section 17921].
- b. **Business Associate** shall have the meaning given to such term under the Privacy Rule, the Security Rule, and the HITECH Act, including but not limited to, 42 U.S.C. Section 17938 and 45 C.F.R. Section 160.103.
- c. **Covered Entity** shall have the meaning given to such term under the Privacy Rule and the Security Rule, including, but not limited to, 45 C.F.R. Section 160.103.
- d. **Data Aggregation** shall have the meaning given to such term under the Privacy Rule, including, but not limited to, 45 C.F.R. Section 164.501.
- e. **Designated Record Set** shall have the meaning given to such term under the Privacy Rule, including, but not limited to, 45 C.F.R. Section 164.501.
- f. **Electronic Protected Health Information** means Protected Health Information that is maintained in or transmitted by electronic media.

- g. **Electronic Health Record** shall have the meaning given to such term in the HITECT Act, including, but not limited to, 42 U.S.C. Section 17921.
- h. **Health Care Operations** shall have the meaning given to such term under the Privacy Rule, including, but not limited to, 45 C.F.R. Section 164.501.
- i. **Privacy Rule** shall mean the HIPAA Regulation that is codified at 45 C.F.R. Parts 160 and 164, Subparts A and E.
- j. **Protected Health Information or PHI** means any information, whether oral or recorded in any form or medium: (i) that relates to the past, present or future physical or mental 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; and (ii) that identifies the individual or with respect to which there is a reasonable basis to believe the information can be used to identify the individual, and shall have the meaning given to such term under the Privacy Rule, including, but not limited to, 45 C.F.R. Section 164.501. Protected Health Information includes Electronic Protected Health Information [45 C.F.R. Sections 160.103, 164.501].
- k. **Protected Information** shall mean PHI provided by CE to BA or created or received by BA on CE's behalf.
- l. **Security Rule** shall mean the HIPAA Regulation that is codified at 45 C.F.R. Parts 160 and 164, Subparts A and C.
- m. **Unsecured PHI** shall have the meaning given to such term under the HITECH Act and any guidance issued pursuant to such Act including, but not limited to, 42 U.S.C. Section 17932(h).

## 2. **Obligations of Business Associate**

- a. **Permitted Uses.** BA shall not use Protected Information except for the purpose of performing BA's obligations under the Contract and as permitted under the Contract and Agreement. Further, BA shall not use Protected Information in any manner that would constitute a violation of the Privacy Rule or the HITECH Act if so used by CE. However, BA may use Protected Information (i) for the proper management and administration of BA, (ii) to carry out the legal responsibilities of BA, or (iii) for Data Aggregation purposes for the Health Care Operations of CE [45 C.F.R. Sections 164.504(e)(2)(ii)(A) and 164.504(e)(4)(i)].
- b. **Permitted Disclosures.** BA shall not disclose Protected Information except for the purpose of performing BA's obligations under the Contract and as permitted under the Contract and Agreement. BA shall not disclose Protected Information in any manner that would constitute a violation of the Privacy Rule or the HITECH Act if so disclosed by CE. However, BA may disclose Protected Information (i) for the proper management and administration of BA; (ii) to carry out the legal responsibilities of BA; (iii) as required by law; or (iv) for Data Aggregation purposes for the Health Care Operations of CE. If BA discloses Protected Information to a third party, BA must obtain, prior to making any such disclosure, (i) reasonable written assurances from such third party that such Protected Information will be held confidential as provided pursuant to this Agreement and only disclosed as required by law or for the purposes for which was disclosed to such third party, and (ii) a written agreement from such third party to immediately notify BA of any breaches of confidentiality of the Protected Information, to the extent it has obtained knowledge of such breach [42 U.S.C. Section 17932; 45 C.F.R. Sections 164.504(e)(2)(i), 164.504(e)(2)(i)(B), 164.504(e)(2)(ii)(A) and 164.504(e)(4)(ii)].

- c. **Prohibited Uses and Disclosures.** BA shall not use or disclose Protected Information for fundraising or marketing purposes. BA shall not disclose Protected Information to a health plan for payment or health care operations purposes if the patient has requested this special restriction, and has paid out of pocket in full for the health care item or service to which the PHI solely relates [42 U.S.C. Section 17935(a)]. BA shall not directly or indirectly receive remuneration in exchange for Protected Information, except with the prior written consent of CE and as permitted by the HITECH Act, 42 U.S.C. section 17935(d)(2); however, this prohibition shall not affect payment by CIMH to BA for services provided pursuant to the Contract.
  
- d. **Appropriate Safeguards.** BA shall implement appropriate safeguards as are necessary to prevent the use or disclosure of Protected Information otherwise than as permitted by the Contract that reasonably and appropriately protect the confidentiality, integrity and availability of the Protected Information, in accordance with 45 C.F.R. Sections 164.308, 164.310, and 164.312. [45 C.F.R. Section 164.504(e)(2)(ii)(B); 45 C.F.R. Section 164.308(b)]. BA shall comply with the policies and procedures and documentation requirements of the HIPAA Security Rule, including, but not limited to, 45 C.F.R. Section 164.316. [42 U.S.C. Section 17931].
  
- e. **Reporting of Improper Access, Use or Disclosure.** BA shall report to CE in writing of any access, use or disclosure of Protected Information not permitted by the Contract and Agreement, and any Breach of Unsecured PHI of which it becomes aware without unreasonable delay and in no case later than ten (10) calendar days after discovery [42 U.S.C. Section 17921; 45 C.F.R. Section 164.504(e)(2)(ii)(C); 45 C.F.R. Section 164.308(b)].
  
- f. **Business Associate's Agents.** BA shall ensure that any agents, including subcontractors, to whom it provides Protected Information, agree in writing to the same restrictions and conditions that apply to BA with respect to such PHI and implement the safeguards required by paragraph c above with respect to Electronic PHI [45 C.F.R. Section 164.504(e)(2)(ii)(D); 45 C.F.R. Section 164.308(b)]. BA shall implement and maintain sanctions against agents and subcontractors that violate such restrictions and conditions and shall mitigate the effects of any such violation (see 45 C.F.R. Sections 164.530(f) and 164.530(e)(1)).
  
- g. **Access to Protected Information.** BA shall make Protected Information maintained by BA or its agents or subcontractors in Designated Record Sets available to CE for inspection and copying within ten (10) days of a request by CE to enable CE to fulfill its obligations under the Privacy Rule, including, but not limited to, 45 C.F.R. Section 164.524 [45 C.F.R. Section 164.504(e)(2)(ii)(E)]. If BA maintains an Electronic Health Record, BA shall provide such information in electronic format to enable CE to fulfill its obligations under the HITECH Act, including, but not limited to, 42 U.S.C. Section 17935(e).
  
- h. **Amendment of PHI.** Within ten (10) days of receipt of a request from CE for an amendment of Protected Information or a record about an individual contained in a Designated Record Set, BA or its agents or subcontractors shall make such Protected Information available to CE for amendment and incorporate any such amendment to enable CE to fulfill its obligations under the Privacy Rule, including, but not limited to, 45 C.F.R. Section 164.526. If any individual requests an amendment of Protected Information directly from BA or its agents or subcontractors, BA must notify CE in writing within five (5) days of the request. Any approval or denial of amendment of Protected Information maintained by BA or its agents or subcontractors shall be the responsibility of CE [45 C.F.R. Section 164.504(e)(2)(ii)(F)].
  
- i. **Accounting Rights.** Within ten (10) days of notice by CE of a request for an accounting of disclosures of Protected Information, BA and its agents or subcontractors shall make available to CE the information required to provide an accounting of disclosures to enable CE to fulfill its

obligations under the Privacy Rule, including, but not limited to, 45 C.F.R. Section 164.528, and the HITECH Act, including but not limited to 42 U.S.C. Section 17935(c), as determined by CE. BA agrees to implement a process that allows for an accounting to be collected and maintained by BA and its agents or subcontractors for at least six (6) years prior to the request. However, accounting of disclosures from an Electronic Health Record for treatment, payment or health care operations purposes are required to be collected and maintained for only three (3) years prior to the request, and only to the extent that BA maintains an electronic health record and is subject to this requirement. At a minimum, the information collected and maintained shall include: (i) the date of disclosure; (ii) the name of the entity or person who received Protected Information and, if known, the address of the entity or person; (iii) a brief description of Protected Information disclosed and (iv) a brief statement of purpose of the disclosure that reasonably informs the individual of the basis for the disclosure, or a copy of the individuals' authorization, or a copy of the written request for disclosure. In the event that the request for an accounting is delivered directly to BA or its agents or subcontractors, BA shall within five (5) days of a request forward it to CE in writing. It shall be CE's responsibility to prepare and deliver any such accounting requested. BA shall not disclose any Protected Information except as set forth in Sections 2.b. of this Agreement [45 C.F.R. Sections 164.504(e)(2)(ii)(G) and 165.528].

- j. **Governmental Access to Records.** BA shall make its internal practices, books and records relating to the use and disclosure of Protected Information available to CE and to the Secretary of the U.S. Department of Health and Human Services (the "Secretary") for purposes of determining BA's compliance with the Privacy Rule [45 C.F.R. Section 164.504(e)(2)(ii)(H)]. BA shall provide to CE a copy of any Protected Information that BA provides to the Secretary concurrently with providing such Protected Information to the Secretary.
- k. **Minimum Necessary.** BA (and its agents or subcontractors) shall request, use and disclose only the minimum amount of Protected Information necessary to accomplish the purpose of the request, use, or disclosure. [42 U.S.C. Section 17935(b); 45 C.F.R. Section 164.514(d)(3)] BA understands and agrees that the definition of "minimum necessary" is in flux and shall keep itself informed of guidance issued by the Secretary with respect to what constitutes "minimum necessary."
- l. **Data Ownership.** BA acknowledges that BA has no ownership rights with respect to the Protected Information.
- m. **Notification of Breach.** During the term of the Contract, BA shall notify CE within twenty-four (24) hours of any suspected or actual breach of security, intrusion or unauthorized use or disclosure of PHI of which BA becomes aware and/or any actual or suspected use or disclosure of data in violation of any applicable federal or state laws or regulations. BA shall take (i) prompt corrective action to cure any such deficiencies and (ii) any action pertaining to such unauthorized disclosure required by applicable federal and state laws and regulations.
- n. **Breach Pattern or Practice by Covered Entity.** Pursuant to 42 U.S.C. Section 17934(b), if the BA knows of a pattern of activity or practice of the CE that constitutes a material breach or violation of the CE's obligations under the Contract or Agreement or other arrangement, the BA must take reasonable steps to cure the breach or end the violation. If the steps are unsuccessful, the BA must terminate the Contract or other arrangement if feasible, or if termination is not feasible, report the problem to the Secretary of DHHS. BA shall provide written notice to CE of any pattern of activity or practice of the CE that BA believes constitutes a material breach or violation of the CE's obligations under the Contract or Agreement or other arrangement within five (5) days of discovery and shall meet with CE to discuss and attempt to resolve the problem as one of the reasonable steps to cure the breach or end the violation.

- o. **Audits, Inspection and Enforcement.** Within ten (10) days of a written request by CE, BA and its agents or subcontractors shall allow CE to conduct a reasonable inspection of the facilities, systems, books, records, agreements, policies and procedures relating to the use or disclosure of Protected Information pursuant to this Agreement for the purpose of determining whether BA has complied with this Agreement; provided, however, that (i) BA and CE shall mutually agree in advance upon the scope, timing and location of such an inspection, and (ii) CE shall protect the confidentiality of all confidential and proprietary information of BA to which CE has access during the course of such inspection. The fact that CE inspects, or fails to inspect, or has the right to inspect, BA's facilities, systems, books, records, agreements, policies and procedures does not relieve BA of its responsibility to comply with this Agreement, nor does CE's (i) failure to detect or (ii) detection, but failure to notify BA or require BA's remediation of any unsatisfactory practices, constitute acceptance of such practice or a waiver of CE's enforcement rights under the Contract or Agreement. BA shall notify CE within ten (10) days of learning that BA has become the subject of an audit, compliance review, or complaint investigation by the Office for Civil Rights.

### 3. Termination

- a. **Material Breach.** A breach by BA of any provision of this Agreement, as determined by CE, shall constitute a material breach of the Contract and shall provide grounds for immediate termination of the Contract, any provision in the Contract to the contrary notwithstanding. [45 C.F.R. Section 164.504(e)(2)(iii)].
- b. **Judicial or Administrative Proceedings.** CE may terminate the Contract, effective immediately, if (i) BA is named as a defendant in a criminal proceeding for a violation of HIPAA, the HITECH Act, the HIPAA Regulations or other security or privacy laws or (ii) a finding or stipulation that the BA has violated any standard or requirement of HIPAA, the HITECH Act, the HIPAA Regulations or other security or privacy laws is made in any administrative or civil proceeding in which the party has been joined.
- c. **Effect of Termination.** Upon termination of the Contract for any reason, BA shall, at the option of CE, return or destroy all Protected Information that BA or its agents or subcontractors still maintain in any form, and shall retain no copies of such Protected Information. If return or destruction is not feasible, as determined by CE, BA shall continue to extend the protections of Section 2 of this Agreement to such information, and limit further use of such PHI to those purposes that make the return or destruction of such PHI infeasible. [45 C.F.R. Section 164.504(e)(ii)(2)(I)]. If CE elects destruction of the PHI, BA shall certify in writing to CE that such PHI has been destroyed.

### 4. Disclaimer

CE makes no warranty or representation that compliance by BA with this Agreement, HIPAA, the HITECH Act, or the HIPAA Regulations will be adequate or satisfactory for BA's own purposes. BA is solely responsible for all decisions made by BA regarding the safeguarding of PHI.

### 5. Amendment

The parties acknowledge that state and federal laws relating to data security and privacy are rapidly evolving and that amendment of the Contract of Agreement 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 Privacy Rule, the Security Rule, and other applicable laws relating to the security or confidentiality of PHI. The parties understand and agree that CE must receive satisfactory written assurance from BA that BA will adequately



safeguard all Protected Information. Upon the request of either party, the other party agrees to promptly enter into negotiations concerning the terms of an amendment to this Agreement embodying written assurances consistent with the standards and requirements of HIPAA, the HITECH Act, the Privacy Rule, the Security Rule or other applicable laws. CE may terminate the Contract upon thirty (30) days written notice in the event (i) BA does not promptly enter into negotiations to amend the Contract or Agreement when requested by CE pursuant to this Section or (ii) BA does not enter into an amendment to the Contract or Agreement providing assurances regarding the safeguarding of PHI that CE, in its sole discretion, deems sufficient to satisfy the standards and requirements of applicable laws.

**6. Assistance in Litigation of Administrative Proceedings**

BA shall make itself, and any subcontractors, employees or agents assisting BA in the performance of its obligations under the Contract or Agreement, available to CE, at no cost to CE, to testify as witnesses, or otherwise, in the event of litigation or administrative proceedings being commenced against CE, its directors, officers or employees based upon a claimed violation of HIPAA by the BA, the HITECH Act, the Privacy Rule, the Security Rule, or other laws relating to security and privacy, except where BA or its subcontractor, employee or agent is named adverse party.

**7. No Third-Party Beneficiaries**

Nothing express or implied in the Contract or Agreement is intended to confer, nor shall anything herein confer, upon any person other than CE, BA and their respective successors or assigns, any rights, remedies, obligations or liabilities whatsoever.

**8. Effect on Contract**

Except as specifically required to implement the purposes of this Agreement, or to the extent inconsistent with this Agreement, all other terms of the Contract shall remain in full force and effect.

**9. Interpretation**

The provisions of this Agreement shall prevail over any provisions in the Contract that may conflict or appear inconsistent with any provision in this Agreement. This Agreement and the Contract shall be interpreted as broadly as necessary to implement and comply with HIPAA, the HITECH Act, the Privacy Rule and the Security Rule. The parties agree that any ambiguity in this Agreement shall be resolved in favor of a meaning that complies and is consistent with HIPAA, the HITECH Act, the Privacy Rule and the Security Rule.

IN WITNESS WHEREOF, the parties hereto have duly executed this Agreement as of the Agreement Effective Date.

COVERED ENTITY

BUSINESS ASSOCIATE

County of Inyo

The SmithWaters Group

By: \_\_\_\_\_

By: Frank W. SmithWaters

Print Name: \_\_\_\_\_

Print Name: FRANK W. SMITHWATERS

Title: \_\_\_\_\_

Title: DIRECTOR

Date: \_\_\_\_\_

Date: 6/3/2022



# County of Inyo



## Health & Human Services - Behavioral Health

### CONSENT - ACTION REQUIRED

**MEETING:** June 28, 2022

**FROM:** Lucy Vincent

**SUBJECT:** Request approval of contract between the County of Inyo and I.D.E.A. Consulting

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**RECOMMENDED ACTION:**

Request Board: A) declare I.D.E.A. Consulting of Davis, CA a sole-source provider of consulting services; B) approve the contract between the County of Inyo and I.D.E.A. Consulting for the provision of consulting services, in an amount not to exceed \$15,000 for the period of July 1, 2022 through June 30, 2023, contingent upon the Board's approval of the Fiscal Year 2022-2023 Budget; and C) authorize the Chairperson to sign the contract and HIPAA Business Associate Agreement, contingent upon all appropriate signatures being obtained.

**SUMMARY/JUSTIFICATION:**

The Department requests this contract as a sole-source contract due to the need for the specialized knowledge, experience and expertise brought by I.D.E.A. Consulting. Inyo County HHS Behavioral Health Division continues to benefit from the consultation and training services of Dr. Nancy Callahan and her staff at I.D.E.A. Consulting.

The contract includes access to a Relias Learning Management System. Relias Learning access includes webbased training for staff and consumers. I.D.E.A. Consulting staff members ensure that there is access to the product, updating of the offerings and monitoring use and assignment of courses. The consultation has involved continued development of mandated behavioral health compliance and quality improvement policies, trainings and continuing education relevant to public behavioral health services. Dr. Callahan works with several small counties and has also been instrumental in the development of the MHSA plans written to meet the requirements of the Act as well as assisting with MHSA audits and reviews. MHSA funds make up approximately a third of the mental health budget.

**BACKGROUND/HISTORY OF BOARD ACTIONS:**

N/A

**ALTERNATIVES AND CONSEQUENCES OF NEGATIVE ACTION:**

Your Board could deny the contract and direct staff to identify other means to accomplish this task. This would limit access to expertise that has proven very valuable as well as cost-effective.

**OTHER AGENCY INVOLVEMENT:**

Stakeholders and partners include consumers of behavioral health services and their families as well as a wide array of representatives of such entities as Schools, Law Enforcement, Senior Services providers, Courts,

Probation, Health and Human Services, Ethnic-Specific groups, Development Disabilities, and Special Education.

**FINANCING:**

Mental Health Realignment and MHSA funds. This expense will be budgeted in the Mental Health Budget (045200) in Professional Services (5265). No County General Funds.

**ATTACHMENTS:**

1. IDEA Consulting Contract
2. HIPAA Business Associate Agreement

**APPROVALS:**

Lucy Vincent	Created/Initiated - 6/2/2022
Darcy Ellis	Approved - 6/2/2022
Lucy Vincent	Approved - 6/20/2022
Anna Scott	Approved - 6/21/2022
Melissa Best-Baker	Approved - 6/22/2022
John Vallejo	Approved - 6/22/2022
Amy Shepherd	Approved - 6/22/2022
Anna Scott	Final Approval - 6/23/2022



**AGREEMENT BETWEEN COUNTY OF INYO  
AND IDEA CONSULTING  
FOR THE PROVISION OF CONSULTING \_\_\_\_\_ SERVICES**

**INTRODUCTION**

WHEREAS, the County of Inyo (hereinafter referred to as "County") may have the need for the Consulting services of IDEA Consulting of Davis, California (hereinafter referred to as "Contractor"), and in consideration of the mutual promises, covenants, terms, and conditions hereinafter contained, the parties hereby agree as follows:

**TERMS AND CONDITIONS**

**1. SCOPE OF WORK.**

The Contractor shall furnish to the County, upon its request, those services and work set forth in Attachment A, attached hereto and by reference incorporated herein. Requests by the County to the Contractor to perform under this Agreement will be made by Kimball C. Pier, Ph.D, LMFT, whose title is: HHS Deputy Director Behavioral Health. Requests to the Contractor for work or services to be performed under this Agreement will be based upon the County's need for such services. The County makes no guarantee or warranty, of any nature, that any minimum level or amount of services or work will be requested of the Contractor by the County under this Agreement. County by this Agreement incurs no obligation or requirement to request from Contractor the performance of any services or work at all, even if County should have some need for such services or work during the term of this Agreement.

Services and work provided by the Contractor at the County's request under this Agreement will be performed in a manner consistent with the requirements and standards established by applicable federal, state, and County laws, ordinances, regulations, and resolutions. Such laws, ordinances, regulations, and resolutions include, but are not limited to, those which are referred to in this Agreement.

**2. TERM.**

The term of this Agreement shall be from 7/1/2022 to 6/30/2023 unless sooner terminated as provided below.

**3. CONSIDERATION.**

A. Compensation. County shall pay to Contractor in accordance with the Schedule of Fees (set forth as Attachment B) for the services and work described in Attachment A which are performed by Contractor at the County's request.

B. Travel and per diem. Contractor will not be paid or reimbursed for travel expenses or per diem which Contractor incurs in providing services and work requested by County under this Agreement.

C. No additional consideration. Except as expressly provided in this Agreement, Contractor shall not be entitled to, nor receive, from County, any additional consideration, compensation, salary, wages, or other type of remuneration for services rendered under this Agreement. Specifically, Contractor shall not be entitled, by virtue of this Agreement, to consideration in the form of overtime, health insurance benefits, retirement benefits, disability retirement benefits, sick leave, vacation time, paid holidays, or other paid leaves of absence of any type or kind whatsoever.

D. Limit upon amount payable under Agreement. The total sum of all payments made by the County to Contractor for services and work performed under this Agreement shall not exceed Fifteen Thousand Dollars



(\$ 15,000) (hereinafter referred to as "contract limit"). County expressly reserves the right to deny any payment or reimbursement requested by Contractor for services or work performed which is in excess of the contract limit.

E. Billing and payment. Contractor shall submit to the County, once a month, an itemized statement of all services and work described in Attachment A, which were done at the County's request. This statement will be submitted to the County not later than the fifth (5th) day of the month. The statement to be submitted will cover the period from the first (1st) day of the preceding month through and including the last day of the preceding month. This statement will identify the date on which the services and work were performed and describe the nature of the services and work which were performed on each day. Upon timely receipt of the statement by the fifth (5th) day of the month, County shall make payment to Contractor on the last day of the month.

F. Federal and State taxes.

(1) Except as provided in subparagraph (2) below, County will not withhold any federal or state income taxes or social security from any payments made by County to Contractor under the terms and conditions of this Agreement.

(2) County will withhold California State income taxes from payments made under this Agreement to non-California resident independent contractors when it is anticipated that total annual payments to Contractor under this Agreement will exceed one thousand four hundred ninety nine dollars (\$1,499.00).

(3) Except as set forth above, County has no obligation to withhold any taxes or payments from sums paid by County to Contractor under this Agreement. Payment of all taxes and other assessments on such sums is the sole responsibility of Contractor. County has no responsibility or liability for payment of Contractor's taxes or assessments.

(4) The total amounts paid by County to Contractor, and taxes withheld from payments to non-California residents, if any, will be reported annually to the Internal Revenue Service and the California State Franchise Tax Board. To facilitate this reporting, Contractor shall complete and submit to the County an Internal Revenue Service (IRS) Form W-9 upon executing this Agreement.

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

Contractor's obligation is to perform, in a timely manner, those services and work identified in Attachment A which are requested by the County. It is understood by Contractor that the performance of these services and work will require a varied schedule. Contractor will arrange his/her own schedule, but will coordinate with County to ensure that all services and work requested by County under this Agreement will be performed within the time frame set forth by County.

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

A. Any licenses, certificates, or permits required by the federal, state, county, municipal governments, for contractor to provide the services and work described in Attachment A must be procured by Contractor and be valid at the time Contractor enters into this Agreement or as otherwise may be required. Further, during the term of this Agreement, Contractor must maintain such licenses, certificates, and permits in full force and effect. Licenses, certificates, and permits may include, but are not limited to, driver's licenses, professional licenses or certificates, and business licenses. Such licenses, certificates, and permits will be procured and maintained in force by Contractor at no expense to the County. Contractor will provide County, upon execution of this Agreement, with evidence of current and valid licenses, certificates and permits which are required to perform the services identified in Attachment A. Where there is a dispute between Contractor and County as to what licenses, certificates, and permits are required to perform the services identified in Attachment A, County reserves the right to make such determinations for purposes of this Agreement.



B. Contractor warrants that it is not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in covered transactions by any federal department or agency. Contractor also warrants that it is not suspended or debarred from receiving federal funds as listed in the List of Parties Excluded from Federal Procurement or Non-procurement Programs issued by the General Services Administration available at: <http://www.sam.gov>.

#### **6. OFFICE SPACE, SUPPLIES, EQUIPMENT, ET CETERA.**

Contractor shall provide such office space, supplies, equipment, vehicles, reference materials, and telephone service as is necessary for Contractor to provide the services identified in Attachment A to this Agreement. County is not obligated to reimburse or pay Contractor, for any expense or cost incurred by Contractor in procuring or maintaining such items. Responsibility for the costs and expenses incurred by Contractor in providing and maintaining such items is the sole responsibility and obligation of Contractor.

#### **7. COUNTY PROPERTY.**

A. Personal Property of County. Any personal property such as, but not limited to, protective or safety devices, badges, identification cards, keys, etc. provided to Contractor by County pursuant to this Agreement are, and at the termination of this Agreement remain, the sole and exclusive property of County. Contractor will use reasonable care to protect, safeguard and maintain such items while they are in Contractor's possession. Contractor will be financially responsible for any loss or damage to such items, partial or total, which is the result of Contractor's negligence.

B. Products of Contractor's Work and Services. Any and all compositions, publications, plans, designs, specifications, blueprints, maps, formulas, processes, photographs, slides, video tapes, computer programs, computer disks, computer tapes, memory chips, soundtracks, audio recordings, films, audio-visual presentations, exhibits, reports, studies, works of art, inventions, patents, trademarks, copyrights, or intellectual properties of any kind which are created, produced, assembled, compiled by, or are the result, product, or manifestation of, Contractor's services or work under this Agreement are, and at the termination of this Agreement remain, the sole and exclusive property of the County. At the termination of the Agreement, Contractor will convey possession and title to all such properties to County.

#### **8. INSURANCE.**

For the duration of this Agreement Contractor shall procure and maintain insurance of the scope and amount specified in Attachment C and with the provisions specified in that attachment.

#### **9. STATUS OF CONTRACTOR.**

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

A. Contractor shall determine the method, details, and means of performing the work and services to be provided by Contractor under this Agreement.

B. Contractor shall be responsible to County only for the requirements and results specified in this Agreement, and except as expressly provided in this Agreement, shall not be subjected to County's control with respect to the physical action or activities of Contractor in fulfillment of this Agreement.

C. Contractor, its agents, officers, and employees are, and at all times during the term of this Agreement shall, represent and conduct themselves as independent contractors, and not as employees of County.



**10. DEFENSE AND INDEMNIFICATION.**

Contractor shall hold harmless, defend and indemnify County and its officers, officials, employees and volunteers from and against any and all liability, loss, damage, expense, costs (including without limitation costs and fees of litigation) of every nature arising out of or in connection with Contractor's performance of work hereunder or its failure to comply with any of its obligations contained in the agreement, except such loss or damages which was caused by the sole negligence or willful misconduct of the County.

**11. RECORDS AND AUDIT.**

A. Records. Contractor shall prepare and maintain all records required by the various provisions of this Agreement, federal, state, county, municipal, ordinances, regulations, and directions. Contractor shall maintain these records for a minimum of four (4) years from the termination or completion of this Agreement. Contractor may fulfill its obligation to maintain records as required by this paragraph by substitute photographs, microphotographs, or other authentic reproduction of such records.

B. Inspections and Audits. Any authorized representative of County shall have access to any books, documents, papers, records, including, but not limited to, financial records of Contractor, which County determines to be pertinent to this Agreement, for the purposes of making audit, evaluation, examination, excerpts, and transcripts during the period such records are to be maintained by Contractor. Further, County has the right, at all reasonable times, to audit, inspect, or otherwise evaluate the work performed or being performed under this Agreement.

**12. NONDISCRIMINATION.**

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

**13. CANCELLATION.**

This Agreement may be canceled by County without cause, and at will, for any reason by giving to Contractor thirty (30) days written notice of such intent to cancel. Contractor may cancel this Agreement without cause, and at will, for any reason whatsoever by giving thirty (30) days written notice of such intent to cancel to County.

**14. ASSIGNMENT.**

This is an agreement for the services of Contractor. County has relied upon the skills, knowledge, experience, and training of Contractor as an inducement to enter into this Agreement. Contractor shall not assign or subcontract this Agreement, or any part of it, without the express written consent of County. Further, Contractor shall not assign any monies due or to become due under this Agreement without the prior written consent of County.



**15. DEFAULT.**

If the Contractor abandons the work, or fails to proceed with the work and services requested by County in a timely manner, or fails in any way as required to conduct the work and services as required by County, County may declare the Contractor in default and terminate this Agreement upon five (5) days written notice to Contractor. Upon such termination by default, County will pay to Contractor all amounts owing to Contractor for services and work satisfactorily performed to the date of termination.

**16. WAIVER OF DEFAULT.**

Waiver of any default by either party to this Agreement shall not be deemed to be waiver of any subsequent default. Waiver or breach of any provision of this Agreement shall not be deemed to be a waiver of any other or subsequent breach, and shall not be construed to be a modification of the terms of this Agreement unless this Agreement is modified as provided in paragraph twenty-two (22) below.

**17. CONFIDENTIALITY.**

Contractor further agrees to comply with the various provisions of the federal, state, and county laws, regulations, and ordinances providing that information and records kept, maintained, or accessible by Contractor in the course of providing services and work under this Agreement, shall be privileged, restricted, or confidential. Contractor agrees to keep confidential all such information and records. Disclosure of such confidential, privileged, or protected information shall be made by Contractor only with the express written consent of the County. Any disclosure of confidential information by Contractor without the County's written consent is solely and exclusively the legal responsibility of Contractor in all respects.

Notwithstanding anything in the Agreement to the contrary, names of persons receiving public social services are confidential and are to be protected from unauthorized disclosure in accordance with Title 45, Code of Federal Regulations Section 205.50, the Health Insurance Portability and Accountability Act of 1996, and Sections 10850 and 14100.2 of the Welfare and Institutions Code, and regulations adopted pursuant thereto. For the purpose of this Agreement, all information, records, and data elements pertaining to beneficiaries shall be protected by the provider from unauthorized disclosure.

**18. CONFLICTS.**

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

**19. POST AGREEMENT COVENANT.**

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



**20. SEVERABILITY.**

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

**21. FUNDING LIMITATION.**

The ability of County to enter this Agreement is based upon available funding from various sources. In the event that such funding fails, is reduced, or is modified, from one or more sources, County has the option to cancel, reduce, or modify this Agreement, or any of its terms within ten (10) days of its notifying Contractor of the cancellation, reduction, or modification of available funding. Any reduction or modification of this Agreement made pursuant to this provision must comply with the requirements of paragraph twenty-two (22) (Amendment).

**22. AMENDMENT.**

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

**23. NOTICE.**

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

County of Inyo	
<u>HHS-Behavioral Health</u>	Department
<u>1360 North Main Street</u>	Address
<u>Bishop, California 93514</u>	City and State

Contractor:	
<u>IDEA Consulting</u>	Name
<u>2108 Alameda Avenue</u>	Address
<u>Davis, California 95616</u>	City and State

**24. ENTIRE AGREEMENT.**

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

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**AGREEMENT BETWEEN COUNTY OF INYO  
AND IDEA CONSULTING  
FOR THE PROVISION OF CONSULTING SERVICES**

IN WITNESS THEREOF, THE PARTIES HERETO HAVE SET THEIR HANDS AND SEALS  
THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, \_\_\_\_\_.

**COUNTY OF INYO**

**CONTRACTOR**

By: \_\_\_\_\_  
Signature

By: Nancy M Callahan PhD  
Signature

\_\_\_\_\_  
Print or Type Name

Nancy M Callahan, PhD  
Print or Type Name

Dated: \_\_\_\_\_

Dated: 20 June 2022

APPROVED AS TO FORM AND LEGALITY:

County Counsel

Grace Churchla

APPROVED AS TO ACCOUNTING FORM:

Christie Martindale  
County Auditor

APPROVED AS TO PERSONNEL REQUIREMENTS:

K. Oney  
Personnel Services

APPROVED AS TO INSURANCE REQUIREMENTS:

Caron Holmberg  
County Risk Manager



**ATTACHMENT A**

**AGREEMENT BETWEEN COUNTY OF INYO  
AND IDEA CONSULTING  
FOR THE PROVISION OF CONSULTING SERVICES**

**TERM:**

**FROM:** 7/1/2022 **TO:** 6/30/2022

**SCOPE OF WORK:**

**SERVICES TO BE PERFORMED BY CONTRACTOR:**

At the direction of Inyo County Behavioral Health, I.D.E.A. Consulting agrees to provide the following Quality Management (QM), Quality Improvement (QI) and compliance activities:

1. Conduct staff training activities in consultation with staff on a range of topics including Quality Management, documentation, and compliance activities.
2. Assist County Staff in the development and implementation of a compliance plan and related procedures. Provide training to staff on compliance plan components.
3. Provide consultation to County at County request for issues pertaining to Cultural Competence, Health Insurance Portability and Accountability Act, Quality Management, Quality Improvement, compliance and DHCS regulations.
4. Provide consultation and technical assistance as related to other County Mental Health special projects as requested by the local Mental Health Director.
5. Provide consultation and technical assistance as related to other special projects as requested by the local Mental Health Director related to the implementation of the Mental Health Act (MHSA).

On behalf of Inyo County Behavioral Health, I.D.E.A. Consulting agrees to provide services related to the Relias Learning online training program. This training program provides a web-based site for training of the Inyo County Behavioral Health workforce, and includes clinical and CEU courses related to mental health and substance abuse treatment. The Relias Learning program also includes a consumer access site for online courses reference library, and a health-related community resource list.

I.D.E.A. Consulting will fulfill the following activities on behalf of the Inyo County Behavioral Health Department (Department):

1. Provide service pursuant to the Relias Learning Membership Agreement, which includes both the workforce training site and the consumer access site;
2. Develop and maintain an I.D.E.A. Consulting workforce training site through Relias Learning to which the Department will have supervisory and other assigned access;
3. Perform administrative functions for the training site, including adding new content to the site, establishing user demographic fields, and managing the content of the site;
4. Collaborate with Inyo County Behavioral Health to develop appropriate training curricula and materials to best meet the needs of the Department's workforce; and
5. Provide usage reports and other tracking documentation on a regular basis.

The work under this Contract shall be quality and quantity that is acceptable to the County. Contractor is required to enter into a HIPAA Business Associate Agreement incorporated herein as attached.

**ATTACHMENT B**

**AGREEMENT BETWEEN COUNTY OF INYO  
AND IDEA CONSULTING  
FOR THE PROVISION OF CONSULTING SERVICES**

**TERM:**

**FROM:** 7/1/2022                      **TO:** 6/30/2022

**SCHEDULE OF FEES:**

Rate of Payment: Contractor shall be paid \$125.00 (One Hundred Twenty Five Dollars) per hour. Quarterly fee of \$990.00 for access, use and reporting of the Relias Learning online training program.



**ATTACHMENT C**

**AGREEMENT BETWEEN COUNTY OF INYO  
AND IDEA CONSULTING**  
**FOR THE PROVISION OF CONSULTING SERVICES**

**TERM:**

**FROM:** 7/1/2021      **TO:** 6/30/2022

**SEE ATTACHED INSURANCE PROVISIONS**



**Attachment : 2022 Insurance Requirements for Professional Services  
(Use only for contracts where a professional license is required)**

(See Risk for review before use for Airport, Technology, Heavy Equipment Construction, Environmental Hazards)

Contractor shall procure and maintain for the duration of the contract insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the work hereunder by the Contractor, its agents, representatives, or employees.

**MINIMUM SCOPE AND LIMIT OF INSURANCE**

Coverage shall be at least as broad as:

1. **Commercial General Liability (CGL):** Insurance Services Office Form CG 00 01 covering CGL on an “occurrence” basis, including products and completed operations, property damage, bodily injury and personal & advertising injury with limits no less than **\$2,000,000** per occurrence. If a general aggregate limit applies, either the general aggregate limit shall apply separate to this project/location (ISO CG 25 03 or 25 04) or the general aggregate limit shall be twice the required occurrence limit.
2. **Automobile Liability:** Insurance Services Office Form Number CA 0001 covering, Code 1 (any auto), or if Contractor has no owned autos, Code 8 (hired) and 9 (non-owned), with limit no less than **\$1,000,000** per accident for bodily injury and property damage. Provision may be waived with signed letter on contractor’s letterhead certifying that no auto or mobile equipment will be used for/during the execution of the contract.
3. **Workers’ Compensation** insurance as required by the State of California, with **Statutory Limits**, and Employer’s Liability Insurance with limit of no less than **\$1,000,000** per accident for bodily injury or disease. May be waived with signed letter on contractor’s letterhead certifying that contractor has no employees.
4. **Professional Liability (Errors and Omissions)** Insurance appropriate to the Contractor’s profession, with limit no less than **\$2,000,000** per occurrence or claim, **\$4,000,000** aggregate. Check with Risk Management if Professional Liability is required for the contract to which these requirements are attached.
5. **Cyber Liability Insurance**, with limits not less than **\$1,000,000** per occurrence or claim. Provision may be waived if contractor will not be receiving/storing/transmitting personally identifiable information (PII) or personal medical information (PMI). Coverage shall be sufficiently broad to respond to the duties and obligations as is undertaken by contractor in this agreement and shall include, but not be limited to, claims involving infringement of intellectual property, including but not limited to infringement of copyright, trademark, trade dress, invasion of privacy violations, information theft, damage to or destruction of electronic information, release of private information, alteration of electronic information, extortion and network security. The policy shall provide coverage for breach response costs as well as regulatory fines and penalties as well as credit monitoring expenses with limits sufficient to respond to these obligations. Professional liability or general liability may be endorsed to include cyber coverage.

If the Contractor maintains broader coverage and/or higher limits than the minimums shown above, Inyo County requires and shall be entitled to the broader coverage and/or the higher limits maintained by the contractor. Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage shall be available to Inyo County.

**OTHER INSURANCE PROVISIONS**

The insurance policies are to contain, or be endorsed to contain, the following provisions:



**Attachment : 2022 Insurance Requirements for Professional Services  
(Use only for contracts where a professional license is required)**

(See Risk for review before use for Airport, Technology, Heavy Equipment Construction, Environmental Hazards)

**Additional Insured Status:** Inyo County, its officers, officials, employees, and volunteers are to be covered as additional insureds on the CGL policy with respect to liability arising out of work or operations performed by or on behalf of the Contractor including materials, parts, or equipment furnished in connection with such work or operations. General liability coverage can be provided in the form of an endorsement to the Contractor's insurance (at least as broad as ISO Form CG 20 10 11 85 or if not available, through the addition of **both** CG 20 10, CG 20 26, CG 20 33, or CG 20 38; **and** CG 20 37 if a later edition is used).

**Primary Coverage:** For any claims related to this contract, the **Contractor's insurance coverage shall be primary and non-contributory** and at least as broad as ISO CG 20 01 04 13 as respects Inyo County, its officers, officials, employees, and volunteers. Any insurance or self-insurance maintained by Inyo County, its officers, officials, employees, or volunteers shall be excess of the Contractor's insurance and shall not contribute with it. This requirement shall also apply to any Excess or Umbrella liability policies.

**Umbrella or Excess Policy:** The Contractor may use Umbrella or Excess Policies to provide the liability limits as required in this agreement. This form of insurance will be acceptable provided that all of the Primary and Umbrella or Excess Policies shall provide all of the insurance coverages herein required, including, but not limited to, primary and non-contributory, additional insured, Self-Insured Retentions (SIRs), indemnity, and defense requirements. The Umbrella or Excess policies shall be provided on a true "following form" or broader coverage basis, with coverage at least as broad as provided on the underlying Commercial General Liability insurance. No insurance policies maintained by the Additional Insureds, whether primary or excess, and which also apply to a loss covered hereunder, shall be called upon to contribute to a loss until the Contractor's primary and excess liability policies are exhausted.

**Notice of Cancellation:** Each insurance policy required above shall state that coverage shall not be canceled, except with notice to Inyo County.

**Waiver of Subrogation:** Contractor hereby grants to Inyo County a waiver of any right to subrogation which any insurer of said Contractor may acquire against Inyo County by virtue of the payment of any loss under such insurance. Contractor agrees to obtain any endorsement that may be necessary to affect this waiver of subrogation, but this provision applies regardless of whether or not Inyo County has received a waiver of subrogation endorsement from the insurer.

**Self-Insured Retentions:** Self-insured retentions must be declared to and approved by Inyo County. Inyo County may require the Contractor to purchase coverage with a lower retention or provide proof of ability to pay losses and related investigations, claim administration, and defense expenses within the retention. The policy language shall provide, or be endorsed to provide, that the self-insured retention may be satisfied by either the named insured or Inyo County. The CGL and any policies, including Excess liability policies, may not be subject to a self-insured retention (SIR) or deductible that exceeds \$25,000 unless approved in writing by Inyo County. Any and all deductibles and SIRs shall be the sole responsibility of Contractor or subcontractor who procured such insurance and shall not apply to the Indemnified Additional Insured Parties. Inyo County may deduct from any amounts otherwise due Contractor to fund the SIR/deductible. Policies shall NOT contain any self-insured retention (SIR) provision that limits the satisfaction of the SIR to the Named. The policy must also provide that Defense costs, including the Allocated Loss Adjustment Expenses, will satisfy the SIR or deductible. Inyo County reserves the right to obtain a copy of any policies and endorsements for verification.



**Attachment : 2022 Insurance Requirements for Professional Services  
(Use only for contracts where a professional license is required)**

(See Risk for review before use for Airport, Technology, Heavy Equipment Construction, Environmental Hazards)

**Acceptability of Insurers:** Insurance is to be placed with insurers authorized to conduct business in the state with a current A.M. Best's rating of no less than A:VII, unless otherwise acceptable to Inyo County.

**Claims Made Policies:** If any of the required policies provide coverage on a claims-made basis:

1. The Retroactive Date must be shown and must be before the date of the contract or the beginning of contract work.
2. Insurance must be maintained and evidence of insurance must be provided for at least five (5) years after completion of the contract of work.
3. If coverage is canceled or non-renewed, and not replaced with another claims-made policy form with a Retroactive Date prior to the contract effective date, the Contractor must purchase "extended reporting" coverage for a minimum of five (5) years after completion of contract work.

**Verification of Coverage:** Contractor shall furnish Inyo County with original certificates and amendatory endorsements or copies of the applicable policy language effecting coverage required by this clause **and a copy of the Declarations and Endorsement Page of the CGL policy and any Excess policies listing all policy endorsements.** All certificates and endorsements and copies of the Declarations and Endorsements pages are to be received and approved by Inyo County before work commences. However, failure to obtain the required documents prior to the work beginning shall not waive the Contractor's obligation to provide them. Inyo County reserves the right to require complete, certified copies of all required insurance policies, including endorsements required by these specifications, at any time. Inyo County reserves the right to modify these requirements, including limits, based on the nature of the risk, prior experience, insurer, coverage, or other special circumstances.

**Subcontractors:** Contractor shall require and verify that all subcontractors maintain insurance meeting all the requirements stated herein, and Contractor shall ensure that Inyo County is an additional insured on insurance required from subcontractors.

**Duration of Coverage:** CGL & Excess liability policies for any construction related work, including, but not limited to, maintenance, service, or repair work, shall continue coverage for a minimum of 5 years for Completed Operations liability coverage. Such Insurance must be maintained and evidence of insurance must be provided for at least five (5) years after completion of the contract of work.

**Special Risks or Circumstances:** Inyo County reserves the right to modify these requirements, including limits, based on the nature of the risk, prior experience, insurer, coverage, or other special circumstances.

-end-



**COUNTY OF INYO**  
**HIPAA BUSINESS ASSOCIATE AGREEMENT**

This Business Associate Agreement (“Agreement”) is made by and between the Inyo County Health and Human Services Behavioral Health Division, referred to herein as Covered Entity (“CE”), and I.D.E.A. Consulting, referred to herein as Business Associate (“BA”). This Agreement is effective as of \_\_\_\_\_, (the “Agreement Effective Date”).

**RECITALS**

CE wishes to disclose certain information to BA pursuant to the terms of the contract between BA and the California Institute of Mental Health (“CIMH”), herein referred to as (“Contract”), some of which may constitute Protected Health Information (“PHI”) defined below.

CE and BA intend to protect the privacy and provide for the security of PHI disclosed to BA pursuant to the Contract in compliance with 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”), and regulations promulgated thereunder by the U.S. Department of Health and Human Services (the “HIPAA Regulations”) and other applicable laws.

As part of the HIPAA Regulations, the Privacy Rule and the Security Rule (defined below) require CE to enter into a contract containing specific requirements with BA prior to the disclosure of PHI, as set forth in, but not limited to, Title 45, Sections 164.314(a), 164.502(e) and 164.504(e) of the Code of Federal Regulations (“C.F.R.”) and contained in this Agreement.

In consideration of the mutual promises below and the exchange of information pursuant to this Agreement, the parties agree as follows:

**1. Definitions**

- a. **Breach** shall have the meaning given to such term under the HITECH Act [42 U.S.C. Section 17921].
- b. **Business Associate** shall have the meaning given to such term under the Privacy Rule, the Security Rule, and the HITECH Act, including but not limited to, 42 U.S.C. Section 17938 and 45 C.F.R. Section 160.103.
- c. **Covered Entity** shall have the meaning given to such term under the Privacy Rule and the Security Rule, including, but not limited to, 45 C.F.R. Section 160.103.
- d. **Data Aggregation** shall have the meaning given to such term under the Privacy Rule, including, but not limited to, 45 C.F.R. Section 164.501.
- e. **Designated Record Set** shall have the meaning given to such term under the Privacy Rule, including, but not limited to, 45 C.F.R. Section 164.501.
- f. **Electronic Protected Health Information** means Protected Health Information that is maintained in or transmitted by electronic media.



- g. **Electronic Health Record** shall have the meaning given to such term in the HITECT Act, including, but not limited to, 42 U.S.C. Section 17921.
  - h. **Health Care Operations** shall have the meaning given to such term under the Privacy Rule, including, but not limited to, 45 C.F.R. Section 164.501.
  - i. **Privacy Rule** shall mean the HIPAA Regulation that is codified at 45 C.F.R. Parts 160 and 164, Subparts A and E.
  - j. **Protected Health Information or PHI** means any information, whether oral or recorded in any form or medium: (i) that relates to the past, present or future physical or mental 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; and (ii) that identifies the individual or with respect to which there is a reasonable basis to believe the information can be used to identify the individual, and shall have the meaning given to such term under the Privacy Rule, including, but not limited to, 45 C.F.R. Section 164.501. Protected Health Information includes Electronic Protected Health Information [45 C.F.R. Sections 160.103, 164.501].
  - k. **Protected Information** shall mean PHI provided by CE to BA or created or received by BA on CE's behalf.
  - l. **Security Rule** shall mean the HIPAA Regulation that is codified at 45 C.F.R. Parts 160 and 164, Subparts A and C.
  - m. **Unsecured PHI** shall have the meaning given to such term under the HITECH Act and any guidance issued pursuant to such Act including, but not limited to, 42 U.S.C. Section 17932(h).
2. **Obligations of Business Associate**
- a. **Permitted Uses.** BA shall not use Protected Information except for the purpose of performing BA's obligations under the Contract and as permitted under the Contract and Agreement. Further, BA shall not use Protected Information in any manner that would constitute a violation of the Privacy Rule or the HITECH Act if so used by CE. However, BA may use Protected Information (i) for the proper management and administration of BA, (ii) to carry out the legal responsibilities of BA, or (iii) for Data Aggregation purposes for the Health Care Operations of CE [45 C.F.R. Sections 164.504(e)(2)(ii)(A) and 164.504(e)(4)(i)].
  - b. **Permitted Disclosures.** BA shall not disclose Protected Information except for the purpose of performing BA's obligations under the Contract and as permitted under the Contract and Agreement. BA shall not disclose Protected Information in any manner that would constitute a violation of the Privacy Rule or the HITECH Act if so disclosed by CE. However, BA may disclose Protected Information (i) for the proper management and administration of BA; (ii) to carry out the legal responsibilities of BA; (iii) as required by law; or (iv) for Data Aggregation purposes for the Health Care Operations of CE. If BA discloses Protected Information to a third party, BA must obtain, prior to making any such disclosure, (i) reasonable written assurances from such third party that such Protected Information will be held confidential as provided pursuant to this Agreement and only disclosed as required by law or for the purposes for which was disclosed to such third party, and (ii) a written agreement from such third party to immediately notify BA of any breaches of confidentiality of the Protected Information, to the extent it has obtained knowledge of such breach [42 U.S.C. Section 17932; 45 C.F.R. Sections 164.504(e)(2)(i), 164.504(e)(2)(i)(B), 164.504(e)(2)(ii)(A) and 164.504(e)(4)(ii)].



- c. **Prohibited Uses and Disclosures.** BA shall not use or disclose Protected Information for fundraising or marketing purposes. BA shall not disclose Protected Information to a health plan for payment or health care operations purposes if the patient has requested this special restriction, and has paid out of pocket in full for the health care item or service to which the PHI solely relates [42 U.S.C. Section 17935(a)]. BA shall not directly or indirectly receive remuneration in exchange for Protected Information, except with the prior written consent of CE and as permitted by the HITECH Act, 42 U.S.C. section 17935(d)(2); however, this prohibition shall not affect payment by CIMH to BA for services provided pursuant to the Contract.
- d. **Appropriate Safeguards.** BA shall implement appropriate safeguards as are necessary to prevent the use or disclosure of Protected Information otherwise than as permitted by the Contract that reasonably and appropriately protect the confidentiality, integrity and availability of the Protected Information, in accordance with 45 C.F.R. Sections 164.308, 164.310, and 164.312. [45 C.F.R. Section 164.504(e)(2)(ii)(B); 45 C.F.R. Section 164.308(b)]. BA shall comply with the policies and procedures and documentation requirements of the HIPAA Security Rule, including, but not limited to, 45 C.F.R. Section 164.316. [42 U.S.C. Section 17931].
- e. **Reporting of Improper Access, Use or Disclosure.** BA shall report to CE in writing of any access, use or disclosure of Protected Information not permitted by the Contract and Agreement, and any Breach of Unsecured PHI of which it becomes aware without unreasonable delay and in no case later than ten (10) calendar days after discovery [42 U.S.C. Section 17921; 45 C.F.R. Section 164.504(e)(2)(ii)(C); 45 C.F.R. Section 164.308(b)].
- f. **Business Associate's Agents.** BA shall ensure that any agents, including subcontractors, to whom it provides Protected Information, agree in writing to the same restrictions and conditions that apply to BA with respect to such PHI and implement the safeguards required by paragraph c above with respect to Electronic PHI [45 C.F.R. Section 164.504(e)(2)(ii)(D); 45 C.F.R. Section 164.308(b)]. BA shall implement and maintain sanctions against agents and subcontractors that violate such restrictions and conditions and shall mitigate the effects of any such violation (see 45 C.F.R. Sections 164.530(f) and 164.530(e)(1)).
- g. **Access to Protected Information.** BA shall make Protected Information maintained by BA or its agents or subcontractors in Designated Record Sets available to CE for inspection and copying within ten (10) days of a request by CE to enable CE to fulfill its obligations under the Privacy Rule, including, but not limited to, 45 C.F.R. Section 164.524 [45 C.F.R. Section 164.504(e)(2)(ii)(E)]. If BA maintains an Electronic Health Record, BA shall provide such information in electronic format to enable CE to fulfill its obligations under the HITECH Act, including, but not limited to, 42 U.S.C. Section 17935(e).
- h. **Amendment of PHI.** Within ten (10) days of receipt of a request from CE for an amendment of Protected Information or a record about an individual contained in a Designated Record Set, BA or its agents or subcontractors shall make such Protected Information available to CE for amendment and incorporate any such amendment to enable CE to fulfill its obligations under the Privacy Rule, including, but not limited to, 45 C.F.R. Section 164.526. If any individual requests an amendment of Protected Information directly from BA or its agents or subcontractors, BA must notify CE in writing within five (5) days of the request. Any approval or denial of amendment of Protected Information maintained by BA or its agents or subcontractors shall be the responsibility of CE [45 C.F.R. Section 164.504(e)(2)(ii)(F)].
- i. **Accounting Rights.** Within ten (10) days of notice by CE of a request for an accounting of disclosures of Protected Information, BA and its agents or subcontractors shall make available to CE the information required to provide an accounting of disclosures to enable CE to fulfill its



obligations under the Privacy Rule, including, but not limited to, 45 C.F.R. Section 164.528, and the HITECH Act, including but not limited to 42 U.S.C. Section 17935(c), as determined by CE. BA agrees to implement a process that allows for an accounting to be collected and maintained by BA and its agents or subcontractors for at least six (6) years prior to the request. However, accounting of disclosures from an Electronic Health Record for treatment, payment or health care operations purposes are required to be collected and maintained for only three (3) years prior to the request, and only to the extent that BA maintains an electronic health record and is subject to this requirement. At a minimum, the information collected and maintained shall include: (i) the date of disclosure; (ii) the name of the entity or person who received Protected Information and, if known, the address of the entity or person; (iii) a brief description of Protected Information disclosed and (iv) a brief statement of purpose of the disclosure that reasonably informs the individual of the basis for the disclosure, or a copy of the individuals' authorization, or a copy of the written request for disclosure. In the event that the request for an accounting is delivered directly to BA or its agents or subcontractors, BA shall within five (5) days of a request forward it to CE in writing. It shall be CE's responsibility to prepare and deliver any such accounting requested. BA shall not disclose any Protected Information except as set forth in Sections 2.b. of this Agreement [45 C.F.R. Sections 164.504(e)(2)(ii)(G) and 165.528].

- j. **Governmental Access to Records.** BA shall make its internal practices, books and records relating to the use and disclosure of Protected Information available to CE and to the Secretary of the U.S. Department of Health and Human Services (the "Secretary") for purposes of determining BA's compliance with the Privacy Rule [45 C.F.R. Section 164.504(e)(2)(ii)(H)]. BA shall provide to CE a copy of any Protected Information that BA provides to the Secretary concurrently with providing such Protected Information to the Secretary.
- k. **Minimum Necessary.** BA (and its agents or subcontractors) shall request, use and disclose only the minimum amount of Protected Information necessary to accomplish the purpose of the request, use, or disclosure. [42 U.S.C. Section 17935(b); 45 C.F.R. Section 164.514(d)(3)] BA understands and agrees that the definition of "minimum necessary" is in flux and shall keep itself informed of guidance issued by the Secretary with respect to what constitutes "minimum necessary."
- l. **Data Ownership.** BA acknowledges that BA has no ownership rights with respect to the Protected Information.
- m. **Notification of Breach.** During the term of the Contract, BA shall notify CE within twenty-four (24) hours of any suspected or actual breach of security, intrusion or unauthorized use or disclosure of PHI of which BA becomes aware and/or any actual or suspected use or disclosure of data in violation of any applicable federal or state laws or regulations. BA shall take (i) prompt corrective action to cure any such deficiencies and (ii) any action pertaining to such unauthorized disclosure required by applicable federal and state laws and regulations.
- n. **Breach Pattern or Practice by Covered Entity.** Pursuant to 42 U.S.C. Section 17934(b), if the BA knows of a pattern of activity or practice of the CE that constitutes a material breach or violation of the CE's obligations under the Contract or Agreement or other arrangement, the BA must take reasonable steps to cure the breach or end the violation. If the steps are unsuccessful, the BA must terminate the Contract or other arrangement if feasible, or if termination is not feasible, report the problem to the Secretary of DHHS. BA shall provide written notice to CE of any pattern of activity or practice of the CE that BA believes constitutes a material breach or violation of the CE's obligations under the Contract or Agreement or other arrangement within five (5) days of discovery and shall meet with CE to discuss and attempt to resolve the problem as one of the reasonable steps to cure the breach or end the violation.







safeguard all Protected Information. Upon the request of either party, the other party agrees to promptly enter into negotiations concerning the terms of an amendment to this Agreement embodying written assurances consistent with the standards and requirements of HIPAA, the HITECH Act, the Privacy Rule, the Security Rule or other applicable laws. CE may terminate the Contract upon thirty (30) days written notice in the event (i) BA does not promptly enter into negotiations to amend the Contract or Agreement when requested by CE pursuant to this Section or (ii) BA does not enter into an amendment to the Contract or Agreement providing assurances regarding the safeguarding of PHI that CE, in its sole discretion, deems sufficient to satisfy the standards and requirements of applicable laws.

**6. Assistance in Litigation of Administrative Proceedings**

BA shall make itself, and any subcontractors, employees or agents assisting BA in the performance of its obligations under the Contract or Agreement, available to CE, at no cost to CE, to testify as witnesses, or otherwise, in the event of litigation or administrative proceedings being commenced against CE, its directors, officers or employees based upon a claimed violation of HIPAA by the BA, the HITECH Act, the Privacy Rule, the Security Rule, or other laws relating to security and privacy, except where BA or its subcontractor, employee or agent is named adverse party.

**7. No Third-Party Beneficiaries**

Nothing express or implied in the Contract or Agreement is intended to confer, nor shall anything herein confer, upon any person other than CE, BA and their respective successors or assigns, any rights, remedies, obligations or liabilities whatsoever.

**8. Effect on Contract**

Except as specifically required to implement the purposes of this Agreement, or to the extent inconsistent with this Agreement, all other terms of the Contract shall remain in full force and effect.

**9. Interpretation**

The provisions of this Agreement shall prevail over any provisions in the Contract that may conflict or appear inconsistent with any provision in this Agreement. This Agreement and the Contract shall be interpreted as broadly as necessary to implement and comply with HIPAA, the HITECH Act, the Privacy Rule and the Security Rule. The parties agree that any ambiguity in this Agreement shall be resolved in favor of a meaning that complies and is consistent with HIPAA, the HITECH Act, the Privacy Rule and the Security Rule.

IN WITNESS WHEREOF, the parties hereto have duly executed this Agreement as of the Agreement Effective Date.

COVERED ENTITY

BUSINESS ASSOCIATE

County of Inyo

IDEA Consulting

By: \_\_\_\_\_

By: Nancy M Callahan, PhD

Print Name: \_\_\_\_\_

Print Name: Nancy M Callahan, PhD

Title: \_\_\_\_\_

Title: Owner

Date: \_\_\_\_\_

Date: 20 June 2022



# County of Inyo



## Probation

### CONSENT - ACTION REQUIRED

**MEETING:** June 28, 2022

**FROM:** Jeffrey Thomson

**SUBJECT:** Approve Agreement # 4 between the County of Inyo and Tuolumne County

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**RECOMMENDED ACTION:**

Request Board approve Amendment No. 4 to the Agreement between the County of Inyo and the County of Tuolumne to extend the Agreement from July 1, 2022 to June 30, 2023 with the daily rate per youth placed at the Mother Lode Regional Juvenile Detention Facility at \$175.00 per day with a guarantee of one (1) bed at the Tuolumne Juvenile Hall and \$210.00 per day for every subsequent bed used by Inyo County, contingent upon the Board's approval of the Fiscal Year 2022-2023 Budget, and authorize the Chairperson and Chief Probation Officer to sign.

**SUMMARY/JUSTIFICATION:**

As a result of transitioning the Inyo County Juvenile Center from a full service juvenile hall to a special purpose juvenile hall, the County of Inyo entered into an agreement with Tuolumne County on September 22, 2017, to obtain facilities and services for the detention and/or commitment of juvenile offenders. In the last 3 years Inyo County has averaged approximately 3 youth per day detained in any of the five (5) juvenile halls that Inyo has a memorandum of agreement with for detention beds. These MOAs include: El Dorado County at a cost of \$90/day for detention and \$100/day for the commitment program; Kern County at a cost of \$175/day for detention and \$200/day for the commitment program; and Tulare County at a cost of \$135/day. In an effort to utilize detention beds in the most cost effective way, a contract with Tuolumne for one (1) guaranteed bed is recommended. In addition, if the State is successful in closing the Department of Juvenile Justice facilities (DJJ), it will become increasingly difficult to secure a bed for our local youth who may be in need of detention. It is the expectation of the Governor that all youthful offenders will be detained in local county facilities. The State no longer will house youthful offenders. This means that youth who were previously committed to DJJ will be detained in local facilities thereby decreasing the number of beds available to counties who do not have a juvenile hall. Currently there are 16 counties that do not have a juvenile hall.

**BACKGROUND/HISTORY OF BOARD ACTIONS:**

N/A

**ALTERNATIVES AND CONSEQUENCES OF NEGATIVE ACTION:**

N/A

**OTHER AGENCY INVOLVEMENT:**

N/A

**FINANCING:**

These funds will be taken out of the Out Of County budget (023101) Professional Services (5265).

**ATTACHMENTS:**

1. Tuolumne County Agreement Amendment No. 4
2. Tuolumne County Memorandum of Understanding
3. Tuolumne County Agreement Amendment No. 1
4. Tuolumne County Agreement Amendment No. 2
5. Tuolumne County Agreement Amendment No. 3

**APPROVALS:**

Krystal Leonard	Created/Initiated - 6/14/2022
Darcy Ellis	Approved - 6/14/2022
Krystal Leonard	Approved - 6/14/2022
John Vallejo	Approved - 6/14/2022
Amy Shepherd	Approved - 6/14/2022
Krystal Leonard	Approved - 6/14/2022
Jeffrey Thomson	Final Approval - 6/14/2022



AMENDMENT #4 TO  
MEMORANDUM OF UNDERSTANDING  
FOR  
PLACEMENT OF INYO COUNTY DETAINED JUVENILES AT THE  
MOTHER LODE REGIONAL JUVENILE DETENTION FACILITY

This Amendment #4 (“Amendment #4”) is entered into this \_\_\_\_\_ day of \_\_\_\_\_, 2022, by and between the County of Tuolumne (“County”) and the County of Inyo (“Agency”).

WHEREAS, on July 28, 2017, the County and the Agency entered into a Memorandum of Understanding (“MOU”) for the placement of Agency’s detained juveniles at the County’s Mother Lode Regional Juvenile Detention Facility (“Facility”); and

WHEREAS, on October 12, 2020, the County and the Agency amended the MOU (Amendment #1) to extend the term for the period of July 12, 2020 through June 30, 2021, and to amend the payment terms as described therein; and

WHEREAS, on October 20, 2020, the County and the Agency amended the MOU (Amendment #2) to amend the services and payment terms as described therein; and

WHEREAS, on July 1, 2021, the County and the Agency amended the MOU (Amendment #3) to extend the term for the period of July 1, 2021 through June 30, 2022; and

WHEREAS, the County and Agency desire to amend the term of the MOU effective July 1, 2022, through June 30, 2023, and to amend payment terms described therein; and

NOW THEREFORE, THE COUNTY AND THE AGENCY AGREE as follows:

1. Section 2. TERM is amended to read as follows:

The term of Amendment #4 to this MOU shall commence on July 1, 2022, and terminate on June 30, 2023, unless extended as provided by this MOU.

2. Section 2. TERM, B. PAYMENT is amended to read as follows:

- i. Board and Care: The Agency shall pay the County for the costs of board and care for each juvenile placed at the Facility under this MOU per each 24-hour period or portion thereof at the following rates:
  - a. \$175.00 per day per bed for one (1) bed, which shall be deemed a “guaranteed” bed space available for use by Agency for the time period described in Section 2.A.i. of Amendment #2, invoiced monthly.
  - b. \$210.00 per day per bed for additional bed(s) beyond the one (1) guaranteed bed minimum, on a space available basis, invoiced monthly.
  - c. Any other unanticipated and/or extraordinary costs directly attributed to any of the Agency’s juveniles placed in the County’s Facility not covered by this MOU will be the responsibility of the Agency, and will be billed directly where possible, or billed on the monthly invoice. County will advise Agency as early


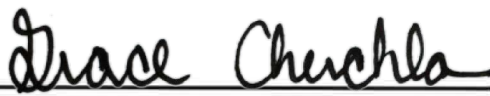
as possible regarding any anticipated or incurred expenses to the best of their ability.

- d. Rates are subject to change by the County's Chief Probation Officer upon provision of thirty (30) days advance written notice to the Agency of said change.

3. Except as amended herein, all other terms and conditions of the MOU and amendments shall remain in full force and effect.

*(Signatures on the following page)*

IN WITNESS WHEREOF, the parties have executed this Amendment #4 as of the date written above.

COUNTY OF TUOLUMNE	COUNTY OF INYO
By: Tracie Riggs County Administrative Officer	By: Dan Totheroh Chair, Board of Supervisors
By: Dan Hawks Chief Probation Officer	 By: Jeffrey L. Thomson Chief Probation Officer
APPROVED AS TO LEGAL FORM:	APPROVED AS TO LEGAL FORM:
By: Maria Sullivan Deputy County Counsel	 By: County Counsel

**MEMORANDUM OF UNDERSTANDING  
BETWEEN  
THE COUNTY OF TUOLUMNE  
AND  
THE COUNTY OF INYO  
FOR**

**The Placement of Inyo County Detained Juveniles at the Motherlode Regional Juvenile  
Detention Facility**

THIS MEMORANDUM OF UNDERSTANDING (“MOU”) is made and entered into this 28<sup>th</sup> day of July, 2017, by and between the County of Tuolumne, a Political Subdivision of the State of California, (“County”), and the County of Inyo, a Political Subdivision of the State of California, (“Agency”).

**WITNESSETH:**

WHEREAS, Tuolumne County has established a Juvenile Detention Facility designed for the reception and temporary care of minors pursuant to Title 15 of the California Code of Regulations and detailed in accordance with the provisions of the California Welfare and Institutions Code; and

WHEREAS, Agency wishes to house juveniles detained in The Motherlode Regional Juvenile Detention Facility (“Facility”) and Tuolumne County wishes to provide available beds to Agency, as needed and available.

NOW, THEREFORE, in consideration of their mutual covenants and conditions, the parties hereto agree as follows:

**1. PURPOSE**

The purpose of this MOU is to provide secure detention beds as available to Agency at the Motherlode Regional Juvenile Detention Facility in Tuolumne County.

**2. TERM**

The term of this MOU shall commence on the execution date first herein written above and continue until terminated per section 3 below.

**A. SERVICES**

- i. Tuolumne County shall provide beds in its Facility for Agency to utilize as needed, if beds are available. The beds will be provided on a space available basis as determined by the Tuolumne County Chief Probation Officer in his or her sole discretion.
- ii. All Agency minors accepted for placement and placed in the Facility shall receive the same accommodations and services as provided to Tuolumne County juveniles in accordance with federal, state and local laws and regulations. Such services shall include facilitation of appropriate

educational services, medical care and mental health care. Dental care shall be limited to pain management, injured teeth/gums, and conditions which may lead to malignancies if detention is prolonged.

- iii. Tuolumne County may provide emergency medical services without prior authorization from Agency
- iv. Agency minors are not eligible to participate, and therefore will not participate, in the Tuolumne County Children's System of Care program and/or its equivalent

## B. PAYMENT

- i. Board and Care: Agency shall pay Tuolumne for the costs of board and care for each minor placed at the Facility under this Agreement. The payment amount shall be at a per diem rate of (\$100.00) for each 24-hour period or portion thereof. The per diem rates set forth in this Agreement are subject to change by the Tuolumne County Chief Probation Officer upon provision of thirty (30) days advance written notice to the Agency of said change.
- ii. Legal Services: Agency shall be solely responsible to make certain that those minors detained in the Facility by order of the Agency Juvenile Court receive all legal services required by applicable law.
- iii. Writ of Habeas Corpus: In the event a petition for a writ of habeas corpus or similar proceedings is initiated by or on behalf of any Agency minors placed in the Facility, Agency shall be fully responsible to defend this writ and shall defend, indemnify, and hold harmless Tuolumne County, its elected representatives, officers, employees, volunteers and agents from all costs, damages, claims and allegations associated in any way with such a writ.
- iv. Medical and Psychological Services: Routine medical care provided pursuant to Tuolumne County's Agreements with California Forensic Medical Group, Inc., which includes but is not limited to health screening, dental screening, pharmaceuticals and medical supplies, and responding to sick calls are covered in the cost of Board and Care, as set forth above in paragraph i. Agency agrees to pay for or to reimburse Tuolumne County for the actual costs of any necessary psychological, dental care, prescription medications or mental health care required by an Agency minor placed pursuant to this Agreement that are outside of services provided above. Agency agrees to pay for any costs above \$15,000 per medical/surgical inpatient episode. To the extent authorized by law, Tuolumne County is authorized, without the need for any further authorization, to obtain emergency medical, dental, mental health care for Agency minors housed at the Facility as determined necessary by the appropriate providers of these services at the Facility. All other services must be pre-authorized by Agency.

- v. Education: The cost of regular school expenses is included in the per diem rate. Regular school expenses shall be those provided by the local school district/county office of education within the Tuolumne County Juvenile Detention Facility.
- vi. Billing and Payments: Agency shall pay Tuolumne County within thirty (30) days after receiving notice of payment due. Payment shall be made out to Tuolumne County Probation and mailed to:

Tuolumne County Probation  
Attention Business Manager  
465 South Washington Street  
Sonora, CA 95370

C. TRANSPORTATION

- i. Agency shall be responsible for providing transportation of the minors between Agency and the Facility. In the event Agency fails to provide transportation for a minor from Tuolumne County to Agency within the time frame requested by Tuolumne County, then Tuolumne County shall transport the minor to Agency and Agency shall be responsible for payment of all costs incurred by Tuolumne County for such transportation.
- ii. Tuolumne County provides routine transportation for each Agency minor for the purposes of medical, mental health, dental, or other appropriate care within Tuolumne County. The costs of such transportation are included in the per diem rate.

D. REMOVAL OF MINORS.

- i. Agency shall promptly remove any minors placed in the Facility upon sole determination of the Tuolumne County Chief Probation Officer, or his or her designee, that the effective operation of the Facility requires removal of the minor.

E. COURT DOCUMENTATION:

- i. Agency shall be responsible for providing confirmed Court orders committing minors to the Detention Facility, dispositional reports committing minor to the Facility, and consent to medical treatment signed by a parent/legal guardian/Juvenile Court Judge to Tuolumne County staff at the at the time of booking.

3. TERMINATION

This MOU may be terminated by either party upon the giving of thirty (30) days' advance written notice of an intention to terminate.

#### **4. NON-ASSIGNMENT**

Neither party shall assign, transfer or sub-contract this MOU nor their rights or duties under this MOU without the prior written consent of the other party.

#### **5. RECORDS**

All Parties subject to this MOU shall maintain a record of services provided in sufficient detail to permit an evaluation of the MOU. All such records shall be made available during normal business hours to authorized representatives of County, Agency, State, and Federal governments during the term of this MOU and during the period of record retention for the purpose of program review and/or fiscal audit.

#### **6. COMPLIANCE WITH LAWS/POLICIES**

The parties shall comply with all applicable rules and regulations set forth and any subsequent reporting requirements as directed by the State.

#### **7. CONFIDENTIALITY**

The parties shall act in strict conformance with all applicable Federal, State of California and/or local laws and regulations relating to confidentiality, including but not limited to, California Civil Code section 56 et seq., Welfare and Institutions Code sections 827 et seq., 5328, 10850 and 14100.2, Health and Safety section 11812, 22 California Code of Regulations section 51009, Title 15 of the California Code of Regulations, and 42 Code of Federal Regulations sections 2.1 et seq. The parties shall ensure that no list of persons receiving services under this MOU is published, disclosed, or used for any other purpose except for the direct administration of the program or other uses authorized by law that are not in conflict with requirements for confidentiality.

#### **8. PRISON RAPE ELIMINATION ACT (PREA):**

Tuolumne County will comply with the Prison Rape Elimination Act of 2003 (42 U.S.C.15601 Et. Seq.) (PREA), and with all applicable PREA Standards, Division of Juvenile Justice (DJJ) Policies related to PREA and DJJ Standards related to PREA for preventing, detecting, monitoring, investigating, and eradicating any form of sexual abuse within DJJ Facilities/Programs/Offices owned, operated or contracted. Tuolumne County acknowledges that, in addition to "self-monitoring requirements" DJJ will conduct announced or unannounced, compliance monitoring to include "on-site" monitoring. Failure to comply with PREA, including PREA Standards and DJJ Policies, may result in termination of the contract.

#### **9. NON-DISCRIMINATION**

During the performance of this MOU, the parties shall not unlawfully discriminate against any employee or applicant for employment, or recipient of services, because of race, religion, color, national origin, ancestry, physical disability, medical condition, marital status, age or gender, pursuant to all applicable State and Federal statutes and regulations.



## 1. RELATIONSHIP OF PARTIES

It is understood that this is a Memorandum of Understanding by and between two (2) separate public agencies and is not intended to and shall not be construed to create a relationship of agent, servant, employee, partnership, joint venture or association.

## 2. NO THIRD PARTY BENEFICIARIES

The County and Agency agree it is their specific intent that no other person or entity shall be a party to or a third party beneficiary of this MOU or and attachment or addenda to this MOU.

## 3. INDEMNIFICATION

- a. Each party shall indemnify, defend, protect, hold harmless and release the other, their elected bodies/representatives, officers, agents, employees and volunteers, from and against, any and all claims, losses, proceedings, damages, causes of action, liability costs, or expense (including attorneys' fees and witness costs) arising from or in connection with, or caused by any negligent act or omission or willful misconduct of such indemnifying party.
- b. The provisions of this Section shall survive the termination or expiration of this Agreement.
- c. In the event of concurrent negligence by Tuolumne County, its elected bodies/representatives, officers, employees, agents and volunteers and those of Inyo County and its elected bodies/representatives, officers, employees, agents and volunteers, the liability for any and all claims for injuries or damages to persons and/or property shall be apportioned under the California theory of comparative negligence.

## 4. NOTICE

Any and all notices, reports or other communications to be given to County or Agency shall be given to the persons representing the respective parties at the following addresses:

**AGENCY:**  
Chief Probation Officer  
County of Inyo  
P.O. Box T  
Independence, CA 93526  
Fax: (760) 878-0436

**COUNTY:**  
Chief Probation Officer  
County of Tuolumne  
2 South Green Street  
Sonora, CA 95370  
Fax: (209) 533-5510

## 5. PUBLIC RECORDS ACT

Agency is aware that this MOU and any documents provided to the County may be subject to the California Public Records Act and may be disclosed to members of the public upon request. It is the responsibility of the Agency to clearly identify information

Records Act. To the extent that the County agrees with that designation, such information will be held in confidence whenever possible. All other information will be considered public.

#### **15. ENTIRE AGREEMENT AND MODIFICATION**

This MOU contains the entire agreement of the parties relating to the subject matter of this MOU and supersedes all prior agreements and representations with respect to the subject matter hereof. This MOU may only be modified by a written amendment hereto, executed by both parties. If there are exhibits attached hereto, and a conflict exists between the terms of this MOU and any exhibit, the terms of this MOU shall control.

#### **16. ENFORCEABILITY AND SEVERABILITY**

The invalidity or enforceability of any term or provisions of this MOU shall not, unless otherwise specified, affect the validity or enforceability of any other term or provision, which shall remain in full force and effect.

#### **17. DISPUTES**

The parties agree to use good faith efforts to resolve any disputes prior to bringing any action to enforce the terms of this MOU.

Should it become necessary for a party to this MOU to enforce any of the provisions hereof, the prevailing party in any claim or action shall be entitled to reimbursement for all expenses so incurred, including reasonable attorney's fees.

It is agreed by the parties hereto that unless otherwise expressly waived by them, any action brought to enforce any of the provisions hereof or for declaratory relief hereunder shall be filed and remain in a court of competent jurisdiction in the County of Tuolumne, State of California.

#### **18. CAPTIONS**

The captions of this MOU are for convenience in reference only and the words contained therein shall in no way be held to explain, modify, amplify or aid in the interpretation, construction or meaning of the provisions of this MOU.

#### **19. COUNTERPARTS**

This MOU may be executed simultaneously and in several counterparts, each of which shall be deemed an original, but which together shall constitute one and the same instrument.

#### **20. OTHER DOCUMENTS**

The parties agree that they shall cooperate in good faith to accomplish the object of this MOU and, to that end, agree to execute and deliver such other and further instruments and documents as may be necessary and convenient to the fulfillment of these purposes.

**21. CONTROLLING LAW**

The validity, interpretation and performance of this MOU shall be controlled by and construed under the laws of the State of California.

**22. AUTHORITY**

Each party and each party's signatory warrant and represent that each has full authority and capacity to enter into this MOU in accordance with all requirements of law. The parties also warrant that any signed amendment or modification to the MOU shall comply with all requirements of law, including capacity and authority to amend or modify the MOU.

IN WITNESS WHEREOF, the parties have executed this Memorandum of Understanding on the day and year first herein above written.

<b>COUNTY:</b>  Craig Pedro, County Administrator	<b>AGENCY:</b>  Kevin Carunchio, CAO/Clerk of Board of Supervisors of the County of Inyo
 Linda Downey, Chief Probation Officer	 Jeff Thomson, Chief Probation Officer
<b>APPROVED AS TO LEGAL FORM:</b>  Sarah Carrillo, County Counsel	<b>APPROVED AS TO LEGAL FORM:</b>  by John-Carl Vallejo Marshall Rudolph, County Counsel
	 Mark Tillemans, Chairman, Board of Supervisors

AMENDMENT #1 TO  
MEMORANDUM OF UNDERSTANDING  
FOR  
PLACEMENT OF INYO COUNTY DETAINED JUVENILES AT THE  
MOTHER LODE REGIONAL JUVENILE DETENTION FACILITY

This Amendment #1 ("Amendment #1") is entered into this 12<sup>th</sup> day of October, 2020 by and between the County of Tuolumne ("County") and the County of Inyo ("Agency").

WHEREAS, on July 28, 2017, the County and the Agency entered into a Memorandum of Understanding ("MOU") for the placement of Agency's detained juveniles at the County's Mother Lode Regional Juvenile Detention Facility ("Facility"); and

WHEREAS, the County and Agency desire to amend the term of the MOU effective July 12, 2020, through June 30, 2021; and

WHEREAS, the County and the Agency desire to amend the Services outlined in the MOU as detailed herein.

NOW THEREFORE, THE COUNTY AND THE AGENCY AGREE as follows:

1. Section 2. TERM is amended to read as follows:

The term of Amendment #1 to this MOU shall commence on July 12, 2020 and terminate on June 30, 2021, unless extended as provided by this MOU.


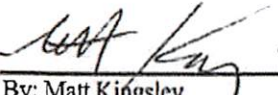


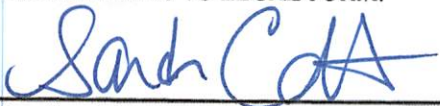

This MOU may be extended for up to two (2) additional one (1) year periods, through June 30, 2023, by written amendment signed by both parties.

2. Section 2. TERM, B. PAYMENT is amended to read as follows:

- i. Board and Care: The Agency shall pay the County for the costs of board and care for each juvenile placed at the Facility under this MOU per each 24-hour period or portion thereof at the following rates:
  - a. \$175.00 per day per bed, on a space available basis, invoiced monthly.
  - b. Any other unanticipated and/or extraordinary costs directly attributed to any of the Agency's juveniles placed in the County's Facility not covered by this MOU will be the responsibility of the Agency, and will be billed directly where possible, or billed on the monthly invoice. County will advise Agency as early as possible regarding any anticipated or incurred expenses to the best of their ability.
  - c. Rates are subject to change by the County's Chief Probation Officer upon provision of thirty (30) days advance written notice to the Agency of said change.

4. Except as amended herein, all other terms and conditions of the MOU shall remain in full force and effect.

IN WITNESS WHEREOF, the parties have executed this Amendment #1 as of the date written above.

COUNTY OF TUOLUMNE	COUNTY OF INYO
	
By: Tracie Riggs County Administrative Officer	By: Matt Kingsley Chair, Board of Supervisors
	
By: Dan Hawks Chief Probation Officer	By: Jeffrey L. Thomson Chief Probation Officer
APPROVED AS TO LEGAL FORM:	APPROVED AS TO LEGAL FORM:
	
By: Sarah Carrillo County Counsel	By: Grace Chuchla Deputy County Counsel

AMENDMENT #2 TO  
MEMORANDUM OF UNDERSTANDING  
FOR  
PLACEMENT OF INYO COUNTY DETAINED JUVENILES AT THE  
MOTHER LODE REGIONAL JUVENILE DETENTION FACILITY

This Amendment # 2 ("Amendment #2") is entered into this 20<sup>th</sup> day of October, 2020, by and between the County of Tuolumne ("County") and the County of Inyo ("Agency").

WHEREAS, on July 28, 2017, the County and the Agency entered into a Memorandum of Understanding ("MOU") for the placement of Agency's detained juveniles at the County's Mother Lode Regional Juvenile Detention Facility ("Facility"); and

WHEREAS, the County and Agency desire to amend the term of the MOU effective July 12, 2020, through June 30, 2021; and

WHEREAS, the County and the Agency desire to amend the Services outlined in the MOU as detailed herein.

NOW THEREFORE, THE COUNTY AND THE AGENCY AGREE as follows:

1. Section 2. TERM is amended to read as follows:

The term of Amendment #2 to this MOU shall commence on July 12, 2020, and terminate on June 30, 2021, unless extended as provided by this MOU.

This MOU may be extended for up to two (2) additional one (1) year periods, through June 30, 2023, by written amendment signed by both parties.

2. Section 2. TERM, A. SERVICES is amended to read as follows:

- i. The County shall provide one (1) "guaranteed" bed in its Facility for the Agency to utilize as needed for each day coinciding with the Highway 108 Sonora Pass being open for travel as determined by the California Department of Transportation during the term of this Amendment #1.
- ii. One guaranteed bed space shall mean the Agency pays County for the bed regardless of it being used to house an Agency youth for approximately six (6) months out of each year that coincides with the Sonora Pass being open for travel. It also means that during this time period when the Agency has a need to house a youth at the facility, the Agency will have one bed space dedicated to it for its use, which may require County to remove other youth in order to accommodate Agency's need for the one (1) bed space.
- iii. If the Agency's juvenile who begins occupying the guaranteed bed while Sonora Pass is open continues to occupy the bed while it is closed, the Agency shall be charged the guaranteed bed rate described in Section 2.B.i.a. for the duration of that juvenile's stay at the Facility.

- iv. In the event a youth occupying a guaranteed bed needs to be removed to maintain for the safety of the youth and/or safety of the staff the Facility, the Chief Probation Officer or Facility Superintendent agrees to notify the Inyo County Chief Probation of the factors necessitating the need for removal in order to determine if said factors can be mitigated to prevent the need for removal. The Tuolumne County Chief Probation Officer or designee will make the final determination as to whether the safe functioning of the Facility requires removal.
- v. The County shall provide "additional" bed(s) at any time for the Agency to utilize as needed, if beds are available. Any additional bed(s) will be provided on a space available basis as determined by the County's Chief Probation Officer in his or her sole discretion.

3. Section 2. TERM, B. PAYMENT is amended to read as follows:

- i. Board and Care: The Agency shall pay the County for the costs of board and care for each juvenile placed at the Facility under this MOU per each 24-hour period or portion thereof at the following rates:
  - a. \$150.00 per day per bed for one (1) bed, which shall be deemed a "guaranteed" bed space available for use by Agency for the time period described in Section 2.A.i. of this Amendment #1, invoiced monthly.
  - b. \$175.00 per day per bed for additional bed(s) beyond the one (1) guaranteed bed minimum, on a space available basis, invoiced monthly.
  - c. Any other unanticipated and/or extraordinary costs directly attributed to any of the Agency's juveniles placed in the County's Facility not covered by this MOU will be the responsibility of the Agency, and will be billed directly where possible, or billed on the monthly invoice. County will advise Agency as early as possible regarding any anticipated or incurred expenses to the best of their ability.
  - d. If the Facility ceases operation during the Term of this Amendment #1 or any successive period(s) under this MOU, or if the Agency does not utilize bed space for any portion of the time period described in Section 2.A.i., the Agency will not be refunded any funds provided to the County under this MOU.
  - e. Rates are subject to change by the County's Chief Probation Officer upon provision of thirty (30) days advance written notice to the Agency of said change.

4. Except as amended herein, all other terms and conditions of the MOU shall remain in full force and effect.

*(Signatures on the following page)*

IN WITNESS WHEREOF, the parties have executed this Amendment #1 as of the date written above.



<p>COUNTY OF TUOLUMNE</p> <p><i>Tracie Riggs</i></p>	<p>COUNTY OF INYO</p> <p><i>Matt Kingsley</i></p>
<p>By: Tracie Riggs County Administrative Officer</p>	<p>By: Matt Kingsley Chair, Board of Supervisors</p>
<p><i>Dan Hawks</i></p>	<p><i>Jeffrey L. Thomson</i></p>
<p>By: Dan Hawks Chief Probation Officer</p>	<p>By: Jeffrey L. Thomson Chief Probation Officer</p>
<p>APPROVED AS TO LEGAL FORM:</p> <p><i>Sarah Carrillo</i></p>	<p>APPROVED AS TO LEGAL FORM:</p> <p><i>Grace Chuchla</i></p>
<p>By: Sarah Carrillo County Counsel</p>	<p>By: Grace Chuchla County Counsel</p>

AMENDMENT #3 TO  
MEMORANDUM OF UNDERSTANDING  
FOR  
PLACEMENT OF INYO COUNTY DETAINED JUVENILES AT THE  
MOTHER LODE REGIONAL JUVENILE DETENTION FACILITY

This Amendment #3 ("Amendment #3") is entered into this \_\_\_\_\_ day of \_\_\_\_\_, 2021, by and between the County of Tuolumne ("County") and the County of Inyo ("Agency").

WHEREAS, on July 28, 2017, the County and the Agency entered into a Memorandum of Understanding ("MOU") for the placement of Agency's detained juveniles at the County's Mother Lode Regional Juvenile Detention Facility ("Facility"); and

WHEREAS, on October 12, 2020, the County and the Agency amended the MOU (Amendment #1) to extend the term for the period of July 12, 2020 through June 30, 2021, and to amend the payment terms as described therein; and

WHEREAS, on October 20, 2020, the County and the Agency amended the MOU (Amendment #2) to amend the services and payment terms as described therein; and

WHEREAS, the County and Agency desire to amend the term of the MOU effective July 1, 2021, through June 30, 2022.

NOW THEREFORE, THE COUNTY AND THE AGENCY AGREE as follows:

1. Section 2. TERM is amended to read as follows:

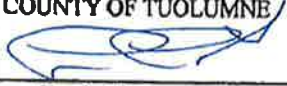
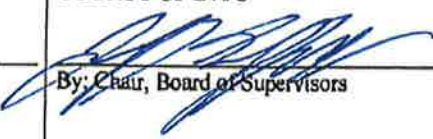
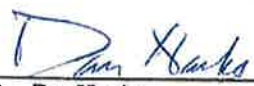

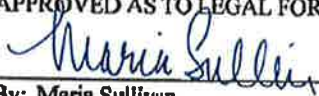
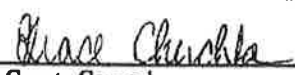
The term of Amendment #3 to this MOU shall commence on July 1, 2021, and terminate on June 30, 2022, unless extended as provided by this MOU.

This MOU may be extended for up to one (1) additional one (1) year period, through June 30, 2023, by written amendment signed by both parties.

2. Except as amended herein, all other terms and conditions of the MOU shall remain in full force and effect.

*(Signatures on the following page)*

IN WITNESS WHEREOF, the parties have executed this Amendment #3 as of the date written above.

COUNTY OF TUOLUMNE	COUNTY OF INYO
 By: Tracie Riggs County Administrative Officer	 By: Chair, Board of Supervisors
 By: Dan Hawks Chief Probation Officer	 By: Jeffrey L. Thomson Chief Probation Officer
APPROVED AS TO LEGAL FORM: 	APPROVED AS TO LEGAL FORM: 
By: Maria Sullivan Deputy County Counsel	By: County Counsel



# County of Inyo



## Public Works

### CONSENT - ACTION REQUIRED

**MEETING:** June 28, 2022

**FROM:** Ashley Helms

**SUBJECT:** Contract with Flight Tech Inc for flight procedure design

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#### RECOMMENDED ACTION:

Request Board:

- A) Declare Flight Tech, Inc. of Englewood, CO a sole-source provider of flight procedure design services;
- B) Approve the Master Service Agreement between the County of Inyo and Flight Tech, Inc. of Englewood, CO for the provision of flight procedure design services for the period beginning June 30, 2022 and ending when terminated as defined in Article 8, contingent upon the Board's approval of future budgets, and authorize the Chairperson to sign, contingent upon all appropriate signatures being obtained; and
- C) Approve the Memorandum of Understanding (MOU) with Mammoth Lakes Tourism and authorize the Chairperson to sign.

#### SUMMARY/JUSTIFICATION:

As discussed in the Air Service Workshop on June 14, United Airlines, and their partner SkyWest, are very interested in serving the Bishop Airport (BIH) with the Embraer 175 as soon as possible. The switch from the CRJ 700 would decrease the number of mechanical cancellations/delays, as it is a much newer aircraft and SkyWest has a larger fleet - 196 E-175's versus 19 CRJ 700's. For SkyWest to begin using the 76 seater E-175, new instrument approach procedures must be developed for Runway 12 and Runway 30. A portion of the SkyWest E-175 fleet is equipped with Wide Area Augmentation System (WAAS), which significantly increases the accuracy of GPS approaches, allowing for lower visibility minimums.

Instrument approach procedures can be designed by the FAA or an FAA authorized third party procedure developer. Development through the FAA can take up to 5 years, while third party development can be completed in a year or less. Flight Tech, Inc. is an FAA authorized consultant that specializes in procedure design for challenging mountain airport environments. Under this proposed contract, Flight Tech would design two WAAS-enabled approach procedures and one obstacle departure procedure for BIH. These would be Special Instrument Procedures, usable only by SkyWest and potential future users approved by both Flight Tech and the FAA.

#### BACKGROUND/HISTORY OF BOARD ACTIONS:

#### ALTERNATIVES AND CONSEQUENCES OF NEGATIVE ACTION:

Your Board could choose not to approve the sole source designation and contract and instruct staff to pursue the design of a new approach procedure through the FAA or to solicit proposals from other firms. There would likely

be development and ongoing maintenance costs charged by the FAA for their services, and the timeframe of FAA development could lead to a gap in service if additional CRJ 700's are decommissioned.

**OTHER AGENCY INVOLVEMENT:**

Mammoth Lakes Tourism

**FINANCING:**

The costs associated with the approach development phase of this contract, which is anticipated to be \$89,000, will be split between Mammoth Lakes Tourism and Inyo County as defined in the MOU. The County portion will be paid over two fiscal years from the Bishop Airport Operating Budget (150100), Object Code 5265 (Professional Services). Section 1.1 of the Fee Schedule notes that the total development costs could increase to \$103,000 if SkyWest was unable to provide an aircraft for the commissioning flight. However, this is not anticipated.

The ongoing maintenance phase of the contract includes three distinct items, which amount to an annualized cost of \$20,525:

1. Obstacle Evaluation and Notice to Airmen (NOTAM) Monitoring - \$8,915 per year
2. Flight Segment Obstacle Validation and FAA Reporting (for two approach procedures) - \$9,540 every 1.5 years
3. Instrument Flight Procedure Periodic Review (for two approach procedures and one departure procedure) - \$10,500 every two years.

An MOU with SkyWest in regards to the cost sharing for the ongoing maintenance costs is being developed and will be brought before your Board for approval at a future date.

**ATTACHMENTS:**

1. Master Service Agreement Scope of Work
2. MLT-Inyo MOU for FT approach procedure

**APPROVALS:**

Ashley Helms	Created/Initiated - 6/15/2022
Darcy Ellis	Approved - 6/16/2022
Ashley Helms	Approved - 6/23/2022
John Vallejo	Approved - 6/24/2022
Amy Shepherd	Final Approval - 6/24/2022



# Master Services Agreement for the County of Inyo, California

This Master Services Agreement ("Agreement") is made as of this 13th day of June, 2022 between the County of Inyo, a political subdivision of the State of California ("County") and Flight Tech Engineering, LLC, a Colorado limited liability company ("Flight Tech" or "FTE"). County and Flight Tech are sometimes individually referred to herein as a "Party" and collectively as the "Parties".

## RECITALS

- I- Flight Tech is an FAA approved third-party Navigation Services Provider and flight operations consulting firm with expertise in assessing, designing, and implementing instrument flight procedures (each, a "Flight Procedure" and collectively, "Flight Procedures") to airports and heliports across the United States. Flight Tech also conducts ongoing maintenance of such Flight Procedures in accordance with Flight Tech's FAA approved maintenance program ("Maintenance"). Flight Tech provides airport and aircraft operators with a broad array of survey, feasibility, performance, and other consulting services for both private and public applications ("Consulting Services").
- II- County desires to engage Flight Tech to provide Services and/or Deliverables (each as defined below) under the terms and conditions described in this Agreement.

## AGREEMENT

NOW, THEREFORE, in consideration of the agreements made herein and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, County and Flight Tech agree as follows:

### ARTICLE 1. STATEMENT OF WORK, TIMING, COMPENSATION

**General:** All services and deliverables (each, a "Service" and collectively, the "Services" and/or each, a "Deliverable" and collectively, the "Deliverables") provided by Flight Tech

under this Agreement (whether Flight Procedures, Maintenance, or Consulting Services), including all fees and cost reimbursements therefor, will be performed and delivered by Flight Tech as set forth in individual Statements of Work agreed to and executed by authorized representatives of each of the Parties (each, an "SOW" and collectively, "SOWs") from time to time during the term of this Agreement. Each SOW will reference and be governed by and subject to the terms of this Agreement. No SOW may change any of the terms of this Agreement. Furthermore, each SOW will become incorporated into and become binding provisions of this Agreement. All Agreement documents are interpreted together as one agreement. If there is an irreconcilable conflict among the provisions of these documents, the following order of precedence applies: (a) any document executed by both Parties after execution of this Agreement that is expressly intended to amend or supersede the terms of this Agreement; (b) this Agreement, including any amendments or modifications thereto; (c) an SOW issued pursuant to this Agreement and any supplemental terms included or incorporated by reference therein; then (d) other documents agreed to in writing by the Parties.

- A. Description of Services: FTE shall render the Services and/or prepare the Deliverables to County described and agreed to in each SOW and perform the tasks included therein (each, a "Task" and collectively, the "Tasks"), at the specified billing rates set forth in each respective SOW. FTE shall be solely responsible for the conduct, actions, and supervision of its officers, directors, members, employees, and subcontractors (collectively, "Personnel"). All Services and Deliverables shall be performed and rendered in a manner consistent with the generally accepted standards of the industry.
- B. Resources: Unless otherwise expressly provided, Flight Tech will be solely responsible for the means, methods, and procedures of performing this Agreement and each SOW, providing all resources and facilities, including, but not limited to, computers, aviation design software, telecommunications systems, storage systems, office facilities, Personnel and other resources necessary to provide the Services and Deliverables. Any services, functions or responsibilities not specifically described in an SOW that are incidental to or reasonably necessary to accomplish such SOW will be deemed to be implied by and included within the scope of such SOW to the same extent and in the same manner as if specifically described in such SOW.
- C. Changes: County has the right to request additions to or deletions from the Services and/or Deliverables set forth in any SOW. Upon a request for any such change, the Parties shall negotiate the change to the fee resulting from such request, based on the formula used to establish the existing fee, or where appropriate using the Flight Tech standard hourly consulting rate. Any changes to an SOW shall only become effective when agreed to and approved by both Parties in writing.



## ARTICLE 2. INVOICING, ADDITIONAL SERVICES, COST REIMBURSEMENT

- A. Flight Tech shall invoice County for such fees as described within each respective SOW or as agreed upon by both Parties upon the completion of such Service, Deliverable, or Task.
- B. County agrees to pay the amount invoiced within thirty (30) days of the submission of an invoice for the amounts owed thereunder.

## ARTICLE 3. PAYMENT

Payment shall be made by check via United States first-class or certified mail to the following:

Flight Tech Engineering, LLC  
Attn: Accounting  
PO Box 3596  
Englewood, CO 80155

Direct deposit information is available upon request.

## ARTICLE 4. EFFECTIVE DATE and TERM

The effective date of this Agreement is the date on which it is signed by both FTE and County; provided, however, in the event this Agreement is not counter-signed and returned by County to FTE on or before June 30, 2022, Flight Tech withdraws this Agreement and any SOW attached hereto all of which shall be null and void. In the event this Agreement is counter-signed and returned by County to FTE on or before June 30, 2022, this Agreement shall continue in effect indefinitely, or until terminated by the Parties in accordance with Article 8. Subject to the foregoing, the term of any individual SOW for the completion of Services, Deliverables, or Tasks contained therein shall be governed by the respective SOW.

## ARTICLE 5. AIRPORT ENVIRONMENT CHANGE NOTIFICATIONS

Due to reliance on automated weather reporting capabilities, government/airport owned navigational facilities, visual aids, changing airport conditions, FAA TERPS criteria updates, uncontrolled obstacles affecting the Vertical Guidance Surface (VGS), 20:1 Visual, or 34:1 Visual surfaces, OE/AAA submittals made before and after Flight Procedure FAA approval, and other forces outside of FTE's control, FTE cannot guarantee any Flight

Procedure approach minimums, procedure routes, or capabilities will remain unchanged both before and after FAA approval of such Flight Procedure. As information is made available to FTE, it will make updates in accordance with its FAA approved Maintenance program. Furthermore, FTE cannot guarantee the performance or completion factor of aircraft using any Flight Procedure due to pilot and equipage differences, weather factors, and safety factors outside of FTE's control.

During the term of this Agreement, County shall notify FTE of any changes affecting the airport environment or Flight Procedures as soon as reasonably possible after its discovery. If necessary, Flight Tech will respond by issuing an FDC Temporary NOTAM specific to the Flight Procedures. If the terrain or obstacle status changes after submission and/or FAA approval of any Flight Procedure, a modification to the Flight Procedure may be required. For Flight Procedures County owns under the terms of an SOW and this Agreement, modifying the Flight Procedure is considered a major amendment and may require a new flight validation and FAA approval process subject to the time and materials costs and fees in the applicable SOW or as agreed to by the Parties and Flight Tech shall invoice County in accordance with Article 2 of this Agreement.

## ARTICLE 6. CHANGES, MODIFICATIONS

Mutually agreed upon changes and/or modifications to this Agreement shall be in writing and signed by FTE and County. The modification shall cite the subject Agreement and shall state the exact nature of the modification. No oral statement by any person shall be interpreted as modifying or otherwise affecting the terms of this Agreement.

## ARTICLE 7. POINTS OF CONTACT

### Flight Tech Engineering, LLC

Attn: Alec Seybold  
P.O. Box 3596  
Englewood, CO 80155  
(303) 957-6010

### County of Inyo

Attn: Ashley Helms  
Deputy Director of Public Works - Airports  
703 Airport Rd  
Bishop, CA 93514  
(760) 878-0200

## ARTICLE 8. TERMINATION

- A. County may terminate this Agreement by providing ninety (90) days written notice to Flight Tech, provided County shall remain liable for any unpaid amounts due from County to Flight Tech hereunder. In addition, should a termination occur during Flight Tech's performance of a Service, Deliverable, or Task, then the compensation provided for the completion of such Service, Deliverable, or Task shall be reasonably prorated based on the percentage of the Service, Deliverable, or Task already performed by Flight Tech.
- B. Flight Tech may terminate this Agreement by written notice to County if County fails to fulfill its obligations to promptly pay invoices or otherwise breaches this Agreement, provided that Flight Tech first advises County in writing that it is in default and gives ten (10) days to cure such default, except in the case of a breach by County related to safety, health, or security in which case Flight Tech may immediately terminate this Agreement or any SOW without notice. In the event of default or breach by County, Flight Tech may collect reasonable costs, statutory interest, and attorney's fees in addition to any amount owed by County to Flight Tech.
- C. If this Agreement, or the Maintenance of any Flight Procedure provided for in an SOW, or such SOW itself, terminates, the Flight Procedure will be cancelled as required by the FAA.

## ARTICLE 9. OWNERSHIP AND POSSESSION OF WORK PRODUCT, DELIVERABLES, CONFIDENTIALITY

- A. Should County, under the terms of an SOW, agree to purchase any Service or Deliverable therein, County's ownership shall be subject to the applicable terms of this Agreement including the restrictions and limitations agreed to in Article 15 below. All such data, information, reports, drawings, renderings or other such documents or materials, whether or not electronic, ("Work Product"), except for data, programs, or other material previously owned by or licensed to FTE, shall be owned by County and delivered to it upon the termination of such SOW or this Agreement or when otherwise requested by County. Flight Tech may retain a copy of all Work Product for its records.
- B. Should County, under the terms of an SOW, agree to subscribe to any Service or Deliverable therein, County shall not own the Service or Deliverable but is hereby granted a non-exclusive, non-transferable, non-assignable, non-sublicensable, limited right and license to use such Service or Deliverable subject to the

applicable terms and conditions of this Agreement including the restrictions and limitations agreed to in Article 15 below. In such case, Flight Tech is the owner of (a) all right, title, and interest in such Service or Deliverable; (b) any content, data and other materials made available through use of such Service or Deliverable; and (c) all modifications and enhancements of any of the foregoing, including all copyright rights, patent rights and other intellectual property rights in each of the foregoing. Under no circumstances may County or any other person acting by or through County (i) reverse engineer, decompile, disassemble or otherwise attempt to discover the object code, source code or underlying ideas or algorithms of any such Service or Deliverable; or (ii) modify, translate, or create derivative works based on any element of such Service or Deliverable or any related Work Product or documentation. Upon any termination or expiration of the term of such SOW or this Agreement, the foregoing right and license shall terminate and County shall immediately cease use of the Service or Deliverable.

- C. All information, documents and material provided by one Party to the other Party and not within the public domain shall be marked and treated as confidential and shall not be reproduced, transmitted, used, or disclosed by the other Party except in furtherance of its obligations under this Agreement or with the written consent of the other Party or as otherwise required by law.

## ARTICLE 10. WARRANTY, DISCLAIMER, LIMITATION OF LIABILITY

Flight Tech represents and warrants for the sole benefit of County as follows: (a) that any Flight Procedure included in the Services and Deliverables, as of the date of final delivery to County following and conditioned upon FAA approval of such Flight Procedure, will have been approved by the FAA either as a Special procedure pursuant to relevant FAA criteria, including FAA Order (FAAO) Nos.: 8260.3, 8260.19, 8260.58, and 8260.60 as amended (plus any criteria waivers as required), and not processed under Title 14, Code of Federal Regulations (14 CFR), Part 97, or as a public Instrument Flight Procedure processed under Title 14, Code of Federal Regulations (14 CFR), Part 97; (b) that any Maintenance of such Flight Procedure included in the Services and Deliverables will be performed in accordance with Flight Tech's FAA authorized maintenance program; and (c) that any Consulting Services included in the Services and Deliverables will be rendered and provided in accordance with commercially reasonable standards and practices. Flight Tech's sole liability and obligation, and County's exclusive and sole remedy in the event the foregoing FAA approval of any Flight Procedure is suspended or revoked by the FAA during the term of this Agreement or an applicable SOW due to any deficiency directly caused by Flight Tech is for Flight Tech to use commercially reasonable efforts to secure prompt re-approval of the Flight Procedure by the FAA at no cost to County, it being specifically agreed that Flight Tech shall have no liability or obligation, and County

shall have no remedy, in the event the Flight Procedure is suspended or revoked for any other reason, including for acts or omissions directly or indirectly attributable to County's or any other party's misuse of or failure to properly implement use of the Flight Procedure (or any Maintenance thereof). Flight Tech's sole liability and obligation, and County's exclusive and sole remedy in the event of County's claim that the Consulting Services have not been rendered and provided in accordance with commercially reasonable standards and practices is to provide corrections to the Consulting Services at no cost to County. Flight Tech's sole liability and obligation, and County's exclusive and sole remedy in the event of County's claim that any Maintenance of an FAA approved Flight Procedure included in the Services and Deliverables has not been performed in accordance with Flight Tech's FAA authorized maintenance program is to provide corrections to the Maintenance at no cost to County.

EXCEPT AS EXPRESSLY PROVIDED IN THIS ARTICLE 10, FLIGHT TECH MAKES NO WARRANTY OF ANY KIND, WHETHER EXPRESS, IMPLIED, STATUTORY, OR OTHERWISE RELATING TO THE SERVICES OR DELIVERABLES INCLUDING, BUT NOT LIMITED TO, THEIR ACCURACY, RELIABILITY, COMPLETENESS, TIMELINESS, OR ERROR-FREE OPERATION. FURTHERMORE, FLIGHT TECH HEREBY SPECIFICALLY DISCLAIMS ALL IMPLIED WARRANTIES, INCLUDING ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, EVEN IF FLIGHT TECH HAS BEEN MADE AWARE OF SUCH PURPOSE, TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW. EXCEPT AS OTHERWISE SPECIFICALLY AGREED TO IN THIS ARTICLE 10, THE SERVICES AND DELIVERABLES ARE PROVIDED ON AN 'AS IS' BASIS AND COUNTY ASSUMES ALL RISK WITH RESPECT TO USE OF THE SERVICES AND DELIVERABLES.

THE ENTIRE LIABILITY OF FLIGHT TECH AND ITS MEMBERS, EMPLOYEES, OFFICERS, DIRECTORS, AND AFFILIATES (COLLECTIVELY, THE "REPRESENTATIVES") FOR ANY REASON SHALL BE LIMITED TO AN AMOUNT EQUAL TO THE FEES PAID BY COUNTY TO FLIGHT TECH FOR THE SPECIFIC SERVICES AND/OR DELIVERABLES GIVING RISE TO THE LIABILITY. TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, FLIGHT TECH AND ITS REPRESENTATIVES ARE NOT LIABLE FOR ANY INDIRECT, SPECIAL, INCIDENTAL, PUNITIVE OR CONSEQUENTIAL DAMAGES (INCLUDING, BUT NOT LIMITED TO DAMAGES FOR LOSS OF BUSINESS, LOSS OF PROFITS OR INVESTMENT, OR THE LIKE) ARISING UNDER THIS AGREEMENT, OR RELATED TO THE SERVICES OR DELIVERABLES, WHETHER BASED ON BREACH OF CONTRACT, BREACH OF WARRANTY, TORT (INCLUDING NEGLIGENCE), PRODUCT LIABILITY OR OTHERWISE, EVEN IF FLIGHT TECH OR ITS REPRESENTATIVES HAVE BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES, AND EVEN IF A REMEDY SET FORTH HEREIN IS FOUND TO HAVE FAILED ITS ESSENTIAL PURPOSE. THE LIMITATIONS OF LIABILITY SET FORTH ABOVE ARE FUNDAMENTAL ELEMENTS OF THE BASIS OF THE BARGAIN BETWEEN FLIGHT TECH AND COUNTY. THE PARTIES ACKNOWLEDGE THAT THE LIMITATIONS SET FORTH IN THIS ARTICLE 10 WERE ARRIVED AT IN CONSIDERATION OF THE MUTUAL AGREEMENTS OF THE PARTIES SET FORTH HEREIN AND ARE INTEGRAL TO THE FEES CHARGED HEREUNDER FOR THE SERVICES AND DELIVERABLES PROVIDED HEREUNDER AND RECOGNIZE THAT WERE FLIGHT TECH TO ASSUME ANY FURTHER LIABILITY BEYOND THAT AGREED TO HEREIN, SUCH FEES WOULD BE SUBSTANTIALLY HIGHER.

## ARTICLE 11. INSURANCE

Flight Tech will maintain the following insurance:

- A. Workers Compensation and Employer's Liability.
- B. Commercial General Liability.
- C. Automobile Liability.
- D. Professional Liability.

If under the terms of an SOW, County is required to provide an aircraft to Flight Tech for the accomplishment of any Task, County will ensure that the liability insurance coverage for such aircraft and its owner/operator includes Flight Tech as an additional named insured with a waiver of subrogation against Flight Tech. County shall provide Flight Tech with a written Declaration or Certificate of Insurance acceptable to Flight Tech evidencing same prior to use of the aircraft with respect to any Task.

## ARTICLE 12. OPERATOR RESPONSIBILITIES

Should any SOW include one or more Flight Procedures which are classified as Special procedures, County and any Approved Third-Party (as defined in Article 15 below) are solely responsible for obtaining an FAA Letter of Authorization (LOA), Operation Specification (OpSpec), Navigation Specification, (NavSpec) or other required FAA approval. A condition of such authorization may require additional crew training, aircraft equipment or performance capabilities, and/or the use of landing aids, communications, or weather services not generally available for public use. County and any Approved Third-Party (as defined in Article 15 below) are solely responsible for proper use of and assume all risks with respect to use of any Flight Procedures, whether Special or public.

Flight Data Center (FDC) Notices to Airmen (NOTAMs) may be used to promulgate safety-of-flight information relating to private special flight procedures. Pilots may access NOTAMs online or through an FAA Flight Service Station (FSS). FSS specialists will not automatically provide NOTAM information to pilots or dispatchers for Special procedures during telephone pre-flight briefings. When authorized by the FAA to use Special procedures, pilots must specifically request FDC NOTAM information for the particular Special procedure they plan to use.

Furthermore, should the Flight Procedures include one or more Special procedures, such Flight Procedures require a tailored chart and navigation database subscription from a third-party provider selected by County. As part of this Agreement, Flight Tech agrees to

provide the Flight Procedures' ARINC 424 data to County's navigation and chart database provider; however, County is solely responsible for all tailored and/or test database creation and subscription costs therefor. Unless otherwise specifically stated in the Agreement or any SOW, the following services are not provided under this Agreement: development of aircraft operator training programs (e.g., Advanced Qualification Programs), production grade approach charts, take-off and landing performance data, one engine inoperative missed approach, and one engine inoperative departure procedures.

The Flight Procedures will utilize satellite-based navigation to provide lateral and vertical course and range guidance. When flown as designed, the Flight Procedures are intended to provide obstacle clearance in instrument conditions, and for approaches, down to the Minimum Descent Altitude (MDA), Decision Altitude (DA), or Missed Approach Point (for a "Fly Visual", "Proceed Visually", "Proceed VFR", or RNAV Visual Flight Procedure (RVFP) segment) at which time: if the pilot can acquire and maintain the applicable required visual references, a landing can be initiated. Descent below the MDA/DA or beyond the MAP is not allowed if the required visual references cannot be identified and maintained until landing, in which case initiation of the missed approach is required. If the required visual references are obtained, it is the responsibility of the pilot in command (PIC) to determine if a transition to a stabilized visual approach to the runway can be made. For a "Fly Visual", "Proceed Visually", "Proceed VFR", or RVFP segment, obstacle and terrain avoidance from the MAP to the landing surface may be the responsibility of the pilot and a missed approach procedure may NOT be provided between the MAP and the landing surface.

If the PIC perceives that conditions are unsafe while in flight, or believes the assigned course is unreasonably hazardous, the PIC should reject the approach and divert to another airport or hold at the established point. Air traffic controllers and FTE do not have the capability for determining whether a given weather situation is "safe for landing;" the final decision as to whether to undertake the landing is solely with the PIC.

It is the responsibility of County or any Approved Third-Party (as defined in Article 15 below) and/or the PIC to discontinue use of the Flight Procedures if any of the following scenarios arise:

- i. Navigational facilities required for navigation are out of service, impaired, or unavailable;
- ii. Satellite reception for the Flight Procedures is lost or degraded below the capability required by the GPS/FMS or aircraft operations manual;
- iii. The airport environment and/or runway is not suitable for landing;
- iv. Runway Friction Values do not meet the minimum required to safely land the aircraft per the Aircraft Flight Manual (AFM);
- v. Weather conditions are below the approach minimums established for use;



- vi. Tailwind limitations have been exceeded for the approach procedure or the approved aircraft/company operations manual;
- vii. The aircraft, PIC, or flight crew does not meet the necessary equipment or training requirements per the FAA 8260-7B and/or the aircraft manufacturer minimum equipment list;
- viii. An active FDC NOTAM exists that states the approach is 'NA';
- ix. The local altimeter setting is not received (and an approved alternate is not available);
- x. Aircraft not properly configured for landing;
- xi. The PIC and/or flight crew does not meet the regulatory and/or company requirements to conduct the Flight Procedures;
- xii. Active NOTAMs have not been reviewed; or
- xiii. For any other reason in which the PIC cannot safely continue the Flight Procedure.

Engine-Out SIDs, Engine-out Missed Approach, and Balked Landing Extraction Procedures are considered non-standard operating scenarios based on FAA Advisory Circular 120-91 guidance. An engine-out (EO) is considered an emergency event and may require immediate evasive action by the flight crew. Services and Deliverables designed for non-standard or emergency scenarios are not based on standard TERPS obstacle clearance criteria and have reduced margins requiring strict adherence to the instructions to ensure obstacle and terrain clearance is achieved. Extraction procedures must be reviewed by an in-house or third-party aircraft performance provider (i.e., AeroData) to ensure the aircraft is capable of flying the procedure within the maximum weight limit allowable.

### ARTICLE 13. INDEMNIFICATION

County agrees to save, defend, indemnify and hold harmless Flight Tech and its subcontractors from and against all claims, demands and liabilities (including claims and demands by and liabilities to third parties), and costs and expenses (including attorneys' fees) incident thereto or incident to successfully establishing the right to indemnification (a) arising from or related to County's or any other party's use of the Services or Deliverables; (b) arising from or related to injury to or death of any person or persons, including employees of County (but not employees of Flight Tech), or arising from or related to loss of or damage to any property, whether or not arising in tort or occasioned by the negligence of Flight Tech, except to the extent due solely to the willful or reckless misconduct of Flight Tech or (c) arising from or related to County's breach of this Agreement. For purposes of this Article 13, the term 'Flight Tech' includes its parent company, its divisions, subsidiaries and affiliates, the assignees of each, and their respective directors, officers, employees, members, and agents.

## ARTICLE 14. FORCE MAJEURE

If the performance of any part of this Agreement (except for County's payment obligations under this Agreement) by either Party is prevented, restricted, interfered with or delayed by an event or circumstance of force majeure (including, fire, flood, epidemic, pandemic, embargo, power shortage or failure, acts of war, insurrection, riot, terrorism, strike, lockout or other labor disturbance or acts of God) that is not within the reasonable control, directly or indirectly, of the Party seeking to have its performance excused thereby, the Party so affected shall, upon giving written notice to the other Party, be excused from such performance to the extent of such prevention, restriction, interference or delay; provided that the affected Party shall use its reasonable efforts to avoid or remove such causes of non-performance and shall continue performance with the utmost dispatch whenever such causes are removed. The Parties agree that a Party's financial inability or other inability to obtain funds sufficient to perform its obligations hereunder shall not be grounds for obtaining relief under this Article 14.

## ARTICLE 15. EXCLUSIVE USE BY COUNTY

County agrees that, except for Flight Procedures publicly-available in accordance with (CFR) Part 97, or as may be expressly permitted in a specific SOW, the Services, Deliverables, and Work Product developed and provided hereunder are for County's exclusive use and are not intended or developed for resale or distribution to or use by any party other than County and accordingly County agrees that County will not directly or indirectly duplicate, distribute, resell, rent, license, lease, or otherwise charge for, or convey to, or allow use of the Services, Deliverables, and Work Product by any third-party (including without limitation County's affiliates or subsidiaries or lessee of County's aircraft) (each, a "Third-Party" and collectively, "Third-Parties") without Flight Tech's prior written consent which Flight Tech may withhold or grant in its sole discretion (in the event of such consent, an "Approved Third-Party"). Should a specific SOW expressly permit a then Approved Third-Party's use of any Services, Deliverables, and Work Product, such Approved Third-Party use shall be subject to and conditioned upon execution of a use and hold harmless agreement between Flight Tech and such Approved Third-Party in a form designated by Flight Tech. Approved Third-Party use of the Services, Deliverables, and Work Product is further subject to and conditioned upon Approved Third-Party's receipt of all required FAA authorizations and approvals as may be required.

## ARTICLE 16. PROFESSIONAL REGISTRATION

This Agreement does not include the production and stamp and seal of drawings, specifications, or calculations.

## ARTICLE 17. STANDARD OF CONDUCT

Flight Tech will perform or cause to be performed the Services, Deliverables, and/or Tasks in accordance and compliance with all laws, regulations, and applicable codes (federal, state and local) and within the provisions of this Agreement, using best efforts to conduct the Services in an expeditious and timely manner.

## ARTICLE 18. CHOICE OF LAW, JURISDICTION, VENUE, SERVICE OF PROCESS

This Agreement shall be governed by and construed and interpreted according to the laws of the State of Colorado. In the event of any litigation or suit arising out of or relating to this Agreement, such litigation or suit may be brought in the courts of the State of Colorado, County of Jefferson, or, if it has or can acquire jurisdiction, in the United States District Court for the District of Colorado, and each of the Parties irrevocably submits to the exclusive jurisdiction of each such court in any such proceeding, waives any objection it may now or hereafter have to venue or to convenience of forum, agrees that all claims in respect of the litigation or suit shall be heard and determined only in any such court and agrees not to bring any proceeding arising out of or relating to this Agreement in any other court.

## ARTICLE 19. NOTICE

Any notice, request or other communication to be given by either Party to the other under this Agreement shall be in writing and personally delivered or sent certified or registered mail return receipt requested, to the addresses set forth in Article 7 of this Agreement, or such other address as either Party may from time to time designate by giving the other Party written notice.

## ARTICLE 20. ASSIGNMENT & SUBCONTRACTING

This Agreement shall be binding upon, inure to the benefit of and be enforceable by and against the Parties and their respective successors and assigns in accordance with the terms hereof. Neither Party may assign or transfer this Agreement or any rights or obligations hereunder, in whole or in part, without the prior written consent of the other Party, except that Flight Tech may make such an assignment or transfer without County's consent to a successor to all or substantially all of the business of Flight Tech, whether by way of merger, consolidation, sale of stock, sale of assets or other transaction. Any assignment or attempted assignment by either Party in violation of the terms of this Article 20 shall be null, void and of no legal effect. Flight Tech may not sub-contract its obligations

hereunder without the written consent of County, which shall not be unreasonably withheld, conditioned, or delayed.

## ARTICLE 21. OTHER TERMS

**Survival.** The following provisions of this Agreement shall survive the expiration, termination, or completion of this Agreement and shall remain in effect after any such termination, expiration or completion: Articles 2, 3, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 18, 19, 20, and 21.

**Non-Solicitation.** County shall not hire or solicit the services or employment of any employees or independent contractors of Flight Tech directly involved in the performance or provision of the Services or Deliverables during the Term of the Agreement or related SOW and for one (1) year thereafter. This restriction will not prohibit County from hiring personnel as a result of general recruiting strategies that are not directed specifically towards Flight Tech's employees or independent contractors, including but not limited to the placement of general advertisements or posting of positions on the Internet.

**Taxes.** County shall be responsible for the payment of all applicable taxes and other governmental charges including but not limited to all sales, use, or excise taxes, and all customs duties, fees, or tariffs, for its purchase and receipt of the Services and Deliverables. Flight Tech may invoice County for taxes that Flight Tech is required to collect or pay in connection with providing and performing the Services and Deliverables.

**Independent Contractor.** Flight Tech shall at all times be an independent contractor under this Agreement, and nothing herein shall be deemed to cause this Agreement to create an agency, franchise, partnership, or joint venture between the Parties. Nothing in this Agreement shall be interpreted or construed as creating or establishing the relationship of employer and employee between County and Flight Tech or any employee or agent of Flight Tech. The employees furnished by Flight Tech to perform the Services and Deliverables shall be and are Flight Tech's employees exclusively and shall be paid by Flight Tech for all services in connection with this Agreement.

**Waivers.** No waiver by any Party of any default or breach of this Agreement, whether intentional or not, shall be deemed to extend to any prior or subsequent default or hereunder or affect in any way any rights arising by virtue of any prior or subsequent such occurrence.

**Severability.** Any term or provision of this Agreement that is invalid or unenforceable in any situation in any jurisdiction shall not affect the validity or enforceability of the remaining terms and provisions hereof or the validity or enforceability of the offending term or provision in any other situation or in any other jurisdiction.

**Construction.** In the event an ambiguity or question of intent or interpretation arises, this Agreement shall be construed as if drafted jointly by the Parties and no presumption or burden of proof shall arise favoring or disfavoring any Party by virtue of the authorship of any of the provisions of this Agreement. Any reference to any federal, state, local, or foreign statute or law shall be deemed also to refer to all rules and regulations promulgated thereunder, unless the context requires otherwise. The word "including" shall mean including without limitation.

**Incorporation of Exhibits, and Schedules.** Any Exhibits and Schedules identified in this Agreement are incorporated herein by reference and made a part hereof.

**Entire Agreement.** This Agreement constitutes the entire agreement between the Parties as to its subject matter, and supersedes all previous and contemporaneous agreements, proposals or representations, written or oral, concerning the subject matter of this Agreement. In the event that County issues a purchase order in connection with the Flight Procedures and/or this Agreement, this Agreement will govern and take precedence over all terms and conditions contained in or referenced in such purchase order.

**Attorneys' Fees.** In the event of litigation concerning this Agreement or any agreement or schedule provided for hereunder, the prevailing party in such litigation shall be entitled to recover its costs and reasonable attorney fees from the non-prevailing party.

**Counterparts.** This Agreement may be executed in one or more counterparts, each of which, whether an original or delivered electronically (including PDF counterparts), shall be deemed an original but all of which together will constitute one and the same instrument.

**Authority.** The individual executing this Agreement on behalf of County represents and warrants to Flight Tech that he or she is duly authorized to execute this Agreement on behalf of County and that this Agreement constitutes the valid, binding and enforceable obligation of County.

[signature page follows]

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the date set forth below.

FLIGHT TECH ENGINEERING, LLC

COUNTY OF INYO, CALIFORNIA

By: \_\_\_\_\_

By: \_\_\_\_\_

Name: Richard Scott  
(type or print)

Name: \_\_\_\_\_  
(type or print)

Title: Chief Operating Officer

Title: \_\_\_\_\_

Date: 6/13/2022

Date: \_\_\_\_\_

## EXHIBIT A – STATEMENT OF WORK



### **Instrument Flight Procedure Development** County of Inyo, California

This Statement of Work ("SOW") is agreed to between the County of Inyo, State of California ("County") and Flight Tech Engineering, LLC ("Flight Tech" or "FTE") and attached as Exhibit A to that certain Master Services Agreement ("Agreement") dated June 13, 2022 between County and FTE.

#### RECITALS

- I- Flight Tech is an FAA approved third-party Navigation Services Provider and flight operations consulting firm with expertise in assessing, designing, and implementing instrument flight procedures (each, a "Flight Procedure" and collectively, "Flight Procedures") to airports and heliports across the United States. Flight Tech also conducts ongoing maintenance of such Flight Procedures in accordance with Flight Tech's FAA approved maintenance program ("Maintenance"). Flight Tech provides airport and aircraft operators with a broad array of survey, feasibility, performance, and other consulting services for both private and public applications ("Consulting Services").
- II- County desires to engage Flight Tech to provide Services and/or Deliverables (whether Flight Procedure, Maintenance, or Consulting Services) under the terms and conditions described in the Agreement and this SOW, more specifically to design, develop, implement, and maintain the KBIH RNAV (GPS) M RWY 12 & 30 approach procedures and an RNAV departure procedure as Special procedures (the "KBIH Flight Procedures") at Bishop Airport (KBIH). The KBIH Flight Procedures shall be owned by County.
- III- As Special procedures, the KBIH Flight Procedures are developed specifically for County and are not processed under Title 14, Code of Federal Regulations (14 CFR), Part 97 and as such are not available to the public. A Special procedure may be required when the design does not meet the normal standards outlined in the U.S. Standards for Terminal Instrument Procedure Design (TERPS). This usually occurs when high terrain, obstacles, or airspace conflicts prevent developing a procedure using normal criteria,



such as the case at airports in mountainous locations like KBIH.

## AGREEMENT

NOW, THEREFORE, in consideration of the agreements made herein and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, County and Flight Tech agree to this SOW as follows:

### KBIH FLIGHT PROCEDURE OWNERSHIP

Flight Tech shall undertake the design, development, implementation, and maintenance of the KBIH Flight Procedures which shall be sponsored and owned by County and the Parties agree to the fees to be paid by County as set forth in the Fee Schedule below.

Furthermore, County agrees that, except as expressly permitted below, the KBIH Flight Procedures developed and provided for hereunder are for County's exclusive use and are not intended or developed for resale or distribution to or use by any party other than County and accordingly County agrees that County will not directly or indirectly duplicate, distribute, resell, rent, license, lease, or otherwise charge for, or convey to, or allow use of the KBIH Flight Procedures by any third-party (including without limitation County's affiliates or subsidiaries or lessee of County's aircraft) (each, a "Third-Party" and collectively, "Third-Parties") without Flight Tech's prior written consent which Flight Tech may withhold or grant in its sole discretion (in the event of such consent, an "Approved Third-Party"). Flight Tech hereby expressly permits use of the KBIH Flight Procedures to SkyWest as an Approved Third-Party under the terms of this SOW and the Agreement, subject to and conditioned upon the execution of a use and hold harmless agreement between Flight Tech and SkyWest in a form designated by Flight Tech. Use of the KBIH Flight Procedures by SkyWest is further subject to and conditioned upon SkyWest's receipt of all FAA authorizations and approvals as may be required.

### KBIH FLIGHT PROCEDURE DESIGN TARGETS

The actual weather minimums achieved will be determined after the initial assessment and FAA approval process. The following procedure target points have been established to serve as a general estimate based on preliminary terrain assessments. Due to the lack of conventional ground-based NAVAIDS for this runway, an Area Navigation (RNAV) approach utilizing Global Positioning System (GPS) technology has been selected to achieve straight-in lines of minima. Obstacles in the Vertical Guidance Surface (VGS), 20:1, or 34:1 visual surfaces may cause additional procedure constraints, including restrictions to nighttime use.

The design targets for the flight procedures are as follows:

**(1) RNAV (GPS) M RWY 12 Instrument Approach Procedure:**

- A Localizer Performance with Vertical Guidance (LPV) line of minima.
- LPV Height Above Threshold (HAT) between 200-300 ft.
- Visibility:  $\frac{3}{4}$  to 1 statute miles (SM) for LPV.
- An LNAV/VNAV line of minima.
- LNAV/VNAV Height Above Threshold (HAT) between 300-450 ft.
- Visibility: 1 to 2 statute miles (SM) for LNAV/VNAV.
- Aircraft Speed Category A-D.
- Vertical Descent Angle: 3.00 to 3.5 degrees.
- Straight-in Aligned or Offset Final Approach Course (similar to LDA for obstacle avoidance).
- Night Landing Capable (if no visual segment obstacles exist and runway lighting available).
- Non-Standard Missed approach climb gradient (CG)200-425 ft/nm.

**(2) RNAV (GPS) M RWY 30 Instrument Approach Procedure:**

- A Localizer Performance with Vertical Guidance (LPV) line of minima.
- LPV Height Above Threshold (HAT) between 200-300 ft.
- Visibility:  $\frac{3}{4}$  to 1 statute miles (SM) for LPV.
- An LNAV/VNAV line of minima.
- LNAV/VNAV Height Above Threshold (HAT) between 300-450 ft.
- Visibility: 1 to 2 statute miles (SM) for LNAV/VNAV.
- Aircraft Speed Category A-D.
- Vertical Descent Angle: 3.00 to 3.5 degrees.
- Straight-in Aligned or Offset Final Approach Course (similar to LDA for obstacle avoidance).
- Night Landing Capable (if no visual segment obstacles exist and runway lighting available).
- Non-Standard Missed approach climb gradient (CG)200-425 ft/nm.

**(3) RNAV Departure Procedure:**

- Single RNAV Obstacle Departure Procedure to support runway 12/30 ending at a common transition point. Procedure will connect to, and terminate at, the enroute airway structure (ex. NIKOL Waypoint).
- Departure climb gradient (CG)200-425 ft/nm.
- Supports basic RNAV-1 navigation.

Assessment of the KBIH Flight Procedures consists of building the new procedures in FTE's Instrument Procedure Design System that utilizes the latest airport obstacle survey, Digital Obstacle File (DOF), US digital terrain elevation, and flight navigation data. The analysis will determine the minimums required, resulting criteria deviations, and FAA waivers needed.

**Advanced RNP Requirement.** The KBIH RNAV (GPS) M RWY 12 and RNAV (GPS) M RWY 30 Special procedures utilize the Advanced RNP (A-RNP) NavSpec as defined in AC 90-105 (as revised). The aircraft and FMS must be capable of Radius to Fix (RF) legs and capable of RNP 0.30 in the initial, intermediate, and missed approach segments. It is the sole responsibility of County and any Approved Third-Party to obtain the necessary LOA or OpSpec approvals from their FSDO or CMO for both the use of the KBIH Flight Procedures and the A-RNP NavSpec. The use of A-RNP procedures may require additional training in the form of contingency procedures and/or airport environment awareness. This training is the responsibility of County and any Approved Third-Party to complete per the terms of the KBIH Flight Procedure's FAA 8260-7B approval.

## APPROVAL OVERVIEW

All flight paths, altitudes, and weather minimums developed as part of the KBIH Flight Procedure package submission to the FAA are considered subject to change. After careful review by FAA Flight Standards office and Flight Procedures and Airspace Group (FPAG), a final decision will be made by the FAA Procedure Review Board (PRB). While Flight Tech will do its best to match the initial submission, unforeseen factors may cause a difference between the initial submission and final approved packet. Flight Tech will provide updates to County should changes occur.

Furthermore, development of any procedure under the terms of this SOW may rely on specific waivers being issued from the FAA. FTE will make every effort to advance the design as submitted; however, it is at the FAA's sole discretion to grant, or deny, any waivers contained therein. As such, FTE cannot guarantee final certification by the FAA of any Flight Procedure. Should certification not occur, County understands and agrees to compensate FTE on a time and materials basis pursuant to the General Consulting Pricing detailed in the Fee Schedule below, for the work done under this SOW.

## PROCEDURE IMPLEMENTATION PROCESS

The following tasks outline the different stages of procedure assessment, development, and implementation process.

## A) Timeline

The process for a non-FAA Service Provider to develop a private Special procedure takes approximately 12-18 months. This may take longer if the FAA environmental filing and/or criteria deviations require additional review and processing. Once approved by the FAA, County and Approved Third-Parties must be authorized to add the procedure to their OpSpec or as a LOA through coordination with the Flight Standards District Office (FSDO).

## B) Initial Coordination - Task 1

Prior to designing new procedure concepts, FTE will meet with all stakeholders to determine the aircraft, avionics, training, and airspace requirements needed to facilitate the most effective flight procedure. Approach procedures can have varying levels of accuracy (WAAS, Baro VNAV, etc.) which affects the resulting minimums (ceiling/visibility). If an aircraft operator expects future improvements to their avionics, those capabilities can also be assessed and planned for. Below is a list of the proposed coordination events that will take place.

## C) Planned Outreach Meetings

- **Aircraft Operator:** FTE will hold meetings with SkyWest Airlines to determine their level of aircraft equipage and crew training. Each operator/fleet type has the potential for different levels of procedure accuracy which drive IFR minimums. This requirement gathering process will determine aircraft speed limitations, final descent limitations, climb gradients necessary for the approach or departure. Throughout the assessment, FTE will provide feedback on stakeholder preferences and design updates through e-mail and telecon updates.
- **Airport Owner:** FTE will meet with Inyo County as the Bishop Airport administrative authority to outline the design tasks and gather AGIS information. A discussion and review of recent changes to runway protection surfaces, planned development around the airfield, local weather patterns, noise abatement preferences, airfield restrictions, and categorical exclusion (CATEX) planning will occur.
- **Oakland ARTCC (ZOA):** FTE will meet with Oakland Center airspace personnel to solicit feedback on current enroute transitions, approach, and departure flows, holding areas, and airspace improvements to consider for the new procedure proposal. FAA ATC is a key partner in any new flight procedure proposals and will ultimately provide the approval to move forward with new submissions.

## D) Development & Implementation - Task 2

If consultation with the stakeholders in Task 1 determines that a straight-in

approach is feasible, County may elect to proceed forward with Task 2. The process will begin by first performing an onsite survey to determine low close-in obstacles that may affect the approach and departure. These will be used in developing the new KBIH Flight Procedures. This includes the submission of the final 8260 procedure packet and FAA coordination. At the end of this Task, the KBIH Flight Procedures will be ready for commissioning flight validation (Task 3). Upon completion of Task 3, distribution to the authorized aircraft operators triggers the activation of the maintenance provisions as described below. In the event that the KBIH Flight Procedures cannot be distributed at the completion of Task 3, then the activation of ongoing maintenance will be delayed or cancelled depending on the decision of the airport and participating aircraft operators.

**Detailed list of Task 2:**

<b>Task 2 Development &amp; Implementation</b>
Site visit to perform WAAS Runway survey and Obstacle Data Collection
Prepare Initial IAP/DP Concept Including Design Workspace
Prepare FAA RAPT Submission Paperwork & Submission to FAA AFS
Submit WAAS Channel Request
Complete Environmental Pre-screening
Prepare CATEX filing to FAA Environmental
Non-Approved Criteria Waiver consultation w/ AFS
NFDC Waypoint Request (new reservation or modification)
Final IAP Procedure Development based on ATC/AFS/PRB coordination
Complete 8260-1, 7A, 9 Forms for IAP
Complete 8260-15 Forms for Departure
Prepare TARGETS workspace for FAA validation
Complete 8260-2 Radio Fix and Holding Data Records for IAP/DP
Package Submission: Create IAP Overlay & Obstacle Maps
Package Submission: Prepare Flight Inspection Graphic (FLIP)
Package Submission: Prepare ARINC 424 package (8260-10 & ARI File)
Package Submission: Compile overview letter and IFP documents for FAA submission
FAA Procedure Review Board (Coordination & change control)

**E) Task 2 Deliverables**

FTE will prepare a FAA Form 8260 procedure package that documents the procedure minimums and coding for each phase of the flight segments (Initial, Intermediate, Final, Missed Approach, and Departure). This will be delivered to the FAA and County.

Unless specifically stated in this SOW, the costs associated with the following services are not covered as part of this SOW: development of aircraft operator training programs (e.g., Advanced Qualification Programs), production grade approach charts, take-off and landing performance data, single engine missed approach, and development of single engine departure procedures.

#### F) Commissioning Flight Validation - Task 3

Upon completion of development in Task 2, the KBIH Flight Procedures must be inspected by appropriately equipped aircraft (e.g., A-RNP certified with a tailored navigation database subscription) prior to approval by the FAA. This confirms the flyability of the procedures, avionics compatibility, and ensures any unknown obstacles are clear of the flight path. Flight Tech, SkyWest, or other such party designated by County will provide the necessary aircraft to accomplish the flight validation process in accordance with the fees set forth in Section 1.1 of the Fee Schedule below.

Utilizing this method, County shall be responsible for all costs incurred for the provision of aircraft, flight crews, fuel, and all other associated costs for the flight validation whether provided by Sky West or other such party designated by County. Flight Tech shall provide an FAA qualified observer pilot who performs the procedure validation checks and data collection necessary for the FAA submission. The flight validation is only performed once as part of the initial commissioning inspection unless there is a major amendment to the procedure. The entire portion of each KBIH Flight Procedures will be flown including the missed approach and controlling obstacles will be documented. Post processing of GPS NMEA data, controlling obstacles, and the inspection report will be performed for submission in the final procedure packet submission to the FAA.

**Note:** Should a Part 121 Air Carrier (e.g., SkyWest) provide an aircraft for flight validation, it may be the case such Air Carrier would seek exclusive use of the KBIH Flight Procedures in exchange for such aircraft and related expenses. Such exclusivity typically would only apply to Part 121 operations and would solely be at the option and election of County as Owner and Sponsor of the KBIH Flight Procedures.

## ONGOING MAINTENANCE OVERVIEW

After final FAA approval of the KBIH Flight Procedures, the FAA requires all Flight Procedures be continually monitored for changes to the airport and airspace environment to ensure the safety, quality, and currency of the procedure. The Maintenance provisions of this SOW are necessary to keep the procedure active and must remain in place upon the approval of the KBIH Flight Procedures. Continuous NOTAM and

OE/AAA monitoring, periodic procedure reviews, and reoccurring airborne obstacle assessments shall be provided by FTE utilizing its approved Maintenance program on file with the FAA. The following provides an overview of each reoccurring task of the Maintenance provisions of this SOW:

#### **A) Obstacle Evaluation (OE)/NOTAM Monitoring (Continuous)**

This is an ongoing task that occurs continuously and utilizes Airport/Airspace analysts and TERPS specialists who verify the latest obstacle submissions from the FAA OE/AAA filing website. The most common data points FTE reviews are FCC antenna tower proposals and new building construction. The goal of this process is to ensure a new construction proposal does not threaten the KBIH Flight Procedures minimums or safety of flight which is why this task is so critical. The second component is a weekly review of all applicable airspace NOTAMs from the FAA (Cranes & NAVAID impacts, etc.). This data is reviewed to determine the impact to the instrument procedure. If changes that affect the safety of the procedures are identified, an FDC Temporary NOTAM will be issued by Flight Tech to caution County and Approved Third-Parties on use of the KBIH Flight Procedures. A minor procedure amendment may also be issued if required. Due to the weekly staffing commitments this is payable annually and starts upon FAA approval of the KBIH Flight Procedures.

#### **B) Periodic Obstacle Review and Evaluation (Every 540 days)**

The FAA requires all RNAV flight procedures (both Special and public) to be validated every 540 days to ensure the final and missed approach segments of the procedure are clear of any potentially new obstacles. Identification of new obstacles are required in the final and missed approach sections of the flight procedure. Depending on the terrain and accessibility, this is performed using air or ground assessment techniques. FTE maintains FAA authorization to perform both functions. At KBIH portions of the 540-day validation could be performed from the ground but will require airport owner assistance for accessing private property (if controlling obstacles are off airport property).

#### **C) Biennial Procedure Review (Every Two Years)**

The final component once the periodic validation is complete is a biennial review of the flight procedure. This requires a full review of changes to the FAA criteria and regulations to determine if any updates to the procedure need to be applied. The review will be performed by an FTE TERPS specialist. If the results of the review indicate a need to amend the KBIH Flight Procedures, changes will be coordinated (including FDC NOTAMs) in advance with County, any Approved Third-Parties, and FAA stakeholders. Although unlikely, if a major procedure amendment is required, a new commissioning flight inspection is required at an additional expense.



## NOTICES & LIMITATIONS

### A) Guarantees

Due to reliance on automated weather reporting capabilities, government/airport owned navigational facilities, visual aids, changing airport conditions, FAA TERPS criteria updates, uncontrolled obstacle environments outside of the airport boundaries, OE/AAA submissions, weather, and other forces outside of FTE's control, FTE cannot guarantee the approach minimums or procedure routes, and capabilities will remain unchanged. As information is made available to FTE, it will make updates in accordance with its FAA approved Maintenance program. Furthermore, FTE cannot guarantee the performance or completion factor of aircraft using the approach due to pilot and equipage differences, weather factors, and safety factors outside of its control. It is up to the pilot in command to ultimately determine if the procedure can be safely flown.

### B) Expense Variances

The scope of this proposal only covers the initial development and ongoing maintenance costs described in this SOW. Additional costs, including but not limited to environmental assessments, additional site visits, travel, flight inspections due to local obstacle changes, modifications to the instrument procedure due to aircraft/operator requests, and any other expense not within the scope of this SOW are the responsibility of County. Should any of these occur, FTE will prepare a cost estimate based on the time and materials rate in the General Consulting Pricing of the Fee Schedule below and provide to County.

### C) Charting & NavData Services

Flight Tech Engineering will provide the necessary FAA forms, ARINC 424 data, and prototype procedure depictions necessary for the charting and encoding of the instrument flight procedures. FTE does not provide the final procedure chart or the database encoding for use in County's or Approved Third-Party's GPS/FMS. However, FTE will assist County and Approved Third-Parties with submitting the data to OEM (i.e., Honeywell, Collins, Thales, Garmin, etc.) and/or charting providers (i.e., Jeppesen, LIDO, etc.). Special procedures require tailored charting and NavData subscriptions and County and Approved Third-Parties are responsible for such costs.

### D) Future Airport & Runway Changes

Procedure availability is dependent on clear Vertical Guidance Surfaces (VGS) and nighttime use is dependent on clear 20:1 surfaces. Flight Tech will utilize the best available data at the time of procedure submission to achieve the lowest possible minimums. If the terrain or obstacle status changes after submission and/or FAA approval of the procedures, a contract amendment will be required. Modifying the procedure is considered a major amendment and requires a new flight validation and FAA approval process.

### E) Airport Access, Weather, and Travel Delays

The Bishop Airport is located in a rural area of California thus possibly requiring access through a specialized charter flight. Due to the lack of aircraft and runway deicing capabilities, fuel, and other infrastructure limitations, the weather conditions at the airport or enroute may cause disruptions to flights going into KBIH. This could result in FTE flight and obstacle validation crews becoming unable to arrive or depart from Bishop Airport when attempting to perform an assessment. If weather or unforeseen delays result in additional travel and labor expenses beyond what is originally budgeted, this will be billed to County at the time and materials rate for the General Consulting Pricing in the Fee Schedule below.

### F) Procedure Cancellation Process

Should one or more of the KBIH Flight Procedures be deemed necessary for cancellation, the following process will occur. Flight Tech Engineering in coordination with County and FAA AFS-400/Flight Procedures and Airspace Group (FPAG) will determine the timing of the cancellation. FTE will notify FAA AFS-400, and if they are in concurrence, will immediately issue an FDC NOTAM suspending use of the procedure. FTE or the FAA AFS-400 will also notify any Approved Third-Parties as needed that the procedure is being cancelled.

*Note: In the unlikely circumstance that a lapse of procedure maintenance occurs in excess of 60 calendar days, a complete procedure review will be conducted before reissue, or the procedure will be canceled.*

FTE will prepare an original 8260-series form per Order 8260.19, chapter 8 with the required information including cancellation reason. The form will be sent to the FAA AFS-400 for processing and distribution. Form 8260-2, Radio Fix and Holding Data Record (Fix Data) applicable to the procedure will also be included. FTE will continue to maintain the procedure until canceled by the FPAG.

FTE will coordinate with FAA AFS-400 to provide the necessary notifications for the cancellation of operator authorizations (i.e., Form 8260-7B). This will be done by memorandum to County and each Approved Third-Party, stating they are no longer authorized to use the procedure. A copy of this cancellation memorandum must be provided to the FSDO/CMO/POI, as applicable, and AFS-400.

## FEE SCHEDULE

The pricing outlined in this section includes the activities, milestones, Tasks, and Deliverables required to develop, implement, and maintain the KBIH Flight Procedures for County at Bishop Airport.

The costs to develop and maintain the KBIH Flight Procedures can be broken down into two categories: one-time (development) and recurring (Maintenance).

## Section 1 – Pricing

### Section 1.1 Development Costs

One Time Development Costs	
Description	Amount
<b>Implementation - Task 1:</b> Site Visit/Ground Obstacle Inspection & Survey, Meetings, Coordination, Travel	\$18,000.00
<b>Implementation - Task 2:</b> Approach & Departure Procedure Development, Environmental Review, ARINC 424 Encoding, FAA Submission Package & Implementation	\$60,000.00
<b>Commissioning Flight Inspection</b>	
<b>Option #1 County Provided Aircraft w/Flight Tech Evaluator - Task 3:</b> Includes travel, process & submit FAA inspection reports	\$11,000.00
<b>Option #2 Flight Tech Provided Aircraft w/Flight Tech Evaluator - Task 3:</b> Includes travel, process, & submit FAA inspection reports	\$25,000.00
<b>Grand Total</b>	<b>\$89,000.00*</b>

\* Should Flight Tech provide the aircraft for flight validation (Option #2), this amount shall be \$103,000.00.

### Section 1.2 Maintenance Fees

Reoccurring Maintenance Fees		
Description	Frequency	Amount
OE/AAA Obstacle & NOTAM Monitoring Service	Continuous (billed annually)	\$8,915/yr.
Flight Segment Obstacle Validation & FAA report submission	Every 540 Days	\$4,770.00 per procedure
IFP Periodic Review**	Every Two Years	\$3,500.00 per procedure

\*\* The pricing for the IFP periodic review is based on an evaluation that results in no changes to the flight procedure. If ATC, aircraft technology, operating

environment, or FAA criteria changes result in a major update to the procedure, the pricing will be based on time and materials rate as determined in Section 2 of this Fee Schedule.

### Section 1.3 Milestone Payments

Over the course of the project, FTE will invoice County based on the following milestone achievements.

<b>Milestone Payments</b>		
<b>Milestone Number</b>	<b>Description of completed Work:</b>	<b>Amount</b>
One	Execution of Master Services Agreement	\$29,666.66
Two	Completion of Flight Validation	\$29,666.67***
Three	FAA Approval of Approach Procedure (Signed 8260 Forms delivered to County)	\$29,666.67

\*\*\*Should Flight Tech provide the aircraft for flight validation (Option #2 from Section 1.1) this amount shall be \$43,666.67.

### Section 1.4 Payments for Maintenance and Periodic Reviews

Payments for OE/AAA maintenance services are due upon FAA approval of the KBIH Flight Procedures and will be billed on an annual basis as agreed upon by County and FTE. Payment for the 540-Day Obstacle Validation and Biennial Periodic Reviews are due after completion of each Task. The decision to continue with payments for Maintenance will be made by County either 60 days prior to the end of the annual maintenance period and/or 60 days prior to the recurring 540-day Obstacle Validation or Periodic Review. In the event that County does not wish to continue payment for the Maintenance of the KBIH Flight Procedures, 540-Day Validation, or Periodic Review, Flight Tech will continue maintaining the approach for the duration of the previous payment's term but will begin the public outreach process to deactivate the KBIH Flight Procedures as required by the FAA.

### Section 1.5 Maintenance Pricing Review

Pricing for Maintenance services such as OE/AAA filings and NOTAM monitoring is based on historical estimates of previous activity. This is dependent on the airport's location (rural vs city, etc.). Each OE/AAA filing and NOTAM that has the potential

to impact the KBIH Flight Procedures must be uploaded to the flight procedure design system and reviewed by an FTE TERPS specialist. On an annual basis, FTE will review the amount of time spent to monitor and maintain the KBIH Flight Procedures and reserves the right to modify the Maintenance pricing as necessary.

## Section 2 – General Consulting Pricing

Flight Tech will provide professional consulting services on request for any additional services outside of the agreed upon scope of this SOW at the request of County. This will be quoted as fixed price or on a time and materials basis using the rates below and authorized through the issuance of a signed task order by County.

Rate ID	Task Description	Fee	Term
GCR1	Standard Consulting Fee for Aeronautical Engineer - Level 1 (TERPS & ARINC coding, Standard procedure design, Air Carrier/operator assistance, includes access to IFP design software)	\$175/hr.	Time & Materials
GCR2	Standard Consulting Fee for Project Manager & Flight Eval Specialist	\$225/hr.	Time & Materials
GCR3	Standard Consulting Fee for Sr. Aeronautical Engineer (Criteria Development, Waiver language, Regulatory Compliance, Air Carrier/operator assistance)	\$255/hr.	Time & Materials

[signature page follows]

IN WITNESS WHEREOF, the Parties have executed this SOW as of the date set forth below.

FLIGHT TECH ENGINEERING, LLC

COUNTY OF INYO, CALIFORNIA

By: \_\_\_\_\_

By: \_\_\_\_\_

Name: Richard Scott  
(type or print)

Name: \_\_\_\_\_  
(type or print)

Title: Chief Operating Officer

Title: \_\_\_\_\_

Date: 6/13/2022

Date: \_\_\_\_\_

**MEMORANDUM OF UNDERSTANDING BETWEEN THE COUNTY OF INYO AND MAMMOTH LAKES TOURISM REGARDING COST SHARING FOR THE DEVELOPMENT OF APPROACH PROCEDURES FOR THE BISHOP AIRPORT**

WHEREAS, on \_\_\_\_\_, Inyo County (“the County”) entered into a contract with Flight Tech, Inc. to develop approach procedures for Skywest to be able to fly the Embraer175 (E-175) aircraft into the Bishop Airport;

WHEREAS, the total cost of procedure development is \$89,000, which will be paid directly by the County to Flight Tech;

WHEREAS, Mammoth Lakes Tourism (“MLT”) has agreed to reimburse the County for part of the cost of this contract with Flight Tech, as developing the approach procedures necessary to fly E-175 aircrafts into the Bishop Airport will encourage tourism to the Mammoth Lakes area;

Accordingly, the County and MLT agree that:

1. The County will directly pay Flight Tech \$89,000 to cover the entire cost of developing approach and departure procedures for an Embraer 175 into the Bishop Airport. The County will pay Flight Tech in a series of three payments, as defined in the contract between the two parties.
2. MLT will partially reimburse the County for the cost of the Flight Tech contract pursuant to the following schedule:
  - a. No more than 30 days after the County makes the first payment to Flight Tech, MLT will pay Inyo County \$29,666.66.
  - b. No more than 60 days after the County makes the second payment to Flight Tech, MLT will pay Inyo County \$7,416.67.
  - c. The third payment shall be handled as follows:
    - i. If the County makes the third payment to Flight Tech in FY 22/23, MLT will pay the County \$29,666.66 no more than 60 days after the County makes the third payment. The County will subsequently pay MLT \$22,250 in FY 23/24.
    - ii. If the County makes the third payment to Flight Tech in FY 23/24, MLT will pay the County \$7,416.67.
3. The County will provide MLT with a reimbursement invoice and a receipt of payment following any payment the County makes to Flight Tech.

AGREED AND ADOPTED THIS \_\_\_\_ DAY OF \_\_\_\_\_, 2022

**INYO COUNTY**

**MAMMOTH LAKES TOURISM**

\_\_\_\_\_  
Dan Totheroh, Board Chair

\_\_\_\_\_  
John Urdi, Director

\_\_\_\_\_  
MLT Board Member





# County of Inyo



## Veterans Service Office

### CONSENT - ACTION REQUIRED

**MEETING:** June 28, 2022

**FROM:** Denelle Carrington

**SUBJECT:** Inyo-Mono County Veterans Services Office - Annual Compliance Forms

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**RECOMMENDED ACTION:**

Request Board authorize the Chairperson to sign the California Department of Veterans Affairs Annual Medi-Cal Cost Avoidance Program Certificate of Compliance for Fiscal Year 2022-2023 and the California Department of Veterans Affairs Annual Subvention Certificate of Compliance for Fiscal Year 2022-2023.

**SUMMARY/JUSTIFICATION:**

These forms are required to be reviewed and signed each fiscal year in order to be eligible for Subvention funding and Medi-Cal Cost Avoidance funding from the California Department of Veterans Affairs.

**BACKGROUND/HISTORY OF BOARD ACTIONS:**

**ALTERNATIVES AND CONSEQUENCES OF NEGATIVE ACTION:**

Your Board could choose to not approve signatures, however, this is not recommended as the Veterans Service Officer Budget would not receive any state funding.

**OTHER AGENCY INVOLVEMENT:**

N/A

**FINANCING:**

The Subvention funds and Medi-Cal Cost Avoidance Funds will be received in the Veterans Services Budget (056600) in the State Aid For Veterans object code (4473).

**ATTACHMENTS:**

1. Inyo Medi-Cal Certificate of Compliance
2. Inyo Subvention Certificate of Compliance

**APPROVALS:**

Denelle Carrington  
Darcy Ellis

Created/Initiated - 6/13/2022  
Approved - 6/13/2022

Denelle Carrington  
John Vallejo  
Amy Shepherd

Approved - 6/13/2022  
Approved - 6/13/2022  
Final Approval - 6/14/2022

**DEPARTMENT OF VETERANS AFFAIRS**

1227 O Street  
SACRAMENTO, CALIFORNIA 95814  
Telephone: (800) 952-5626



## Annual Medi-Cal Cost Avoidance Certificate of Compliance Fiscal Year 2022/2023

I certify that \_\_\_\_\_ County has appointed a County Veterans Service Officer (CVSO) in compliance with California Code of Regulations, Title 12, Subchapter 4. Please consider this as our application to participate in the Medi-cal Cost Avoidance Program authorized by Military and Veterans Code Section 972.5

I understand and will comply with the following:

1. All activities of the CVSO for which payment is made by the CalVet under this agreement will reasonably benefit the Department of Health Care Services (DHCS) or realize cost avoidance to the Medi-Cal program. All State and County Medi-Cal Eligibility Workers who generate a Form MC 05 (Military Verification and Referral form) will be instructed to indicate the applicant's Aid Code on the face of the form.
2. All monies received under this agreement shall be allocated to and spent on the salaries and expenses of the CVSO.
3. This agreement is binding only if federal funds are available to CalVet from the DHCS.
4. The CVSO is responsible for administering this program in accordance with California Code of Regulations, Title 12, Subchapter 4 and *the CalVet Procedure Manual for Subvention and Medi-Cal Cost Avoidance* for the current state fiscal year.

\_\_\_\_\_  
Chair, County Board of Supervisors  
(or other County Official authorized  
by the Board to act on their behalf)

\_\_\_\_\_  
Date

**SCAN AND UPLOAD THIS COMPLETED FORM VIA THE AGENCY ATTACHMENTS IN VETPRO**

**DEPARTMENT OF VETERANS AFFAIRS**

1227 O Street  
 SACRAMENTO, CALIFORNIA 95814  
 Telephone: (800) 952-5626



## Annual Subvention Certificate of Compliance Fiscal Year 2022/2023

Charge:

Funds are distributed under this program to counties as partial reimbursement for expenses incurred in the operation of the County Veterans Service Office. Funds are distributed according to Military and Veterans Code Sections 972, and 972.1, a State General Fund Expenditure, and 972.2 a Special Fund Expenditure.

County Certification:

I certify that \_\_\_\_\_ County has appointed a veteran to serve as the County Veterans Service Officer according to California Code of Regulations Title 12, Subchapter 4. This County Veterans Service Officer will administer the aid provided for in Military and Veterans Code Division 4, Chapter 5. This County Veterans Service Officer must achieve and maintain accreditation from the California Department of Veterans Affairs within 18 months of employment or within 18 months of the County Veterans Service Officer position becoming vacant, whichever occurs first. Veterans Service Representative staff filing claims must also achieve and maintain accreditation from the California Department of Veterans Affairs within 18 months of employment.

I certify that the County Veteran Service Officer will assist every veteran of the United States, as well as their dependents and survivors, in presenting and pursuing such claim as they may have against the United States. The County Veterans Service Officer and all accredited staff will also assist in establishing veterans, dependents and survivors' rights to any privilege, preference, care or compensation provided for by the laws and regulations of the United States, the State of California, or any local jurisdiction.

I certify that information contained within the VetPro database will not be distributed to any entity outside of the County Veteran Service Office, including other County Departments. Additionally, I certify that all College Fee Waiver Approval and Denial letters will be generated within the VetPro database. I also authorize the County Veterans Service Officer to actively participate in the promotion of the California Veterans License Plate program.

I certify that this county, through the County Veterans Service Office, will maintain records for audit. These records will be maintained for a minimum of two years. The county agrees to submit reports in accordance with the procedures and timelines established by CalVet and in accordance with the *CalVet Procedure Manual for Subvention and Medi-Cal Cost Avoidance* for the current state fiscal year. The County Veterans Service Officer will permit CalVet representatives to inspect all records upon request.

\_\_\_\_\_  
 Chair, County Board of Supervisors  
 (or other County Official authorized  
 by the Board to act on their behalf)

\_\_\_\_\_  
 Date

**SCAN AND UPLOAD THIS COMPLETED FORM VIA THE AGENCY ATTACHMENTS IN VETPRO**



# County of Inyo



## County Administrator - Advertising County Resources

### DEPARTMENTAL - NO ACTION REQUIRED

**MEETING:** June 28, 2022

**FROM:** County Administrator

**SUBJECT:** Annual Written Report from Inyo County Film Commissioner

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**RECOMMENDED ACTION:**

Request Board receive Inyo County Film Commissioner Chris Langley's annual written report on local filming activity.

**SUMMARY/JUSTIFICATION:**

Per the terms of his contract, Mr. Langley presents today his annual written report on filming activity in Inyo County. This fiscal year he previously presented your Board a mid-year written report in January 2022 and two oral reports in October 2021 and April 2022.

Mr. Langley has served as Inyo County's Film Commissioner since 2007, most often as a sole-source provider and also as the successful respondent to a Request for Proposals (RFPs) issued in 2013. It has become practice to revisit every 4-6 years whether to issue RFPs or continue sole-source contracting. The Board declined to have staff prepare and issue an RFP for Film Commissioner services in 2018, and instead approved a three-year sole-source contract with Mr. Langley.

Mr. Langley's current contract expires June 30. It was approved for Fiscal Year 2021-2022 after discussion among the Board about reexamining the Film Commissioner position - prompted by members of the Board expressing interest in a one-year contract for FY 21-22 instead of the new three-year contract that was proposed for approval.

As such, your staff has prepared a new RFP for Film Commissioner services, which it hopes to issue on June 30. Staff also prepared a contract amendment for Mr. Langley to continue providing Film Commissioner services throughout the RFP process. This amendment will come before your Board for approval at the July 5 meeting.

**BACKGROUND/HISTORY OF BOARD ACTIONS:**

**ALTERNATIVES AND CONSEQUENCES OF NEGATIVE ACTION:**

Your Board may decline to accept the report.

**OTHER AGENCY INVOLVEMENT:**

Inyo Film Commission

**FINANCING:**

N/A

**ATTACHMENTS:**

1. Film Commissioner Annual Written Report

**APPROVALS:**

Darcy Ellis  
Leslie Chapman

Created/Initiated - 6/22/2022  
Final Approval - 6/22/2022

# INYO COUNTY FILM COMMISSION ANNUAL REPORT 2021-2022



SCOUTING BUTTERMILKS FOR ABC FOREST RANGERS PILOT

Christopher Langley  
Inyo County Film Commissioner  
Box 99  
Lone Pine, California 93545  
(760) 937 1189  
Lonepinemovies@aol.com



# Annual Written / Oral Report 2021-2022

## Presented to Inyo County Supervisors, June 7, 2022

### **1. Overview of year**

2021-2022 has been another lackluster year in film projects. However, it has been better than the last two annual accountings because the impact of covid, wildfire smoke, and the economy in general have been less of a trial than we have experienced recently. In the last 12 months we have had several commercials, small projects, and a few different formats and content variations. Still, in all, it has not been unusual to work for several weeks scouting, meeting with scouts, producers and crew only to have the project evaporate near the end of the process but before cameras roll. The biggest new word is “drought.” More about that later.

As always timing is everything. We want pinetree forests, but no snow. But it's February! We need snow on the runway, but it's the middle of July and it will be over 100 degrees by the afternoon. A producer wanted spring flowers in late May. We have fields of “flags” (Wild iris) near Barlow but “they will be gone most likely by when you need them.” I sent them to



Bridgeport and along highway 395, and hoped the crew weren't delayed. The lack of rain either eliminated other fields of wildflowers or dwarfed them so that the stems were half the size of what they usually would have been.

Covid protocols are still in place with testing every morning and surveys of any possible exposures. The crew is required to travel alone so another challenge is to find parking for more than sixty cars between rocks, or along side unpaved, dusty, and



twisting desert roads. Yet attitudes are pretty positive in the crews even though conditions are not the best. Working beats not working. Fall was impacted by wildfire smoke again. Another “pilot” for ABC on forest rangers’ lives was driven out of Yosemite and then New Mexico because of

environmental issues. Can Inyo play Yosemite? Yes, probably with some “cheating.” That’s movie talk for using special effects, different lenses, angles, and filters to make something look like something else which it isn’t.



There is always when all else has been considered there remains the *magic* of moviemaking to help. Inyo still has the great locations made familiar and famous by a century of popular movies that still bring in the crowds even when they are not great works of art. We are blessed by our varied landscapes that stop directors and art designers in their tracks when they see the snow topped mountains, the rolling ochre hills and green pastures for the first time.

## **2. Estimated revenue, permits**

I estimate that we averaged six or seven permits each of the four quarters of this last fiscal year. Since we did not have any big Marvel monsters filming locally which would be large budgeted worldwide money makers, we have to assume that the twenty-eight small productions ranged from \$20,000 to perhaps commercials accounting for \$120,000 to \$150,000 left behind. That accounts for no more than \$5 million, a long way from the lucrative days of yesteryear. But then using the California Film Commission estimates seemed to give us inflated bottom lines.

One of the changes came from the BLM allowing cast and crews less than 15 members, if they were estimated to offer no danger of damage to the “resource” (BLM speak) for the land. Decision came from BLM lawyers interpretation of the Virginia Supreme court decision about charging for public lands a violation of the public’s right to free speech. To my knowledge allowing smaller projects to film without a fee did not result in any unusual Injury to our land. It did however undermine the totals of monies left behind by filming. Another issue was extending the time required to get permit from the forest service from two weeks to three weeks with the threat discussed of 30 to 45 days. (See below.)

## **3. Some specific projects realized**

Nissan had a large three day shoot here with seven different Nissan models, drones, and more than a crew of eighty. We also had three

different parts or whole commercial associated with the Super Bowl. With some big stars as talent like Matthew McConaughey Tommy Lee Jones, and a Jonas brother. People kept their eyes out for familiar faces, but we learned they were added down in the studio in post-production. With the increase in professional talents for special effects this might become more and more common, cutting into the living lists of guests for future film festivals. Also not having guests here is not new (Desi and Lucy were not actually here for *The Long Long Trailer*).

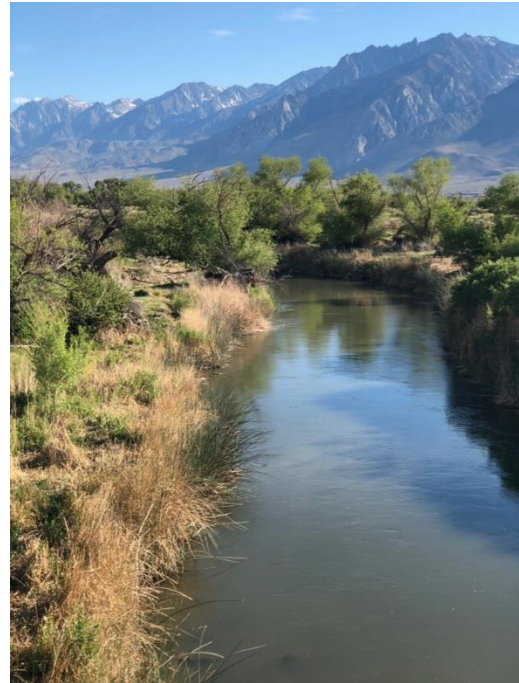
#### **4. Examples of projects aborted**

Most recently we had an ABC “pilot” (a television series being tried out) They wanted to shoot in Yosemite but the park did not want to permit a crew of about 80, a not uncommonly large number. The producers looked at New Mexico, but they were driven out by the smoke from their wildfires. So scout Deven Cjierighini who I have worked with before came to me with



a list of things they





wanted for the shoot. We spent a day or more looking and generally finding cliffs, forests, a river and so on from a list he presented me. These included the Buttermilks, Bishop Creek, Owens River but not North, South, and Sabrina. Even though I expected the lakes to be low, I was shocked by their condition from the drought. (I carefully looked for skeletons of missing husbands in the dry mud for a possible thriller film, but no such luck.

With some cheating, we probably could do a pretty believable look of Yosemite. Then we waited on the producers to make the call.

Turned out that Yosemite agreed to a crew of 25 or 30 allowed. The producers thought they could make do with a smaller crew and Yosemite agreed. But maybe the work I did with Deven might still pay off, as he told me: "After all a television series might have 13 episodes, and only the pilot will take place in Yosemite." It really helps to know these people, build relationships with those who know what we offer and the business in general. After more than a decade working with some of them, they then are on your side.

## **5. BLM Permitting challenges/ changes**

I have already mentioned how Larry Premosc, long time BLM employee has been adapting the court decision to make his work as an interim permit writer work. The big news is the changes that are happening in in the Alabama Hills National Scenic Area as the new management plan is slowly being implemented. No overnight camping is being permitted west of Movie Road, camp sites are being reduced from 123 plus to 50 or less. I thought that would be controversial, but more people express their approval of how this will positively affect the resource than complain about their rights to public land being abrogated. Temporary port-a-potties may be intrusive but that has reduced used toilet paper and trash in the hills. When all is said and done none of these things are really interfering with this very popular historic film locations being used.

The Alabama Hills Stewardship Group continues to monitor and educate, supporting the work of the BLM, which is now hiring young and dedicated new employees determined to stopping or restoring damage done by careless visitors. Drones are permitted if you have a permit to use one. Fire rings are steadily being disassembled, and again the AHSG volunteers are out there helping to clean and check that people are using the rocks correctly.

## **6. Forest Service Permitting changes/ possible solutions**

The Management team of the Inyo National Forest has suggested permitting times be extended to 30 or 45 days. Alicia Vennos our Mono County Film Commission and I realize this would penalize commercial groups whose turnaround times have to be two weeks, but right now three weeks seems acceptable. Alicia says 80 percent of her business are commercials, and together we spoke with a representative group from the forest including Sheila Irons. We suggested ways we could reduce the workload as part of our jobs as film commissioners. They seemed grateful for our concern with their overload. It turns out four jobs associated with permitting had not been filled. They panicked at their lack of personnel, but in the months after our telephone conference call, they were able to fill three of the four jobs and things remain at three weeks turn around on permits.

## 7. Select Locations

- a. Alabama Hills: Implementation of new management plan thanks to Sheri Licius, control of camping and sectional day use only. Filming remains carefully monitored but unimpeded.
- b. Death Valley: four week permitting timeline, some areas deemed too delicate for filming, but rangers guide scouts to areas appropriate for filming. Superintendent Mike Reynolds remains “film friendly.”
- c. North Inyo County: climbing and filming still available in Buttermilks although due to drought the access road is more rutted than ever.





Group monitors and educates climbers and film makers, and trails clearly safe and marked to guarantee appropriate and safe access. Area permits in either National Forrest or DWP jurisdiction. Jeff Gabriel has interviewed volunteers and paid climbers on Skippable News produced by Laughing Parrot Productions on Sierra Wave. These descriptions of their care and education programs can be easily viewed by searching YouTube. They benefit both recreation climbers and film production.

### **8. Film Commission website Update**

In the coming year I am exploring applications and technical challenges with Bishop's Laughing Parrot Productions to redo and update the film commission website. I am stressing searchable locations lists with new categories and accompanying pictures I have begun photographing new sites and redoing ones that are already in use. Things change, conditions as well as usage, and it is finally time to update. Searchable maps to locate where locations are located featuring different attributes but feasible close enough to be accessed in one shoot day. For instance, waterfalls and dunes within vicinity of each other.

### **9. Miscellaneous**

- a. I recorded an interview on Sierra Wave about filming, security, protecting the resource, and progress towards improving conditions.
- b. I was invited by teacher Patricia Streenland to do a two-hour class with her Berkeley Writing Project about filming and protecting the resource. I did the class in person and used an

essay about desert clouds that ran on television station KCET Artbound's website. They came up with some marvelous and thoughtful questions and the two hours flew by. My expenses were covered by the Writing Project and included an honorarium.

- c. A documentary was made about the Cavalry that appeared last year and this year at Mule Days. I got a credit! Rare for a film



commissioner.

- d. A film is in production that will hopefully film in October at Cerro Gordo, Keeler, the Alabama Hills and maybe Darwin. Co-written by producer/ writer Gerard Di Nardi and Cerro Gordo owner Brent Underwood they have obtained significant support

from the California Film Incentive Program. It sounds exciting as it is a ghost story. I have worried about Alphonse who hung his hat at the American Hotel before it burned. I wonder if ghosts can be houseless?



I hope you will allow me another year as film commissioner to continue to build on my growing knowledge, widespread professional connections and continuing enthusiasm.

Bulletin Note: As of this writing Doug Lueck of Ridgecrest informed me he is retiring and the new commissioner is being recruited from his staff. Manuel Ruiz stated that Doug has invited him to get to know the next film person.

Due the death of her husband around Christmas, Alicia Vennos has announced her retirement as she finds herself at a “new crossroads” in her life. Both people were wonderful, supportive partners in these endeavor for me. I will miss them.

Submitted as part of county contract requirements.

Christopher Langley





# County of Inyo

## Board of Supervisors

### DEPARTMENTAL - ACTION REQUIRED

**MEETING:** June 28, 2022

**FROM:** Supervisor Jeff Griffiths

**SUBJECT:** Letter Supporting MLTPA's Grant Application for Funds to Support ESSRP

---

**RECOMMENDED ACTION:**

Request Board approve and authorize the Chairperson to sign a letter supporting Mammoth Lakes Trails and Public Access Foundation's grant application for funding to support the Eastern Sierra Sustainable Recreation Partnership.

**SUMMARY/JUSTIFICATION:**

Mammoth Lakes Trails and Public Access Foundation (MLTPA) has been providing technical capacity and support for the Eastern Sierra Sustainable Recreation Partnership (ESSRP) since its inception in 2018. Over the last four years, the MLTPA Foundation Board has authorized use of MLTPA funds and volunteer capacity to support this effort.

Recently, MLTPA submitted a Concept Proposal to the Sierra Nevada Conservancy for a Vibrant Recreation and Tourism Grant to fund its continued support of the ESSRP for the next three years, and the Conservancy is now requesting a full proposal. MLTPA is seeking the support of partner agencies and organization to strengthen its application.

A successful application would allow MLTPA to continue to support the ESSRP, including:

- Agendas, convening, facilitation, presentations, list management, research, and coordination of special guests for monthly ESSRP meetings;
- Regular updating of the ESSRP webpage, [essrp.org](http://essrp.org), including coordination for the inclusion of content of regional interest such as COVID-19, the "CAMP Like A Pro" program, and Recreate Responsibly messaging;
- The curation of the ESSRP page on the MLTPA website which hosts all of the foundational documents associated with the ESSRP;
- The drafting, circulation, final edits, and final signatures to a new binding document, the "ESSRP MOU;" and
- Continuing tribal engagement.

Attached is a letter of support for the Board's consideration.

**BACKGROUND/HISTORY OF BOARD ACTIONS:**

**ALTERNATIVES AND CONSEQUENCES OF NEGATIVE ACTION:**

The Board may decline to approve the letter of support but this is not recommended.

**OTHER AGENCY INVOLVEMENT:**

MLTPA, ESSRP, Sierra Business Council

**FINANCING:**

N/A

**ATTACHMENTS:**

1. Inyo County ESSRP Application Support

**APPROVALS:**

Darcy Ellis  
Leslie Chapman  
Jeff Griffiths

Created/Initiated - 6/22/2022  
Approved - 6/22/2022  
Final Approval - 6/23/2022



EL CAMINO SIERRA

## BOARD OF SUPERVISORS COUNTY OF INYO

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SNC Grants Team  
c/o Matt Driscoll  
Sierra Nevada Conservancy  
11521 Blocker Dr., Ste. 205  
Auburn, CA 95603

Attn: Matt Driscoll, Eastern Sierra Area Representative, Sierra Nevada Conservancy

RE: Letter of support for Application #1424 "Eastern Sierra Sustainable Recreation Partnership (ESSRP) Support"

Dear Mr. Driscoll:

On behalf of Inyo County, we are writing today to express support for the Mammoth Lakes Trails and Public Access Foundation (MLTPA) and its funding proposal to the Sierra Nevada Conservancy's Vibrant Recreation and Tourism Grant Program for support of the Eastern Sierra Sustainable Recreation Partnership (ESSRP).

The ESSRP is an established collaborative of public agencies in the Eastern Sierra that is currently supported through the voluntary efforts and contributions of MLTPA, a regional non-profit foundation. The ESSRP was established in 2018 and is in the process of formalizing its relationship with a regional joint powers authority, the Eastern Sierra Council of Governments (ESCOG). Partners in the ESSRP represent over 17,000 square miles of California's public landscape, including: three California counties; Caltrans District 9; an incorporated city and an incorporated town; two regions and two units of the U.S. Forest Service; the regional field office of the Bureau of Land Management; six units of the National Park Service; and ongoing outreach and communications with regional tribes. Formalized in 2018 through a U.S Forest Service non-funded challenge cost share agreement, the ESSRP is a direct outcome of the management planning process for the Inyo National Forest, completed in 2019, and the Eastern Sierra Recreation Collaborative (ESRC), an effort funded by MLTPA and the National Forest Foundation and managed by MLTPA to provide community members and recreation stakeholders meaningful opportunities to engage with the Inyo National Forest's management planning process.

Over the last four years, based on its experience convening, facilitating, project managing, and funding the ESRC from 2014- 2016, MLTPA has voluntarily provided necessary capacity and technical support for the ESSRP. These services have included the ongoing coordination and outreach to ESSRP partner representatives; agendas, convening, facilitation, presentations, list management, research, and coordination of special guests for monthly ESSRP meetings; regular updating of the ESSRP webpage ([www.essrp.org](http://www.essrp.org)), including coordination for the inclusion of content of regional interest such as COVID-19, the "CAMP Like A Pro" program, and Recreate Responsibly messaging; and the curation of the ESSRP page on the MLTPA website which hosts all of the foundational documents associated with the ESSRP.



The COVID-19 pandemic, and the overwhelming surge in outdoor recreation visitation to the Eastern Sierra compelled by the virus, has provoked change. Since 2018, membership in the ESSRP has grown from four public agencies to potentially fifteen agencies and a number of tribes. Partner agencies have indicated a desire to change their organizing document from the U.S. Forest Service non-funded challenge cost share agreement to a simpler Memorandum of Understanding, the "ESSRP MOU," which will make it easier to diversify ESSRP membership. MLTPA has been working on the drafting, circulation, final edits, and final signatures to the new document.

The ESSRP is now playing a more significant role in the region than was perhaps originally anticipated, and with these circumstances in mind, we strongly support MLTPA's funding for support of the Eastern Sierra Sustainable Recreation Partnership (ESSRP).

Sincerely,

Chairperson Dan Totheroh,  
Inyo County Board of Supervisors



# County of Inyo



## Water Department

### DEPARTMENTAL - ACTION REQUIRED

**MEETING:** June 28, 2022

**FROM:** Aaron Steinwand

**SUBJECT:** 2022-2023 Fiscal Year Lower Owens River (LORP) Annual Work Plan, Budget, and Schedule

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**RECOMMENDED ACTION:**

Request Board adopt the 2022-2023 Fiscal Year Lower Owens River Project Annual Work Plan, implementation of which is contingent on approval by the Los Angeles Board of Water and Power Commissioners.

**SUMMARY/JUSTIFICATION:**

The County and LADWP are jointly responsible for funding the LORP. For the past 14 years, funds set aside as a credit from LADWP and in the LORP Trust Account have been drawn upon to pay the County's share of its LORP costs. The responsibilities and obligations of each party are described in the May 18, 2010 "Agreement Between the County of Inyo and City of Los Angeles Department of Water and Power Concerning the Operations and Funding of the Lower Owens River Project"; commonly referred to as the Post-Imp Agreement. This funding agreement commits each of the parties to fund the LORP for 15 years and expires on July 11, 2022 (based on recent staff discussions, we expect that Inyo and Los Angeles will agree next month to extend the term of the Post-Imp Agreement). According to the Post-Imp Agreement (Sec. II.A), after July 11, 2022, the required LORP flows will continue to be maintained and the flow compliance monitoring required by the Stipulation and Order will continue to be conducted; however, the Parties will decide what level of operations, maintenance, habitat monitoring, and adaptive management will be conducted.

The initial Post-Imp Agreement Credit Account balance was \$2,253,033, and the initial Trust Account balance was \$3,368,017 for a total balance of \$5,621,050. As of April 1, 2022, the LORP Credit Account had a balance of \$718,111 and the LORP Trust balance as of June 3, 2022 was \$2,184,481. The sum is \$2,902,592.

The 2004 Final Environmental Impact Report for the Lower Owens River Project ("FEIR") Section 2.2.1 provides that in December of each year, the Technical Group will develop an annual work program for the Lower Owens River Project (LORP) describing work regarding the LORP to be performed in the following fiscal year, including implementation of adaptive management measures. Following adoption by the Technical Group, the work programs will be submitted to the County and LADWP governing boards for approval. Each governing board must approve the plan before this work plan and budget can be implemented.

The 2022-2023 Work Plan, Budget, and Schedule were prepared in accordance with Sections D, E, and F of the Post-Imp Agreement and approved by the Technical Group on June 23, 2022.

In FY 2022-2023 the total cost to fund the LORP is \$597,161.35, which is \$55,335.38 more than was budgeted in

2021-2022. The County will pay \$175,435.80 from the LORP Trust Account to fund our portion of LORP related work. This amount is less than LADWP's contribution of \$474,016.47 so under the Post-Imp Agreement, LADWP will increase or decrease the County's LORP Credit by the difference in the two contributions divided by two. This year the County's Credit will be reduced by \$175,435.80 (Table 1).

The 2022-2023 LORP Work Plan includes provisions for:

1. Work and activities necessary to maintain required flows in the river and required water supplies to other LORP components.
2. Hydrologic monitoring and reporting of Lower Owens River flows.
3. Maintenance associated with flow compliance monitoring and reporting.
4. Biological and water quality monitoring described in the LORP Monitoring and Adaptive Management Plan. Vegetation mapping will be conducted under an outside contract.
5. Preparation of the LORP Annual Report.
6. Other work or activities including mosquito abatement, beaver control, and noxious weed treatment.
7. Adaptive management related to implementation of the five-year Interim Management Plan for the Blackrock Waterfowl Management Area (BWMA); a tree recruitment study; migratory bird survey on the Owens River; Delta Habitat Area flow survey; and noxious species survey.

Descriptions of these tasks and cost breakdowns can be found in the Work Plan and Budget. Table 1 summarizes the expenses anticipated by each party. Biologic and water quality monitoring is conducted by staff from both LADWP and the Water Department. For budgeting purposes a day-for-day offset is used, rather than dollar-for-dollar. In 2022-2023, a combined effort on the Biological and Water Quality work is estimated to require a combined 16 people-days, split evenly between the County and LADWP.

LORP Operations and Maintenance in 2022-2023 is estimated to cost \$216,759.40 for the river, and \$264,257.49 for BWMA, for a total of \$481,016.89. From this amount pre-LORP baseline costs are subtracted before shared costs are calculated. The baseline cost deduction is adjusted annually based on the November Los Angeles-Riverside CPI. The CPI adjusted total for Operations and Maintenance in 2022-2023 is \$311,411.59.

## **BACKGROUND/HISTORY OF BOARD ACTIONS:**

Funding for the LORP is prescribed by a lengthy series of agreements and Court orders.

Section XII of the Water Agreement provides that: (1) the County will fund one-half of the LORP initial construction costs (up to a maximum of \$3.75 million—less any funds contributed to cover the initial construction costs by the State of California or other non-LADWP sources), (2) LADWP will fund the remaining initial construction costs of the LORP, and (3) LADWP and the County will jointly fund and operate the LORP after it has been implemented (except for the costs of operating and maintaining the pump station which will be funded by LADWP).

On August 8, 2005, the Court sanctioned LADWP to the effect that, starting September 5, 2005, and until Los Angeles established permanent baseflows of approximately 40 cfs throughout the Lower Owens River, Los Angeles paid \$5,000 per day into an escrow account established by Los Angeles and Inyo County. The proceeds of the account, including accrued interest may only be used for: (1) to pay for Special Master services associated with establishment of flow in the LORP, (2) to pay the County's share of post-implementation costs for the LORP, and (3) to pay the cost of monitoring habitat indicator species at the direction of the California Department of Fish and Game for a five year period in an amount not to exceed a cumulative total of \$100,000, and (4) to pay the cost of the escrow account. The Special Master's role in the establishment of LORP baseflows has terminated. The escrow account is held by the County Treasury as Trust Account (504103), Sierra Club vs. LA Court Trust ("Trust Account").

On September 16, 2005, the County and the LADWP entered into a settlement agreement ("LORP Funding Agreement") whereby LADWP agreed to provide \$5,242,965 to the County. With regard to the County's obligation to fund \$3.75 million of the LORP implementation costs, the LORP Funding Agreement provides that

LADWP will provide a credit to the County in the amount of \$2,989,932. The LORP Funding Agreement also acknowledges that the provision of this credit, in combination with the County's previous application of \$360,000 obtained from the U.S. Bureau of Reclamation, \$250,000 obtained from the U.S. Department of Housing and Urban Development, and \$150,068 obtained from the EPA to LORP initial construction costs, fully discharged the County's obligation for the payment of \$3.75 million for the LORP initial construction costs.

With regard to the County's obligation to fund a portion of the LORP post-implementation costs, the LORP Funding Agreement provides as follows: (1) the difference between \$5,242,965 and the \$2,989,932 that will be applied to the LORP initial construction costs (a difference of \$2,253,033), will be a credit held in trust by LADWP. This "Post Implementation Credit" will be used to partially fund the County's obligation to pay one half of the LORP post-implementation costs; (2) each year, the then remaining amount of this Post Implementation Credit will be reduced by the County's share of the LORP post-implementation costs until the \$2,253,033 credit has been reduced to zero; (3) each year, the then remaining unexpended portion of the \$2,253,033 will be annually adjusted upward or downward in accordance with the previous April Los Angeles--Anaheim--Riverside All Urban Consumers Price Index ("CPI") or its successor; (4) the annual CPI adjustment will take place prior to deduction of a credit for County's annual share of the LORP post-implementation costs; and (5) the CPI adjustment will commence when LADWP has established a permanent baseflow of approximately 40 cfs in the LORP.

The LORP Funding Agreement also provides that Trust Account will be established in the Inyo County Treasury as a trust account and that the interest earned on the fund balance will remain in the account. The LORP Funding Agreement also provides that only after the \$2,253,033 Post Implementation Credit (adjusted as described above) has been reduced to zero, will the County begin to pay its share of the LORP post-implementation costs from the Trust Account; however, the County may elect to reimburse itself from the Trust Account for LORP related costs incurred by the County.

On July 11, 2007, the parties to the MOU entered into a Stipulation and Order resolving issues of compliance with the MOU. In the Stipulation and Order, the parties agree that as of July 11, 2007, LADWP had established a permanent baseflow of approximately 40 cfs in the LORP. The Stipulation and Order also provides for monitoring and reporting of the baseflow flows throughout the LORP. With the entry of the Stipulation and Order on July 11, 2007, LADWP ceased making payments of \$5,000 per day into the Trust Account established pursuant to the Court Order because, as of that date, LADWP had established a permanent baseflow of approximately 40 cfs in the LORP.

#### **ALTERNATIVES AND CONSEQUENCES OF NEGATIVE ACTION:**

Direct staff to work with LADWP to modify the 2022-2023 Fiscal Year Lower Owens River Project Work Plan, Budget, and Schedule.

#### **OTHER AGENCY INVOLVEMENT:**

LADWP, Inyo/Mono Agricultural Commissioner

#### **FINANCING:**

Adoption of the 2022-2023 Work Plan would require expending \$123,144.88 from the LORP Trust Account, which has been budgeted in the Water Department's Budget (024102), and a debit from the LORP Credit of \$175,435.80. Sufficient funds are available in the Trust Account (504103) and LADWP held Post-Implementation Credit to fund this work. The combined Trust account expenditures and Credit account reduction effectively reduce the funds available to the County to fund the LORP by \$298,580.68.

The County's LORP Trust account balance (504103) as of June 13, 2022 is \$2,184,481.16. The Post-Implementation Credit balance is \$718,111.00 as of April 2021. The sum of accounts, \$2,902,592.16 including Trust account interest and Credit account CPI indexing, is available to fund the County's LORP costs and trust account costs.

**ATTACHMENTS:**

1. 2022-2023 LORP Work Plan and Budget
2. LORP Work Plan Table 1

**APPROVALS:**

Aaron Steinwand	Created/Initiated - 6/16/2022
Darcy Ellis	Approved - 6/16/2022
Aaron Steinwand	Approved - 6/17/2022
Keri Oney	Approved - 6/20/2022
John Vallejo	Approved - 6/20/2022
Amy Shepherd	Final Approval - 6/20/2022

**Lower Owens River Project**  
**Work Plan, Budget, and Schedule**  
2022-2023 Fiscal Year

Prepared by  
Inyo County Water Department and  
Los Angeles Department of Water and Power

# Lower Owens River Project Work Plan, Budget, and Schedule

## 2022-2023 Fiscal Year

The Inyo County Water Department and the Los Angeles Department of Water and Power jointly prepared this 2022-2023 Fiscal Year Lower Owens River Project Work plan. The Inyo County/Los Angeles Technical Group adopted this work plan on June 23, 2022. The Technical Group recommends that the Inyo County Board of Supervisors and the City of Los Angeles Board of Water and Power Commissioners or their designee approve the 2022-2023 Fiscal Year Lower Owens River Project Work Plan.

### Introduction

The Final Environmental Impact Report for the Lower Owens River Project (LORP) Section 2.2.1 provides that the Long-Term Water Agreement (LTWA) Technical Group will develop and adopt an annual work program for the LORP, which describes LORP work to be performed in the following fiscal year. This work program identifies who will perform or oversee tasks, a schedule, and a budget. This work plan and budget was prepared according to the Agreement between the County of Inyo and City of Los Angeles Department of Water and Power Concerning Funding of the Lower Owens River Project (Funding Agreement) sections D, E, and F. Following adoption by the Technical Group, the work program will be submitted to the County and LADWP governing board for approval. Each governing board must approve the plan before this work plan and budget can be implemented. This Work Plan, Budget, and Schedule is in effect from July 1, 2022 – June 30, 2023.

The objectives of this work plan are to maintain compliance with the July 11, 2007 Superior Court Stipulation and Order in Case No. S1CVCV01-29768, conduct monitoring necessary to achieve the LORP goals described in the 1997 Memorandum of Understanding, maintain infrastructure necessary to the operation of the LORP, and implement adaptive management measures. The following priorities are observed in this work plan:

1. Work and activities required to maintain required flows in the river and required water supplies to other LORP components.
2. Maintenance associated with flow compliance monitoring and reporting associated with the above referenced Stipulation and Order.
3. Habitat and water quality monitoring described in the LORP Monitoring and Adaptive Management Plan, or required to comply with the requirements of the Lahontan Regional Water Quality Control Board.
4. The preparation of the LORP Annual Report as required by Section 2.10.4 of the LORP Final EIR and by Section L of the above referenced Stipulation and Order.
5. Other work or activities including the implementation of adaptive management measures.



Section 1 of this work plan covers the budget and schedule for operations and maintenance, monitoring, mosquito abatement, noxious species control, saltcedar control, and reporting activities.

Section 2 outlines Adaptive Management activities identified to be conducted in the 2022-2023 fiscal year.

The budget amount reflects the additional costs above equal sharing of work by the parties and does not include the costs of Inyo and LA staff times where they offset.

## LORP Operations & Maintenance and Monitoring Budget

Table 1 summarizes the costs of operation, maintenance and monitoring for the fiscal year and specifies the costs incurred by Inyo County and Los Angeles for standard operations, maintenance, and monitoring, as well as for Adaptive Management. A summary of these activities follows in Sections 1 and 2 below.

In 2022-2023 a total of 32 people days will be required to complete standard biologic and water quality monitoring tasks. Inyo County and LADWP will each contribute 16 days. Additionally, vegetation mapping work will be contracted out and will be a shared cost between LADWP and Inyo County. Maintenance, Operations, and Hydrologic monitoring are tasks solely performed by LADWP, and are without offsetting costs. LADWP has allocated 120 days for Range Monitoring, which is a LADWP cost. Inyo County and LADWP will perform additional Adaptive Management tasks over 164 people days (Inyo County and LADWP each 82 days). There is no budget for the MOU Consultant in 2022-2023.

Based on this budget, total cost for the fiscal year is \$597,161.35, with Inyo County contributing \$123,144.88 and LADWP contributing \$474,016.47. Inyo County's Post Implementation Credit will be decreased by \$175,435.80. The credit deduction is calculated by subtracting the dollars LADWP will spend during the fiscal year from the amount spent by Inyo County, and dividing this figure by two.

**Table 1. LORP Work Plan Summary Budget, FY 2022-2023**

<b>Inyo County</b>	<b>Budgeted Staff Work Days</b>	<b>Value of Additional Staff Time, Materials, and Equipment</b>	<b>Payment/Credit</b>
Biologic and Water Quality	16	\$16,800.00	
Mosquito Abatement	-	\$30,000.00	
Noxious Species Control	-	\$50,000.00	
Adaptive Management	82	\$26,344.88	
<b>Inyo County Totals</b>	<b>98</b>	<b>\$123,144.88</b>	<b>\$175,435.80</b>
<b>LADWP</b>	<b>Budgeted Staff Work Days</b>	<b>Budgeted Value of Additional Staff Time, Materials, and Equipment</b>	
Hydrologic Monitoring	-	\$71,460.00	
Biologic and Water Quality	16	\$16,800.00	
Operations and Maintenance	-	\$311,411.59	
Mosquito Abatement	-	\$30,000.00	
Rodent Control	-	\$18,000.00	
Adaptive Management	82	\$26,344.88	
<b>LADWP Totals</b>	<b>98</b>	<b>\$474,016.47</b>	
<b>Combined Total</b>	<b>196</b>	<b>\$597,161.35</b>	
Inyo County Credit Adjustment (1/2 of the Difference in Expenditures between Inyo County and LADWP)			<b>\$175,435.80</b>

**Footnote to Table 1. Post Implementation Credit and Trust Accounting**

Original Post Implementation Credit		\$2,253,033	\$2,253,033
Increase Post Imp Credit by 2.9% based on the July 2007 price Index	2.9%	\$65,338	\$2,318,371
County's obligation for July 11, 2007 to June 30, 2008 period		\$243,524	\$2,074,847
Increase the remaining balance of the Post Implementation Credit by 5.7% based upon the July 2008 price index	5.7%	\$118,266	\$2,193,113
County's obligation for 2008-2009 fiscal year		\$243,524	\$1,949,589
Reduce the remaining balance of the Post Implementation Credit by 1.3% based upon the April 2009 price index	-1.3%	\$25,345	\$1,924,245
County's share of the costs for the 2009-2010 work plan and budget, including adaptive management.		\$266,176	\$1,658,069
Increase the remaining balance of the Post Implementation Credit by 1.9% based upon the April 2010 price index effective July 10, 2010	1.9%	\$31,503	\$1,689,572
County's share of the costs for the 2010-2011 work plan and budget, including adaptive management effective July 21, 2010.		\$317,805	\$1,371,767
Increase the remaining balance of the Post Implementation Credit by 3.3% based upon the April 2011 price index effective July 10, 2011.	3.3%	\$45,268	\$1,417,035
County's share of the costs for the 2011-2012 work plan and budget, including adaptive management effective July 21, 2011.		\$48,278	\$1,368,757
County's share of the costs for the Amended 2011-2012 work plan and budget, effective July 21, 2011.		\$57,687	\$1,311,070
Increase the remaining balance of the Post Implementation Credit by 1.5% based upon the April 2012 price index effective July 10, 2012.	1.5%	\$19,666	\$1,330,736
County's share of the costs for the 2012-2013 work plan and budget, including adaptive management effective July 23, 2012.		\$14,084	\$1,344,820
Increase the remaining balance of the Post Implementation Credit by 0.9% based upon the April 2013 price index effective July 10, 2013.	0.9%	\$12,103	\$1,356,924
County's share of the costs for the 2013-2014 work plan and budget, including adaptive management effective June 21, 2013.		\$41,979	\$1,398,903
Increase the remaining balance of the Post Implementation Credit by 1.4% based upon the April 2014 price index effective July 10, 2014.	1.4%	\$19,585	\$1,418,487
County's share of the costs for the 2014-2015 work plan and budget, including adaptive management effective June 21, 2014.		\$78,483	\$1,340,004
Increase the remaining balance of the Post Implementation Credit by 0.5% based upon the April 2015 consumer price index.	0.5%	\$6,700	\$1,346,704
County's share of the costs for the 2015-2016 work plan and budget, including adaptive management effective June 21, 2015.		\$73,755	\$1,272,949
Increase the remaining balance of the Post Implementation Credit by 2.0% based upon the April 2016 consumer price index.	2.0%	\$25,459	\$1,298,408
County's share of the costs for the 2016-2017 work plan and budget, including adaptive management effective June 21, 2016.		\$84,704	\$1,213,704
Increase the remaining balance of the Post Implementation Credit by 2.7% based upon the April 2017 consumer price index.	2.7%	\$32,770	\$1,246,474
County's share of the costs for the 2017-2018 work plan and budget, including adaptive management, effective October 31, 2018.		\$114,857	\$1,131,617
Increase the remaining balance of the Post Implementation Credit by 4.0% based upon the April 2018 consumer price index.	4.0%	\$45,265	\$1,176,882
County's share of the costs for the 2018-2019 work plan and budget, including adaptive management, effective October 31, 2019.		\$139,493	\$1,037,389
Increase the remaining balance of the Post Implementation Credit by 3.3% based upon the April 2019 consumer price index.	3.3%	\$34,234	\$1,071,623
County's share of the costs for the 2019-2020 work plan and budget, including adaptive management, effective October 31, 2020.		\$132,558	\$939,065
Increase the remaining balance of the Post Implementation Credit by 0.7% based upon the April 2020 consumer price index.	0.7%	\$6,573	\$945,639
County's share of the costs for the 2020-2021 work plan and budget, including adaptive management, effective October 31, 2021.		\$252,481	\$693,157
Increase the remaining balance of the Post Implementation Credit by 3.6% based upon the April 2021 consumer price index.	3.6%	\$24,954	<b>\$718,111</b>

The annual CPI adjustment will take place prior to deduction of a credit for County's annual share of the LORP post-implementation costs (PIA 8.4). The LORP Trust Account Balance as of June 13, 2022 is \$2,184,481.16.

## Section 1. Maintenance and Monitoring Tasks

### LORP Tasks

The maintenance and monitoring portion of this work plan consists of four categories of tasks: operations and maintenance, hydrologic monitoring, biological monitoring, and range monitoring.

### Operations and Maintenance

Maintenance activities consist of cleaning sediment accumulations and other obstructions from water measurement facilities, cleaning sediment and aquatic vegetation from ditches, mowing ditch margins, adjustments to flow control structures, maintenance/replacement of existing structures, and necessary annual maintenance to spillgates, ditches, dikes, berms, ponds and other features in the BWMA.

Operation activities consist of setting and checking flows and ensuring that necessary flows reach the river to maintain mandated base and seasonal habitat flows. Estimates of the level of effort necessary for maintenance are adjusted as required by section II.D of the Funding Agreement, and provides that costs for maintenance above the baseline costs for facilities in the river corridor and Blackrock Waterfowl Management Area (BWMA) shall be shared.

Budgeted Operations and Maintenance costs and associated material costs for 2022-2023 are included in Table 2. The estimated costs for River corridor and BWMA facilities are \$216,759.40 and \$264,257.49 respectively, for an overall 2022-2023 operations and maintenance expenditure of \$481,016.89. This figure reduced by the combined CPI-adjusted baseline costs for the river corridor and BWMA facilities is \$311,411.59 (Table 2).

### Hydrologic Monitoring

Hydrologic monitoring consists of monitoring, analyzing, and reporting river baseflows and seasonal habitat flows, the flooded extent of the Blackrock Waterfowl Management Area (BWMA), the levels of the Off-River Lakes and Ponds, and baseflows, pulse flows, and seasonal habitat flows to the Delta. Budgeted hydrologic monitoring costs for the 2022-2023 fiscal year are \$71,460.00 (Table 3).

### Biological/Water Quality Monitoring

Biological monitoring, analysis, reporting, and report preparation will be jointly conducted by Inyo and LADWP as identified in Table 4.01 of the LORP Monitoring and Adaptive Management Plan (MAMP) (Table 4). This year is the fifteenth year of monitoring in the LORP. Due to staff shortages, LADWP and Inyo County will contract vegetation mapping of the project to Formation Environmental, Inc. and will equally share those costs (\$33,600 total, \$16,800 each agency). The scope of work is provided in Appendix 1.

LADWP and Inyo County will conduct habitat indicator species modeling based on this mapping and riparian bird surveys conducted in spring 2022. LADWP and Inyo County Staff will continue to monitor the flooded extent of the BWMA as described in the BWMA Interim Management and Monitoring Plan. Inyo Staff and LADWP Staff will spend a total of 32 people days on these efforts. There will be no off-setting costs.

### Adaptive management

Inyo County and LADWP have identified adaptive management tasks to complete in the 2022-2023 fiscal year. Refer to Section 2 for more information.

Table 2. LORP Operations and Maintenance Budget- 2022-2023 Fiscal Year								
Labor					Equipment			
Location/Activity	Labor type	Hours	Labor Rate	Total Labor	Equipment/Materials	Hours	Rate	Total Equip
<b>River</b>								
<b>Measuring Station Maintenance</b>								
	Power Shovel Operator	30	\$52.06	\$1,561.80	Excavator	30	\$108.80	\$3,264.00
	Truck Driver	30	\$45.30	\$1,359.00	3 axle dump truck	30	\$56.50	\$1,695.00
	Operator	10	\$49.37	\$493.70	Mower	10	\$90.10	\$901.00
	Building Repairman	10	\$45.88	\$458.80	3/4 ton 4x4 pick- up	100	\$13.60	\$1,360.00
	MCH	50	\$40.16	\$2,008.00				
<b>Subtotal</b>				<b>\$5,881.30</b>				<b>\$7,220.00</b>
<b>Intake Spillgate</b>								
Maintenance	Building Repairman	40	\$45.88	\$1,835.20	Bull Dozer	80	\$61.65	\$4,932.00
	MCH	340	\$40.16	\$13,654.40	3/4 ton 4x4 pick- up	620	\$13.60	\$8,432.00
	Operator	200	\$49.37	\$9,874.00	Mower	20	\$90.10	\$1,802.00
	Power Shovel Operator	40	\$52.06	\$2,082.40	Excavator	40	\$108.80	\$4,352.00
	Truck Driver	40	\$45.30	\$1,812.00	Versadrede	100	\$200.00	\$20,000.00
					3 axle dump truck	40	\$48.03	\$1,921.20
<b>Subtotal</b>				<b>\$29,258.00</b>				<b>\$41,439.20</b>
<b>Thibaut Spillgate and Ditch</b>								
Cleaning	Power Shovel Operator	40	\$52.06	\$2,082.40	Excavator	40	\$108.80	\$4,352.00
	Operator	80	\$49.37	\$3,949.60	Backhoe and trailer	40	\$37.19	\$1,487.60
	Truck Driver	20	\$45.30	\$906.00	Loader	40	\$37.40	\$1,496.00
	MCH	120	\$40.16	\$4,819.20	3 axel dump truck	40	\$48.03	\$1,921.20
					3/4 ton 4x4 pick- up	160	\$13.60	\$2,176.00
<b>Subtotal</b>				<b>\$11,757.20</b>				<b>\$11,432.80</b>
<b>Independence Spillgate and Ditch</b>								
Cleaning/Mowing	Power Shovel Operator	40	\$52.06	\$2,082.40	Excavator	40	\$108.80	\$4,352.00
	Operator	80	\$49.37	\$3,949.60	Loader	40	\$37.40	\$1,496.00
	Truck Driver	30	\$45.30	\$1,359.00	Side dump	10	\$65.66	\$656.60
	MCH	160	\$40.16	\$6,425.60	Mower	40	\$90.10	\$3,604.00
					3/4 ton 4x4 pick- up	280	\$13.60	\$3,808.00
					Water truck	40	\$31.23	\$1,249.20
<b>Subtotal</b>				<b>\$13,816.60</b>				<b>\$15,165.80</b>
<b>Locust Spillgate and Ditch</b>								
Cleaning	Power Shovel Operator	20	\$52.06	\$1,041.20	Excavator	20	\$108.80	\$2,176.00
	Operator	80	\$49.37	\$3,949.60	Backhoe and trailer	80	\$37.19	\$2,975.20
	MCH	100	\$40.16	\$4,016.00	3/4 ton 4x4 pick- up	200	\$13.60	\$2,720.00
	Truck Driver	40	\$45.30	\$1,812.00	3 axle dump truck	40	\$48.03	\$1,921.20
<b>Subtotal</b>				<b>\$10,818.80</b>				<b>\$9,792.40</b>
<b>Georges Ditch</b>								
Cleaning/Mowing	Operator	80	\$49.37	\$3,949.60	Mower	30	\$90.10	\$2,703.00
	Truck Driver	20	\$45.30	\$906.00	Backhoe and trailer	30	\$37.19	\$1,115.70
	Power Shovel Operator	40	\$52.06	\$2,082.40	Loader	20	\$37.40	\$748.00
	MCH	120	\$40.16	\$4,819.20	Excavator	40	\$108.80	\$4,352.00
					3/4 ton 4x4 pick-up	240	\$13.60	\$3,264.00
<b>Subtotal</b>				<b>\$11,757.20</b>				<b>\$12,182.70</b>

Alabama Spillgate								
Cleaning	Power Shovel Operator	60	\$52.06	\$3,123.60	Excavator	60	\$108.80	\$6,528.00
	Operator	40	\$49.37	\$1,974.80	Bull Dozer	40	\$61.65	\$2,466.00
	Truck Driver	180	\$45.30	\$8,154.00	3 axle dump truck	180	\$48.03	\$8,645.40
					¾ ton 4x4 pick-up	100	\$13.60	\$1,360.00
<b>Subtotal</b>				<b>\$13,252.40</b>				<b>\$18,999.40</b>
<b>Labor</b>					<b>Equipment</b>			
<b>Location/Activity</b>	<b>Labor type</b>	<b>Hours</b>	<b>Labor Rate</b>	<b>Total Labor</b>	<b>Equipment/Materials</b>	<b>Hours</b>	<b>Rate</b>	<b>Total Equip</b>
<b>Delta Spillgate</b>								
	Building Repairman	40	\$45.88	\$1,835.20	¾ ton 4x4 pick-up	40	\$13.60	\$544.00
	MCH	40	\$40.16	\$1,606.40				
<b>Subtotal</b>				<b>\$3,441.60</b>				<b>\$544.00</b>
<b>River Subtotal</b>				<b>\$99,983.10</b>				<b>\$116,776.30</b>
<b>Blackrock Waterfowl Management Area</b>								
<b>Blackrock Ditch</b>								
Maintenance	Operator	120	\$49.37	\$5,924.40	Mower	80	\$90.10	\$7,208.00
	Truck Driver	200	\$45.30	\$9,060.00	3 axle dump truck	120	\$48.03	\$5,763.60
	MCH	260	\$40.16	\$10,441.60	¾ ton 4x4 pick-up	400	\$13.60	\$5,440.00
	Power Shovel Operator	140	\$52.06	\$7,288.40	Excavator	140	\$108.80	\$15,232.00
					Loader	40	\$37.40	\$1,496.00
					Water truck	60	\$31.23	\$1,873.80
					Side dump	60	\$65.66	\$3,939.60
<b>Subtotal</b>				<b>\$32,714.40</b>				<b>\$40,953.00</b>
<b>Goose Lake Maintenance</b>								
Discing Maintenance	Operator	50	\$49.37	\$2,468.50	Low bed	10	\$65.66	\$656.60
	MCH	50	\$40.16	\$2,008.00	Versadredge	50	\$108.80	\$5,440.00
	Truck Driver	10	\$45.30	\$453.00	¾ ton 4x4 pick-up	50	\$13.60	\$680.00
<b>Subtotal</b>				<b>\$4,929.50</b>				<b>\$6,776.60</b>
<b>Patrol &amp; Flow Changes (River and BWMA)</b>								
A&R data	A&R Keeper (1.5 FTE)	3089	\$44.31	\$136,873.59	¾ ton 4x4 pick-up	3089	\$13.60	\$42,010.40
<b>Subtotal</b>				<b>\$136,873.59</b>				<b>\$42,010.40</b>
<b>BWMA Subtotal</b>				<b>\$174,517.49</b>				<b>\$89,740.00</b>
<b>TOTALS</b>								
<b>River Total</b>				<b>\$216,759.40</b>				
<b>BWMA Total</b>				<b>\$264,257.49</b>				
<b>Total O and M</b>				<b>\$481,016.89</b>				
<b>CPI Adjusted O &amp; M</b>				<b>\$311,411.59</b>				

Baseline Costs (described in Post -Imp)		River	BWMA	Total CPI adjustment
CPI adjustment		\$56,863.00	\$62,798.00	\$119,661.00
2006-2007	4.5%	\$59,421.84	\$65,623.91	\$125,045.75
2007-2008	3.1%	\$61,263.91	\$67,658.25	\$128,922.16
2008-2009	-1.3%	\$60,467.48	\$66,778.69	\$127,246.17
2009-2010	0.9%	\$61,011.69	\$67,379.70	\$128,391.39
2010-2011	0.7%	\$61,438.77	\$67,851.36	\$129,290.13
2011-2012	3.0%	\$63,281.93	\$69,886.90	\$133,168.83
2012-2013	2.1%	\$64,610.85	\$71,354.53	\$135,965.38
2013-2014	0.4%	\$64,869.30	\$71,639.94	\$136,509.24
2014-2015	1.3%	\$65,712.60	\$72,571.26	\$138,283.86
2015-2016	1.6%	\$66,764.00	\$73,732.40	\$140,496.40
2016-2017	1.8%	\$67,965.75	\$75,059.59	\$143,025.34
2017-2018	3.6%	\$70,412.52	\$77,761.73	\$148,174.25
2018-2019	3.6%	\$72,947.37	\$80,561.15	\$153,508.52
2019-2020	3.2%	\$75,281.69	\$83,139.11	\$158,420.80
2020-2021	1.0%	\$76,034.50	\$83,970.50	\$160,005.00
2021-2022	6.0%	\$80,596.57	\$89,008.73	\$169,605.30

**Table 3. Hydrologic Monitoring Budget, FY 2022-2023**

	Person days	Labor Costs	Equipment Cost	Total Predicted Cost July 1, 2022 through June 30, 2023
<b>HYDRO OPERATIONS AND MAINTENANCE</b>				
River Stations	25	\$ 13,750.00	\$ 5,800.00	\$ 19,550.00
Seasonal Habitat	6	\$ 3,300.00	\$ 240.00	\$ 3,540.00
Off River Lakes & Ponds	7	\$ 3,850.00	\$ 280.00	\$ 4,130.00
Flow to Delta	4	\$ 2,200.00	\$ 3,160.00	\$ 5,360.00
Blackrock Waterfowl	7	\$ 3,850.00	\$ 3,280.00	\$ 7,130.00
Reporting Compliance	5	\$ 2,750.00	\$ 200.00	\$ 2,950.00
<b>ENGINEERING</b>				
Reporting Compliance	60	\$ 28,800.00	\$ -	\$ 28,800.00

**Total Hydro Budget \$71,460.00**

**Table 4. Biological Monitoring Budget, FY 2022-2023**

Biological Monitoring	Days	Inyo Days	LA Days
<b>Blackrock Waterfowl Management Area</b>			
Waterfowl Area Wetted Acreage	16	8	8
LORP Habitat Indicator Species Modeling	16	8	8
<b>Total Person Days on Project</b>	<b>32</b>	<b>16</b>	<b>16</b>

**Range Monitoring**

Range monitoring is related to the tasks described in Section 4.6 of the MAMP. Three types of monitoring will take place that are directly related to the management of livestock grazing: irrigated pasture condition scoring, utilization and range trend monitoring. Range monitoring will be conducted by LADWP and is not a shared cost, and therefore is not budgeted for in this work plan (Table 5).

**Table 5. Range Monitoring (LADWP only), FY 2022-2023**

Task	People Days
Utilization	45
Irrigated Pasture Condition	5
Range Trend	50
Analysis and Reporting	20
<b>Total</b>	<b>120</b>



### **Mosquito Abatement**

For fiscal year 2022-2023, the Owens Valley Mosquito Abatement Program (OVMAP) will continue a comprehensive Integrated Mosquito Management Plan (IMMP) when addressing the new and developing sources within the LORP in accordance with its mission of protecting public health. This IMMP consists of an expansion of currently used materials and methods for the surveillance and control of mosquitoes across the OVMAP boundary as well as contingency planning for late season flushing flows. The \$60,000 budget anticipates field surveillance of potential larval habitat for mosquito production, larviciding, pupaciding, adult mosquito surveillance with light traps, mosquito borne disease surveillance, and treatment for adult mosquitoes.

### **Noxious Species Control**

The Inyo/Mono Counties Agricultural Commissioner's Office conducts operations to control and eradicate several different invasive weed species within the LORP boundaries. These invasive weed species include perennial pepperweed (*Lepidium latifolium*), Russian knapweed (*Acroptilon repens*), Canada thistle (*Cirsium arvense*), yellow star thistle (*Centaurea solstitialis*), spotted knapweed (*Centaurea maculosa*), hairy whitetop (*Carderia pubescens*), and heart podded hoary cress (*Carderia draba*). These populations are managed using integrated pest management methods, including mechanical, chemical, and biological controls.

For fiscal year 2022-2023, Inyo County will be responsible for treating weeds in the LORP. The budget for noxious weed control is \$50,000. An increase in perennial pepperweed in the LORP in recent years will require additional funding and efforts to contain the existing population and prevent spread. Additional funding for Inyo County will be sought from outside sources.

Additional weed treatment and surveillance by LADWP and ICWD is described in Section 2. Adaptive Management.

### **Saltcedar Control**

Due to lack of enhanced funding, Inyo County's saltcedar control program has been scaled back. The effort will focus on surveying and the treatment of saltcedar resprouts along the Owens River in the LORP. Inyo County's LORP saltcedar control activities are funded through the Inyo/Los Angeles Water Agreement. LADWP and Inyo County programs will work cooperatively to treat saltcedar, which may include areas in the LORP as resources are available.

## Schedule

Table 6. Schedule of Monitoring and Reporting Activities for FY 2022-2023

Period	Monitoring
July 1-August 31, 2022	BWMA waterfowl forage surveys
August 1-August 31, 2022	LORP Noxious Species Survey
September 1 – February 1, 2023	LADWP/Inyo Prepare Draft LORP Report
October 1 - October 31, 2022	Fiscal Year 2019-2020 Work Plan and Budget Reconciliation
October 31, 2022	Transmittal of LORP Accounting Report to Governing Boards
November 1-7, 2022	Measure BWMA Flooded Extent
February 10, 2023	Draft Report transmitted to MOU Parties
February 23, 2023	Public Meeting for Draft LORP Report
March 1-7, 2023	Measure BWMA Flooded Extent
March 6-31, 2023	Technical Group Meeting to Adopt LORP Annual Report
March 1 – April 30, 2023	Fiscal Year 2023-2024 Work Plan and Budget Development
May 1 – May 31, 2023	Transmittal of LORP Work Plan, Budget, and Schedule to governing boards for approval
March 15 - April 14, 2023	Noxious Species Survey
June 2023	Mid-year observational meeting regarding BWMA interim plan
June 1-July 1, 2023	BWMA waterfowl forage surveys
May 2 - June 15, 2023	Seasonal Habitat Flow

## Section 2. Adaptive Management

Implementation costs of the Interim BWMA Plan are provided below. These costs are to be shared equally between LADWP and Inyo County. All other monitoring associated with adaptive management will be conducted by LADWP and ICWD staff with no offsetting costs.

### Adaptive Management with Additional Costs

#### Implementation of the Interim BWMA Management and Monitoring Plan

LADWP and Inyo County implemented the first year of the 5-year Interim BWMA Management and Monitoring Plan (Interim Plan) in 2021-2022. Work to be performed in 2022-2023 includes berm repair in the waterfowl units, culvert installation and discing of the Winterton Unit. All work will be performed before reflooding the cells in September 2022. This work will be conducted by LADWP and is budgeted at \$52,689.76 (Table 7). Costs will be shared equally by LADWP and Inyo County.

**Table 7. BWMA Adaptive Management Costs**

BWMA Adaptive Management Costs FY 2022-2023							
Labor type	Hours	Labor Rate	Total Labor	Equipment Type	Hours	Rate	Total Equip
<b>Berm Repair -Thibaut (2), Winterton (1)</b>							
Power Shovel Operator	40	\$50.61	\$2,024.40	Excavator	40	\$108.80	\$4,352.00
Operator	40	\$48.89	\$1,955.60	Water truck	20	\$31.23	\$624.60
Truck Driver	40	\$45.30	\$1,812.00	3 axle dump truck	60	\$56.50	\$3,390.00
<b>Subtotal</b>			<b>\$5,792.00</b>				<b>\$8,366.60</b>
<b>Open Berm in NW Section of Thibaut</b>							
Operator	10	\$48.89	\$488.90	Bulldozer	10	\$61.65	\$616.50
Truck Driver	5	\$45.30	\$226.50	Lowbed	5	\$65.66	\$328.30
				3/4 ton 4x4 pick- up	10	\$13.60	\$136.00
<b>Subtotal</b>			<b>\$715.40</b>				<b>\$1,080.80</b>
<b>Winterton Discing</b>							
Operator	160	\$48.89	\$7,822.40	Mower	160	\$108.80	\$17,408.00
MCH	160	\$39.77	\$6,363.20	3/4 ton 4x4 pick- up	160	\$13.60	\$2,176.00
<b>Subtotal</b>			<b>\$14,185.60</b>				<b>\$19,584.00</b>
<b>East Winterton Culvert</b>							
PSO	10	\$48.89	\$488.90	Excavator	10	\$108.80	\$1,088.00
Building Repairman	10	\$45.07	\$450.70	Lowbed	6	\$65.66	\$393.96
Truck Driver	6	\$45.30	\$271.80	3/4 ton 4x4 pick- up	20	\$13.60	\$272.00
<b>Subtotal</b>			<b>\$1,211.40</b>				<b>\$1,753.96</b>
<b>TOTALS</b>							
Berm Repair - Thibaut/Winterton		\$14,158.60					
Open Berm - Thibaut		\$1,796.20					
Winterton Discing		\$33,769.60					
East Winterton Culvert		\$2,965.36					
<b>Proposed Project Total</b>		<b>\$52,689.76</b>					

## Adaptive Management without Additional Costs

### 1. Monitoring Associated with the Interim BWMA Plan

Per the Interim BWMA Plan, LADWP and the County will conduct additional monitoring concurrent with its implementation on flooded extent, vegetation, and water depths as well as avian monitoring to note response to the new flooding regime. Estimated staff commitments for these monitoring tasks are provided below for the 2022-2023 fiscal year.

- Flooded extent will continue to be measured both to confirm compliance with the Interim Plan and to help describe the effectiveness of seasonal filling and drawdown. Remote sensing will be used to take rough area estimates, and two on-the-ground surveys will be used to map more precisely the extent and location of flooding. Water releases will be monitored and reported annually. Staff time commitment for flooded extent monitoring in BWMA is outlined in Table 4, as this task is required under the MAMP also.
- Vegetation monitoring will consist of line-point vegetation transects and/or plots in areas expected to have the most potential to produce waterfowl foods. A second objective of monitoring is to evaluate the effectiveness of controlling the expansion of cattails and bulrush in active units. This can be mapped and quantified from a combination of satellite imagery, aerial imagery from UAV, and field training data. Evaluating the vegetative response following shallow flooding will help managers determine the following year's flooding schedule. This task is estimated to require 16 days of LADWP staff time.
- Avian monitoring will be conducted to evaluate the use of BWMA by the habitat indicator species during implementation of the 5-year interim program. Eight seasonal surveys will be conducted September-April in each active unit during implementation of the Interim Plan. Based on the 2021-2022 monitoring year, it is anticipated that each of these surveys will take 4-6 people days, depending on the extent of flooding during any particular survey. It is anticipated that avian monitoring will take up to 48 people days in 2022-2023 split equally between LADWP and ICWD.
- During 2022-2023, water depth in active units will be measured by Inyo County coinciding with avian surveys to better understand how water depth influences waterbird habitat use. Patterns of unit drydown will also be monitored to inform whether there are opportunities that could further benefit breeding waterfowl and their broods. Staff time for this task is included in avian monitoring requirements.

It is estimated that monitoring and reporting associated with the Interim Plan will require 64 total people days split between LADWP and ICWD staff in the 2022-2023 fiscal year.

### 2. DHA Flow Effectiveness monitoring

Flow effectiveness monitoring will consist of reviewing photos of the DHA taken from a helicopter during surveillance flights of the Owens Lake Dust Control Program to evaluate whether the three habitat criteria established in Year 1 were achieved. This effort is anticipated to take two person days and will be conducted by LADWP.

### 3. Noxious species survey and treatment

Additional noxious weed treatment and surveillance by LADWP and ICWD initiated in 2020-2021 will continue in 2022-2023. ICWD will continue survey work in the LORP (including BWMA) and LADWP will offset survey efforts with treatment of noxious weeds in the LORP area. Estimated staff time includes 15 days from ICWD and 48 days from LADWP.

**4. Tree recruitment assessment**

The environmental conditions which have permitted historic riparian tree establishment on the LORP during pre-project conditions (pre-watering) as well as conditions which have permitted the limited recruitment since project inception (post-watering) will be evaluated. Known locations with mature trees and prior recruitment locations will be assessed as described in the 2021-2022 work plan (LADWP and ICWD 2021) and the Type D Monitoring Plan (Appendix 1, ICWD 2021). In 2022-2023, these tasks will require 35 field days for sampling, data collection, analysis and reporting. Inyo County will carry out this task.

Table 8 shows a total of 164 people-days budgeted for four adaptive management tasks, with Inyo County contributing 82 people-days and Los Angeles contributing 82 days.

**Table 8. Adaptive Management Monitoring 2022-2023**

Task #	Biological Monitoring	Days	Inyo Days	LA Days
1	BWMA Interim Management and Monitoring Plan - Monitoring and Reporting	64	32	32
2	DHA Flow Effectiveness Monitoring	2	0	2
3	Noxious species survey/treatment	63	15	48
4	Tree recruitment assessment	35	35	0
<b>Total Person Days</b>		<b>164</b>	<b>82</b>	<b>82</b>

**References**

Inyo County Water Department 2021. Type D Riparian Vegetation Monitoring Annual Status Report 2020. Accessed at: [https://www.inyowater.org/wp-content/uploads/2021/08/TypeD\\_AnnualReport\\_2020\\_08242021\\_FINAL.pdf](https://www.inyowater.org/wp-content/uploads/2021/08/TypeD_AnnualReport_2020_08242021_FINAL.pdf)

Los Angeles Department of Water and Power and Inyo County Water Department. 2021. Lower Owens River Project Work Plan, Budget, and Schedule 2021-2022 Fiscal Year. Accessed at: <https://www.inyowater.org/wp-content/uploads/2021/10/2021-22-LORP-Final-Work-Plan-Budget-Schedule.pdf>

## Appendix 1. LORP Mapping Scope of Work, Formation Environmental, Inc.

EASTERN SIERRA WATER RESOURCE SUPPORT



### Project Understanding

The Lower Owens River Project (LORP) was implemented in late 2006 by Los Angeles Department of Water and Power (LADWP). The project entailed rewatering of about 62 river miles of the Owens River that had been depleted since about 1913. Rewatering entailed a continuous base flow and a seasonal habitat flow for years when seasonal runoff is at or above normal. The LORP Monitoring, Adaptive Management, and Reporting Plan (MAMP; Ecosystem Sciences 2008) established a fifteen-year monitoring program that included landscape vegetation mapping.

A baseline for landscape vegetation mapping of the LORP riparian area, 2000 conditions, was assembled by Sherman Jensen (White Horse Associates 2004). Subsequent landscape mapping was conducted for 2009, 2014, and 2017 conditions and included in LORP Annual Reports (LADWP and Inyo County Water Department (ICWD) 2011, 2016, 2019). The proposed LORP landscape mapping, 2022 conditions will be the final monitoring required specifically under the LORP MAMP.

### Task 1

The purpose of this task is to conduct landscape vegetation mapping remotely for the LORP project area using digital orthophotography that will be acquired in summer 2022. The LORP project area (Figure 1) is 6252 acres and includes about 62 linear miles of the Owens River stream course. Water is released to the streambed at the LORP Intake and pumped back to the LADWP Aqueduct at the Pumpback Station.

The approach for the 2022 vegetation landscape mapping will be to identify changes relative to the 2017 mapping. Spectral classification, image segmentation and object-based classification, and heads-up mapping of a 2022, 4-band image will be applied to subsets of the 2017 mapping tailored to discrete vegetation types. Results of mapping for 2022 conditions will be compared with similar inventories for 2000, 2009, 2014, and 2017 conditions. We anticipate working with LADWP Watershed Resources staff to conduct ground verification and/or accuracy assessment, as needed. A detailed technical approach for this task is provided in Appendix A.

**Table 1. LORP Work Plan Summary Budget, FY 2022-2023**

<b>Inyo County</b>	<b>Budgeted Staff Work Days</b>	<b>Value of Additional Staff Time, Materials, and Equipment</b>	<b>Payment/Credit</b>
Biologic and Water Quality	16	\$16,800.00	
Mosquito Abatement	-	\$30,000.00	
Noxious Species Control	-	\$50,000.00	
Adaptive Management	82	\$26,344.88	
<b>Inyo County Totals</b>	<b>98</b>	<b>\$123,144.88</b>	<b>(\$175,435.80)</b>
<b>LADWP</b>	<b>Budgeted Staff Work Days</b>	<b>Budgeted Value of Additional Staff Time, Materials, and Equipment</b>	
Hydrologic Monitoring	-	\$71,460.00	
Biologic and Water Quality	16	\$16,800.00	
Operations and Maintenance	-	\$311,411.59	
Mosquito Abatement	-	\$30,000.00	
Rodent Control	-	\$18,000.00	
Adaptive Management	82	\$26,344.88	
LADWP Totals	<b>98</b>	<b>\$474,016.47</b>	
<b>Combined Total</b>	<b>196</b>	<b>\$597,161.35</b>	
Inyo County Credit Adjustment (1/2 of the Difference in Expenditures between Inyo County and LADWP)			<b>(\$175,435.80)</b>





# County of Inyo

## Clerk of the Board

### DEPARTMENTAL - ACTION REQUIRED

**MEETING:** June 28, 2022

**FROM:** Assistant Clerk of the Board

**SUBJECT:** Board Meeting Minutes Approval

---

**RECOMMENDED ACTION:**

Request Board approve the minutes of the regular Board of Supervisors meetings of June 7, June 14, and June 21, 2022.

**SUMMARY/JUSTIFICATION:**

The Board is required to keep minutes of its proceedings. Once the Board has approved the minutes as requested, the minutes will be made available to the public via the County's webpage, [www.inyocounty.us](http://www.inyocounty.us).

**BACKGROUND/HISTORY OF BOARD ACTIONS:**

N/A

**ALTERNATIVES AND CONSEQUENCES OF NEGATIVE ACTION:**

N/A

**OTHER AGENCY INVOLVEMENT:**

N/A

**FINANCING:**

N/A

**ATTACHMENTS:**

**APPROVALS:**

Darcy Ellis  
Darcy Ellis

Created/Initiated - 6/22/2022  
Final Approval - 6/22/2022



# County of Inyo

## Clerk of the Board

### TIMED ITEMS - ACTION REQUIRED

**MEETING:** June 28, 2022

**FROM:** County Counsel

**SUBJECT:** Inyo County Board of Equalization Local Rules and Filing Fee

---

**RECOMMENDED ACTION:**

Request Board: A) hold public hearing regarding proposed resolution titled, "Resolution of the Inyo County Board of Supervisors, in its role as the local Board of Equalization, Approving Assessment Appeals Local Rules," and B) approve the resolution and authorize the Chairperson to sign.

**SUMMARY/JUSTIFICATION:**

The proposed resolution adopts the County of Inyo Board of Equalization Local Rules and implements a non-refundable filing fee related to assessment appeal applications. The proposed fee, if approved by resolution, would become effective immediately. The fee is based on the average amount of time it takes the Assistant Clerk of the Board to accept, process, and file an assessment appeal, and is meant to recoup the cost of that staff time as allowed by law.

Inyo County is among a minority of counties in California that does not charge a filing fee for tax assessment appeals. Likewise, Inyo County is one of a very few counties in California that has not adopted rules of procedure for its Board of Equalization. As such, the County has not been able to recoup its costs in staff time related to the filing of assessment appeals, nor has it been able to introduce and enforce effective policy for the filing of tax assessment appeals above and beyond those outlined in the Tax Code. The proposed filing fee may be waived if it is determined the fees will cause financial hardship for applicants who would qualify for a waiver of court fees and costs under California Government Code section 68632.

Policies the County will be able to enforce upon adoption of the Local Rules include not accepting applications electronically or via facsimile, and requiring that a separate application be filed for every parcel where the taxpayer is contesting the assessment.

Staff believes having clear policies in place will be helpful to both the County and the taxpayers.

**BACKGROUND/HISTORY OF BOARD ACTIONS:**

N/A

**ALTERNATIVES AND CONSEQUENCES OF NEGATIVE ACTION:**

Your Board could choose to reject the proposed Rules and filing fee, however this is not recommended.

**OTHER AGENCY INVOLVEMENT:**

County Counsel

**FINANCING:**

There is no negative fiscal impact anticipated from the adoption of these rules and fee.

**ATTACHMENTS:**

1. Resolution Adopting BOE Rules
2. Exhibit 1 - Proposed Rules 6.22.22

**APPROVALS:**

Darcy Ellis	Created/Initiated - 6/16/2022
Darcy Ellis	Approved - 6/16/2022
John Vallejo	Approved - 6/23/2022
Amy Shepherd	Approved - 6/23/2022
Leslie Chapman	Final Approval - 6/23/2022

**RESOLUTION NO. 2022- \_\_\_\_\_**

**A RESOLUTION OF THE INYO COUNTY BOARD OF SUPERVISORS,  
COUNTY OF INYO, STATE OF CALIFORNIA, APPROVING  
ASSESSMENT APPEALS BOARD LOCAL RULES**

**WHEREAS**, the Inyo County Board of Supervisors acting as the Inyo County Board of Equalization is responsible for receiving, processing, hearing and deciding applications for reduction in property tax assessment filed under Revenue and Taxation Code section 1603; and

**WHEREAS**, the Board of Supervisors has the power and authority under Section 16 of Article 13 of the California Constitution to adopt local procedural rules to be applied when it acts as the Inyo County Board of Equalization; and

**WHEREAS**, the Inyo County Board of Supervisors has determined that it is necessary and desirable to adopt local rules for the uniform processing of such applications for reduction in assessment under Section 1603; and

**WHEREAS**, the County of Inyo currently does not charge applicants a fee for filing assessment appeal applications; and the Board of Supervisors wishes to establish a filing fee in connection with the processing of assessment appeal applications; and

**WHEREAS**, the proposed Assessment Appeals Board Local Rules, which are attached hereto as Exhibit 1 and incorporated herein by this reference, include a filing fee in the amount of \$22.80, which appears consistent with applicable legal mandates, in a reasonable amount that is applied in a uniform manner; and

**WHEREAS**, filing fees are not refunded but may be waived where the applicant would qualify for a waiver of court fees and costs pursuant to California Government Code section 68632; and

**WHEREAS**, the Board conducted a noticed public hearing as required by Government Code section 66018.

**NOW, THEREFORE, BE IT RESOLVED** that the Inyo County Board of Supervisors hereby establishes and approves the Assessment Appeals Board Local Rules (Exhibit 1), which includes the establishment of a \$22.80 fee for Assessment Appeal application filings to be paid at the time of filing, which fee may be waived upon a showing that the applicant would qualify for a wavier of court fees and costs pursuant to Government Code section 68632, effective immediately.

**PASSED AND ADOPTED** on this \_\_\_\_ day of \_\_\_\_\_, 2022, by the Inyo County Board of Supervisors, County of Inyo, by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

Dan Totheroh, Chair  
Inyo County Board of Supervisors  
County of Inyo, State of California

ATTEST: Clerk of the Board

By \_\_\_\_\_

**BOARD OF EQUALIZATION  
OF THE  
COUNTY OF INYO**



**LOCAL RULES**

Adopted by the Board of Supervisors

Pursuant to Resolution #2022-23

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# I. ASSESSMENT APPEALS OVERVIEW

- A. **Property Valuation Process** The Board of Supervisors for each county in California also serves as the local Board of Equalization (“BOE”) with authority to equalize the valuation of taxable property within the county by adjusting individual assessments.

The value of property is determined by the Assessor and, on that basis, the Treasurer-Tax Collector bills and collects property taxes from property owners. When the property owner disagrees with assessed value for a property, he/she should initially:

- 1) Contact the Assessor’s office to obtain additional information about the valuation process and/or provide additional, pertinent information about the property’s value;
- 2) You may view the Assessment Appeals Video here: [Your Assessment Appeal \(ca.gov\)](#)

If the property owner and Assessor cannot reach an agreement, the property owner can appeal the valuation to the BOE. The BOE hears and resolves property valuation disputes between the Assessor and property owners to ensure the equitable Application of property taxes within the County.

- B. **Purpose of Local Rules** Many aspects of the property valuation and appeal process are prescribed by state law (Section C of this rule, below). Local Boards of Equalization are authorized to adopt Local Rules to facilitate their work and ensure uniformity in the processing and deciding of appeals. These Rules do not claim or attempt to reiterate the state laws and regulations governing the property valuation process. Rather, they provide information specific to the scheduling and hearing of cases within Inyo County. To the extent they conflict with higher legal authority, they are invalid.

- C. **Legal Authority** The BOE, the Assessor and the Applicant follow state rules governing the local equalization process.

- 1) The California Constitution authorizes the creation of one or more county boards for the purpose of equalizing assessments of individual properties and briefly describes their function of equalizing values on the local roll.
- 2) The Revenue and Taxation Code implements the constitutional provisions applicable to assessment appeals and other property tax matters and provides the basic framework of the assessment appeals process.
- 3) The California Code of Regulations includes provisions, commonly referred to as the Property Tax Rules, pertaining to the role and function of BOEs.

- 4) The BOE cannot:
  - a) Grant or deny exemptions or consider whether exemptions were improperly denied;
  - b) Raise or lower the entire assessment roll;
  - c) Extend the time for filing Applications for equalization;
  - d) Remove or waive penalties for delinquent payment of taxes;
  - e) Reduce an assessment due to damage, destruction or depreciation after the lien date of the year in question;
  - f) Change tax rates.

The BOE acts in a quasi-judicial capacity and renders its decision only on the basis of proper evidence presented at the hearing. The BOE has no legislative power.

- D. **Access to Local Rules** These Local Rules are maintained by the Inyo County Board of Supervisor's Clerk's Office, located at, 224 N. Edwards St., Independence, and can be accessed via the Board Clerk's website, which is located on the Internet at: <https://www.inyocounty.us/government/board-supervisors/services-information/assessment-appeals>. Copies of these Local Rules are also available for review at the Clerk's Office during regular business hours and may be purchased in person or by mail for an amount established by applicable law.
- E. **Definitions** For purposes of these Local Rules, the following capitalized words shall have the meanings as set forth below:
  - 1) Applicant: A person or entity affected, the parent, child, or spouse of a person affected, or his or her duly authorized agent, who files an Application for Changed Assessment.
  - 2) Application: Form entitled "Application for Changed Assessment" used for the filing of an Assessment Appeal.
  - 3) Assessor: The elected Assessor of Inyo County.
  - 4) Assessment Appeal: A formal request for a change in a property tax assessment made to the BOE pursuant to Revenue and Taxation Code § 1601 et. seq.
  - 5) Assessed Value: The property value, established by the Assessor using one or more appraisal techniques and/or methods, against which the tax rate is applied.
  - 6) Assessor's Parcel Number or A.P.N.: The Assessor's parcel number assigned to identify every parcel of real property in the County. The A.P.N. will appear on all correspondence received from the Assessor relating to that particular property parcel as the "Assessor Parcel Number" or "Assessment Number."
  - 7) Authorized Agent: A California licensed attorney retained by the Applicant for the

Assessment Appeal, or a parent, child, or spouse of the Applicant, or any other person with the Applicant's express written authority to represent the Applicant for the appeal.

- 8) Base Year Value: Fair market value as of either the 1975 lien date or the date the property was most recently purchased, newly constructed, or last underwent a change in ownership or change in control.
- 9) BOE: The Inyo County Board of Equalization, also known as the BOE.
- 10) Chair: The Chair of the Inyo County BOE.
- 11) Clerk: The Clerk of the Inyo County BOE, who is also the Clerk of the County Board of Supervisors.
- 12) Cross-examination: The interrogation of a witness called by the opposing party to testify during a hearing. It is preceded by direct examination and may be followed by a redirect examination.
- 13) Continuance: The stopping of a hearing, after the taking of some evidence by the BOE, such that the hearing is resumed where it left off on another day. The same BOE members must hear said continued matters.
- 14) County: The County of Inyo.
- 15) Day: A calendar day, unless otherwise specified as a "business day."
- 16) Direct-examination: The questioning of a witness by the party who called him or her to testify in a hearing. Direct examination is usually performed to elicit evidence in support of facts that will help prove a party's claim or defense.
- 17) Findings of Fact: A document prepared at the direction or request of the BOE after the hearing which summarizes the facts and evidence presented at hearing, and which sets forth the conclusions reached by the BOE.
- 18) Hearing: A scheduled session before the BOE during which testimony, other evidence, and argument may be presented, by both the Applicant and the Assessor, as bases for the BOE's determination of a specific issue or issues.
- 19) Hearing Confirmation Form: A form sent from the Clerk to an Applicant to be filled out by the Applicant and returned to the Clerk for purposes of scheduling the Hearing.
- 20) High Value Appeal: An Application pertaining to property that has an enrolled taxable value of \$20 million or more.
- 21) Lien Date: The time when taxes for any fiscal year become a lien on property. That time for all taxable property is 12:01 a.m. on January 1 of each year, beginning in 1997. Prior

to January 1, 1997, the lien date was March 1 of each year.

- 22) Local Roll: The list of all property within the County that is assessed by the Assessor and available for inspection at the Assessor's public counter.
- 23) Local Rules: These Inyo County BOE Local Rules.
- 24) Motion: A written request or petition for an order filed with the Clerk before a hearing on an Application.
- 25) Notice of Hearing: A letter sent to a party notifying him or her of the date, time, location, and purpose of a scheduled hearing.
- 26) Notice of Invalid Application: A letter sent from the Clerk notifying the applicant that his/her Application is invalid as untimely and/or incomplete and the potential remedies available to the Applicant.
- 27) Party: The Assessor and the person or entity affected that files an assessment appeal.
- 28) Person or Entity Affected: Any person or entity having a direct economic interest in the payment of property taxes on the property for the valuation date that is the subject of an Application before the BOE, including the property owner, a lessee required by the property lease to pay the property taxes, and a property owner who acquires an ownership interest after the lien date if the new owner is also responsible for payment of property taxes for the lien date that is the subject of the Application.
- 29) Postponement: The change of a scheduled hearing to a later date or time, prior to the submission of any evidence to the BOE.
- 30) Recess: A brief break in a hearing, given at the BOE's discretion, that does not constitute a Continuance.
- 31) Redirect Examination: The questioning of a witness by the party who called him or her to testify in a hearing in order to explain or otherwise qualify any damaging or accusing testimony brought out by the opponent during cross-examination. Redirect examination is limited to the scope of the cross-examination.

## II. FILING APPLICATIONS & OTHER DOCUMENTS

- A. **Electronic Filing of Documents** Under no circumstances will an "Application for Changed Assessment" form be accepted by facsimile transmission or electronic mail. (In the event that the Clerk has established online filing of assessment appeal applications, the signature requirements for application will be accepted pursuant to established standards set forth by

the California Secretary of State.)

The Clerk shall accept other written documents (e.g. agent authorizations, stipulations, moving papers, requests for reconsideration, etc.) transmitted by electronic mail (email) or facsimile machines provided that all material information within the document is legible, the document is signed and received by the Clerk within the applicable time constraints, and the following requirements are met:

- 1) **Email:** Documents submitted by email must be scanned and attached in a PDF format to the email message. The subject line of the email message must include the A.P.N. or assessment number listed on the application as well as a description of the document enclosed. PDF attachments that fail to open or trigger a virus warning on the Clerk's computer will be deemed rejected.
- 2) **Facsimile:** Facsimile documents shall contain the phrase "By Fax" immediately following the signature of the signing party.

By choosing to deliver a document by fax transmission or email, the Applicant or Agent represents that the original signed document is in his or her possession or control, and that no alteration has been made to the document form or its data. In the event a dispute arises regarding the timeliness of filing any document electronically, it is the Applicant's responsibility to provide the BOE with all relevant evidence supporting the Applicant's assertion of timeliness.

**B. Filing an Application** Filing an application does not relieve the taxpayer of his or her responsibility to pay the property tax in a timely fashion. The "Application for Changed Assessment" form must:

- 1) Only include one APN per Application;
- 2) Be complete and submitted on the current approved form, available from the Clerk;
- 3) Be filed by a person or entity affected, the parent, child, or spouse of a person affected, or an authorized agent of a person or entity affected;
- 4) Be filed with the Clerk by mail or personal delivery within the prescribed timelines;
- 5) Include original signature(s) (copies or facsimile filings cannot be accepted) and the required non-refundable processing fee of \$22.80 per parcel.

**C. Fee Waiver** Applicants may qualify for a waiver of the processing fee based on receipt of public assistance or income level. Applicants requesting a waiver of the processing fee must submit the "Confidential Request for Waiver of Assessment Appeal Administrative Processing Fee" form, available on the Clerk's website, in lieu of the processing fee. A processing fee or request for fee waiver form must accompany each application for

Changed Assessment filed or the application cannot be processed.

- D. **Agent Authorization** A person or entity affected who wishes to authorize an agent who is not an attorney licensed to practice in the State of California or the parent, child, or spouse of the person affected must:
- 1) Complete and sign the section titled “Agent or Attorney For Applicant” of the Application for Changed Assessment Appeal form, or
  - 2) Attach a written authorization to the application, prior to filing the application with the Clerk, containing all the following required information:
    - a) The date the authorization statement is executed;
    - b) A statement to the effect that the agent is authorized to sign, file, and withdraw the application in the specific calendar year in which the application is filed;
    - c) The specific parcel(s) or assessments(s) covered by the authorization, or a statement that the agent is authorized to represent the Applicant on all parcels and assessments located in Inyo County;
    - d) The name, address and telephone number of the specific agent who is authorized to represent the Applicant;
    - e) The Applicant’s signature and title;
    - f) A statement that the agent will provide the Applicant with a copy of the application.
  - 3) If a photocopy of the original authorization is attached to the application, the agent shall be prepared to submit an original signed authorization if requested by the BOE. The application form shall show that the agent's authorization was attached to the application. An agent must have authorization to file an application at the time the application is filed; retroactive authorizations are not permitted.
  - 4) If the Applicant is a corporation, limited partnership, or a limited liability company, the agent authorization must be signed by an officer or authorized employee of the business entity.
- E. **Revocation or Substitution of An Agent** An Applicant who wishes to cancel or revoke the previous authorization of an agent, or who wishes to substitute a new agent for a former agent previously authorized, must complete a new Agent Authorization form and file it with the Clerk. Unless a new Agent Authorization form has been properly completed and filed with the Clerk, all correspondence regarding the appeal will continue to be sent to the agent who was first authorized to act on the Applicant’s behalf. Such person will remain the authorized agent for the application, and may settle by stipulation, withdraw or otherwise control the appeal.
- F. **Optional Information** In addition to the other information required by the Revenue and



Taxation Code, Applicants are encouraged to provide their email contact information on each application they file. Inclusion of email contact information on an application shall constitute the Applicant's consent to receive correspondence related to the application from the Clerk by email. Unless otherwise required, the Clerk may utilize the email address provided by the Applicant as the sole means by which to communicate with the Applicant regarding an application.

**G. Invalid Applications** Following review by the Clerk, applications that are either untimely or incomplete and not corrected according to subsection 2 of this rule shall be denied by the Clerk as invalid and no hearing will be scheduled. The BOE lacks jurisdiction to hear an assessment appeal when the application for the assessment appeal is invalid.

- 1) Untimely Applications: The Clerk shall determine if an application is timely filed as follows:
  - a) Any application or re-submittal of a corrected application, that is filed by mail or personal delivery and received at the Clerk's office no later than 5:00 p.m. of the last day of that application's applicable filing or correction deadline is timely filed.
  - b) Any application or re-submittal of a corrected application, that is filed by mail that has the postage prepaid, is properly addressed, and bears a U.S. postmark date no later than the last day of that application's applicable filing or correction deadline shall be deemed timely filed.
  - c) An application or re-submittal of a corrected application filed by mail that bears both a private business postage meter postmark date and a U.S. Postal Service postmark date will be deemed to have been filed on the date that is the same as the U.S. Postal Service postmark date, even if the private business postage meter date is the earlier of the two postmark dates.
  - d) If the last day of the filing period falls on Saturday, Sunday, or a legal holiday, an application that is properly addressed, mailed, and postmarked on the next business day or received by the Clerk on the next business day shall be deemed timely filed. If the county's offices are closed for business prior to 5 p.m. or for the entire day on which the deadline for filing falls, that day shall be considered a legal holiday.
- 2) Incomplete Applications: An application lacking any of the information required by Property Tax Rule section 305(c)(1) is incomplete.
- 3) Notice of Invalidity: When any application or re-submittal of a corrected application is untimely filed, the Clerk shall promptly notify the Applicant that no assessment appeal hearing will be set because the filing of his or her application is invalid as untimely and informing the Applicant of his or her right to appeal the denial of a hearing, according to the procedure in section H of this rule.

When an application is timely filed yet incomplete, the Clerk shall promptly notify the Applicant that the application is incomplete, outlining the information required to

complete the application, warning that if the missing information is not received by the Clerk within thirty (30) days of service of the notice (either the postmark date of a letter or the date a notification is sent by email) no assessment appeal hearing will be set, and informing the Applicant of his or her right to appeal denial of a hearing, according to the procedure in section H of this rule.

- H. **Appeal of Invalidity** The Applicant may appeal the denial of a hearing based on the invalidity of his or her application as untimely or incomplete ***only by*** filing a written request to the Clerk within thirty (30) days of the notifying letter's postmark date or email origination date. If a timely written request to appeal the application's invalidity is received by the Clerk, the Clerk shall schedule the application for a jurisdictional Hearing to determine whether the application will be denied by the BOE as untimely and/or incomplete.

Additionally, the Assessor may appeal the Clerk's determination that an application is valid or otherwise challenge the BOE's jurisdiction to hear an appeal by filing a written request for a jurisdictional hearing at any time prior to the scheduled hearing on the appeal's merits.

As a condition to declaring a previously incorrect or incomplete application complete under this rule, the BOE may require the Applicant to execute a written agreement to extend the period for hearing and decision on the application beyond the two-year period required by Revenue and Taxation Code Section 1604.

- I. **Consolidation of Applications** Multiple applications presenting the same or substantially related issues may be consolidated for hearing.
- J. **Amendments & Corrections** An Applicant or Authorized Agent may amend an application without limitation until 5:00 p.m. on the last day upon which the application can be timely filed. After the filing period has expired:
- 1) An invalid application may be corrected in accordance with subsection (G)(3) of this rule.
  - 2) The Applicant or the Authorized Agent may amend an application provided that the effect of the amendment is not to request relief additional to or different in nature from that originally requested.
  - 3) Upon request of the Applicant or the Authorized Agent, the BOE, in its discretion, may allow the Applicant or the Authorized Agent to make amendments to the application in addition to those specified above in subdivisions (1) and (2) to state additional facts claimed to require a reduction of the assessment that is the subject of the application.
  - 4) The Applicant or the Authorized Agent shall state the reasons for the request, which shall be made in writing and filed with the Clerk prior to any scheduled hearing, or may be made orally at the hearing. If made in writing, the Clerk shall provide a copy to the

Assessor upon receipt of the request.

- 5) As a condition to granting a request to amend an application, the BOE may require the Applicant to sign a written agreement extending the two-year period provided in section 1604 of the Revenue and Taxation Code.
  - 6) If a request to amend is granted, and upon the request of the Assessor, the hearing on the matter shall be continued by the BOE for no less than 45 days, unless the parties mutually agree to a different period of time.
  - 7) An Applicant or the Authorized Agent shall be permitted to present testimony and other evidence at the hearing to support a full value that may be different from the opinion of value stated on the application. The presentation of such testimony or other evidence shall not be considered an amendment.
- K. **Claim for Refund** If a valid Application is designated as a claim for refund pursuant to section 5097 of the Revenue and Taxation Code, the Applicant shall be deemed to have challenged each finding of the BOE and to have satisfied the requirements of section 5097.02 of the Revenue and Taxation Code.
- L. **Withdrawal** Unless the Assessor has given the Applicant a written notice of the intent to recommend an increase in the assessed value of the property, an application may be unconditionally withdrawn at any time prior to or at the time of the hearing upon written request to the Clerk, signed by the Applicant, or by returning the Hearing Confirmation Letter to the Clerk with the withdrawal box marked. When a notice of intent to increase the assessed value of the subject property has been issued pursuant to Revenue and Taxation Code section 1609.4, withdrawal of the application may only be made with the consent of the Assessor. No conditional withdrawal will be accepted. Once made, all withdrawals are final and may not be revoked.
- M. **Copy of Application to Assessor** The Clerk shall transmit to the Assessor a copy of each application and each written request for amendment or correction that is received. A reasonable time shall be allowed before the hearing for the Assessor to obtain information relative to the property and the assessment thereof.
- N. **Locating Board of Equalization Forms** As a courtesy, the following forms are available on the Inyo County website at <https://www.inyocounty.us/government/board-supervisors/services-information/assessment-appeals>:
- Assessment Appeal Withdrawal
  - Authorization of Agent Form
  - Fee Waiver Form
  - Request for Exchange of Information

- Request for Information Form
- Revocation or Substitution of Agent
- Waiver to Extend Two-Year Period

Additionally, the Clerk will provide copies of any forms requested by name. The Clerk cannot provide direction or advice as to which form(s) a taxpayer might need, as this constitutes offering legal advice, which the County does not do.

### III. PREPARING FOR HEARING

- A. **Notice of Hearing** At least forty-five (45) days prior to the hearing, unless otherwise required by Property Tax Rule 307, the Clerk will notify the Parties in writing of the date, time and place scheduled for hearing of each appeal.

***Note:** Applicants are strongly encouraged to contact the Assessor at least one week prior to the scheduled Hearing to discuss any issues involving the appeal. Such discussions may result in resolution of the dispute without the need for Hearing.*

- B. **Hearing Confirmation Form** When the Clerk mails a Notice of Hearing, a Hearing Confirmation Form will be included. At least twenty-one (21) days before the date scheduled for hearing of the Applicant's appeal, the Applicant shall mail or otherwise deliver the completed Hearing Confirmation Form to the Clerk who shall provide a copy to the Assessor. The form will provide the Applicant with the following options to indicate that the Applicant intends to:

- 1) appear on the scheduled hearing date; or
- 2) request the postponement of the scheduled hearing to another regularly-scheduled BOE hearing date; or
- 3) withdraw the appeal.

If the Applicant fails to return the completed confirmation notice form, as required, and appears on the scheduled date of hearing, the BOE shall, at the Assessor's request, postpone the hearing to a date at the discretion of the BOE. The failure to timely return the completed Hearing Confirmation Form shall be deemed to be a postponement request by the Applicant for purposes of Rule 26. If the hearing date is within ninety (90) days of the expiration of the two-year limitations period for hearings set by Revenue and Taxation Code Section 1604 (c), the BOE may require the Applicant to enter into a written agreement extending and tolling the two-year limitations period as a condition of the postponement.

- C. **Request for Postponement** Each party to the appeal is entitled to one postponement of a scheduled hearing, if the request for postponement is received within 120 days of the

expiration of the two-year limitation. The postponement can be initiated by submitting a written request to the Clerk or submitting the Hearing Confirmation Letter with the appropriate box marked to request a postponement. The request must be delivered to the Clerk's office no later than 21 days prior to the scheduled hearing date.

- 1) Time of Request: If the request for postponement is made by the applicant and received by the Clerk within 120 days of the expiration of the two-year limitation, the postponement shall be contingent upon the Applicant's written agreement to extend the two-year period. If the postponement is requested by the Assessor and received by the Clerk within 120 days of the expiration of the two-year limitation, it may be granted upon the BOE's discretion.
- 2) Untimely/Subsequent Request: Untimely postponement requests and requests subsequent to the first postponement, shall be granted only upon showing of good cause. Such requests must be submitted to the Clerk in writing and describe unforeseen and compelling circumstances which made a timely request for postponement impossible or impracticable. The request will be presented to the BOE on the scheduled hearing date. The BOE will consider the request and take action to approve or deny the request.
- 3) Stipulations: A stipulation for a postponement of a scheduled hearing by an Applicant and the Assessor shall be deemed to constitute good cause for the requested postponement, but the BOE may require extending and tolling indefinitely the two-year limitation period prior to granting such a continuance if the postponement is requested within 120 days of the expiration of the two-year limitation. Any information exchange dates remain in effect based on the originally scheduled hearing date notwithstanding the hearing postponement, except as provided in State Board of Equalization Rule 305.1(d).
- 4) Clerk's Authority: The Clerk shall have the authority to grant all postponements which are a matter of right and all postponements based on a stipulation by Applicant and the Assessor. Requests for postponement shall be considered as far in advance of the hearing date as practicable.

- D. **Disqualification of a BOE Member** A BOE member shall disqualify himself or herself from hearing or deciding any matter in which he or she has a financial interest as defined in Government Code Section 87103. A BOE member may also disqualify himself or herself from any matter pending before the BOE for good cause, which shall be stated on the record.

Additionally, a party may file with the Clerk a written statement objecting to the hearing of a matter before a member of the BOE, which may result in the BOE member's disqualification. The process for objecting to a BOE member with regard to a hearing is as follows:

- 1) The statement shall set forth the facts constituting the ground of the disqualification of such member and shall be signed by the party and shall be filed with the Clerk at the earliest practicable opportunity after the discovery of the facts constituting the ground of the member's disqualification, and, in any event, before the commencement of the hearing on any issue of fact in the proceeding before such member. Copies of the written statement shall be served by the presenting party on each party in the proceeding and on the BOE member alleged in the statement to be disqualified.
- 2) Within ten (10) days after the filing of any such statement, or ten (10) days after the service of such statement as above provided, whichever is later in time, the BOE member alleged therein to be disqualified may file with the Clerk a written answer either:
  - a) consenting in writing that the action or proceeding be tried before another member, in which event the Clerk shall appoint a replacement member or
  - b) denying his or her disqualification, which answer may admit or deny any or all of the allegations contained in such statement and setting forth any additional fact or facts material or relevant to the question of his or her disqualification.
- 3) The Clerk shall transmit a copy of such consent or answer to each party. Every such statement and every such answer shall be verified by oath in the manner prescribed by section 446 of the Code of Civil Procedure for the verification of pleadings.
- 4) The question of the member's disqualification shall be heard and determined by a BOE member, other than the member subject to the disqualification challenge, agreed upon by the parties who have appeared in the proceeding. In the event that the parties fail to agree in writing, within five (5) days after the expiration of the time allowed herein for the member to answer, the Clerk shall assign a member to hear and determine the matter of the disqualification.

**E. Completion of Discovery and Exchange of Information** Both parties may file a written request for exchange of information, except that the Assessor may only do so if the assessed value of the property before deduction of any exemption exceeds \$100,000. The request may be filed with the Clerk at the time of filing the application, or may be submitted to the other party and the Clerk at any time prior to thirty (30) days before the commencement of the hearing. The exchange was deemed initiated on the date of postmark, as affixed by the United States Postal Service or the date certified by a bona fide private courier service on the envelope containing the information. Where both marks exist, the United States Postal Service postmark date shall control. The Clerk shall at the earliest opportunity forward any request filed with the application or a copy thereof to the other party. The request shall contain the basis of the requesting party's opinion of value for each valuation date at issue and the following data, if it is to be used as evidence to support the opinion of value:

- 1) COMPARABLE SALES DATA - The properties sold shall be described by the Assessor's parcel number, street address or legal description sufficient to identify them. With regard to each property sold, there shall be presented: the approximate date of the sale, the price paid, the terms of the sale (if known), and the zoning of the property.
- 2) INCOME DATA - The gross income, the allowable expenses, the capitalization method (direct capitalization or discounted cash flow analysis) and rate or rates employed.
- 3) COST DATA - With regard to improvements to real property: the date of construction, type of construction and replacement cost of construction. With regard to machinery and equipment: the date of installation, installed cost and any history of extraordinary use. With regard to both improvements and machinery and equipment: facts relating to depreciation, including any functional or economic obsolescence and remaining economic life.

The information exchanged shall provide reasonable notice to the other party concerning the subject matter of the evidence or testimony to be presented at the hearing. There is no requirement that the details of the evidence or testimony to be introduced must be exchanged.

If a party requesting an exchange of data has submitted the data required within the time specified, the other party shall submit a response to the initiating party and the Clerk at least 15 days prior to the hearing. The response shall be supported with the same type of data required of the requesting party. When the Assessor is the respondent, he or she shall submit the response to the address shown on the application or on the request for exchange for information, whichever is filed later.

Whenever information has been exchanged pursuant to this section, the parties may introduce evidence only on matters pertaining to the information so exchanged unless the other party consents to introduction of other evidence. However, at the hearing, each party may introduce new material relating to the information received from the other party. If a party introduces such new material at the hearing, the other party, upon request, shall be granted a continuance for a reasonable period of time.

If one party initiates a request for information and the other party does not comply within the time specified in this section, the BOE may grant a postponement for reasonable period of time. The postponement shall extend the time for responding to the request. If the BOE finds willful noncompliance on the part of the noncomplying party, the hearing will be convened as originally scheduled and the noncomplying party may comment on evidence presented by the other party but shall not be permitted to introduce other evidence unless the other party consents to such introduction.

The Applicant and the Assessor shall complete any and all discovery and exchange of information authorized by law prior to the equalization hearing. Any objections to requests for disclosure made to the other party under Revenue and Taxation Sections 408, 441-470



or 1606 or to complain of unreasonable or unlawful difficulties encountered by either party in obtaining information believed to be necessary to proceed to hearing may be brought to the attention of the BOE by means of a written request for pre-hearing conference.

Upon good cause shown, the BOE shall make findings concerning the failure of a party to respond to requests for information and the impacts of such failures on the requirements to timely hear the appeals under the provisions of Revenue and Taxation Code Section 1604 (c). Continuances for the conduct of discovery or for the pursuit of court action to enforce discovery demands or subpoenas shall be granted by the BOE only upon a showing of good cause. To expedite the hearing and to carry out its equalization duties, the BOE may in its discretion order compliance with discovery demands and subpoenas as provided by the next section of this rule.

#### **F. Subpoenas and Sanctions**

- 1) Subpoenas: The BOE may issue subpoenas for the attendance of witnesses and/or the production of books, records, maps and documents at the hearing either upon its own motion or at the request of a party in advance of the hearing or at the time of the hearing. With regard to the issuance of subpoenas, please note the following:
  - a) A subpoena may be served on any resident of the State of California or any person or business entity found within the state.
  - b) A request for a subpoena for the production of books, records, maps and documents shall be supported by an affidavit, such as is prescribed by section 1985 of the Code of Civil Procedure.
  - c) Subpoenas shall be restricted to compelling the appearance of a person or the production of things at the hearing and shall not be utilized for purposes of prehearing discovery. No subpoena to take a deposition shall be issued nor shall depositions be considered for any purpose by the BOE.
  - d) If a subpoena is issued at the request of a party, he or she is responsible for serving it and for the payment of witness fees and mileage.
  - e) In the event a State Board of Equalization employee is subpoenaed pursuant to section 1609.5 of the Revenue and Taxation Code at the request of the Applicant and the BOE grants a reduction in the assessment, the BOE may reimburse the Applicant in whole or in part for the actual witness fees paid pursuant to section 1609.5.

If a party desires the BOE to issue a subpoena, the party shall make the written request pursuant to Rule III.H, below and sufficiently in advance of the scheduled hearing date so that the subpoenaed party has an adequate opportunity to fully comply with the subpoena prior to the commencement of the hearing. Upon such request, the BOE may, whenever possible, issue subpoenas pursuant to sections 1609.4 and 1609.5 of the Revenue and Taxation Code. A subpoena issued near in time to or after

commencement of the hearing should be as limited as possible, and a postponement or continuance of the hearing may be granted, if requested, for a reasonable period of time.

- 2) **Sanctions**: Failure on the part of the party to comply with a subpoena or order to produce evidence may result in the imposition by the BOE of one or more of the sanctions authorized by Code of Civil Procedure section 2023, subsections (b)(2),(b)(3) and (b)(4)(A)-(D), if the BOE deems such an order necessary to carry out its equalization duties and to expedite the hearing.

**G. Pre-hearing Conferences:** Pre-hearing conferences are mandatory for high value appeals, but may also be set by the Clerk at the request of a party or at the direction of the BOE. These hearings may be scheduled to resolve issues such as, but not limited to:

- a) the present status of the appeal;
- b) whether the parties have engaged in or completed necessary case preparation, discovery or settlement of uncontroverted issues;
- c) the factual and legal issues in dispute;
- d) the names of the witnesses to be called, the order of testimony and the anticipated duration of the hearings;
- e) the readiness of the parties to proceed with the hearings;
- f) the status of information requests;
- g) combining applications into a single hearing;
- h) bifurcating the hearing issues;
- i) scheduling a date for the hearing on the merits of the application; and
- j) disclosure of such other matters as the BOE deems appropriate to facilitate and expedite the hearing and resolution of the case.

- 2) **High Value Appeals**: All appeals that are designated by the BOE as “high value appeals” shall be scheduled for a pre-hearing conference not later than July 15 of the year following the calendar year in which the appeals are filed or, for appeals filed outside the normal appeal period, within one (1) year of the date of filing of the appeal. Thereafter, further pre-hearings shall be conducted at least once every one-hundred eighty (180) days until the case is heard and decided or otherwise resolved.

- 3) **Pre-hearing Reports and Motions**: The BOE may require the parties to submit written motions or written pre-hearing status reports to discuss, at the direction of the BOE, any or all of the information items set forth above. However, any party may submit a written status report or motion without formal BOE direction. The parties shall file and serve any pre-hearing status reports or motions in accordance with Rule III.H. The

failure of a party to serve and file a pre-hearing report (if so ordered), to appear or to fully participate in any pre-hearing conference, if unexcused by the BOE, shall constitute abandonment of the appeal and provide grounds for denial of the appeal on the merits.

- 4) Notice of Preconference Hearing: The Clerk shall set the matter for a pre-hearing conference and send a Notice of Hearing not less than 45 days prior to the conference, unless the parties stipulate orally or in writing to a shorter notice period. The Notice of Hearing may include direction from the BOE to submit a pre-hearing status report regarding specific issues.

H. **Motions**: The parties to an appeal may file written motions for relief with the Clerk, including motions to postpone, to set, or bifurcate hearings, and for protective orders and subpoenas. In response to a written motion, the party against which relief is sought may file an “opposition” to which the moving party may then file a “reply”. The documents required for filing a motion, opposition, or reply are collectively referred to as “papers”.

- 1) Format: The first page of each paper shall specify immediately below the number of the case: the date, time, and location of the scheduled hearing (*See Appendix A*).
  - a) The papers filed in support of a motion, also referred to as the “moving papers”, shall consist of at least the following:
    - (i) notice of hearing on the motion, which shall notify the other parties that a hearing will be held to determine whether the BOE will grant or deny the attached motion;
    - (ii) the motion, which shall concisely state in the opening paragraph the specific order being sought, by whom the order is being sought, and the grounds for issuance of the order;
    - (iii) a memorandum of points and authorities in support of the motion, not to exceed six pages, which shall contain a statement of facts, a concise statement of the law, evidence and arguments relied on, and a discussion of the statutes, regulations, cases, and textbooks cited in support of the position advanced;
    - (iv) A proof of service, in accordance with Civil Code of Procedure section 417.10, which shall state under penalty of perjury how, when, and by whom the moving papers were delivered to the other party or parties to the appeal and shall be signed by the person making the delivery.
  - b) These moving papers must be filed as one combined document. Other papers that may be filed in support of a motion, such as declarations, exhibits, or other documents, should be attached to the combined document. The proof of service of this combined document on other parties, shall be filed and received by the Clerk no later than ten days before the time appointed for the hearing.
  - c) Opposition and reply papers shall consist of the following:
    - (i) Either a memorandum of points and authorities opposing the motion, as

described in (1)(a)(iii) of this subsection, or a document not to exceed 6 pages, which concisely outlines arguments against the motion based on cited law and/or supported facts;

(ii) Other papers the party wishes to file in opposition to the motion, such as declarations, exhibits, or other documents, should be attached to the combined document.

(iii) A proof of service.

- 2) Filing: An original and five copies of the motion, opposition or reply shall be filed in the Clerk's office.
- 3) Bifurcation: Where the BOE has bifurcated the hearing on issues arising out of an appeal, each bifurcated hearing shall be considered a hearing for purposes of these guidelines, and appropriate motions may be made prior to each bifurcated hearing.
- 4) Time For Filing Motions:
  - a) For motions that request the BOE to enter an order that will result in a final decision on the case, all moving and supporting papers shall be served and filed and received by the Clerk at least 45 days before the hearing date.
  - b) Unless otherwise ordered, all other motions and their supporting papers shall be served and filed and received by the Clerk at least 20 days before the hearing date.
  - c) All papers opposing a motion shall be filed and received by the Clerk and the other party at least eight days before the hearing date.
  - d) All reply papers shall be filed and received by the Clerk and the other party at least two days before the hearing.
- 5) Untimely Filing: No untimely paper shall be accepted without good cause. If the Appeals BOE, in its discretion, agrees to consider a late filed paper, the minutes or order shall so indicate the good cause shown.
- 6) Hearings: The Clerk shall maintain the BOE's hearing schedule. For a hearing on a motion a party may select a date and time, based on the BOE's hearing schedule, and request the Clerk to set the hearing on a motion for the date selected by the party. The party shall thereafter file and serve the motion for the date selected by the party.
- 7) Evidence at Hearing on Motion: Oral testimony, documentary evidence, declarations or affidavits may be received at the hearing at the discretion of the BOE.
- 8) Deliberation: The BOE may take the matter under submission and deliberate in closed session on the motion and thereafter direct the Clerk to notify the parties of its ruling on the motion.

9) Clerk's Notice of Ruling: Where the BOE rules on a motion, the Clerk shall promptly notify the parties of the ruling. The notification shall name the moving party and the party against whom relief was requested and specifically identify the matters ruled upon. Mailing a copy of the ruling or order to the parties shall constitute service of notice.

10) Record of Proceedings: The Clerk shall record the hearing on the motion in the same manner that the Clerk is required to record the BOE's proceedings on Applications under the Revenue and Taxation Code.

I. **Exhibits**: Unless submitted according to Rule 3(H), no exhibits, maps, letters, papers, documents, charts, etc. to be submitted as evidence will be accepted prior to the hearing of the appeal on its merits. If such documents are filed with an application by the Applicant and inadvertently accepted by the Clerk, the Clerk is not responsible for maintaining them in the appeal file, for forwarding them to the Assessor or BOE, or for returning them to the Applicant.

However, parties shall prepare any documentary evidence to be presented at the hearing in advance thereof as follows:

1) The Applicant shall serially pre-mark all exhibits with numerals (e.g., Applicant's Exhibit 1, Applicant's Exhibit 2, etc.) and the Assessor shall serially pre-mark all exhibits with letters (e.g., Assessor's Exhibit A, Assessor's Exhibit B, etc.) to reflect the order in which that party intends to introduce them into evidence.

2) At the hearing each party shall provide the Clerk with seven (7), pre-marked copies of each document being presented as evidence prior to the BOE's admission of said document into evidence.

3) To be most effective in presenting evidence, the BOE strongly urges parties to number each page of each exhibit and to bind exhibits with more than three (3) pages appropriately. Each exhibit may be either single or double-sided, but mixing single and double sided formats within an exhibit is disfavored.

J. **Recordings and Transcripts**: All hearings of the BOE shall be recorded or reported or videotaped subject to the conditions set forth in Code of Civil Procedure section 2025, subsection (l)(2). Certified transcripts or recordings of BOE hearings are available as follows:

1) Any person may purchase a tape recording of that portion of the hearing that is open to the public upon payment of a reasonable fee, provided the request to purchase has been made within sixty (60) days after the final determination of the BOE.

2) The Clerk is unable to prepare typed transcripts. However, the Applicant, at the Applicant's own effort and expense, may arrange to have the hearing reported by a

stenographer. If the Applicant desires to arrange for a stenographic reporter, the Applicant must notify the Clerk in writing at least ten (10) days before the hearing.

3) Only the Clerk may certify that the transcript or record of the hearing is accurate and complete. If a stenographic reporter is present, the BOE may designate the reporter's transcript as the official record upon being filed with the BOE. Upon the deposit of reasonable costs of comparison, the Clerk will certify typed transcripts made from the tape recorded record, provided the request has been made within sixty (60) days after the final determination of the BOE.

K. **Request for Findings of Fact** Findings of fact are necessary for judicial (court) review of the decision. An Applicant or Authorized Agent may request findings by checking the appropriate box on the appeal application, or by submitting a separate request for findings to the Clerk of the BOE. The Applicant or Authorized Agent must confirm the request for findings with the Clerk on the scheduled hearing date, prior to commencement of the hearing, and must pay the deposit as indicated on the Assessment Appeal Application form. Note that besides the initial deposit, the final cost of findings of fact will include actual costs for transcription services plus attorney preparation fees. Completed findings will not be released to the requesting party until all fees have been paid. The requesting party may abandon the request and waive the findings upon receiving oral notification of the decision.

**Note:** Parties to a hearing are always notified of the decision in their case in accordance with Rule VI, Section J, below and need not make any special request to receive such notification.

## IV. ASSESSMENT APPEAL HEARING

A. **Legal Counsel** The Applicant and the Assessor may be represented by legal counsel. Individual deputies in the office of County Counsel may represent the Assessor and the BOE, as long as the same attorney does not represent both parties.

B. **Stipulations** No reduction of an assessment can be made unless the Applicant or Authorized Agent attends a hearing scheduled before the BOE, and offers evidence under oath regarding the value of the property and answers all pertinent questions. An exception to this requirement is if a written stipulation is filed with the BOE, signed by the Assessor and the Assessor's Counsel on behalf of the County and the Applicant or Authorized Agent making the application, which includes the full value and assessed value of the property and the facts upon which the reduction in value is premised. The BOE may, at a public hearing:

- 1) Accept the stipulation, and thereby waive the appearance of the Applicant or Authorized Agent and change the assessed value in accordance with Section 1607 and 1610.8 or
- 2) Reject the stipulation and schedule or reschedule the application for hearing.

- 3) An Applicant who chooses to transmit a signed stipulation by email transmission must return the originally signed stipulation to the Clerk. If the Clerk does not receive the originally signed stipulation at least three (3) days prior to the scheduled hearing, the personal appearance of the Assessor and the Applicant or Authorized Agent may be required.

C. **Continuances** At the hearing, during the presentation of evidence, the BOE may continue the hearing to a later date upon its own motion or at the request of either party, provided that:

- 1) If the request is made by a party, that party provides good cause, as determined by the BOE based on the record, why a continuance should be granted;
- 2) If the request is made by the Applicant, a 1604(c) Waiver Agreement is on file or filed by the Applicant;
- 3) If the request is made by the Assessor and within 120 days from the expiration of the two-year deadline, the Applicant has a 1604(c) Waiver Agreement on file or waives the two-year statute on the record before the BOE;
- 4) If the continuance is based upon the BOE's own motion and no 1604(c) Waiver Agreement is on file or filed by the Applicant, the hearing can be continued to specific designated date that is at least 60 days prior to the two-year statutory deadline for hearing appeals under Section 1604(c); and
- 5) The evidentiary portion of the hearing to be continued has not been concluded.

The Clerk shall inform the Applicant or the Applicant's agent and the Assessor in writing of the time and place of the continued hearing, not less than 10 days prior to the new hearing date, unless the parties agree in writing or on the record to waive written notice.

D. **Presumptions and Burden of Proof** Property tax assessments, and some of the factual circumstances on which property tax assessments are based, carry certain legal presumptions determining the manner in which evidence is presented as well as the amount of evidence a party is required to present. The following presumptions are applicable to assessment appeals:

- 1) Presumption of Correctness: Subject to exceptions set by law, it is presumed that the Assessor and all governmental employees have properly performed their duties. The effect of this presumption is to impose upon the Applicant the burden of proving that the value on the assessment roll is not correct, or where applicable, that the property in question has not been otherwise correctly assessed. The law requires that the Applicant present independent evidence relevant to the full value of the property or other issue presented by the application.

- a) Exceptions: There is a rebuttable presumption in favor of the taxpayer or Applicant, such that the Assessor bears the burden of proof when the hearing involves:



- (i) A penalty portion of an assessment.
  - (ii) The assessment of an owner-occupied single-family dwelling, defined by Revenue and Tax 167(c), or the appeal of an escape assessment, and the Applicant has filed an application that provides all of the information required in State Board Rule 305(c) and has supplied all information as required by law to the Assessor. With respect to escape assessments, the presumption in favor of the Applicant, does not apply to appeals resulting from situations where an Applicant failed to file a change in ownership statement, a business property statement, or to obtain a permit for new construction.
  - (iii) The Assessor proposes to introduce evidence to support a higher assessed value than the value on the roll, unless the Applicant has failed to supply all the information required by law to the Assessor.
- b) Presumption Is Not Evidence: If the Applicant has presented evidence, and the Assessor has also presented evidence, then the BOE must weigh all of the evidence to determine whether it has been established by a preponderance of the evidence that the Assessor's determination is incorrect. The presumption that the Assessor has properly performed his or her duties is not evidence and shall not be considered by the BOE in its deliberations.
- 2) Purchase Price Presumption: In hearings involving change in ownership, except as provided in section 110 of the Revenue and Taxation Code, the purchase price is rebuttably presumed to be the full cash value. The party seeking to rebut the presumption bears the burden of proof by a preponderance of the evidence.
  - 3) Base Year Value Presumptions: There are a number of presumptions regarding the base year value of an assessed property. For a detailed explanation of these presumptions, please refer to Property Tax Rule 305.5.
  - 4) Enforceable Restrictions Presumption: Pursuant to Section 402.1 of the Revenue and Taxation Code, the BOE shall presume that zoning or other legal restrictions on the use of either the property sold or the property being valued will not be removed or substantially modified in the predictable future unless sufficient grounds as set forth in that section are presented to the BOE to overcome that presumption.
  - 5) Presumptions Affecting Property Title: Fee simple title is presumed to be intended to pass by a grant of real property, unless it appears from the grant that a lesser estate was intended. The owner of the legal title to property is presumed to be the owner of the full beneficial title and this presumption may be rebutted only by clear and convincing proof.
  - 6) Burden of Proof Standards: Generally, the required standard of proof in hearings is proof by a preponderance of the evidence, meaning that on balance the evidence presented has more convincing force and a greater probability of truth than the evidence offered in opposition to it. However, there are certain property tax situations

in which the higher standard of clear and convincing evidence is required, meaning that the evidence so clear as to leave no substantial doubt.

E. **Open Hearings** Hearings shall be open, accessible, and audible to the public except that:

- 1) Upon conclusion of the hearing, the BOE may take the matter under submission and deliberate in private in reaching a decision, and
- 2) The BOE may grant a request by either party to close to the public a portion of the hearing relating to trade secrets. For purposes of this regulation, a “trade secret” is that information defined by section 3426.1 of the Civil Code. Such a request may be made by filing with the Clerk a declaration under penalty of perjury that evidence is to be presented by the party that relates to trade secrets whose disclosure to the public will be detrimental to the business interests of the owner of the trade secrets. The declaration shall state the estimated time it will take to present the evidence. Only evidence relating to the trade secrets may be presented during the time the hearing is closed, and such evidence shall be confidential unless otherwise agreed by the party to whom it relates.

F. **Bifurcated Hearings** An application may involve a legal issue(s) and a valuation issue(s). In those instances, the BOE will hear any controlling legal issue(s) first. If a decision can be rendered at the end of the hearing on the legal issue(s) and if time permits, the BOE may then hear the valuation issue(s) immediately after rendering its decision on the legal issue(s).

The parties can request that the hearing on the valuation issue be scheduled for hearing on another day if that request is received at least 20 days before the scheduled hearing on the legal issue. If neither party has requested that the valuation issue be scheduled for another date, the decision to proceed with the hearing will be at the sole discretion of the BOE.

G. **Order of Proceedings** A full and fair hearing shall be accorded the application. There shall be reasonable opportunity for the presentation of evidence, for cross-examination of all witnesses and materials proffered as evidence, for argument, and for rebuttal. However, the BOE has the authority and discretion to determine points of law, admissibility of evidence and other issues relative to the hearing. Hearings on applications shall proceed as follows:

- 1) Calling of Cases: The Chair shall announce the number of the Application and the name of the Applicant and invite the Applicant forward to begin the hearing.
- 2) Failure to Appear: If the Applicant or Authorized Agent is not present, the Chair shall ascertain whether the Clerk has notified the Applicant of the time and place of hearing. If the notice has been given, the application shall be denied for lack of appearance. If the notice has not been given, the hearing shall be postponed to a later date and the Clerk directed to give proper notice of the new hearing date to the Applicant. A denial

for lack of appearance by the Applicant is not a decision on the merits of the application and reconsideration of the denial may occur as provided in Local Rule V.B, below.

- 3) Introduction to the Proceeding: If the Applicant is present, the Chair shall announce the nature of the application, the assessed value as it appears on the local roll, and the Applicant's opinion of the value of the property. The Chair shall then state the issues the BOE has been requested to determine, inquire as to whether any agreements or stipulations have been agreed to by the parties, and briefly explain the hearing procedure to the parties. The parties will then be given the opportunity to ask any procedural questions.
- 4) Swearing of Witnesses: The Clerk shall administer the oath to the parties and any other persons assembled to be called as witnesses. Where a witness objects to taking the oath, that witness may affirm that he or she will tell the truth, the whole truth, and nothing but the truth under the penalty of perjury.
- 5) Burden of Proof: If there is any disagreement as to: 1) the issues before the BOE, 2) which party has the burden of proof, or 3) any other legal issue that would affect the order or nature of the hearing, the BOE shall give both parties the opportunity to present legal argument and factual evidence *solely* in regard to that legal or procedural issue, which it shall decide based on the record before moving forward with the hearing to opening statements.
- 6) Opening Statements: Both parties shall have the opportunity to make an optional opening statement, the duration of which may be reasonably limited by the BOE. Either party may waive this opportunity, but the Chair shall first offer the opportunity to the party with the burden of proof. The opening statement should briefly describe the property or properties that are the subject of the appeal and outline the facts that the party will demonstrate during its presentation of evidence. The opening statement is *not evidence* and should not include argument, but should merely be a brief preview of the party's presentation.
- 7) Presentation of Evidence:
  - a) Order of Presentation- For appeals where the Applicant has the burden of proof, the BOE shall require the Applicant to present his or her evidence first. The Assessor and the BOE may conduct a cross-examination after each piece of evidence or witness presented by the Applicant. When the Applicant is finished presenting evidence and all cross-examination has been conducted, the BOE shall then determine whether the Applicant has presented sufficient evidence supporting his or her position. If the Applicant fails to present evidence sufficient to rebut the correctness of the assessed value, the BOE will, at the request of the Assessor, dismiss the appeal without requiring the Assessor to provide evidence substantiating the assessed value. In the event the Applicant has presented sufficient evidence, the BOE shall then require the Assessor to present his or her evidence and the Applicant and the

BOE may conduct a cross-examination after each piece of evidence or witness presented by Assessor. For appeals where the Assessor has the burden of proof, the order of presentation is reversed and if the Assessor fails to present evidence sufficient to rebut the presumption, the BOE should rule in favor of the Applicant if there is substantial evidence in the record to support the Applicant's value.

- b) Admissibility of Evidence- Assessment appeal hearings are not conducted according to technical rules relating to evidence and witnesses. Any relevant evidence may be admitted if it is the sort of evidence on which responsible persons are accustomed to rely in the conduct of serious affairs. However it is in the best interests of the parties to be as concise as possible when presenting their evidence. Failure to enter a timely objection to evidence constitutes a waiver of that objection.
- c) Presentation of Documentary Evidence- The parties should introduce documents as evidence at the outset of their respective presentations by verbally identifying them for the record and then providing the Clerk with seven sets of all documents to be introduced.
  - (i) The Clerk shall distribute one copy of each document or set of documents to each of the BOE members, one copy to the BOE's counsel, and two copies to the opposing party and shall keep one copy for the record.
  - (ii) If a party fails to bring the required number of copies, the Chair may, on his or her own motion, postpone or continue the hearing or direct the Clerk to make additional copies at that party's expense. If the Chair chooses to postpone the hearing, said postponement shall constitute, for purposes of Rule III.C above, a request for postponement by the party failing to supply the required number of copies. If the Clerk is instead directed to make copies, she or he will collect the appropriate photocopying charges as set forth by applicable law prior to the admission of said documents as evidence.
  - (iii) Each party will be given a reasonable opportunity to review and object to any document introduced as evidence prior to the BOE's admission of the document into evidence.
  - (iv) Once documentary evidence has been admitted, the opposing party and the BOE shall have the opportunity to conduct a cross-examination in regard to that evidence.
- d) Testimonial Evidence- All testimony shall be taken under oath or affirmation. Once the party presenting evidence has directly examined a witness, the opposing party and the BOE shall have the opportunity to cross-examine that witness before the presenting party calls another witness to testify. At the discretion of the BOE, the presenting party may then conduct a redirect examination of the witness.

- e) Evidence of Comparable Sales- If the evidence includes data on sales of comparable properties, the data will be rejected unless the sales closed no more than 90 days after the valuation date. Applicants and Authorized Agents should be prepared to answer questions about the comparable properties.
  - f) Written Opinions of Value- If any party intends to offer in evidence at the hearing a written opinion of value, including, but not limited to an appraisal report, that party shall cause the author of the written opinion of value or appraisal report, to be present at the hearing and to be available for cross examination by the other party and by members of the BOE. Notwithstanding the foregoing, the parties may stipulate to the admissibility of the written opinion of value or appraisal report or portion thereof without the presence of the author.
  - g) Greater Than Roll Value- When the Assessor requests the BOE find a higher assessed value than he or she placed on the roll and offers evidence to support the higher value, the Chair shall determine whether or not the Assessor gave notice in writing to the Applicant by personal delivery or by deposit in the United States mail directed to the address given on the application. If notice and a copy of the evidence offered have been supplied at least 10 days prior to the hearing the Assessor may introduce such evidence at the hearing. The foregoing notice requirement shall not prohibit the BOE from a finding of a higher assessed value when it has not been requested by the Assessor.
  - h) Qualifications of Assessor's Appraisers Presumed- The BOE hereby finds and declares that the Assessor's presentation of evidence to qualify the Assessor's appraisers as experts constitutes a waste of administrative resources. There shall be a rebuttable presumption that the Assessor's appraisers are qualified to render expert testimony concerning valuation issues.
  - i) Receipt of Evidence Outside of Hearing- No member of the BOE shall, after an Application for equalization has been filed with the county, solicit or receive evidence outside of the public hearing relating to said application or knowingly view the property that is the subject of the appeal. If a BOE member has personal knowledge of a matter before the BOE, other than the type which could lead to potential recusal or disqualification, then at the appropriate time during the hearing, the BOE member shall publicly report such fact (e.g., knowledge of neighboring properties).
- 8) Closing and Rebuttal Arguments: After both parties have had an opportunity to present their cases and cross-examine each other's evidence, the evidentiary portion of the hearing is closed. The BOE shall then allow both parties to present optional closing arguments, the duration of which may be reasonably limited by the BOE. Either party may waive this opportunity, but the party with the burden of proof shall have the right to make a closing argument first. The opposing party shall then have the right to make a closing argument, to which the party with the burden of proof may make a rebuttal

argument, not to exceed one minute unless otherwise allowed by the BOE.

H. **Decision Process** The BOE must render a decision on each application over which it has jurisdiction after a properly conducted hearing on the matters in issue. Unless the hearing is bifurcated, the decision must dispose of all issues raised in the application that are within the jurisdiction of the BOE. The BOE shall provide to the Clerk such details as are necessary for the implementation of the BOE's decision.

- 1) Quorum and Vote Required: No hearing before the BOE shall be held unless two members of the BOE are present. A hearing must be held before the full BOE if either the Applicant or the Assessor so demands. In any case wherein the hearing takes place before less than the full BOE, the parties may stipulate that the absent member may read or otherwise familiarize himself or herself with the record and participate in the vote on the decision. No decision, determination, or order shall be made by the BOE by an affirmative vote of less than two members of the BOE. Except as otherwise provided herein, only those members who have been in attendance throughout the hearing may rule on the decision.
- 2) Appropriate Use of Valuation Methods: The goal of the BOE is to make a determination of the full value of the property under appeal, or any other issue that is properly before the BOE, or that is necessary to determine the full value of the property. Any valuation of property involves the following three fundamental considerations and must be supported by a preponderance of the evidence presented at the hearing:
  - a) Identification of the Appraisal Unit- The BOE shall determine the classification, amount, and description of the property that is the subject of the hearing. An appraisal unit of property is a collection of assets that function together, and that persons in the marketplace commonly buy and sell as a single unit or that is normally valued in the marketplace separately from other property, or that is specifically designated as such by law. When an application for review includes only a portion of an appraisal unit, whether real property, personal property, or both, the BOE may nevertheless determine the full value, classification, or other facts relating to other portions that have undergone a change in ownership, new construction or a change in value. Additionally, the BOE shall determine the full value of the entire appraisal unit whenever that is necessary to the determination of the full value of any portion thereof.
  - b) Defining Full Value- Generally, the full value is equivalent to the fair market value, however there are some circumstances in which the BOE is required to find a full value that is different from the fair market value.
  - c) Determination of the Proper Appraisal Method- The BOE shall consider evidence of value derived by the use of any of the valuation methods described in the State Board Rules, but must determine the full value by using the appraisal method or methods most appropriate for the type of property in dispute. In addition, the BOE must determine whether the method(s) used was (were) properly applied,

considering the type of property assessed, governmentally imposed land use restrictions, and any recorded conservation easements as described in Civil Code section 815.1 et seq., by examining the factual data, the presumptions, and the estimates relied upon. The BOE, the Applicant and appraisal witnesses shall be bound by the same principles of valuation that are legally applicable to the Assessor.

- (i) Comparative Sales Approach- When valuing a property by comparison with sales of other properties, the BOE shall consider only those sales that, in its judgment, involve properties similar in size, quality, age, condition, utility, amenities, site location, legally permitted use or other physical attributes to the property being valued. When valuing property for purposes of either the regular roll or the supplemental roll, the BOE shall not consider a sale if it occurred more than ninety (90) days after the date for which the value is being estimated. The provisions for exclusion of any sale occurring more than 90 days after the valuation date do not apply to the sale of the subject property.
- 3) Independent Valuation: The BOE is not required to choose between the opinions of value promoted by the parties to the appeal, but shall make its own determination of value based upon the evidence properly admitted at the hearing. The BOE's authority to determine the full value of property or other issues is not predicated on the filing of an application nor limited by the Applicant's request for relief.
- 4) Decision Based on Evidence: The BOE may act only upon the basis of proper evidence admitted into the record. BOE members may not act or decide an application based upon consideration of prior knowledge of the subject property, information presented outside of the hearing, or personal research. In weighing evidence, the BOE shall apply the same evidentiary standard to the testimony and documentary evidence presented by the Applicant and the Assessor. No greater relief may be granted than is justified by the evidence produced during the hearing.
- 5) Impact of Application Denial: A motion and order to deny an application for reduction in an assessment or any portion thereof, because of the nonappearance of the Applicant or Authorized Agent at the pre-hearing or at the hearing or because of the Applicant's failure to carry his burden of proof, shall be deemed to be a determination or finding that the full value of the property which is the subject of the application or part thereof is as determined by the Assessor and further that the assessed value of said property shall remain as set forth on the assessment roll of the County.

## V. AFTER THE APPEAL HEARING

- A. **Notice of Decision** The BOE may announce its decision to the parties at the conclusion of the hearing, or it may take the matter under submission. The decision becomes final when:

- 1) The vote is entered into the record at the conclusion of the hearing provided no findings of fact are requested by either party, and all parties are present at the hearing or the hearing is subject to stipulation by both parties. The BOE may provide a written notice of the decision.
- 2) A written notice of the decision is issued provided no findings of fact are requested by either party, and the decision is taken under submission by the BOE at the conclusion of the hearing. The BOE shall issue a written notice of the decision no later than 120 days after the conclusion of the hearing. The Clerk shall notify the Applicant in writing of the decision of the BOE by United States mail addressed to the Applicant or Authorized Agent at the address given in the application.
- 3) A written notice of the decision is issued or the findings of fact are issued, whichever is earlier, provided findings of fact are requested. The BOE shall issue a written notice of the decision no later than 120 days after the conclusion of the hearing. If so requested by an Applicant or an Applicant's agent, the determination shall become final upon issuance of the findings of fact which the BOE shall issue no later than 180 days after the conclusion of the hearing. Such a request must be made by the Applicant or the Applicant's agent prior to or at the conclusion of the hearing. If the conclusion of the hearing is within 180 days of the expiration of the two-year period specified in section 1604 of the Revenue and Taxation Code, the Applicant shall agree in writing to extend the two-year period. The extension shall be for a period equal to 180 days from the date of the conclusion of the hearing.

**B. Reconsideration & Rehearing** The decision of the BOE upon an application is final. The BOE shall not rehear or reconsider an application or modify a decision, except as hereinafter provided:

- 1) Clerical Error- The BOE may modify a decision which contains a ministerial clerical error. In these instances, the Clerk shall provide a summary of the error and a recommendation for correction to the BOE who originally decided the application in question.
- 2) Lack of Appearance Reconsideration- In addition, the BOE may reconsider an application denied solely because of the nonappearance of the Applicant at the scheduled hearing, if the Applicant:
  - a) files a completed "Request for Reconsideration of Assessment Appeal" form, available on the Clerk's website, with the Clerk within thirty (30) days from the date of mailing of notification of denial due to nonappearance; and
  - b) furnishes evidence establishing, to the satisfaction of the BOE, excusable good cause for the failure to appear or to make a timely request for postponement.

Upon the filing of a complete and timely "Request for Reconsideration of Assessment



Appeal” form, the Clerk shall set the matter for Hearing solely on the question of excuse for lack of appearance. If the lack of appearance is found to be the result of unforeseen and compelling circumstances arising in such a manner as to make a timely request for postponement impossible or impracticable, the request for reinstatement will be granted and the application will be rescheduled for a hearing on the merits.

Applicants who fail to request reconsideration within the period set, or whose requests for reconsideration are denied, may refile an assessment appeal of the base year value during the next regular filing period in accordance with Revenue and Taxation Code section 80.

- C. **Judicial Review** Judicial review of the decisions of the BOE may be sought by means of a suit for refund of property taxes erroneously or illegally collected brought under Revenue and Taxation Code Sections 5141-5142.
- 1) In order to seek review of a BOE decision, it is necessary to obtain findings of fact from the BOE (as provided in Rule 3K) and to make a request in writing for a copy of the tape recorded transcript of proceedings within sixty (60) days of the date of decision (Revenue and Taxation Section 1610). Upon the deposit of reasonable costs, the Clerk will arrange for a transcript to be created and certify typed transcripts made from the tape recorded record.
  - 2) If the Applicant has not filed a claim for refund of taxes as part of the assessment appeal, the Applicant is required to file a claim for property tax refund with the BOE of Supervisors of the County of Inyo under the provisions of Revenue and Taxation Code section 5097. This section requires that a person seeking a tax refund submit a claim, verified under oath, the facts of the dispute with the County and the amount of taxes sought to be refunded.
  - 3) Upon rejection of the claim by action of the Board of Supervisors or upon denial of the assessment appeal (if the refund claim is filed as part of the assessment appeal), the Applicant has a period of six (6) months to file a suit for refund of taxes in the Inyo County Superior Court.
  - 4) Because of the legal requirements that must be satisfied in order to successfully pursue a property tax refund suit, Applicants contemplating suit should promptly seek competent professional legal advice.
- D. **Retention of Records** Assessment appeals records, including applications and related documents, will be retained for no less than five years after final decision by the BOE.

# APPENDIX A

See Clerk for Samples of Moving Papers



# County of Inyo



## Board of Supervisors

### TIMED ITEMS - NO ACTION REQUIRED

**MEETING:** June 28, 2022

**FROM:** Supervisor Jeff Griffiths

**SUBJECT:** Update on Frontier Fiber Optic Project

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**RECOMMENDED ACTION:**

**Supervisor Griffiths** - Request Board receive a presentation from Doug McAllister, Vice President of External Affairs for Frontier Communications, on the company's infrastructure upgrade project in the Bishop area.

**SUMMARY/JUSTIFICATION:**

Frontier Communications, one of two Internet providers in Inyo County, will be embarking on a project to upgrade its infrastructure in the City of Bishop from copper to fiber optic cable. The goal of the project, which will also cover unincorporated areas surrounding the City of Bishop, is to provide faster, more reliable Internet service.

The local project is part of a larger, multi-state fiber build and expansion of Frontier's fiber customer base in order to deliver fiber to 10 million locations by 2025.

Although Frontier's services are currently only available in the Bishop and Big Pine areas, the project has potential implications for the entire county.

Doug McAllister, Vice President of External Affairs for Frontier Communications, has requested the opportunity to present more information about the project to our Board.

**BACKGROUND/HISTORY OF BOARD ACTIONS:**

N/A

**ALTERNATIVES AND CONSEQUENCES OF NEGATIVE ACTION:**

Our Board may choose not to hear the presentation, which is not recommended.

**OTHER AGENCY INVOLVEMENT:**

N/A

**FINANCING:**

There are no fiscal impacts associated with this agenda item.

**ATTACHMENTS:**

1. Inyo County Presentation

**APPROVALS:**

Darcy Ellis  
John Vallejo  
Leslie Chapman

Created/Initiated - 6/20/2022  
Approved - 6/21/2022  
Final Approval - 6/22/2022

**Have you heard?**  
**Frontier® Fiber**  
**is coming to**  
**Inyo County!**



**“IF WE’RE GOING TO DO SOMETHING BIGGER  
THAN WE EVER HAVE...**

**...THEN WE HAD BETTER DO BUSINESS  
BETTER THAN WE EVER HAVE!”**



# HOW DOES FIBER BROADBAND IMPACT COMMUNITIES?



**The Fiber network is 100% fiber from our central office to a customer's home**



**Households can connect to multiple devices at once without worries**



**Fiber broadband increases perceived rental & property value\***



**High-speed internet: Frontier<sup>®</sup> FiberOptic offers speeds up to 2 Gig**



**Revitalizing rural and urban communities**



**Entrepreneurs have the speed they need for infrastructure**



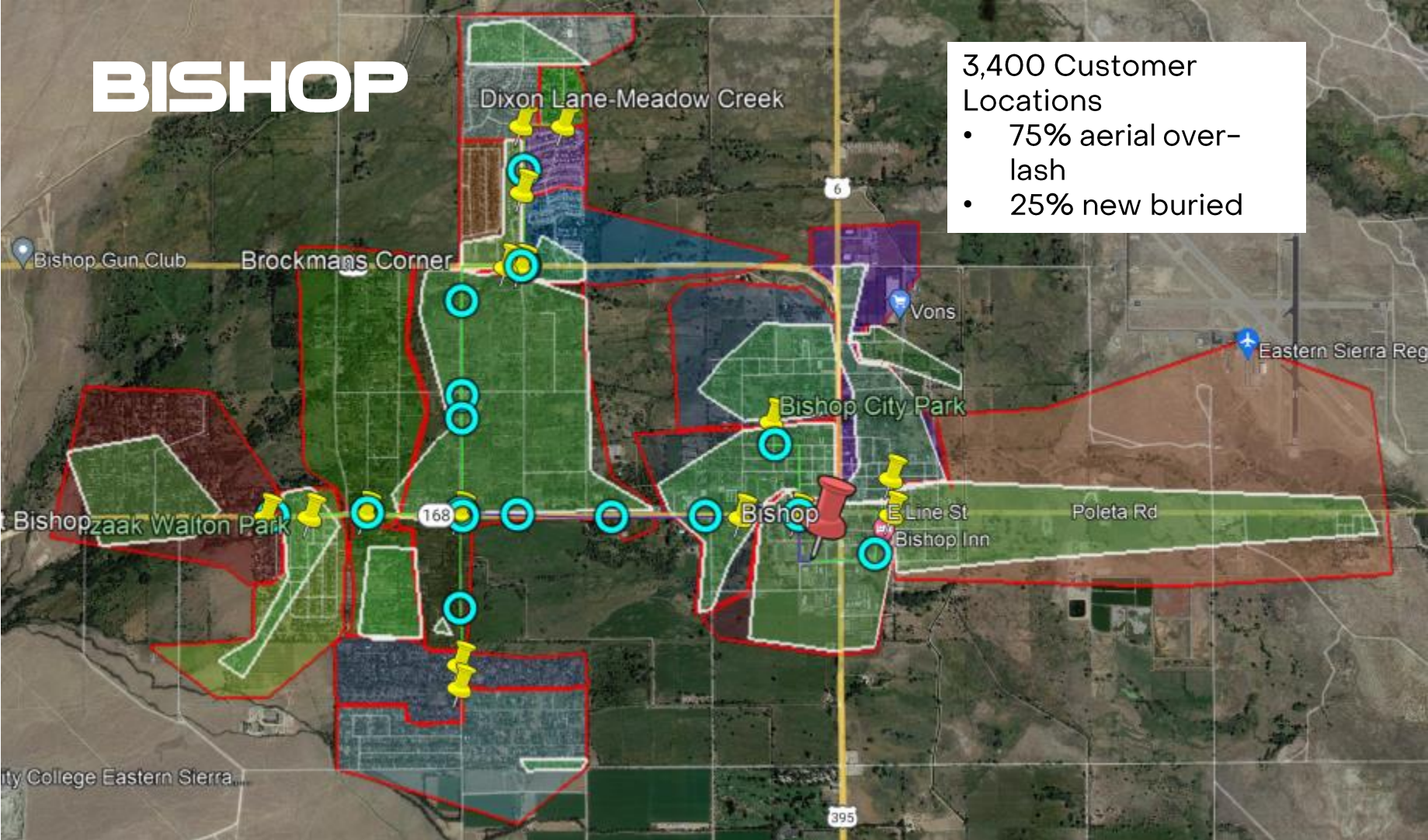
**Students can learn anywhere & compete fairly**



**New markets for operators: enable them to offer new services**

*\*A Fiber Broadband Association study shows home values increase with access to fiber.*

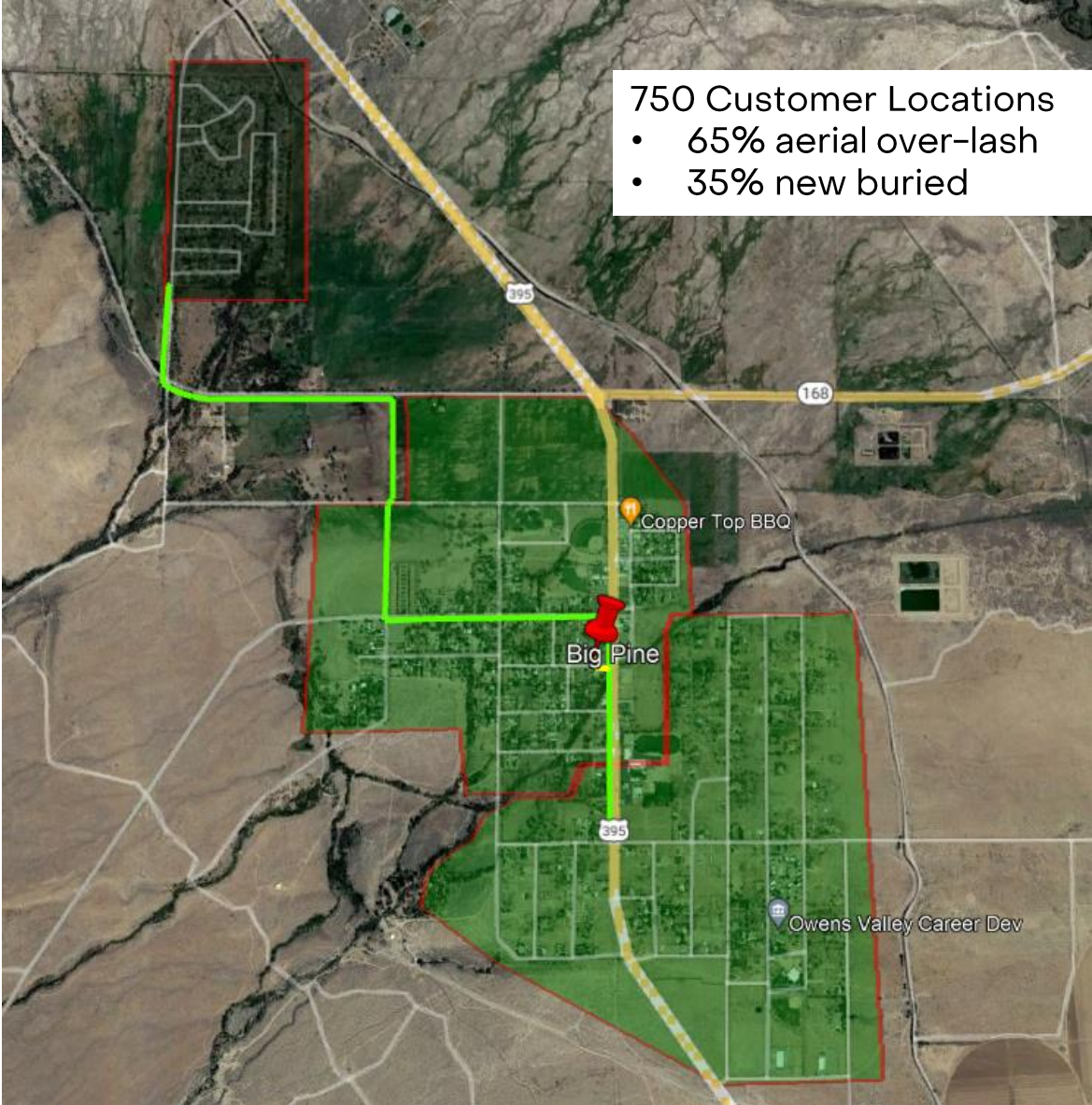
# INYO COUNTY FIBER TO THE HOME BUILD





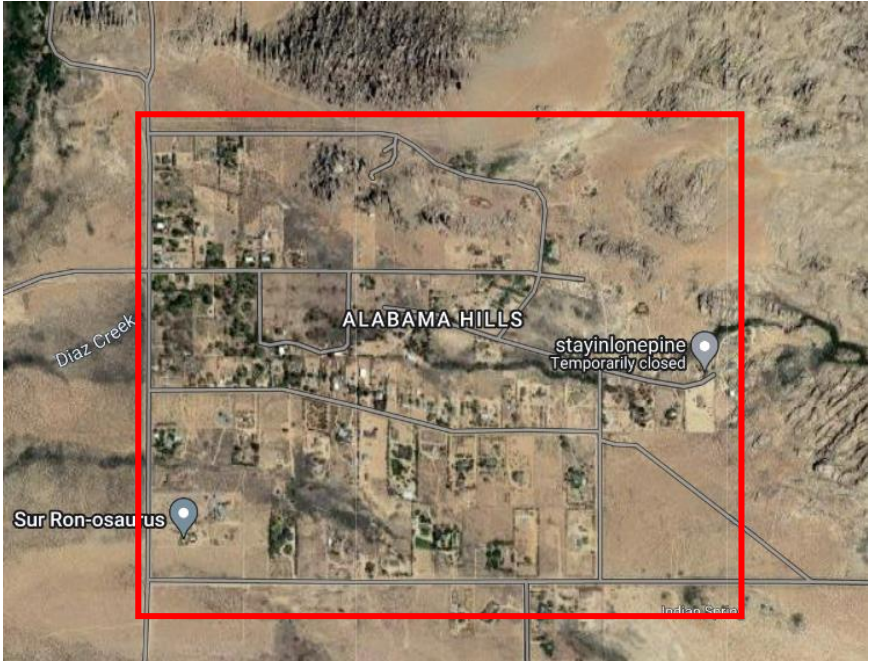
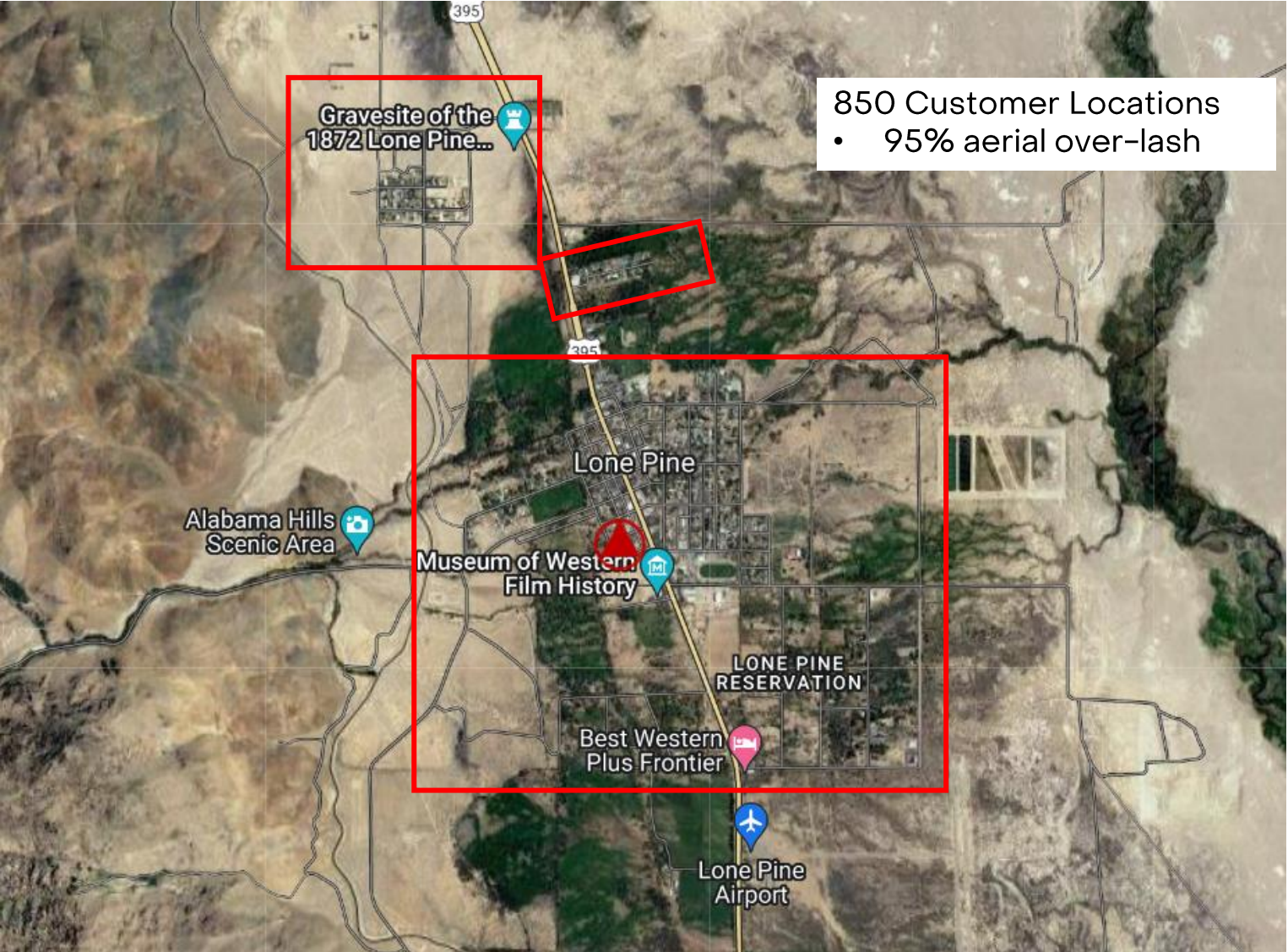
# INYO COUNTY FIBER TO THE HOME BUILD

## BIG PINE





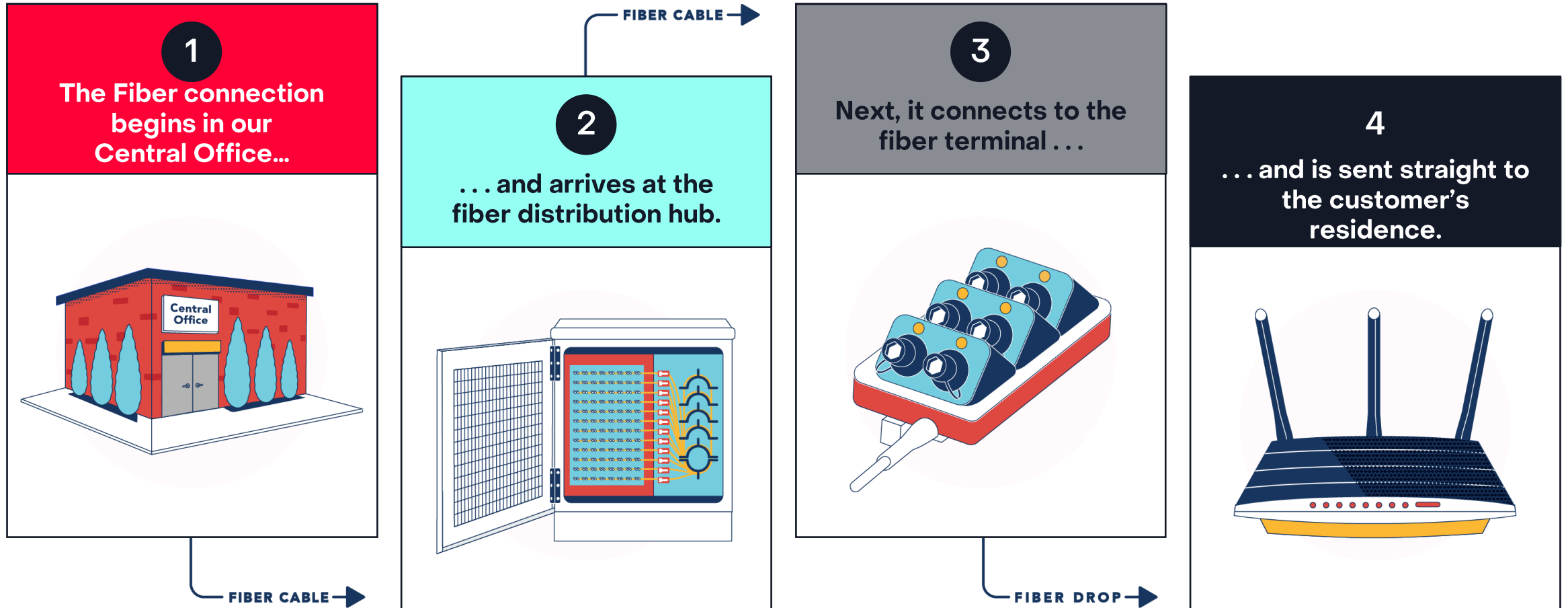
# INYO COUNTY FIBER TO THE HOME BUILD



## LONE PINE



# HOW FRONTIER'S 100% FIBER NETWORK REACHES YOU





# DISTRIBUTION HUB



# AERIAL SPLICE



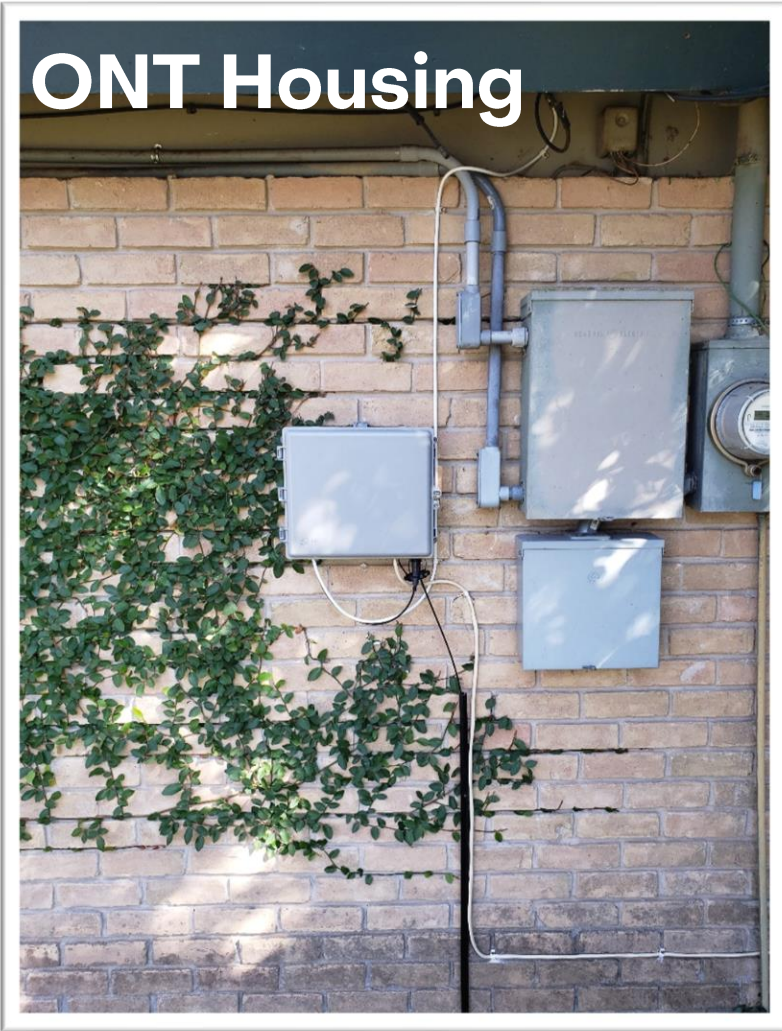
# AERIAL TERMINAL



# FIBER PULL BOX




# OPTICAL NETWORK TERMINAL (ONT)






# WHAT COLLABORATION LOOKS LIKE...

**Expedite**  
(Electronic if possible)

An illustration of a yellow clipboard with a white sheet of paper containing a checklist with two checked items. To the right of the clipboard is a glowing yellow lightbulb. Below the clipboard is a red circular stamp with a white checkmark.

**Educate**  
(Residential & Business)

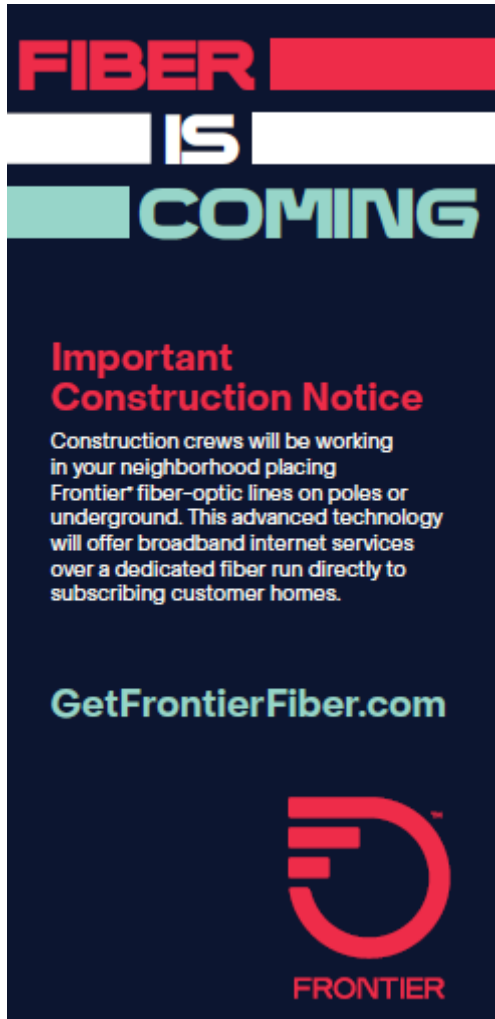
An illustration of two white hands with yellow cuffs holding a blue circular area. Inside the circle are three stylized human figures: two yellow and one red.

**Escalate**  
(During construction)

An illustration of a red megaphone with a white handle, emitting sound waves. Below it is an open yellow cardboard box with several small white stars around it, all set against a light blue circular background.

# COMMUNICATE!...COMMUNICATE!

...




**FIBER IS COMING**

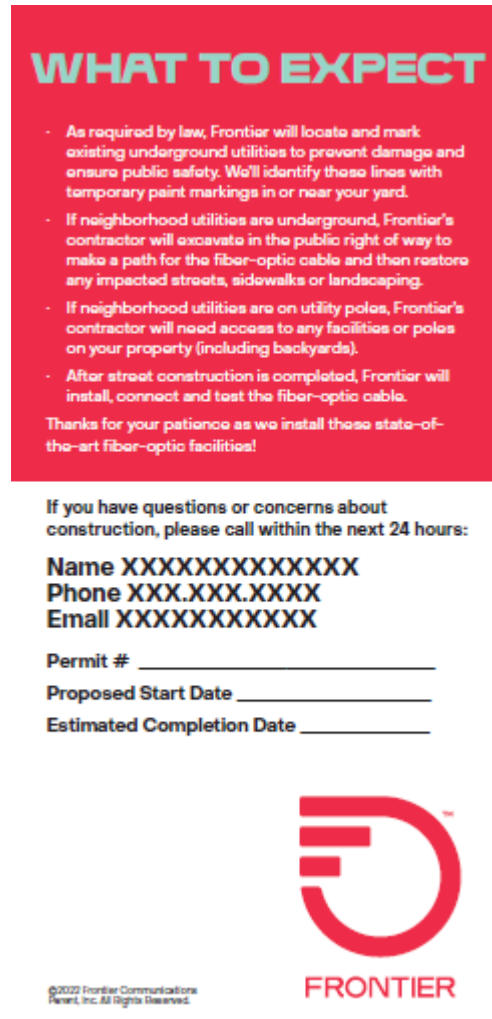
**Important Construction Notice**

Construction crews will be working in your neighborhood placing Frontier fiber-optic lines on poles or underground. This advanced technology will offer broadband internet services over a dedicated fiber run directly to subscribing customer homes.

[GetFrontierFiber.com](http://GetFrontierFiber.com)



Construction Door Hanger



**WHAT TO EXPECT**


- As required by law, Frontier will locate and mark existing underground utilities to prevent damage and ensure public safety. We'll identify these lines with temporary paint markings in or near your yard.
- If neighborhood utilities are underground, Frontier's contractor will excavate in the public right of way to make a path for the fiber-optic cable and then restore any impacted streets, sidewalks or landscaping.
- If neighborhood utilities are on utility poles, Frontier's contractor will need access to any facilities or poles on your property (including backyards).
- After street construction is completed, Frontier will install, connect and test the fiber-optic cable.

Thanks for your patience as we install these state-of-the-art fiber-optic facilities!

If you have questions or concerns about construction, please call within the next 24 hours:

Name XXXXXXXXXXXXXXX  
Phone XXX.XXX.XXXX  
Email XXXXXXXXXXXXXXX

Permit # \_\_\_\_\_  
Proposed Start Date \_\_\_\_\_  
Estimated Completion Date \_\_\_\_\_



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**FIBER IS COMING**

Provided by Frontier\* (permittee)  
Construction completed by: XXXXXXXX XXXXXX  
Phone: XXXXXX Email: XXXXXX

[GetFrontierFiber.com](http://GetFrontierFiber.com)



Yard Sign



# A NETWORK THAT'S FUTURE PROOF..



**BE UNSTOPPABLE**

With Fiber 2 Gig Internet **Frontier**

**2GIG**

**\$149.99** w/ Auto Pay

per month for 12 mos. One-year agreement and early termination fee apply. Max speeds are wired, Wi-Fi, actual & average speeds vary.

**Includes**

- Ultrafast Wi-Fi 6e System
- My Premium Tech Pro
- Multi-Device Security
- Unlimited Digital Voice
- Activation

**\$49.99** w/ Auto Pay

per month for 12 mos. Max speeds are wired. One-year agreement and early termination fee apply. Wi-Fi, actual & average speeds vary.

**FIBER INTERNET 500/500 MBPS**

**\$74.99** w/ Auto Pay

per month for 36 mos. Max wired speed 100,000 Mbps. One-year agreement and early termination fee apply. Wi-Fi, actual & average speeds vary.

**FIBER INTERNET GIG SERVICE**





TM

# QUESTIONS