Agenda

County of Inyo
Board of Supervisors

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

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

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

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

May 7, 2013

9:00 a.m. ***PLEDGE OF ALLEGIANCE***

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

1. ***PUBLIC COMMENT***

2. ***COUNTY DEPARTMENT REPORTS*** *(Reports limited to two minutes)*

9:15 a.m. 3. ***SHERIFF*** – The Sheriff's K-9 Unit will be introduced to the Board.

4. ***WESTERN COUNTIES ALLIANCE (WAC)*** – Mr. Kenneth Brown will update the Board on WAC and public land issues.

9:30 a.m. 5. ***WATER DEPARTMENT*** – Request Board consider the Los Angeles Department of Water Power's (LADWP) request that the Board of Supervisors and Standing Committee agree to reductions in groundwater pumped for irrigation.

6. ***WATER DEPARTMENT*** – Request Board consider the Los Angeles Department of Water and Power's (LADWP) request that the Board of Supervisors and Standing Committee agree to reductions in water supplied to the McNally Ponds and Van Norman Enhancement/Mitigation Project.

CONSENT AGENDA (Approval recommended by the County Administrator)

COUNTY ADMINISTRATOR

7. ***Information Services*** – Request approval to purchase hardware and software for the Email System Update as recommended by Staff from the low bidders Gov Connection and Insight Public Sector in an amount not to exceed $38,280.

8. ***Information Services*** – Request Board declare Waterford Technologies, Inc., a sole source provider of MailMeter Software and authorize the purchase of MailMeter software licensing and support services from Waterford Technologies, Inc., in an amount not to exceed $13,580, contingent upon the Board's approval of the Email System Update.

9. ***Parks and Recreation*** – Request Board award the bid for and approve the purchase of 25 picnic tables to be utilized in County Parks and Campgrounds, from RJ Thomas Mfg. Company, Inc., in an amount not to exceed $13,280.

AUDITOR-CONTROLLER

10. Request approval of the Agreement between the County of Inyo and the Institute of Internal Auditors to conduct two days of on-site fraud detection and investigation training, in an amount not to exceed $20,800; and authorize the Chairperson to sign, contingent upon appropriate signatures being obtained.

HEALTH AND HUMAN SERVICES

11. ***Mental Health Services*** – Request approval of the County Mental Health Plan Agreement between the County of Inyo and the State Department of Health Care Services as the MediCal Managed Care Plan for Inyo County for the period beginning May 1, 2013 and ending June 20, 2018 at the estimated amount for the County of Inyo being $3,485,263, (for a statewide total of $8,113,337,000) contingent upon the Board's adoption of future budgets and authorize the Mental Health Director to sign.

12. ***Eastern Sierra Area Agency on Aging*** – Request approval of Amendment No. 2 to the agreement between the County of Inyo and the California Department of Aging, decreasing the overall allocation by $4,945, for a total Contract amount of $757,387; and authorize the Chairperson to sign.

PUBLIC WORKS

13. Request approval of Amendment No. 3 to the Contract between the County of Inyo and ESE for engineering services in an amount not to exceed $28,465 for the Independence Town Roads Rehabilitation Project, increasing the amount from $66,965 to $95,421; and authorize the Chairperson to sign, contingent upon the appropriate signatures being obtained.

14. Request approval of the Plans and Specifications for the HVAC Upgrade Project at the Inyo County Water Department Building and authorize the Interim Public Works Director to advertise and bid the project.

15. Request Board authorize the submittal of a right of way application to the BLM for rights of way for various Chicago Valley Roads and authorize the Chairperson to sign.

16. Request approval of a resolution titled "A Resolution of the Inyo County Board of Supervisors, Designating Standardized Detours for Annual Special Events Through Lone Pine, Independence, Big Pine and Bishop; and Authorizing the Road Commissioner or His Designee to Execute Documents Related to These Closures."

17. Request Board reject all bids received for the Independence Jail – Replacement of Dryvit System Expansion Joints Project and authorize the Interim Public Works Director to re-advertise and re-bid the Project.

ROAD DEPARTMENT

18. Request Board award and approve the Contract for the purchase of liquid asphalt products to Environmental Concepts for the period of May 10, 2013 through June 30, 2013, in an amount not to exceed $159,299; and authorize the Chairperson to sign, contingent upon the appropriate signatures being obtained.

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

19. ***HEALTH AND HUMAN SERVICES*** – Request Board find that consistent with the adopted Authorized Position Review Policy: A) the availability of funding for the position of Administrative Analyst exists in Health, Health Grants, ESAAA and IC Gold budgets as certified by the Health and Human Services Director and concurred with by the County Administrator and Auditor-Controller; B) and where if the County was facing layoffs, the position could be filled by internal candidates meeting the qualifications for the position, but since no layoffs are pending, an open recruitment would be appropriate to ensure qualified applicants apply; and (c) approve the hiring of one Administrative Analyst I at Range 66 ($3,757 - $4,574) or II at Range 68 ($3,946 - $4,794) contingent upon qualifications; and D) if an internal candidate is the successful candidate, authorize HHS to backfill the resulting vacancy.

20. ***HEALTH AND HUMAN SERVICES - Eastern Sierra Area Agency on Aging (ESAAA) -*** Request Board ratify and approve the Contract between the County of Inyo and the California Indian Legal Services for the provision of legal services to older adults eligible for services through the ESAAA, in an amount not to exceed $64,896 for the period of April 8, 2013 through June 30, 2016, contingent upon the Board's adoption of future budgets; and authorize the Chairperson to sign.

21. ***COUNTY ADMINISTRATOR - HEALTH AND HUMAN SERVICES -*** Request Board receive a presentation regarding a new County Workplace Health & Wellness Program initiative and approve a proclamation designating the month of May 2013 as Global Employee Health & Fitness Month.

22. ***PUBLIC WORKS*** – Request Board A) amend the FY 2012-13 Deferred Maintenance Budget Unit 011501 by increasing estimated revenues in Contributions from LADWP *(Revenue Code #4563)* by $169,280 and increasing appropriations in Construction in Progress *(Object Code #5700)* by $169,280 *(4/5's vote required)*; B) approve Contract Amendment No. 1 to the Contract between the County of Inyo and SolarCity for the installation of a photovoltaic generating system at the Independence County facilities increasing the Contract by $144,279,91 for a total amount not to exceed $2,005,127.91, contingent upon the Board's adoption of future budgets; and authorize the Chairperson to sign, contingent upon the appropriate signatures being obtained; C) authorize the Interim Public Works Director to sign all other Contract documents, including change orders, to the extent permitted pursuant to Section 20142 of the Public Contract Code and other applicable law; and D) authorize paving of the area under the Annex shade structure.

23. ***TREASURER-TAX COLLECTOR*** – Request approval of the Inyo County Treasury Investment Policy as amended.

24. ***PLANNING*** – Request Board receive a presentation regarding the Owens Lake Master Plan and provide direction to staff.

25. ***AUDITOR-CONTROLLER*** – Request Board A) accept the terms of engagement for bond counsel from Jones Hall to provide legal services to the County of Inyo during the CalPERS Refunding Loan process in an amount not to exceed $30,000; and authorize the County Administrator to sign; *(4/5's vote required)*; and B) approve the Agreement between the County of Inyo and Brandis Tallman LLC for placement agent service during the CalPERS Refunding Loan process in an amount not to exceed $35,000; and authorize the County Administrator to sign.

26. ***AUDITOR-CONTROLLER*** – Request Board authorize the Auditor-Controller to extend the temporary employment of one Account Clerk III at Range 051PT Step A ($14.21/hour) for a period not to exceed two months starting June 3, 2013.

27. ***COUNTY ADMINISTRATOR*** – Request Board provide direction to staff regarding how to proceed with filling the unexpired term for the Office of Auditor-Controller.

28. ***COUNTY ADMINISTRATOR – Parks & Recreation*** – Request Board find that consistent with the adopted Authorized Position Review Policy: A) the availability of funding for the position of Season Part-Time Maintenance Helper comes from the General Fund certified by the Deputy County Administrator and concurred with by the County Administrator and Auditor-Controller; B) and where if the County was facing layoffs, the position could be filled by internal candidates meeting the qualifications for the position, but since no layoffs are pending, an open recruitment would be appropriate to ensure qualified applicants apply; and C) approve the hiring of one seasonal Park and Campground Maintenance Helper at Range PT042 ($11.55 - $14.05/hr.) beginning June 1, 2013 through October 30, 2013, contingent upon the Board's adoption of future budgets.

29. ***COUNTY ADMINISTRATOR – Integrated Waste Management*** – Request Board consider separate requests from Bishop Waste and Preferred Septic and provide direction to staff including considering authorization for Integrated Waste Management Program to perform an independent financial audit of Bishop Waste and Preferred Septic to verify and document the appropriateness of current fees in order to evaluate the requests from waste hauler operators for a potential increase in hauling floor rate.

30. ***CLERK OF THE BOARD*** – Request approval of the minutes of the April 29, 2013 Special Meeting of the Board of Supervisors.

TIMED ITEMS (Items will not be considered before scheduled time)

11:30 a.m. 31. ***PLANNING*** – Request Board A) conduct a ***public hearing*** on a proposed resolution titled "A Resolution of the Board of Supervisors of the County of Inyo, State of California, Declaring the Vacation and Abandonment of That Portion of McKenzie Street in Darwin Townsite"; and B) approve the resolution.

1:00 p.m. 32. ***BOARD OF EQUALIZATION MEETING*** (see separate agenda)

CORRESPONDENCE - ACTION

BOARD MEMBERS AND STAFF REPORTS

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

33. ***PUBLIC COMMENT***

CLOSED SESSION

34. ***CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION [Pursuant to Government Code §54956.9(d)(1)]*** – *Verizon California Inc., a California Corporation v. California State Board of Equalization; County of Inyo, et al.*, Sacramento County Superior Court Case No. 34-2013-00128191.

35. ***CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION [Pursuant to Government Code §54956.9(d)(1)]*** - *City of Los Angeles, Department of Water and Power of the City of Los Angeles v. Inyo County Board of Supervisors, et al.* Inyo County Superior Court Case No. 12908; Blackrock 94 Dispute Resolution.

36. ***CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION [Pursuant to Government Code §54956.9(a)]*** – *Jesse Edwin Jason v County of Inyo,* Unfair Practice Charge No. SA-CE-814M.

37. ***PERSONNEL [Pursuant to Government Code §54957].*** Public Employee Appointment – Title – Public Works Director.

38. ***PERSONNEL [Pursuant to Government Code §54957].*** Public Employee Appointment – Title - County Counsel.

39. ***CONFERENCE WITH LABOR NEGOTIATOR [Pursuant to Government Code § 54957.6].*** Instructions to Negotiators re: wages, salaries and benefits - Employee Organization: Elected Officials Assistant Association (EOAA) - Negotiators: Chief Probation Officer Jeff Thomson and Labor Relations Administrator Sue Dishion.

40. ***CONFERENCE WITH LABOR NEGOTIATOR [Pursuant to Government Code § 54957.6].*** - Instructions to Negotiators re: wages, salaries and benefits - Employee Organization: Inyo County Correctional Officers Association (ICCOA) - Negotiators:Labor Relations Administrator Sue Dishion.

41. ***CONFERENCE WITH LABOR NEGOTIATOR [Pursuant to Government Code §54957.6].*** - Instructions to Negotiators re: wages, salaries and benefits - Employee Organization: ICEA - Negotiators: Labor Relations Administrator Sue Dishion, Director Child Support Services Susanne Rizo, and Chief Probation Officer Jeff Thomson.

42. ***CONFERENCE WITH LABOR NEGOTIATOR [Pursuant to Government Code § 54957.6].*** - Instructions to Negotiators re: wages, salaries and benefits - Employee Organization: Inyo County Probation Peace Officers Association (ICPPOA) - Negotiators: CAO Kevin Carunchio and Labor Relations Administrator Sue Dishion.

43. ***CONFERENCE WITH LABOR NEGOTIATOR [Pursuant to Government Code § 54957.6].*** - Instructions to Negotiators re: wages, salaries and benefits - Employee Organization: Law Enforcement Administrators' Association (LEAA) - Negotiators: CAO Kevin Carunchio and Labor Relations Administrator Sue Dishion.

REPORT ON CLOSED SESSION AS REQUIRED BY LAW

CORRESPONDENCE - INFORMATIONAL

44. ***TREASURER-TAX COLLECTOR*** – Treasury Status Report for the Quarter Ending March 31, 2013.
45. ***NORTHERN INYO AIRPORT ADVISORY COMMITTEE*** – Agenda for May 6, 2013
46. ***ENVIRONMENTAL HEALTH*** – Proposition 65 Report of sewage spill at Furnace Creek Resort.

Western Counties Alliance

4

Agenda

The Western Counties Alliance (WCA) is a non-profit organization established for the purpose of giving western counties greater influence on federal policies in support of well managed multiple use of the public lands and natural resources. Additionally, Western Counties Alliance supports a strong economic development process and a reasonable sensible environmental protection.

1. PILT
2. Secure Rural Schools
3. Geothermal
4. Sage Grouse
5. Wild Horse Burro
6. Public Land Transfer
7. Grazing Fees
8. Other Issues

P.O. Box 21 ♦ Randolph, Utah 84064 ♦ Phone: 307-679-3658 FAX: 435-793-5555

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Western Counties Alliance

Geothermal Disbursements to Counties

per Energy Policy Act of 2005

State	County	2010	2011	2012
California	Imperial County	$65,750.81	$39,377.20	$16, 657.36
	Inyo County	$178,786.72	$147,979.11	$168,266.86
	Lake County	$843,695.13	$800,270.77	$760,858.32
	Lassen County	$13,302.63	$12,231.70	$14,229.55
	Mendocino County	$ 750.00	$750.00	$750.00
	Mono County	$33,369.06	$34,256.68	$23,512.05
	Siskiyou County	$51,807.50	$64,418.00	$30,561.25
	Sonoma County	$1,189,395.42	$1,108,974.78	$1,009,786.30
	California Total	**$2,376,857.27**	**$2,208,258.24**	**$2,024,621.69**
Idaho	Bingham County	$33.41	$133.64	$33.41
	Blaine County	$ 0.00	$404.50	$404.40
	Bonneville County	$40.09	$160.36	$40.09
	Camas County	$0.00	$305.50	$305.50
	Canyon County	$0.00	$0.00	$1,274.17
	Caribou County	$425.75	$750.50	$425.75
	Cassia County	$11,880.75	$12,640.75	$12.450.75
	Payette County	$0.00	$0.00	$42,269.32
	Washington County	$11,899.00	$10,340.50	$10,068.00
	Idaho Total	**$24,279.00**	**$24,735.75**	**$67,271.49**
Nevada	Churchill County	$2,413,536.58	$879,577.55	$929,545.19
	Elko County	$73,471.59	$41,644.61	$30,004.86
	Esmeralda County	$380,625.38	$73,612.30	$58,738.15
	Eureka County	$12,968.64	$16,863.14	$14,251.34
	Humboldt County	$159,964.36	$76,443.04	$72,421.77
	Lander County	$148,106.04	$71,646.19	$70,723.46
	Lyon County	$3,903.20	$6,626.15	$8,249.00
	Mineral County	$110,318.93	$64,330.92	$33,249.02
	Nye County	$140,913.17	$48,307.70	$6,705.70
	Pershing County	$545,197.39	$117,130.93	$93,006.31
	Washoe County	$31,890.77	$28,026.27	$23,768.00
	White Pine County	$74,196.50	$26,023.50	$8,962.50
	Nevada Total	**$4,095,092.55**	**$1,450,232.30**	**$1,349,625.30**
New Mexico	Dona Ana County	$140.00	$160.93	$1,442.30
	Hidalgo County	$1,410.54	$7,037.75	$4,669.82
	New Mexico Total	**$1,550.54**	**$7,198.68**	**$6,112.12**
Oregon	Deschutes County	$44,807.72	$41,652.25	$39,725.25
	Hood River County	$0.00	$2,028.00	$2,028.00
	Lake County	$31,673.75	$31,674.27	$31,673.73
	Oregon Total	**$76,481.47**	**$75,354.52**	**$73,426.98**
Utah	Beaver County	$106,143.36	$79,443.10	$77,219.88
	Iron County	$19,416.00	$1,267.50	$1,267.50
	Juab County	$87,976.50	$37,913.74	$74,910.35
	Millard County	$61,250.87	$44,269.11	$39,348.35
	Utah Total	**$274,786.73**	**$162,893.45**	**$192,746.08**

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U.S. DEPARTMENT OF THE INTERIOR
PAYMENTS IN LIEU OF TAXES - FOR FISCAL YEAR 2012
SECTION 6902 PAYMENTS BY COUNTY

CALIFORNIA

LOCAL UNIT OF OF GOVERNMENT	ENTITLEMENT ACRES	PRIOR YEAR PAYMENTS	UNIT POPULATION	CEILING	ALTERNATIVE A	ALTERNATIVE B	EST PAYMENT TO COUNTY
ALAMEDA COUNTY	870	$0	50,000	$3,324,500	$2,149	$296	$2,149
ALPINE COUNTY	421,463	$361,586	1,102	$183,163	$0	$143,297	$143,297
AMADOR COUNTY	87,412	$237,925	38,000	$2,928,280	$0	$29,720	$29,720
BUTTE COUNTY	152,259	$317,392	50,000	$3,324,500	$58,688	$51,768	$58,688
CALAVERAS COUNTY	140,289	$148,112	45,000	$3,195,450	$198,402	$47,698	$198,402
COLUSA COUNTY	104,594	$80,895	22,000	$1,961,520	$177,452	$35,562	$177,452
CONTRA COSTA COUNTY	2,285	$0	50,000	$3,324,500	$5,644	$777	$5,644
COUNTY OF SAN DIEGO	490,830	$104,890	50,000	$3,324,500	$1,107,460	$166,882	$1,107,460
DEL NORTE COUNTY	470,670	$950,504	29,000	$2,410,770	$212,051	$160,028	$212,051
EL DORADO COUNTY	538,057	$1,508,991	50,000	$3,324,500	$0	$182,939	$182,939
FRESNO COUNTY	1,524,212	$1,037,297	50,000	$3,324,500	$2,287,203	$518,232	$2,287,203
GLENN COUNTY	217,973	$254,713	28,000	$2,369,640	$283,680	$74,111	$283,680
HUMBOLDT COUNTY	495,159	$787,797	50,000	$3,324,500	$435,246	$168,354	$435,246
IMPERIAL COUNTY	1,383,997	$29,792	50,000	$3,324,500	$3,294,708	$470,559	$3,294,708
INYO COUNTY	5,504,456	$348,219	18,000	$1,713,600	$1,365,381	$1,713,600	$1,713,600
KERN COUNTY	1,081,968	$171,064	50,000	$3,324,500	$2,501,397	$367,869	$2,501,397
KINGS COUNTY	9,029	$1,139	50,000	$3,324,500	$21,163	$3,070	$21,163
LAKE COUNTY	383,349	$937,891	50,000	$3,324,500	$8,981	$130,339	$130,339
LASSEN COUNTY	1,649,942	$1,461,648	34,000	$2,722,720	$1,261,072	$560,980	$1,261,072
LOS ANGELES COUNTY	709,179	$551,696	50,000	$3,324,500	$1,199,976	$241,121	$1,199,976
MADERA COUNTY	506,338	$416,368	50,000	$3,324,500	$834,287	$172,155	$834,287
MARIN COUNTY	78,713	$0	50,000	$3,324,500	$194,421	$26,762	$194,421
MARIPOSA COUNTY	517,397	$236,154	18,000	$1,713,600	$1,041,817	$175,915	$1,041,817
MENDOCINO COUNTY	303,306	$259,380	50,000	$3,324,500	$489,786	$103,124	$489,786
MERCED COUNTY	35,536	$433	50,000	$3,324,500	$87,341	$12,082	$87,341
MODOC COUNTY	1,734,159	$1,251,746	10,000	$1,163,200	$0	$589,614	$589,614
MONO COUNTY	1,761,176	$283,162	14,000	$1,438,500	$1,155,338	$598,800	$1,155,338
MONTEREY COUNTY	343,637	$13,872	50,000	$3,324,500	$834,911	$116,837	$834,911
NAPA COUNTY	60,327	$363	50,000	$3,324,500	$148,645	$20,511	$148,645
NEVADA COUNTY	205,364	$287,805	50,000	$3,324,500	$219,444	$69,824	$219,444
ORANGE COUNTY	59,812	$20,361	50,000	$3,324,500	$127,375	$20,336	$127,375
PLACER COUNTY	386,562	$583,908	50,000	$3,324,500	$370,900	$131,431	$370,900
PLUMAS COUNTY	1,172,003	$2,710,450	20,000	$1,844,200	$0	$398,481	$398,481
RIVERSIDE COUNTY	2,397,320	$96,971	50,000	$3,324,500	$3,227,529	$815,089	$3,227,529
SACRAMENTO COUNTY	9,621	$0	50,000	$3,324,500	$23,764	$3,271	$23,764
SAN BENITO COUNTY	102,895	$4,508	50,000	$3,324,500	$249,643	$34,984	$249,643
SAN BERNARDINO COUNTY	8,405,181	$163,076	50,000	$3,324,500	$3,161,424	$2,857,762	$3,161,424

U.S. DEPARTMENT OF THE INTERIOR
PAYMENTS IN LIEU OF TAXES - FOR FISCAL YEAR 2012
SECTION 6902 PAYMENTS BY COUNTY

CALIFORNIA

LOCAL UNIT OF OF GOVERNMENT	ENTITLEMENT ACRES	PRIOR YEAR PAYMENTS	UNIT POPULATION	CEILING	ALTERNATIVE A	ALTERNATIVE B	EST PAYMENT TO COUNTY
SAN FRANCISCO	2,364	$0	50,000	$3,324,500	$5,839	$804	$5,839
SAN JOAQUIN COUNTY	2,178	$0	50,000	$3,324,500	$5,380	$741	$5,380
SAN LUIS OBISPO COUNTY	438,959	$13,238	50,000	$3,324,500	$1,070,991	$149,246	$1,070,991
SAN MATEO COUNTY	2,349	$0	50,000	$3,324,500	$5,802	$799	$5,802
SANTA BARBARA COUNTY	716,243	$28,049	50,000	$3,324,500	$1,741,071	$243,523	$1,741,071
SANTA CLARA COUNTY	1,811	$0	50,000	$3,324,500	$4,473	$616	$4,473
SANTA CRUZ COUNTY	12	$0	50,000	$3,324,500	$30	$4	$30
SHASTA COUNTY	997,509	$1,499,322	50,000	$3,324,500	$964,525	$339,153	$964,525
SIERRA COUNTY	454,221	$641,258	3,113	$517,412	$0	$154,435	$154,435
SISKIYOU COUNTY	2,557,278	$3,483,733	45,000	$3,195,450	$0	$869,475	$869,475
SOLANO COUNTY	5,758	$0	50,000	$3,324,500	$14,222	$1,958	$14,222
SONOMA COUNTY	21,475	$771,062	50,000	$3,324,500	$0	$7,302	$7,302
STANISLAUS COUNTY	3,284	$8	50,000	$3,324,500	$8,103	$1,117	$8,103
SUTTER COUNTY	2	$0	50,000	$3,324,500	$5	$1	$5
TEHAMA COUNTY	448,233	$864,891	50,000	$3,324,500	$242,245	$152,399	$242,245
TRINITY COUNTY	1,538,004	$2,653,394	14,000	$1,438,500	$0	$522,921	$522,921
TULARE COUNTY	1,533,603	$407,244	50,000	$3,324,500	$2,917,256	$521,425	$2,917,256
TUOLUMNE COUNTY	1,091,965	$924,927	50,000	$3,324,500	$1,772,227	$371,268	$1,772,227
VENTURA COUNTY	578,526	$25,124	50,000	$3,324,500	$1,403,835	$196,699	$1,403,835
YOLO COUNTY	31,263	$77	50,000	$3,324,500	$77,143	$10,629	$77,143
YUBA COUNTY	47,428	$103,646	50,000	$3,324,500	$13,501	$16,126	$16,126
TOTAL	43,919,805	$27,036,081			$36,833,926	$14,774,821	$40,204,312

Western Counties Alliance

SECURE RURAL SCHOOLS

COUNTY PAYMENTS FOR FY2008-2011 & PROJECTED FY2012 PAYMENT

CALIFORNIA

COUNTY	FY2008	FY2009	FY2010	FY2011	PROJECTED FY2012	TOTAL
BUTTE	832,565	749,308	675,302	536,109	502,736	3,296,020
**INYO	431,855	441,333	448,138	463,222	263,623	2,048,171
**MONO	482,239	497,593	505,152	523,258	303,064	2,311,306
**SAN BERNADINO	312,752	320,139	317,916	333,496	185,918	1,470,221

**25% 7-YEAR ROLLING AVERAGE PAYMENT

P.O. Box 21 ♦ Randolph, Utah 84064 ♦ Phone: 307-679-3658 FAX: 435-793-5555

krbrownwca@allwest.net

Information on how Bureau of Economic Analysis determines local area personal income. The following text is from an April 25, 2012 news release from BEA:
http://www.bea.gov/newsreleases/regional/lapi/lapi_newsrelease.htm

Personal income is the income received by all persons from all sources. Personal income is the sum of net earnings by place of residence, rental income of persons, personal dividend income, personal interest income, and personal current transfer receipts. Net earnings is earnings by place of work (the sum of wage and salary disbursements, supplements to wages and salaries, and proprietors' income) less contributions for government social insurance, plus an adjustment to convert earnings by place of work to a place-of-residence basis. Personal income is measured before the deduction of personal income taxes and other personal taxes and is reported in current dollars (no adjustment is made for price changes).

The estimate of personal income in the United States is derived as the sum of the county estimates; it differs slightly from the estimate of personal income in the national income and product accounts (NIPAs) because of differences in coverage, in the methodologies used to prepare the estimates, and in the timing of the availability of source data.

Per capita personal income is calculated as the personal income of the residents of a given area divided by the resident population of the area. In computing per capita personal income, BEA uses the Census Bureau's annual midyear population estimates.

The BEA web site also lists the following contacts at BEA: Jeffrey L. Newman (202) 606-9265 and Michael Paris (202) 606-9267 and an email address, reis@bea.gov

Wild Horse and Burro Advisory Board
Member Biographies

Mr. H. Paul Durbin – Chandler, Arizona

H. Paul Durbin, the Wildlife Management appointee, is a retired financial professional and member of the Arizona Desert Bighorn Sheep Society, Rocky Mountain Elk Foundation, the Nevada Bighorns Unlimited, the Wild Sheep Foundation and the Arizona Elk Society. Mr. Durbin earned his BS Degree in Finance and Accounting from the University of Colorado in 1968. He now lives in Chandler, Arizona, and is a lifelong hunter, angler, and outdoorsman who can appreciate the legacy and importance of the public lands. His experience as a Certified Public Accountant has given him a unique perspective on collaboration and issue resolution. Mr. Durbin brings a citizen's view point on wildlife management to the Board. Mr. Durbin was appointed on March 8, 2010.

Mr. Timothy J. Harvey – Campton, New Hampshire

Timothy J. Harvey, the Humane Advocacy appointee, lives in Campton, New Hampshire, and is the owner of Merry-Go-Round Pens, LLC, Western Safety Stirrups, LLC, and The Journey Horses Farm. Mr. Harvey has been a horse professional and experienced trainer for the past 20 years. He is also an established clinician and organizes training seminars and clinics for several top trainers. His specialties include colt starting and foundation training based on natural horsemanship and traditional vaquero type training. He is an innovator and operated a therapeutic riding program centered on fostering emotional well-being, primarily for abuse victims and people with anger management issues. His participation in the Chincoteague Island Wild Pony roundup from 1994 through 2006 gave him insight into wild horse issues. He took great care in implementing humane conditions for Chincoteague Ponies. Mr. Harvey was appointed on March 8, 2010.

Mr. Gary Zakotnik – Eden, Wyoming

Gary Zakotnik, the livestock appointee, is a rancher who lives in Eden, Wyoming. Mr. Zakotnik, who holds a Bachelor of Science degree in animal science from the University of Wyoming, owns a cattle operation in western Wyoming and has permits with the BLM in allotments that include wild horses. He has on-the-ground experience working with BLM allotment management plans, forage allocation, and rangeland monitoring to protect the land's resources. Mr. Zakotnik represents the voice of the producers across the west. He works hard to make sure that a fair and representative voice is put forth regarding the resources and management issues that many areas of the west are facing. Mr. Zakotnik was re-appointed on March 8, 2010.

Dr. Robert E. Bray – Woodstock, Virginia

Dr. Robert Bray, the research appointee, is Professor Emeritus of Animal and Veterinary Sciences at California State Polytechnic University, Pomona. Dr. Bray, who lives in Woodstock, Virginia, conducted research and outreach/extension education programs with the Montgomery Wild Mustang herd for 15 years while a professor in California. He provided a series of lectures on wild horse management as part of an introductory horse science course. He has 46 years of experience with horses, including management of three horse farms, as well as the owning, breeding, and showing of horses. While serving as a faculty member at California State Polytechnic University, Dr. Bray served in a three-way appointment, giving leadership to the outreach/extension program, teaching equine undergraduate classes, and conducting Equine research. He achieved success and respect from both the equine industry and his academic peers in all three areas. His work on the health and nutrition of wild horses is widely recognized and cited in scientific literature. Dr. Bray was appointed on March 28, 2011.

Mr. James Stephenson – Yakima, Washington

James Stephenson, the natural resource appointee, has been a big game biologist with the Yakima Nation in south-central Washington State for the past eight years. Mr. Stephenson received his BA in Zoology in 1965, and his MS in Wildlife Management in 1970 from Oregon State University. During his professional career he has worked on research and management of salmonids, endangered species, non-game species, wetlands, waterfowl, rare plants, big game, cattle grazing and management and research on wild horses. Mr. Stephenson is now responsible for overseeing the reservation's wild horse herd. In that capacity, he wrote a comprehensive plan for wild horse management on the reservation. Mr. Stephenson was raised in eastern Oregon, where he grew up working on cattle and sheep ranches and participating in wild horse roundups in the Alvord Desert and Harney County. Mr. Stephenson was appointed on March 28, 2011.

Ms. Julie Gleason – Las Vegas, Nevada

Julie Gleason, the general public appointee, lives in Las Vegas, Nevada and received her BS in Business Finance from the University of Nevada, Las Vegas. She also spent two semesters at Cal Poly Pomona participating on their horse show team and taking equine science classes in order to further her understanding of equine behavior. Ms. Gleason has served as wild horse and burro representative to the Resource Advisory Council (RAC) for the Mojave Southern Great Basin for the past five years. During that time, she worked with BLM's Las Vegas Field Office to secure funding for the development of a virtual adoption program, Mustang Makeover events, and trainer incentive programs. A lifetime horse person, Ms. Gleason served on the State of Nevada Commission for the Preservation of Wild Horses. During her time as a commissioner, the Mustang Heritage Foundation was formed. While with the commission she helped develop the Wild Horse Inmate Training facility in Carson City, Nevada. A native Nevadan, she developed an interest in wild horses and burros as a youth. Ms. Gleason has adopted and fostered several mustangs and currently has three which she rides. Ms. Gleason was appointed on March 28, 2011.

Ms. Callie Hendrickson – Grand Junction, Colorado

Callie Hendrickson, the general public appointee, is Executive Director, White River and Douglas Creek Conservation Districts based out of Meeker, Colorado. Ms. Hendrickson received her Associate of Applied Science degree in Horse Training and Management from Lamar Community College and her BBA in Marketing and Office Administration from Mesa State College in Grand Junction, CO. Her experience with raising, training, and showing horses gives her insight into equine care and management. Ms. Hendrickson has extensive experience in addressing public rangeland health concerns through her current position as well as past Executive Director of the Colorado Association of Conservation Districts. Her career is focused on natural resource policy development and education. She has significant expertise and experience with animal husbandry, natural resources, and working with people of diverse backgrounds. She has worked to improve natural resource conservation in Colorado through developing working partnerships. Ms. Hendrickson was appointed January 27, 2012.

Ms. June Sewing – Cedar City, Utah

June Sewing, from Cedar City, Utah, is the wild horse advocate appointee. Ms. Sewing is the Executive Director and Secretary for the National Mustang Association (NMA), for which she has worked since 1985. She worked along with her late husband, Richard Sewing, on the NMA for many years. Her current responsibilities include management of the association's wild horse sanctuary. Ms. Sewing has also served as the president of various charitable organizations, as trustee on the Cedar City hospital board for 20 years, and on a local committee dealing with the endangered Utah prairie dog. Ms. Sewing has received a Citizen Volunteer award from the Cedar City Chamber of Commerce, Board of Realtors, and Southern Utah University. Her reputation for being a hard worker and someone who gets the job done is a strong asset. Ms. Sewing has demonstrated good decision making in her activities with other organizations and has valuable on the ground familiarity with wild horses and wild horse issues through the NMA Sanctuary. Ms. Sewing was appointed January 27, 2012.

Dr. Boyd Spratling – Deeth, Nevada

Dr. Boyd Spratling, the veterinary medicine appointee, is actively engaged in the practice of large animal veterinary medicine in Elko County, Nevada, where he has lived since 1963. He has been involved in the practice of veterinary medicine since he graduated from Washington State University in 1975. He has extensive experience in equine veterinary practice including the management of large groups of horses on western rangelands. He has been very helpful including "hands-on" assistance with wild horse and burro health issues, both on and off the range, as well as providing background on issues related to fertility control and sterilization of the stallions. Dr. Spratling has twice served as President of the Nevada Veterinary Medical Association; he also serves on the Board of the Nevada Department of Agriculture. He is a highly respected large animal veterinarian in the West and is known for being an excellent listener who knows how to work well under contentious circumstances. Dr. Spratling was reappointed January 27, 2012.

BLM NEWS RELEASE

U.S. Department of the Interior • Bureau of Land Management • Washington, D.C., Office • 1849 C Street N.W. • Washington, D.C.

Bureau of Land Management
For immediate release: Wednesday, March 27, 2013

Contact: Tom Gorey
(202-912-7420)

BLM Announces Three Selections for National Wild Horse and Burro Advisory Board

The Bureau of Land Management announced today that the Secretaries of Interior and Agriculture have made selections for three positions on its National Wild Horse and Burro Advisory Board. Timothy J. Harvey of Campton, New Hampshire, has been re-appointed for the position representing Humane Advocacy; Rick Danvir of Evanston, Wyoming, has been appointed for the category of Wildlife Management; and John Falen of Orovada, Nevada, has been appointed for the position representing Livestock Management. Each individual will serve a three-year term on the Advisory Board.

Mr. Harvey, owner of the Merry-Go-Round Pens, LLC, Western Safety Stirrups, LLC, and Journey Horses Farm, has been a horse professional and experienced trainer for the past 20 years. An established clinician who organizes training seminars and clinics with several top trainers, Mr. Harvey specializes in colt starting and foundation training based on natural horsemanship and traditional vaquero (cowboy) training methods. Mr. Harvey is an innovator who has also operated a therapeutic riding program centered on fostering the emotional well-being of victims of abuse and people with anger-management issues.

Mr. Danvir is a professional wildlife biologist with a Bachelor of Science degree from Utah State University in Wildlife and an Associate of Applied Science degree in Fisheries and Wildlife Technology from State University of New York. Currently working with the Deseret Land and Livestock ranch – a northern Utah operation known for its multiple-use management of wildlife and domestic livestock – Mr. Danvir is Wildlife Manager for Deseret Western Ranches. Mr. Danvir is affiliated with several wildlife-related organizations, including the Utah Wildlife Board, the Cooperative Wildlife Management Unit Association, the Utah Foundation for Quality Resource Management, the Society for Range Management, the Center for Holistic Resource Management, and the Nature Conservancy.

Mr. Falen, a graduate of the University of Idaho with a Bachelor of Science degree in Animal Husbandry, is a longtime advocate of responsible wild horse management and has spent years dealing with wild horse issues, both on and off the range. He has 20 years' experience serving on numerous boards and committees regarding wild horse management, including the Mustang Heritage Foundation (MHF) and the Public Lands Council's Wild Horse and Burro Committee. A respected leader in the livestock community at both the state and national levels, Mr. Falen is Past President of the Public Lands Council and serves on the Board of Directors for the National Cattlemen's Beef Association. (Mr. Falen, a member of the MHF Board of Trustees, will recuse himself from issues concerning MHF, which is a BLM partner in promoting public adoptions of wild horses and burros.)

The nine-member National Wild Horse and Burro Advisory Board advises the BLM, an agency of the Interior Department, and the U.S. Forest Service, part of the Agriculture Department, on the management, protection, and control of wild free-roaming horses and burros on public lands and national forests administered by those agencies, as mandated by the 1971 Wild Free-Roaming Horses and Burros Act.

Members of the board, who represent various categories of interests, must have a demonstrated ability to analyze information, evaluate programs, identify problems, work collaboratively, and develop corrective actions.

The BLM manages more than 245 million acres of public land, the most of any Federal agency. This land, known as the National System of Public Lands, is primarily located in 12 Western states, including Alaska. The BLM also administers 700 million acres of sub-surface mineral estate throughout the nation. In Fiscal Year 2011, recreational and other activities on BLM-managed land contributed more than $130 billion to the U.S. economy and supported more than 600,000 American jobs. The Bureau is also one of a handful of agencies that collects more revenue than it spends. The BLM's multiple-use mission is to sustain the health and productivity of the public lands for the use and enjoyment of present and future generations. The Bureau accomplishes this by managing such activities as outdoor recreation, livestock grazing, mineral development, and energy production, and by conserving natural, historical, cultural, and other resources on public lands.

–BLM–

U.S. DEPARTMENT OF THE INTERIOR **BUREAU OF LAND MANAGEMENT**

National Wild Horse and Burro Advisory Board Member List (Updated April 5, 2013)

Wild Horse and Burro Advocacy Ms. June Sewing Executive Director National Mustang Association P.O. Box 1367 Cedar City, UT 84720 mustangs@infowest.com Term expires: 1/27/2015	**Public Interest** Ms. Callie Hendrickson P.O. Box 837 Meeker, CO 81641 callie.whbab@gmail.com Term expires: 1/27/2015
Public Interest Ms. Julie Gleason 7100 W. Smoke Ranch Road #100 Las Vegas, NV 89128 rubyredhorse@gmail.com Term expires: 3/28/2014	**Wild Horse and Burro Research** Dr. Robert E. Bray 726 Eagle Street Woodstock, VA 22664 rebray@csupomona.edu Term expires: 3/28/2014
Humane Advocacy Mr. Timothy J. Harvey 56 Beebe River Road Campton, NH 03223 timotico@gmail.com Term expires: 3/08/2013	**Livestock Management** Mr. John Falen P.O. Box 132 Orovada, NV 89425 jlfalen@gmail.com Term expires: 03/11/2016
Natural Resources Management Mr. James Dale Stephenson Yakama Nation Wildlife, Range Vegetation Management Program P.O. Box 151 Toppenish, WA jstephen@yakama.com Term expires: 3/28/2014	**Wildlife Management** Mr. Rick E. Danvir 4251 Donegal Casper, WY 82609 rdanvir@ari-slc.com Term expires: 03/11/2016
Veterinary Medicine Dr. Boyd Spratling Starr Valley Route P.O. Box 27 Deeth, NV 89823 bspratling75@gmail.com Term expires: 01/27/2015	

Biographies: Click here to download biographies of advisory board members.

TOPICS

Home
Adoption Program
Rangeland and Herd Management
Comprehensive Animal Welfare Program
Science and Research
Advisory Board
News and Information
Get Involved
History and Facts

Advisory Board
Board Members
Meetings

Wild Horse and Burro Program TM
U.S. Department of the Interior
Bureau of Land Management

Social Media

Livestream of WH&B Advisory Board
March 4 & 5

Western Counties Alliance

The Western Counties Alliance (WCA) is a non-profit organization established for the purpose of giving western counties greater influence on federal policies in support of well managed multiple use of the public lands and natural resources. Additionally, Western Counties Alliance supports a strong economic development process and a reasonable sensible environmental protection.

Currently, there are public land laws and policies which treat public land states and counties as though they are second tier to the interests of their non-public land peers. Western Counties Alliance seeks to redress these inequities.

There is no more glaring inequity than the lack of tax base caused by the large holdings of tax exempt property owned by the federal government particularly in the west. Efforts to help ease these burdens can be achieved with the continuation of payments-in-lieu–of taxes (PILT) full funding on a permanent basis. Should the funding fail to continue the federal government should support the federal land to fall under the jurisdiction of states coupled with county government.

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krbrownwca@allwest.net

Western Counties Alliance

R.S. 2477 Rights-Of-Way Recognition Act

1. An R.S. 2477 Road is a valid public right-of-way providing that it appears on an official federal, state or local map published prior to October 21, 1976.

2. An R.S. 2477 right-of-way is valid for all routes across unreserved public land where a right of public travel was timely established under state law.

3. R.S. 2477 does not prevent a road initially constructed by the federal government from becoming an R.S. 2477 right-of-way.

4. R.S. 2477 does not require that roads lead to a definite destination in order to qualify as an R.S. 2477 road.

5. The R.S. 2477 term "public land not reserved for public uses" includes land subject to coal or other subsurface mineral or energy withdrawals.

6. State and local governments need not consult with or obtain permission from any federal agency prior to performing routine maintenance and repair on an R.S. 2477 roads, but must consult with the appropriate federal agency before performing road improvement projects.

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Western Counties Alliance

R.S. 2477

1. Revised Statute 2477 provided the Right-Of-Way for the construction of highways over public lands, not reserved for public uses, is hereby granted. Reserved areas are National Parks, Monuments, Wildlife Refuges, Indian Reservations and Military Installations. When the various forests were created in the early 1900's then those lands were classified as reserved.

2. R.S. 2477 was put into law by the congress on July 26, 1866 as part of the mining law. A primary purpose for 2477 was to help develop the west. R.S. 2477 is an access issue. Without access multiple use of public land would have been curtailed in the early days as well as today.

3. R.S. 2477 remained in effect for 110 years. Most of the transportation routes were established under its authority.

4. The R.S. 2477 grant was not a grant of land, but as a grant of an interest in land or a property right.

5. When the Federal Land Policy Management Act (FLPMA) was put into law by the congress on October 21, 1976, R.S. 2477 was repealed. Roads prior to 1976 were grandfathered in. Roads after 1976 required a permit.

6. In 2005, the 10th Circuit Court of Appeals rendered a very favorable decision relating to R.S. 2477. One of the best ways to resolved 2477 is to have the congress pass a law which would codify the ingredients of the 10th Circuit decision.

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Judge rules largely in favor of Utah on rural roads dispute

Kane County and state hail ruling by federal judge in long-running dispute

Then-Kane County Commissioner Mark Habbeshaw at the intersection of Johnson Canyon Road and Skutumpah Road in the Grand Staircase National Monument in 2005, where the BLM and Kane County had placed conflicting signs. Kane County's sign, left, indicates OHV/ATV access, which the BLM disputes.

By Brooke Adams--The Salt Lake Tribune (First Published Mar 21 2013 06:13 pm)

A federal judge handed a landmark victory to Kane County and the state of Utah on Wednesday in a years-long dispute with the federal government over whether some rural routes should remain in use as roads, or if they should be closed to the public. In two decisions, U.S. District Judge Clark Waddoups found he had jurisdiction to hear Kane County's claim, gave parameters for "reasonable" right-of-way widths on some routes and determined that 12 of 15 routes in dispute were roads and therefore accessible by the public.

The distinction hinged on an 1866 law through which Congress sought to encourage development by allowing local jurisdictions to manage routes across public lands; the law was repealed in 1976 by Revised Statute 2477.

With the revision, Congress retained most remaining public lands and created the Bureau of Land Management. Pre-existing claims, however, were grandfathered in and considered valid as long as entities moved to claim them within a 12-year time frame. Waddoups determined that Kane County did so.

Kane County Commission Chairman Doug Heaton said Thursday the ruling vindicates the county in its fight to continue to travel what he described as historic thoroughfares. "We're confident the judge took great pains to get it right," he said. "We're excited the court has ruled in our favor."

Utah Gov. Gary Herbert and Attorney General John Swallow also hailed the decision, which Swallow said shows "these historic public roads have and will continue to belong to the people of Utah." Swallow said the federal government's refusal to recognize the routes as state and county roads had "damaged the economy and put motorists at risk" by impeding routine maintenance.

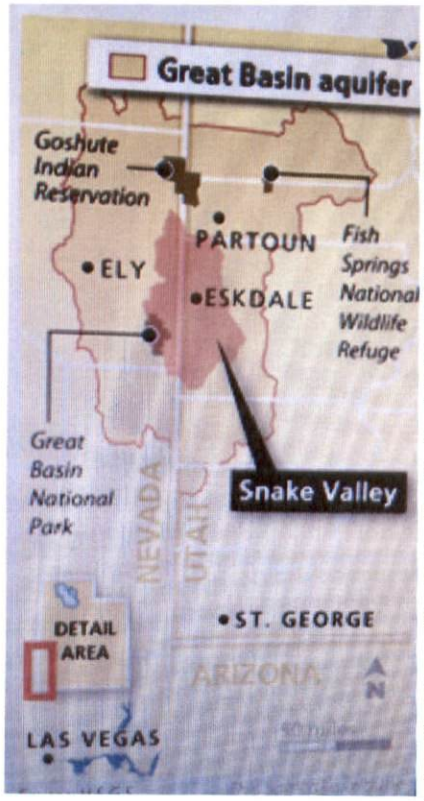
Melodie Rydalch, spokeswoman for the U.S. Attorney's Office, said the office was reviewing the decision and would not have further comment.

Heaton said the roads in question were in use for at least 10 years before 1976, and in some cases date back to the late 1800s. Kane County is made up of 65 percent federal land, Heaton said. "In order to access the public resources on these lands, you have to travel these roads." The legal battle was a "significant burden" financially, he said. "This is a tremendous vindication. We are simply reasserting the public's rights to travel these roads."

Of the 12 routes deemed roads, four are in the Grand Staircase-Escalante National Monument. The rest are on land managed by the Bureau of Land Management's Kanab office. Waddoups traveled all of the disputed routes with attorneys in the case over two days in December 2010. He presided over a trial in the case in August 2011 and took additional testimony in January 2012. Waddoups heard from county workers and local residents about how each route was used prior to 1976 and then how most were maintained later by the county. Waddoups noted, for example, that Upper Mill Creek was used prior to 1976 for "the apparent purposes of gathering firewood, cutting cedar posts, hunting and scouting for deer, gathering pine nuts, and general sightseeing."

One Kane County rancher recounted local lore of how John D. Lee cut timber and operated a saw mill in the area in the late 1800s, which led to the route's name. Similar uses were declared for most of the other disputed routes. The state and 22 of Utah's 29 counties have filed more than 20 lawsuits laying claim to more than 12,000 rights-of-way on public land.

"This tsunami of litigation threatens several national parks and monuments as well as iconic Utah wilderness landscapes," said Steve Bloch, litigation director for the Southern Utah Wilderness Alliance in an email. SUWA had filed an amicus brief in the case that focused primarily on whether Kane County asserted its claims in a timely manner. An appeal of the decision is likely, said David Garbett, SUWA attorney. Garbett said Utah and the counties were relying on RS 2477 to claim "dirt trails, cow paths and roads to nowhere as highways." "While undoubtedly some of these claims do encompass well-used and traveled and vital roads, those are roads no one is fighting over," Garbett said, but others are indistinct paths and meandering washes in critical wilderness quality lands.



Herbert rejects Snake Valley water pact with Nevada

Governor Gary Herbert on Wednesday announced he is rejecting a controversial deal that would have shared with Nevada rights to water in an aquifer beneath Snake Valley, sending some 21 billion gallons of water annually to Utah's western neighbor. My decision was made as I visited with the good people who live in western Utah — those most affected by the outcomes," Herbert said. "I have also visited with local officials and county commissioners, even as recently as yesterday. A majority of local residents do not support the agreement with Nevada. Therefore, I cannot in good conscience sign the agreement because I won't impose a solution on those most impacted that they themselves cannot support." "I appreciate all who have engaged in good faith in this effort, particularly the state of Nevada, to find a mutually agreeable solution," he said. "The fact that I will not sign this agreement does not change our water priorities as a state. We will continue to do everything we can to protect Utah's water, protect individual water rights, and protect Utah's environment and way of life."

Late Wednesday afternoon in a prepared statement, the Southern Nevada Water Authority said it would evaluate its options in the wake of Herbert's decision. "We are disappointed that Governor Herbert has unilaterally chosen not to comply with a congressional directive to both his state and Nevada," it reads in part. "The negotiating team — which included Utah representatives that reflected the interests of both state and local stakeholders — invested three years in determining the most equitable way to divide Snake Valley's groundwater resources in a manner that provided the maximum level of protection for Utah's water users and environment while allowing Nevada to draw upon a water supply that originates within its own borders."

Millard County commissioners, environmental groups and some area water users — including the LDS Church — opposed the agreement, fearing a replay of the devastation Los Angeles visited upon California's Owens Valley in the 1920s. The export of any water could disrupt Snake Valley's hydrology and put its productive wetlands and ranches into a death spiral, they contended. Also of note, Snake Valley last year experienced its worst-on-record year of drought. "We have to give the governor all the credit in the world," said Millard County Commissioner Daron Smith. "He had a lot of people giving him advice. We know it was an extremely tough decision for him." Ranchers in Snake Valley and others throughout the area "appreciate him coming down here and visiting with us," Smith said. "We didn't think this was a good agreement. Nobody believes there is extra water out there." The agreement would divide the valley's water resources equally between the two states, annually allotting 66,000 acre-feet of water — more than 21 billion gallons — to each state. But many had felt that was unfair because Utah historically has been allocated more because most of the valley's arable land is on the Utah side of the state line.

The SNWA is a public agency hoping to secure and develop water rights in Snake Valley and four nearby valleys. This water would be sent to Las Vegas through a multibillion-dollar 285-mile pipeline the water authority plans to build.

Directed by Congress to work out a deal over Snake Valley water, Nevada and Utah hammered out a draft agreement almost four years ago, and it had been awaiting Herbert's signature almost since the day he took office. The agreement notes that 132,000 acre-feet can be extracted each year, but several observers believe that number is a political fiction and the actual water available could be far less. (An acre-foot, or 326,000 gallons, can support two to four homes' annual water use.) Utah's environmental community has been sharply critical of the agreement, saying it could dry up Snake Valley and send dust into the Wasatch Front, adding to its air pollution.

Rupert Steele, former chairman of the Confederated Tribes of the Goshute Indians, said he urged Herbert not to sign the agreement at community meetings last month. "The Goshute tribe was against the agreement because the [water-availability] study did not include the reservation," said Steele, who sat on the Snake Valley Water Advisory Board when he was chairman of the 566-member tribe. "Politically, they left us out because they didn't want to deal with us." He was not comfortable with the mitigation and monitoring plan because the impacts would be seen too late. "The effect isn't going to be felt until 10 years after the water is lowered," Steele said, noting that the tribe would have been left to fight the agreement alone.

Last month, in meeting with Snake Valley residents at meetings in EskDale and Partoun, Herbert and his advisers had said that without the accord, the administration feared SNWA would be free to apply for the valley's water rights and develop them without regard to Utah's interests. Officials noted the agreement obligates the water authority to wait 10 years before applying for the valley's water rights and requires both states to monitor groundwater discharge during this period from numerous springs and test wells. Callao rancher Cecil Garland praised Herbert for listening to those most affected despite pressure to sign the agreement. He called Herbert's decision "heroic." "I was elated to hear it," said Garland, who's relied on a combination of three irrigation wells in his 40 years of raising cattle and the hay to feed them in the Northern Snake Valley. "You can't have much of a farming and ranching operation without water," he said. "I feel strongly — 100 percent strongly — that we were about to lose our water."

By Christopher Smart, Judy Fahys
and Brian Maffly
The Salt Lake Tribune
Published: April 4, 2013 10:35AM

For Clerk's Use Only:
AGENDA NUMBER

5

AGENDA REQUEST FORM

BOARD OF SUPERVISORS
COUNTY OF INYO

Consent X Departmental ☐ Correspondence Action ☐ Public Hearing

☐ Scheduled Time for 9:30 ☐ Closed Session ☐ Informational

FROM: **Water Department**

FOR THE BOARD MEETING OF: **May 7, 2013**

SUBJECT: **LADWP request to reduce groundwater pumping for irrigation**

DEPARTMENTAL RECOMMENDATION:

The Water Department requests your Board consider the LADWP's request that the Board of Supervisors and Standing Committee agree to reductions in groundwater pumped for irrigation.

SUMMARY DISCUSSION:

In a letter dated March 29, 2013, pursuant to Water Agreement Section IV.A, LADWP requests that your Board agree to reductions in groundwater pumped for irrigation this year due to dry year conditions. Attached are (1) LADWP's March 29, 2013 letter, and (2) a staff report from the Water Department regarding the request.

ALTERNATIVES:

OTHER AGENCY INVOLVEMENT:

LADWP.

FINANCING:

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

DEPARTMENT HEAD SIGNATURE:
(Not to be signed until all approvals are received) Slipser for Bob Harrington Date: 5-1-13

Department of Water and Power the City of Los Angeles

ANTONIO R. VILLARAIGOSA
Mayor

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

RONALD O. NICHOLS
General Manager

March 29, 2013

Dr. Robert Harrington, Director
Inyo County Water Department
P.O. Box 337
Bishop, CA 93526-0337

Dear Dr. Harrington:

Subject: Request for the Technical Group to Evaluate Existing Conditions Prior to Inyo/Los Angeles Standing Committee Consideration of Reasonable Reductions in Water Supplied to Owens Valley Irrigation during the 2013-14 Runoff Year

Based upon current snowpack estimates, the Los Angeles Department of Water and Power (LADWP) anticipates that snowpack runoff during the upcoming 2013-14 runoff year will be approximately 50 percent of normal or less. The Eastern Sierra snowpack runoff measured between April and September of 2012 was 51 percent of normal. Moreover, Owens Valley floor precipitation during the 2012 runoff year was approximately 25 percent of normal.

The *Agreement between the County of Inyo and the City of Los Angeles and its Department of Water and Power on a Long Term Groundwater Management Plan for Owens Valley and Inyo County* Section IV.A provides:

> *"It is recognized that successive dry years could result in insufficient water to meet all needs. During periods of dry year water shortages, the Technical Group will evaluate existing conditions. A program providing for reasonable reductions in irrigation water supply for Los Angeles-owned lands in the Owens Valley and for enhancement/mitigation projects may be implemented if such a program is approved by the Inyo County Board of Supervisors and the Department, acting through the Standing Committee."*

Because of the current successive dry year conditions, LADWP will request Inyo County and the Standing Committee to consider the following reductions in groundwater pumping for irrigation supply:

- A 20 percent reduction in groundwater pumping for irrigation supply in the Laws Wellfield.
- A 20 percent reduction in groundwater pumping for irrigation supply in the Independence Wellfield.
- A 10 percent reduction in irrigation supply in other areas of Inyo County.

☐ Bishop, California mailing address: 300 Mandich Street • Bishop, CA 93514-3449 • Telephone: (760) 873-0208 • Fax (760) 873-0266
111 North Hope Street, Los Angeles, CA 90012-2607 • ☐ *Mailing address:* Box 51111 • Los Angeles, CA 90051-0100
Telephone: (213) 367-4211 • *Cable address:* DEWAPOLA

Recyclable and made from recycled waste

This letter is LADWP's written request for the Technical Group to evaluate existing conditions and for the Inyo County Water Department to take the necessary actions in order for the Inyo/Los Angeles Standing Committee to consider LADWP's request at the May 2, 2013, Standing Committee meeting.

Please contact Mr. Robert Prendergast of my staff at (760) 873-0209 or by e-mail at robert.prendergast@ladwp.com for any additional information you may require in preparation of a Technical Group review of existing conditions as they relate to these projects.

Sincerely,

James G. Yannotta
Manager of Aqueduct

c: Ms. Linda Arcularius, Inyo County
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Commissioner Christina E. Noonan
Commissioner Jonathan Parfrey
Mr. Ronald O. Nichols
Ms. Julie Riley
Mr. David Edwards
Mr. James B. McDaniel
Mr. Martin L. Adams
Mr. Robert P. Prendergast

COUNTY OF INYO WATER DEPARTMENT

Staff Report

To: County of Inyo Board of Supervisors

From: Water Department staff

Date: May 7, 2013

Re: LADWP request for Technical Group evaluation of existing conditions prior to Standing Committee consideration of reductions in Owens Valley irrigation

---

Introduction. This report provides background and staff recommendations concerning LADWP's request to reduce groundwater pumping for irrigation supply. In a letter from March 29, 2013, LADWP requests:

> *... the Standing Committee to consider the following reductions in groundwater pumping for irrigation supply:*
>
> *A 20 percent reduction in groundwater rpumping for irrigation supply in the Laws Wellfield.*
>
> *A 20 percent reduction in groundwater pumping for irrigation supply in Independence Wellfield.*
>
> *A 10 percent reduction in irrigation supply in other areas of Inyo County.*

Water Agreement and Green Book provisions for reducing irrigation during dry years. Water Agreement Section IV.A sets out the provisions for Los Angeles-owned lands provided with water (Type E vegetation). These lands have protections against decreases and changes in vegetation similar to the protections provided to groundwater-dependent vegetation communities (Types B, C, and D):

> [Irrigated] *lands will be supplied with water and will be managed to avoid causing significant decreases and changes in vegetation from vegetation conditions which existed on such lands during the 1981-82 runoff year. Significant decreases and changes in vegetation will be determined as set forth in the management goals for Type B, C, and D vegetation; however, conversion of cultivated land by the Department or its lessee to other irrigated uses shall not be considered a significant decrease or change. Another primary goal is to avoid significant decreases in recreational uses and wildlife habitats that in the past have been dependent on water supplied by the Department.*

Section IV.A also requires irrigated lands continue to be supplied with water such that water related uses existing in runoff year 1981-1982 can continue:

> *The Department shall continue to provide water for Los Angeles-owned lands in Inyo County in an amount sufficient so that the water related uses of such lands that were made during the 1981-82 runoff year can continue to be made. The Department shall continue to provide water to Los Angeles-owned lands in the Olancha/Cartago area such that the lands that have received water*

in the past will continue to receive water. Additionally, the Department shall provide water to any enhancement/mitigation projects added since 1981-1982, unless the Inyo County Board of Supervisors and the Department agree to reduce or eliminate such water supply.

Section IV.A allows that irrigation supply may be reduced only with the approval of the Board of Supervisors:

> *It is recognized that successive dry years could result in insufficient water to meet all needs. During periods of dry year water shortages, the Technical Group will evaluate will evaluate existing conditions. A program providing for reasonable reduction in irrigation water supply for Los Angeles-owned lands in the Owens Valley and for enhancement/mitigation projects may be implemented if such a program is approved by the Inyo County Board of Supervisors and the Department, acting through the Standing Committee.*

The Green Book identifies factors to be considered when determining whether irrigation should be reduced:

> *...a program to reduce the amount of irrigation water supply for Los Angeles-owned lands may be implemented if such a program is approved by the County Board of Supervisors and the Department. Factors that will be considered in determining if such a program is to be implemented include: 1) water use, supply, and conservation in Los Angeles; 2) flows in the Los Angeles Aqueduct System; 3) surface water runoff conditions; 4) level of groundwater extractions; and 5) extent of well turnoffs implemented for purposes of environmental protection.*

The Green Book requires that if a significant change or decrease in vegetation occurs on irrigated land because of a reduction in water supply, then the water supply will be increased, unless the reduction was agreed to by the County and LADWP:

> *If a significant decrease or change in vegetation conditions from those which existed during the 1981/82 runoff year is projected to occur because of a reduction in the supply of water to the affected lands, and the reduction is not a result of an agreement of the parties pursuant to Section IV.A of the Agreement, if feasible, the supply of water will be immediately increased to avoid such a decrease or change.*

Evaluation of conditions. The factors relevant to the Technical Group's evaluation of conditions are mostly given in LADWP's draft Annual Operations Plan for Runoff Year 2013-14.

The various factors identified in the Green Book are principally related to Los Angeles's water use and water supply. LADWP staff reports that "phase II" watering restrictions are in place in Los Angeles prohibiting or restricting various outdoor water uses. Per capita daily water use in Los Angeles is reported to be 123 gallons per day. Water for Los Angeles comes from a combination of sources including the eastern Sierra, the Colorado River, the Sacramento-San Joaquin Valley, and local groundwater. Water supply for Los Angeles from Los Angeles Aqueduct is expected to be 66,986 acre-feet (AF) according to LADWP's draft Annual Operations Plan, or about 12% of Los Angeles's expected needs. This year's water export from the eastern Sierra to Los Angeles is expected to be the lowest on record spanning back to 1935. This year's runoff for Owens Valley is forecast to be 54% of normal, following 2012's reported runoff of 57%. The lowest runoff recorded during the period 1935 – 2012 is 52% of normal. Groundwater extraction by LADWP during 2012 was 88,681 AF for the Owens Valley, with 6,990 AF in Laws well field and 8,816 AF in Independence-Oak well field. In their draft Annual Operations Plan, LADWP set out plans to pump 47,370 – 54,660 AF over the period April – September, 2013. Six on/off monitoring sites are in on status (out of 22), which, with exempt wells, provides a pumping capacity of 134,411 AF for runoff year 2013.

Given the low runoff conditions, it is highly likely that lack of runoff will reduce irrigation on LADWP leases.

Additional considerations are how much pumping will be reduced and what will be the effect on the water table if the proposed reduction in pumping is granted. The draft Annual Operations Plan indicates that 52,800 AF will be used for irrigation during 2013, however only part of this is pumped water. The water table in Laws and Independence-Oak well fields would be the most affected by LADWP's request, because (1) they request a greater proportional reduction in pumping in those well fields, and (2) pumping for irrigation is relatively high in those well fields. The Water Department's analysis of the draft Annual Operations Plan produced estimates of the difference in water table elevation that would result if LADWP's proposal is accepted versus rejected.

In Laws, in eight shallow monitoring wells, a 20% reduction in irrigation pumping (assumed to be 1,440 AF) would result in water tables ranging from 0.06 to 0.77 feet higher than if pumping were not reduced, with an average increase of 0.30 feet. The condition of native vegetation in Laws is poor (see the Water Department's Annual Report 2011-2012; http://www.inyowater.org/Annual_Reports/Default.htm). The water table in Laws is generally deep and needs to recover to reconnect with the root zone, but an increase of 0.30 feet will not measurably improve vegetation condition. In another request, LADWP has requested that water not be supplied to a portion of the McNally Ponds and Native Pasture E/M Project. The proposed water reduction for the McNally Ponds project is approximately 1,500 AF.

In Independence, in six shallow monitoring wells, a 20% reduction in irrigation pumping (assumed to be 1,320 AF) would result in water tables ranging from 0.15 to 1.10 feet higher than if pumping were not reduced, with an average increase of 0.42 feet. Vegetation conditions around Independence are better than around Laws.

Given the uncertainty as to how and where the valley-wide 10% reduction would be implemented, we haven't estimated how this aspect of the request would affect the water table, but the effect would generally be less than in Laws and Independence.

Recommendation. In Laws, if LADWP's request to reduce supply to the McNally Ponds project is agreed to, then that is equivalent to a 20% reduction in irrigation, which, arguably should be considered pumped water in this context (LADWP argues that surface water is not available from the McNally canals during low runoff conditions). If the County agrees to reduce supply to the McNally Ponds project, then the County should agree to the irrigation reduction in Laws only with the recognition that the requested reduction in Laws is met by the reduction in the McNally Ponds project.

Three circumstances argue against agreeing to the requested reduction in pumping for irrigation:

1. Low runoff conditions are likely to reduce water availability for irrigation this year. This may be partly mitigated for by providing groundwater for irrigation.

2. Water table changes with and without the requested pumping reduction will differ relatively little.

3. If reductions in water supply are projected to cause significant changes or decreases in irrigated vegetation, and the reduction is not a result of an agreement between the County and LADWP to reduce water supply, then water supply must be immediately increased to avoid such a decrease. Thus, if the County agrees to the requested reduction, then the County's ability to seek a future increase in water supplied to mitigate negatively affected vegetation may be lessened. Considering the difficulties faced in showing that a significant impact has occurred and mitigation is required, it makes an agreement that further limits the County's ability to seek mitigation.

For Clerk's Use Only:
AGENDA NUMBER

U

AGENDA REQUEST FORM

BOARD OF SUPERVISORS
COUNTY OF INYO

Consent | X Departmental | ☐ Correspondence Action | ☐ Public Hearing

☐ Scheduled Time for 9:30 | ☐ Closed Session | ☐ Informational

FROM: **Water Department**

FOR THE BOARD MEETING OF: **May 7, 2013**

SUBJECT: **LADWP request to reduce water supply to McNally Ponds and Van Norman Enhancement/Mitigation Projects**

DEPARTMENTAL RECOMMENDATION:

The Water Department requests your Board consider the LADWP's request that the Board of Supervisors and Standing Committee agree to reductions in water supplied to the McNally Ponds and Van Norman Enhancement/Mitigation Project.

SUMMARY DISCUSSION:

In a letter dated March 27, 2013, pursuant to Water Agreement Section IV.A, LADWP requests that your Board agree to reductions in water supplied to these projects due to dry year conditions. Attached are (1) LADWP's March 27, 2013 letter, and (2) a staff report from the Water Department regarding the request.

ALTERNATIVES:

OTHER AGENCY INVOLVEMENT:

LADWP.

FINANCING:

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

DEPARTMENT HEAD SIGNATURE:
(Not to be signed until all approvals are received) S Piper for Bob Harrington Date: 5-1-13

Department of Water and Power the City of Los Angeles

ANTONIO R. VILLARAIGOSA
Mayor

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

RONALD O. NICHOLS
General Manager

March 27, 2013

Dr. Robert Harrington, Director
Inyo County Water Department
P.O. Box 337
Bishop, CA 93526-0337

Dear Dr. Harrington:

Subject: Request for the Technical Group to Evaluate Existing Conditions Prior to Inyo/Los Angeles Standing Committee Consideration of Reasonable Reductions in Water Supplied to the McNally Ponds and Van Norman Enhancement/Mitigation Projects during the 2013-14 Runoff Year

The Los Angeles Department of Water and Power (LADWP) anticipates that snowpack runoff during the upcoming 2013-14 runoff year will be substantially below normal. Current snowpack estimates for the Eastern Sierra suggest snowpack runoff will be less than 50 percent of normal. Eastern Sierra snowpack runoff measured between April and September of 2012 was 51 percent of normal.

The *Agreement between the County of Inyo and the City of Los Angeles and its Department of Water and Power on a Long Term Groundwater Management Plan for Owens Valley and Inyo County* (Water Agreement) provides:

> *"It is recognized that successive dry years could result in insufficient water to meet all needs. During periods of dry year water shortages, the Technical Group will evaluate existing conditions. A program providing for reasonable reductions in irrigation water supply for Los Angeles-owned lands in the Owens Valley and for enhancement/mitigation projects may be implemented if such a program is approved by the Inyo County Board of Supervisors and the Department, acting through the Standing Committee."*

On February 8, 2013, the Inyo/Los Angeles Standing Committee agreed that:

> "...any request from LADWP for reduction to (enhancement/mitigation) projects be made in writing in a timely manner such that the Board of Supervisors may provide direction to its Standing Committee representatives."

This letter is LADWP's written request to reduce water supplied to the McNally Ponds Enhancement/Mitigation Project (McNally Ponds Project) to that amount typically supplied to the approximately 195 acre southeast pasture portion during irrigation season. Additionally, LADWP requests that the amount of water supplied to the Van Norman Enhancement/Mitigation Project (Van Norman Project) be reduced to that amount feasibly made available from a submersible pump installed in the well W390 casing.

LADWP hereby requests the Technical Group to evaluate existing conditions as they relate to the McNally Ponds and Van Norman Projects.

Background

McNally Ponds Enhancement/Mitigation Project

The McNally Ponds Project consists of approximately 300 acres of irrigated pasturelands and 60 acres of ephemeral ponds. Water supply to the McNally Ponds Project is authorized to be from well W249 or the McNally Canals, with wells W376, W377, W385, and W386 designated as make-up water sources for water supplied to the project. Portions of the McNally Ponds Project are anticipated to not have a viable water supply source during the 2013-14 runoff year, pursuant to its 1985 evaluation, the 1986 Laws/Poleta Enhancement/Mitigation Projects description, and the Water Agreement. The well designated to supply the McNally Ponds Project is in "turn off" status pursuant to Water Agreement Section V.B. There are no other wells expected to be in "turn on" status during the 2013-14 runoff year which could feasibly supply the northwestern 107 acre pasture or the ponds portions of the McNally Ponds Project (other wells are available to supply the southeastern 195 acre portion of the McNally Ponds Project this year).

The McNally Canals, the only other designated direct source of water for the McNally Ponds Project, will not be operated this year pursuant to Water Agreement Section IV.A which states that "(t)*he Department shall continue to operate canals in accordance with its practices from 1970 (past practices have included taking canals out of service for maintenance and for operational purposes)*". LADWP has not operated the McNally Canals in years of very low snowpack runoff such as this current year.

Van Norman Enhancement/Mitigation Project

The Van Norman Project consists of 160 acres of pasture, which is irrigated from well W390. The project was evaluated by the Inyo/Los Angeles Standing Committee in 1986. Well W390 has reached the end of its serviceable life and there is currently no other feasible supply of water for the Van Norman Project. A replacement well for W390 was drilled in 2012 and is expected to be fully equipped during the current runoff year, but is not yet operational. A limited

amount of water has been supplied to the project though a temporary submersible pump installed in the W390 well casing, but the volume of supply to the project is substantially reduced. Recent testing of well W390 in preparation of the 2013 irrigation season found the well was unable to sustain 135 gallons per minute for more than a few minutes. LADWP is in the experimenting with smaller submersible pumps, but does not expect well W390 to be able to produce more than a few dozen gallons per minute.

Please contact Mr. Robert P. Prendergast of my staff at (760) 873-0209 or robert.prendergast@ladwp.com for any additional information you may require in preparation of a Technical Group review of existing conditions as they relate to these projects.

Sincerely,

James G. Yannotta
Manager of Aqueduct

c: Honorable Tom LaBonge, Councilmember, Fourth District
Commissioner Christina E. Noonan
Commissioner Jonathan Parfrey
Ms. Linda Arcularius, Inyo County
Mr. Rick Pucci, Inyo County
Mr. Kevin Carunchio, Inyo County
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AGENDA REQUEST FORM
BOARD OF SUPERVISORS
COUNTY OF INYO

For Clerk's Use Only:
AGENDA NUMBER

Consent X Departmental ☐ Correspondence Action ☐ Public Hearing

☐ Scheduled Time for 9:30 ☐ Closed Session ☐ Informational

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FOR THE BOARD MEETING OF: **May 7, 2013**

SUBJECT: **LADWP request to reduce water supply to McNally Ponds and Van Norman Enhancement/Mitigation Projects**

DEPARTMENTAL RECOMMENDATION:

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SUMMARY DISCUSSION:

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ALTERNATIVES:

OTHER AGENCY INVOLVEMENT:

LADWP.

FINANCING:

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General Manager

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The McNally Canals, the only other designated direct source of water for the McNally Ponds Project, will not be operated this year pursuant to Water Agreement Section IV.A which states that "(t)*he Department shall continue to operate canals in accordance with its practices from 1970 (past practices have included taking canals out of service for maintenance and for operational purposes)*". LADWP has not operated the McNally Canals in years of very low snowpack runoff such as this current year.

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amount of water has been supplied to the project though a temporary submersible pump installed in the W390 well casing, but the volume of supply to the project is substantially reduced. Recent testing of well W390 in preparation of the 2013 irrigation season found the well was unable to sustain 135 gallons per minute for more than a few minutes. LADWP is in the experimenting with smaller submersible pumps, but does not expect well W390 to be able to produce more than a few dozen gallons per minute.

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Mr. Randy Keller, General Counsel, Inyo County
Mr. Robert P. Prendergast

COUNTY OF INYO WATER DEPARTMENT

Staff Report

To: County of Inyo Board of Supervisors

From: Water Department staff

Date: May 9, 2013

Re: LADWP request to Standing Committee regarding water supply for McNally Ponds E/M Project and Van Norman E/M Project

---

Introduction. This report provides background and staff recommendations on the McNally Ponds Enhancement/Mitigation Project to assist your Board in addressing a request from LADWP to reduce the water supply to the project. In a letter from March 27, 2013, LADWP "*requests the Technical Group to evaluate existing conditions as they relate to the McNally Ponds and Van Norman Projects.*" For the McNally Ponds project, LADWP requests that water supply be limited to the southeastern portion of the project. For the Van Norman project, LADWP requests that the water supply be limited to the amount that can be feasibly made available from a submersible pump installed in the well W390 casing.

Water Agreement provisions. The sections of the Water Agreement relevant to modifying E/M projects are Section IV.A and Section X. Section IV.A (Vegetation Management Goals and Principles):

> *Additionally, the Department shall provide water to any enhancement/mitigation projects added since 1981-1982, unless the Inyo County Board of Supervisors and the Department agree to reduce or eliminate such water supply.*
>
> *It is recognized that successive dry years could result in insufficient water to meet all needs. During periods of dry year water shortages, the Technical Group will evaluate existing conditions. A program providing for reasonable reductions in irrigation water supply for Los Angeles-owned lands in the Owens Valley and for enhancement/mitigation projects may be implemented if such a program is approved by the Inyo County Board of Supervisors and the Department, acting through the Standing Committee.*

Section IV.A allows temporary reductions in water supplied to Los Angeles-owned lands, specifically including E/M projects, due to drought conditions. Section IV.A refers to "*successive dry years*" as a criterion that may prompt the County and LADWP to reduce water supplied to E/M projects. LADWP's draft Annual Owens Valley Report 2013 indicates that runoff for 2012-2013 was 57% of normal, runoff for April, 2012 through September, 2012 was 51% of normal, and runoff for 2013-2014 is forecast to be 54% of normal. Although the Technical Group has not yet evaluated existing conditions relating to dry year water shortages, it is clear that runoff-years 2012 and 2013 are successive dry years.

McNally Ponds Project. The June 27, 1985 scoping document states that the project's purpose is:

COUNTY OF INYO WATER DEPARTMENT

Staff Report

To: County of Inyo Board of Supervisors

From: Water Department staff

Date: May 9, 2013

Re: LADWP request to Standing Committee regarding water supply for McNally Ponds E/M Project and Van Norman E/M Project

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McNally Ponds Project. The June 27, 1985 scoping document states that the project's purpose is:

To provide a regular water supply to existing ephemeral ponds in the Laws area to create a waterfowl habitat, to enhance and maintain existing vegetation and increase livestock grazing capacities.

The scope of the project consists of:

Water will be spread on the native vegetation areas during April through September period to mitigate and sustain the native vegetation. Water will be diverted into the ponds during September through January to provide a waterfowl habitat, enhancement project.

Figure 1 shows Laws area E/M projects, related production wells, and diversions relevant to the portion of the project west of Highway 6. The McNally Ponds Project consists of two components, irrigated pasture southeast of Laws, and irrigated pasture and waterfowl ponds west of Highway 6. LADWP's request concerns the part of the project west of Highway 6.

The McNally Ponds Project was originally planned to be supplied by diversion from the Owens River through the Lower McNally Canal, with W249 as an alternative supply, and that the water used by the project would be made up by a new well or wells located south of the Laws return ditch. These new wells were constructed and designated W376 and W377. They have been run sporadically to supply the southeastern part of the project. The CEQA analysis for this project was done in combination with the Laws-Poleta Native Pasture Project (shown on Figure 1). The CEQA document described additional wells located at the gravel plant west of Five Bridges Road to supply replacement water for river water diverted to the western portion of the project. These wells were designated W385 and W386. The 1991 EIR concluded that wells W385 and W386 caused adverse impacts to native vegetation. These impacts are mitigated by the Five Bridges Revegetation Project (Figure 1). W385 and W386 have not been operated since the early-1990s. LADWP is currently planning to install liners in W385 and W386 to reduce the effects of the wells on the shallow aquifer. The CEQA document also identified two new wells along the Upper McNally Canal to supply the southeastern portion of the McNally Ponds Project and the Laws-Poleta Native Pasture Project. These wells were designated W387 and W388, and were never linked to an on/off monitoring site, nor were they exempted from on/off by the Technical Group. They have been run annually to supply irrigation water in the E/M projects in the southeastern part of Laws. Additionally, other wells along the Lower McNally Canal have been used to supply the project, either when in on-status or when they were exempted from the Water Agreement's on/off well management provisions under the 2007-2009 interim management plan. During periods of high runoff, or when LADWP was ordered by the Court to spread water in Laws, the McNally Ponds were supplied with water from the Owens River.

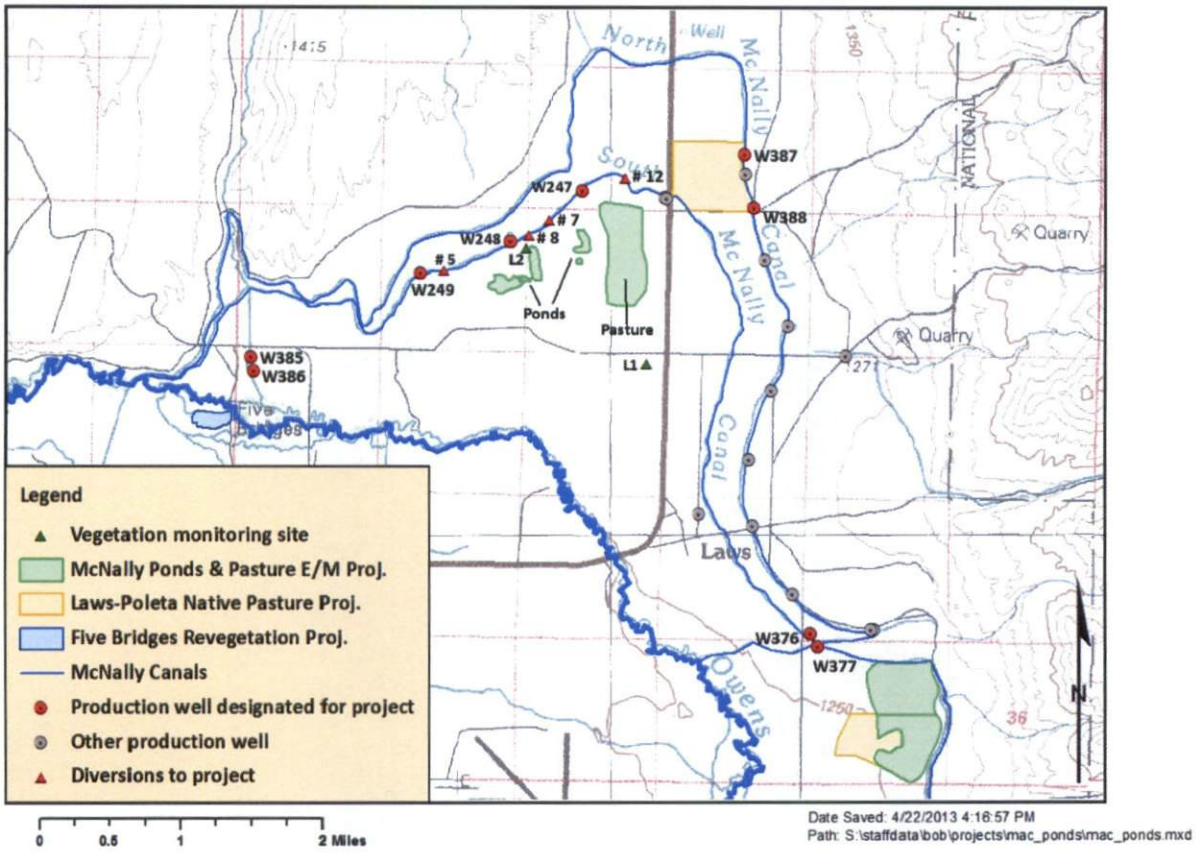

Figure 1. Laws area, showing mitigation projects, supply wells, and diversions to the westerly portions of the McNally Ponds Project.

In their annual Owens Valley report, LADWP reports water use for the McNally Ponds separately from the irrigated pasture component of the project, which they include with the Law-Poleta Native Pasture E/M Project. This makes good sense from a water tracking perspective, but it does make the reporting inconsistent with the description of the project in the 1985 scoping document and the 1991 FEIR.

In some years, the McNally Ponds have not been supplied with water. Table 1 gives the annual amount of water supplied to the portion of the project west of Highway 6 (McNally Ponds) and the pastures in southeastern Laws (McNally/Laws Poleta Native Pasture). According to LADWP's annual Owens Valley reports, for runoff-years 2007-08, 2008-09, and 2009-10, LADWP did not supply water to the McNally Ponds and did not obtain the agreement of the Board of Supervisors or the Standing Committee. In 2012, the Standing Committee agreed to reduce water supply for the project. LADWP's present request to reduce supply to the McNally Ponds is similar to last year's request.

Until 2001, under the provisions of the Drought Recovery Policy, the Standing Committee approved annual pumping plans each spring. During some low-runoff years, the annual pumping plan contained provisions for reduced water supply to some E/M projects including the McNally Ponds. Thus, it is not unprecedented for the Board of Supervisors, acting through the Standing Committee's approval of the annual pumping plan, to approve reductions in water supplied to the McNally Ponds.

Table 1. Water supplied to McNally Ponds and McNally/Laws-Poleta Native Pasture E/M Projects (source: LADWP Annual Owens Valley reports). Expected supply derived from Standing Committee scoping documents.

Runoff year	McNally Ponds (acre-feet)	McNally/Laws Poleta Native Pasture (acre-feet)
2005	1,522	1,269
2006	1,491	1,241
2007	0	1,396
2008	0	1,320
2009	0	1,764
2010	368	1,267
2011	857	2,306
2012	0	1,460
Expected	1,500	900+660=1,560

The following options are available:

- Supply the project with surface water. LADWP could divert water from the Owens River to supply the project via the Lower McNally Canal. Because of low runoff conditions and the conveyance losses that are incurred by supplying water via the canal, LADWP does not desire to divert water into the canals. It is consistent with LADWP's past practice to not divert water from the river into the canal during a dry year such as at present.
- Reduce or eliminate the water supplied to the project. The Board of Supervisors and LADWP, acting through the Standing Committee, may agree to reduce or eliminate the water supply to the project, as provided for by the Water Agreement. Water Agreement Section IV.A requires that conditions of low runoff must be present to justify reducing the project's water supply. Although the Technical Group has not met and made such a finding, it is clear that 2012 and 2013 are dry years.
- Reduce or eliminate the water supplied to the project and supply the water elsewhere. In exchange for reducing the water supply to the McNally Ponds project, the Standing Committee may agree to supply water elsewhere. Last year, the Technical Group discussed diverting water off of the Bishop Creek Canal to the area between Riverside Drive and the Owens River, but LADWP was unwilling to do so without a source of pumped water to replace diversions from the canal.
- Exempt wells from on/off to supply the project. Wells that could supply the project are in "off-status" according to the Water Agreement's well management criteria. The Technical Group may permanently exempt wells from on/off well management for the purpose of supplying the project. Concerning well exemptions, the Water Department has asserted at the Technical Group that CEQA may be required before the Technical Group can act to exempt wells from on/off management. Since no such CEQA analysis has been done, the Technical Group should not proceed to exempt wells to supply the project. Additionally, the Water Agreement provides, "*[w]ells that have been turned off could also be turned on if the Technical Group determines that the implementation of mitigation warrants such action*" (Section V.C). LADWP has not explicitly proposed either permanent or temporary operation of off-status wells to supply the

McNally Ponds project. Moreover, vegetation and water table conditions in the Laws area are in poor shape and additional pumping would exacerbate these conditions.

Recommendation: Agree to reduce the water supplied to the McNally Ponds project as requested by LADWP on the condition that water is supplied elsewhere from the Bishop Creek Canal to pastures between the Bishop Creek Canal and Owens River. This would provide benefits similar to the project without incurring conveyance losses on the Upper McNally Canal.

Van Norman Project. The 1986 scoping document for the Richards and Van Norman Fields Project states the project will *"reestablish abandoned pasture land removed from irrigation in 1964, and provide water to native vegetation lands east and north of Lone Pine."* The scope of the project is to:

> *Provide a water supply to an existing Department lessee for approximately 320 acres of native vegetation located easterly and north of the town of Lone Pine. The Department lessee will reactivate old abandoned ditches and construct new ditches and outlets if necessary in order to spread water to the 320 acres of native vegetation.*

The Van Norman Field and Richards Fields are each approximately 160 acres. According to the scoping document, each field was allotted 320 acre-feet per year (AFY). The water allotment for the Van Norman and Richards Fields was increased to 480 acre-feet/year by the Standing Committee in 1989.

Figure 2 shows the locations of E/M projects and LADWP production wells near Lone Pine. The Van Norman Project is supplied by well W390. Because W390 has lost most of its production capacity over the last several years, in 2012 LADWP drilled a new well to replace W390. The new well has not been equipped with a pump or plumbed into a distribution system for the project, and LADWP anticipates that the new well will be not be operational until sometime later this runoff-year. Until the new well is operational, W390 is the only feasible source of water for the Van Norman Project, so LADWP is requesting that the Board and Standing Committee agree that the project supply be limited to that which can be withdrawn from a small submersible pump in W390.

The Van Norman Project generally has not received its full allotment of water. Table 2 shows the annual pumping for the project since its inception. In 2005 and 2006 the project received approximately its full allotment of 480 acre-feet. In all other years, water supplied to the project fell well short of the allotment.

Options for this project are more limited than for the McNally Ponds Project, because the only feasible source of water for the project is one proposed by LADWP.

Recommendation: Agree to reduce water supplied to the project as proposed by LADWP on the condition that additional surface water be provided to the Richards Field Project, that the allotment for the Van Norman project be increased to include up to 30 AFY to accommodate the expansion of the High School Farm, and that the new well be plumbed so that it can provide water to the High School Farm.

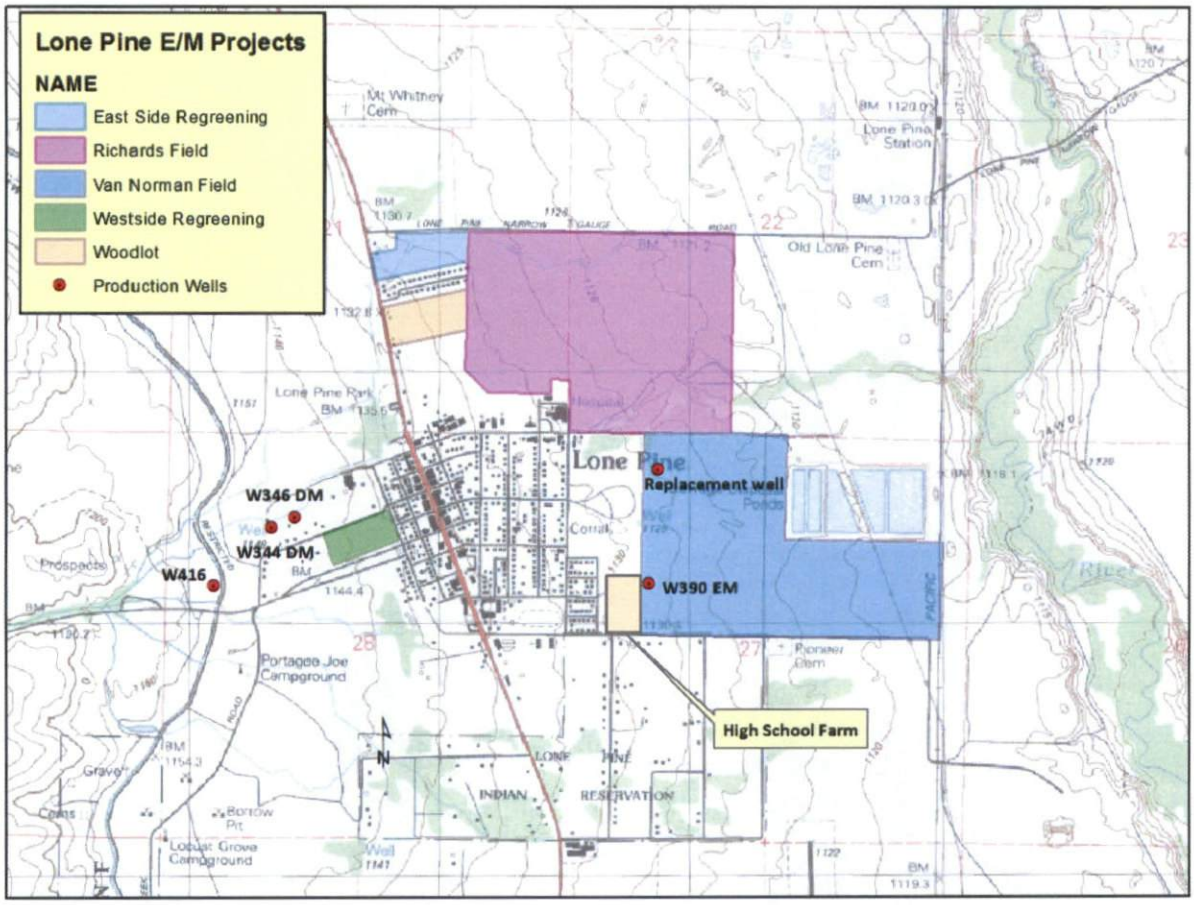

Figure 2. E/M projects in Lone Pine area and LADWP production wells.

Table 2. W390 pumping. W390 is the only source of water for the Van Norman Project and W390 does not pump for any other purpose.

Runoff year	Well W390 pumping (acre-feet)	Runoff year	Well W390 pumping (acre-feet)
1987	296	2001	273
1988	324	2002	335
1989	410	2003	395
1990	332	2004	337
1991	366	2005	474
1992	333	2006	512
1993	360	2007	306
1994	318	2008	28
1995	212	2009	147
1996	248	2010	102
1997	253	2011	116
1998	233	2012	97
1999	287	Project allocation	480
2000	308		

Attachment A. 1991 EIR provisions related to McNally Ponds E/M Project

Table 4-3, Enhancement/Mitigation Projects Implemented or Committed to Between 1970 and 1990.

The McNally Ponds Project is listed as a project that was first implemented in 1986-1987, which receives a Normal Year Water Supply of 4,000 AF.

Table 5-3, Enhancement/Mitigation Projects, 1985 to 1990. Describes the project:

> *McNally Ponds Project: Provides water for 300 acres during the spring and summer months to mitigate and sustain vegetation, and to provide water to 60 acres of ponds during the fall months for waterfowl habitat.*

Section 7.3 Summary of Impacts and Mitigation Measures.

Impact mitigated:

> *10-18. Significant adverse vegetation decrease and change have occurred in the Laws area due to a combination of factors, including abandoned agriculture, groundwater pumping, water spreading in wet years, livestock grazing, and drought.*

Mitigation Measures:

> *Approximately 140 acres will be revegetated within the Laws area, which has lost all or part of its vegetation cover due to increased groundwater pumping or to abandonment of irrigation operations to supply the second aqueduct. These areas are shown on Figures 10-8A through L.*
>
> *In the 1970s, LADWP started the Farmer's Pond environmental project. In the mid-1980s, LADWP and Inyo County implemented the Laws-Poleta Pasture Land, Laws Museum, and McNally Ponds enhancement/mitigation projects in the Laws area totaling approximately 541 acres of pasture land. The location of these projects is described in Chapter 5.*
>
> *The area where it is suspected that groundwater pumping during the recent drought has caused decreases or changes in vegetation is being monitored by Inyo County and LADWP. Groundwater pumping has been reduced in the area. Should it be determined that any significant decreases or changes have occurred, the area will be mitigated under the Agreement.*

The 1991 EIR identified a significant impact resulting from the operation of wells W385 and W386 supplying E/M projects in the Laws area. Impact 10-12:

> *Vegetation in an area of approximately 300 acres near Five Bridges Road north of Bishop was significantly adversely affected during 1988 because of the operation of two wells, to supply water to enhancement/mitigation projects.*
>
> *Between 1987 and 1988, two wells in the Five Bridges area that were pumped to supply water to enhancement/mitigation projects contributed to a lowering of the water table under riparian and meadow areas along Owens River. Approximately 300 acres of vegetation were affected, and within this area, approximately 36 acres lost all vegetation due to a wildfire.*

was mitigated for by mitigation measure 10-12:

> *Water has been spread over the affected area since 1988. By the summer of 1990, revegetation of native species had begun on approximately 80 percent of the affected area. LADWP and Inyo County are developing a plan to revegetate the entire affected area with riparian and meadow vegetation. This plan will be implemented when it has been completed.*

AGENDA REQUEST FORM
BOARD OF SUPERVISORS
COUNTY OF INYO

For Clerk's Use Only: AGENDA NUMBER
7

☒ Consent ☐ Departmental ☐ Correspondence Action ☐ Public Hearing

☐ Scheduled Time for ☐ Closed Session ☐ Informational

FROM: County Administrator – Information Services

FOR THE BOARD MEETING OF: **May 7, 2013**

SUBJECT: Authorization to Purchase Hardware and Software Necessary for Email System Update

DEPARTMENTAL RECOMMENDATION:

Request Your Board authorize the purchase of hardware and software detailed in this request from the vendors detailed in this request in an amount no to exceed $38,280.

SUMMARY DISCUSSION:

The identification and justification for an update of the County email system was a result of the technology refresh initiative discussed during the Information Services Status Workshop conducted in November, 2012.

The core software of the present County email system is Microsoft Exchange 2003 which has storage management limitations and lacks "e-discovery" tools.

The core hardware that houses the County email system was purchased in 2007 and cannot be economically upgraded to accommodate the storage capacity allowed by the contemporary version of Microsoft Exchange and estimated as necessary for robust, reliable County email transactions and email management legal compliance.

Information Services, with assistance from County Counsel, researched and identified software and hardware necessary to accommodate County email transaction volumes and comply with legal retention and e-discovery requirements. The hardware and software specifications were provided to various vendors as part of a request for formal written quotes per sections III.C.5 and III.D of the Inyo County Purchasing Manual. Bids were solicited from GovConnection, Insight-Public Sector, and TechDepot:

IBM System x3630 M4 (email server hw)	GovConnection	$10,803 <low bid>
	Insight-Public Sector	$13,383
	TechDepot	No Response
Microsoft Server 2012 (server operating system sw) + Microsoft Exchange 2013 (email system sw) + Microsoft Exchange user licenses (email license) + Symantec Backup 2012 (data backup sw)	Insight Public Sector	$27,474 <low bid>
	GovConnection	$30,686
	Tech Depot	$28,866

ALTERNATIVES:

Your Board could choose not to pursue a technology refresh of the County email system in which case Information Services will attempt to develop alternate procedures to manage email storage and comply with e-discovery requirements.

OTHER AGENCY INVOLVEMENT:

All County departments are affected.

FINANCING:

The cost of the hardware will be paid from and is budgeted in the Board approved Computer System Fund FY 2012-13 budget [011808-5650] (Equipment); the cost of the software will be paid from and is budgeted in the Board approved Computer System Fund FY 2012-13 budget [011808-5232] (Office & Other Equipment).

APPROVALS	
COUNTY COUNSEL:	AGREEMENTS, CONTRACTS AND ORDINANCES AND CLOSED SESSION AND RELATED ITEMS *(Must be reviewed and approved by county counsel prior to submission to the board clerk.)* Approved: yes Date 4/29/2013
AUDITOR/CONTROLLER:	ACCOUNTING/FINANCE AND RELATED ITEMS (*Must be reviewed and approved by the auditor-controller prior to submission to the board clerk.)* Approved: LKD Date 4/30/13
PERSONNEL DIRECTOR:	PERSONNEL AND RELATED ITEMS (Must be reviewed and approved by the director of personnel services prior to submission to the board clerk.) Approved:_____ Date_____

DEPARTMENT HEAD SIGNATURE:
(Not to be signed until all approvals are received)_____ Date: 5/1/13

AGENDA REQUEST FORM
BOARD OF SUPERVISORS
COUNTY OF INYO

For Clerk's Use Only: AGENDA NUMBER
8

☒ Consent ☐ Departmental ☐ Correspondence Action ☐ Public Hearing

☐ Scheduled Time for ☐ Closed Session ☐ Informational

FROM: County Administrator – Information Services

FOR THE BOARD MEETING OF: **May 7, 2013**

SUBJECT: Declare Waterford Technologies, Inc. Sole Source Provider of MailMeter Software and authorize the purchase of MailMeter software licensing and support services.

DEPARTMENTAL RECOMMENDATION:

Request Your Board a) declare Waterford technologies, Inc. sole source provider of MailMeter Software and b) authorize the purchase of a MailMeter software licensing and support services from Waterford technologies, Inc. in an amount not to exceed $13,580 contingent on the Board's approval of the requested email system update.

SUMMARY DISCUSSION:

E-Discovery (electronic discovery) refers to discovery and disclosure of information stored and/or communicated in electronic format. E-discovery is often a component of civil litigation and internal investigations. The identification and justification for an update of the County email system was a result of the technology refresh initiative discussed during the Information Services Status Workshop conducted in November, 2012. An email system that can efficiently and reliably meet e-discovery expectations and requirements is a significant goal of the email system update.

Information Services researched various email archive, recovery and management tools. Based on the research, Information Services determined MailMeter from Waterford Technologies, Inc. provided the desired functionality at the lowest cost. MailMeter is only available directly from the developer, Waterford Technologies, Inc. As a result, Information Services is requesting that Waterford Technologies, Inc. be declared sole source provider per section III.E.3 of the Inyo County Purchasing Manual.

ALTERNATIVES:

Your Board could choose not to authorize the purchase of the MailMeter software licensing and support services in which case Information Services would evaluate alternatives to fulfill email archiving and recovery requirements.

OTHER AGENCY INVOLVEMENT:

All County departments are affected.

FINANCING:

The cost of the software licensing ($9,620) will be paid from and is budgeted in the Board approved Computer System Fund FY 2012-13 budget [011808-5232] (Office & Other Equipment); the cost of the software maintenance ($3,960) will be paid from and is budgeted in the Board approved Computer System Fund FY 2012-13 budget [011808-5177] (Maintenance of Computers).

APPROVALS	
COUNTY COUNSEL:	AGREEMENTS, CONTRACTS AND ORDINANCES AND CLOSED SESSION AND RELATED ITEMS *(Must be reviewed and approved by county counsel prior to submission to the board clerk.)* Approved: 4/30/2013 Date yes
AUDITOR/CONTROLLER:	ACCOUNTING/FINANCE AND RELATED ITEMS (*Must be reviewed and approved by the auditor-controller prior to submission to the board clerk.)* Approved: yes Date 5/1/13
PERSONNEL DIRECTOR:	PERSONNEL AND RELATED ITEMS (Must be reviewed and approved by the director of personnel services prior to submission to the board clerk.) Approved:_____ Date_____

DEPARTMENT HEAD SIGNATURE:

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

For Clerk's Use Only:
AGENDA NUMBER
9

AGENDA REQUEST FORM
BOARD OF SUPERVISORS
COUNTY OF INYO

☒ Consent ☐ Departmental ☐ Correspondence Action ☐ Public Hearing

☐ Scheduled Time for ☐ Closed Session ☐ Informational

FROM: Parks & Recreation
By: Teresa Elliott

FOR THE BOARD MEETING OF: **May 7, 2013**

SUBJECT: Authorization for the purchase of Picnic Tables made from recycled content material

DEPARTMENTAL RECOMMENDATION: Request your Board award the bid and authorize a purchase order in the amount of $13,820.00 payable to RJ Thomas MFG Company Inc, located in Cherokee, Iowa for the purchase of 25 picnic tables to be utilized in the Inyo County Parks and Campgrounds.

SUMMARY DISCUSSION: Inyo County Parks & Recreation is to receive a grant allocation of $10,000 from the Department of Resources Recycling and Recovery. The Parks Department has, for several years, used this funding to purchase picnic tables made of recycled content material to replenish picnic tables in the county operated parks and campgrounds. As included in the CAO Recommended Budget, additional picnic tables will be purchased with Geothermal Royalties Operating Transfer In.

The bids are summarized as follows:

- RJ Thomas MFG Co. Inc — $13,820.00 for 25 tables
- Belson Outdoors, Inc — $14,733.59 for 17 tables
- Schools Outfitters — $13,392.75 for 22 tables
- Highland Products Group — $14,940.40 for 20 tables

ALTERNATIVES: Your Board could choose not to authorize the purchase; thereby not replacing 25 older picnic tables. The picnic tables in the parks and campgrounds are very heavily used and should be replenished regularly for a better user experience.

OTHER AGENCY INVOLVEMENT:

FINANCING: Parks & Recreation Fiscal Year 2012/2013 budget, 076998, includes funding in object code 5232, Equipment less than $5000, for the purchase of the recycled content picnic tables.

APPROVALS

COUNTY COUNSEL:	AGREEMENTS, CONTRACTS AND ORDINANCES AND CLOSED SESSION AND RELATED ITEMS *(Must be reviewed and approved by county counsel prior to submission to the board clerk.)* Approved: yes Date 4/24/2013
AUDITOR/CONTROLLER:	ACCOUNTING/FINANCE AND RELATED ITEMS (*Must be reviewed and approved by the auditor-controller prior to submission to the board clerk.)* Approved: yes Date 4/26/13
PERSONNEL DIRECTOR:	PERSONNEL AND RELATED ITEMS (Must be reviewed and approved by the director of personnel services prior to submission to the board clerk.) Approved: _____ Date _____

DEPARTMENT HEAD SIGNATURE:
(Not to be signed until all approvals are received) Pam Glenna Date: 4/30/13

AGENDA REQUEST FORM

BOARD OF SUPERVISORS
COUNTY OF INYO

☐ Consent ☒ Departmental ☐ Correspondence Action ☐ Public He
☐ Schedule time for ☐ Closed Session ☐ Informational

For Clerk's Use Only:
AGENDA NUMBER
10

FROM: Auditor-Controller

FOR THE BOARD MEETING OF: May 7, 2013

SUBJECT: Fraud Detection and Investigation Training Courses

DEPARTMENTAL RECOMMENDATIONS: Approve the Agreement to Conduct On-Site Training between the County of Inyo and the Institute of Internal Auditors for fraud detection and investigation training in an amount not to exceed $20,800 for two days of training and authorize the Board Chair or designee to sign the agreement.

CAO RECOMMENDATION:

SUMMARY DISCUSSION: Following the alleged theft of County welfare funds, it was decided that training all staff how to detect unusual behavior related to fraud or theft would be valuable. The Auditor-Controller's office researched classes provided by the California Society of CPA's, the Association of Certified Fraud Examiners and the Institute of Internal Auditors. We found that the most reasonably priced and the best agenda for the wide range of attendees would be provided by the Institute of Internal Auditors.

The plan is to provide three mandatory courses: one full-day class for management and fiscal staff and two half-day classes for the remaining staff. The half-day classes will focus on how to detect unusual behavior that may be related to fraud and to teach people what to do with their suspicions. The full day class will cover the same detection training but will go into higher level prevention education.

We are hoping that this will become an annual event so that staff will be more aware and feel a higher level of responsibility in safeguarding assets. As such, we are asking that your Board approve this Agreement to Conduct On-Site Training.

ALTERNATIVES: Not doing the training is not recommended since interest and awareness is heightened due to current events.

OTHER AGENCY INVOLVEMENT: None

FINANCING: There is sufficient budget in the Auditor-Controller's professional services budget (010400-5265) to cover this expenditure.

APPROVALS		
COUNTY COUNSEL:	AGREEMENTS, CONTRACTS AND ORDINANCES AND CLOSED SESSION AND RELATED ITEMS (Must be reviewed and approved by County Counsel prior to submission to the board clerk.) Approved: yes	Date 4/25/13
AUDITOR/CONTROLLER	ACCOUNTING/FINANCE AND RELATED ITEMS (Must be reviewed and approved by the auditor/controller prior to submission to the board clerk.) Approved: yes	Date 4/29/13
PERSONNEL DIRECTOR	PERSONNEL AND RELATED ITEMS (Must be reviewed and approved by the director of personnel services prior to submission to the board clerk.) Approved: ✓	Date 4/30/13

DEPARTMENT HEAD SIGNATURE:
(Not to be signed until all approvals are received) Amy Shepherd Date: 4/30/13

AGREEMENT BETWEEN COUNTY OF INYO
AND The Institute of Internal Auditors
FOR THE PROVISION OF professional education **SERVICES**

INTRODUCTION

WHEREAS, the County of Inyo (hereinafter referred to as "County") may have the need for the professional education services of a professional consultant of The Institute of Internal Auditors (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 Amy Shepherd, whose title is: Acting Auditor-Controller. 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, county, 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 June 26, 2013 to June 27, 2013 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 thousand eight hundred and 00/100 Dollars (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, attached hereto as Attachment **C**, 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 insure 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. 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.epls.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. WORKERS' COMPENSATION.

Contractor shall provide Statutory California Worker's Compensation coverage and Employer's Liability coverage for not less than $1,000,000 per occurrence for all employees engaged in services or operations under this Agreement. The County of Inyo, its agents, officers and employees shall be named as additional insured or a waiver of subrogation shall be provided.

9. 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.

10. 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 County is to be considered an employee of Contractor. 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.

11. DEFENSE AND INDEMNIFICATION.

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

Contractor's obligation to defend, indemnify, and hold the County, its agents, officers, and employees harmless under the provisions of this paragraph is not limited to, or restricted by, any requirement in this Agreement for Contractor to procure and maintain a policy of insurance.

To the extent permitted by law, County shall defend, indemnify, and hold harmless Contractor, its agents, officers, and employees from and against all claims, damages, losses, judgments, liabilities, expenses, and other costs, including litigation costs and attorney's fees, arising out of, or resulting from, the active negligence, or wrongful acts of County, its officers, or employees.

12. 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.

13. 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.

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 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-four (24) below.

18. CONFIDENTIALITY.

Contractor 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.

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-four (24) (Amendment).

23. ATTORNEY'S FEES.

If either of the parties hereto brings an action or proceeding against the other, including, but not limited to, an action to enforce or declare the cancellation, termination, or revision of the Agreement, the prevailing party in such action or proceeding shall be entitled to receive from the other party all reasonable attorney's fees and costs incurred in connection therewith.

24. 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.

25. 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	
Auditor-Controller	Department
PO Drawer R	Street
Independence, CA 93526	City and State

Contractor:	
The Institute of Internal Auditors	Name
247 Maitland Ave	Street
Altamonte Springs, FL 32701-4201	City and State

26. ENTIRE AGREEMENT.

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

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AGREEMENT BETWEEN COUNTY OF INYO
AND The Institute of Internal Auditors
FOR THE PROVISION OF professional education **SERVICES**

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

COUNTY OF INYO

By:_____

Dated: _____

CONTRACTOR

By:_____
Signature

_____
Print or Type Name

Dated:_____

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 Institute of Internal Auditors
FOR THE PROVISION OF professional education **SERVICES**

TERM:

FROM: June 26, 2013 **TO:** June 27, 2013

SCOPE OF WORK:

1.1 Course Title: Fraud Detection and Investigation
1.2 Training Location: Bishop, CA
1.3 Course begins on June 26, 2013 and ends on June 27, 2013 for a total of 2.0 days
1.4 Maximum number of participants is not specified
1.5 The maximum Continuing Professional Education (CPE) credits awarded is per participant.
   a. The County understands that, to receive the maximum CPE credits, participants must attend the course in full and partial CPE credit will be awarded for partial participation. One (1) CPE hour will be awarded for each fifty (50) minutes of participatory attendance.
   b. The County understands that The IIA's Registry number assigned by the National Association of State Boards of Accountancy (NASBA) is non-transferable and The IIA is the only agent authorized to award CPE hours for participation in the Course specified above. The IIA's NASBA Registry number is 103127 and the County May not use this number to award certificates for the course specified above, or any other course.
   c. The County understands that, to keep the integrity of the Course and remain NASBA compliant, Course participants must use IIA's evaluation system. The County may use its own evaluation system, but only in addition to The IIA evaluation system, and as long as it does not interfere with The IIA evaluation system.

Delivery of Materials:
2.1 The IIA shall provide printed workbooks as well as any applicable master exhibits, master handouts, or other master material for the participants. The County understands that materials are all shipped from the same location and multiple packages may be delivered. The IIA will keep the County informed of shipments.
2.2 The IIA will ship all materials to an address provided by the County fifteen (15) working days prior to the Course start date referenced above.
2.3 The shipping address is:
   Inyo County Auditor-Controller's Office
   Attn: Karrie Harris
   168 N. Edwards, PO Drawer R
   Independence, CA 93526

Meeting Facilities and Presentation Supplies:
3.1 The County shall provide the appropriate meeting facilities, including lunches and refreshments (as desired).
3.2 At least 2 hours prior to the start of the Course, the County agrees to make arrangements to provide for the Course duration, a flip chart pad, a flip chart stand, four (4) marking pens, a projector screen (preferably 10 foot), a laptop computer, and a computer data projector. Room set up will be in either a "U" shape or in pods(cluster) set up.

ATTACHMENT B

AGREEMENT BETWEEN COUNTY OF INYO
AND The Institute of Internal Auditors
FOR THE PROVISION OF professional education **SERVICES**

TERM:

FROM: June 26, 2013 **TO:** June 27, 213

SCHEDULE OF FEES:

Course Fee:

1.1 The fee for the course specified in the Scope of Work is $20,800.00 and includes delivery of course materials as specified in the Scope of work and all travel and living expenses incurred by the instructor.

1.2 All fees are net after any location/county taxes. The County understands it is its responsibility to pay any and all such taxes.

1.3 The Course fee will be invoiced at course end. Compensation shall become due and payable to the IIA upon receipt by the County of an IIA invoice.

1.4 The County agrees to pay associated bank fees for wire transfers and bank draft charges.

1.5 The County agrees to penalty fees if the invoice remains unpaid sixty (60) days after invoicing. A fee of five (5) percent of total outstanding balance will be added to the outstanding balance per month, each month, beginning with the third month the invoice remains outstanding.

1.6 The County agrees that payment of all fees by registrants to the Course is the responsibility of the County and that The IIA is not responsible for collecting any fees from individuals. The County's ability or inability to collect such fees for registrants shall not affect the IIA's compensation.

ATTACHMENT C

AGREEMENT BETWEEN COUNTY OF INYO
AND The Institute of Internal Auditors
FOR THE PROVISION OF professional education **SERVICES**

TERM:

FROM: June 26, 2013 **TO:** June 27, 2013

Form W-9

Request for Taxpayer
Identification Number and Certification
(Please submit W-9 form with Contract, available on-line or by County)

ATTACHMENT D

AGREEMENT BETWEEN COUNTY OF INYO
AND The Institute of Internal Auditors
FOR THE PROVISION OF professional education **SERVICES**

TERM:

FROM: June 26, 2013 **TO:** June 27, 2013

SEE ATTACHED INSURANCE PROVISIONS

For Clerk's Use Only:
AGENDA NUMBER

AGENDA REQUEST FORM
BOARD OF SUPERVISORS
COUNTY OF INYO

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

FROM: HEALTH & HUMAN SERVICES - Community Mental Health

FOR THE BOARD MEETING OF: May 7, 2013

SUBJECT: Approve the County Mental Health Plan Contract Agreement with the Department of Health Care Services in the statewide amount not to exceed $8,113,337,000 for the time period of May 1, 2013 through June 30, 2018.

DEPARTMENTAL RECOMMENDATION:

Request Board approve the County Mental Health Plan Agreement between Inyo County Mental Health and the State Department of Health Care Services (DHCS) as the MediCal Managed Care Plan for Inyo County for a period, beginning May 1, 2013 and ending June 30, 2018 in the statewide amount not to exceed $8,113,337,000 contingent upon the adoption of future budgets; and authorize the Mental Health Director to sign.

CAO RECOMMENDATION:

SUMMARY DISCUSSION:

This contract is the standard agreement between the County of Inyo and DHCS. The Agreement designates Inyo County Mental Health as the Specialty Mental Health Managed Care Plan for Medi-Cal beneficiaries and delineates the obligations under this Plan. The last year has been a transition year as the Department of Mental Health (DMH) was subsumed under the DHCS. During the transition period, there was a short term three party contract with both DMH and DHCS until business could be completed for FY 11-12 and a long term agreement with DHCS could be negotiated. The new contract with DHCS is for a five year term. Much of the language in the contract is the standard form for the provision of Specialty Mental Health Services as the MediCal Managed Care Plan for Inyo County. The MediCal managed care requirements are in statute and have been in place over several contract periods. The contract continues to spell out the regulations and provisions in place in order to fulfill the requirements to be the MediCal Mental Health Plan and access funds in the approved areas of service provision. These requirements include extensive provisions in such areas as compliance, quality improvement, utilization management, beneficiary protection, certification and monitoring of providers, documentation, access, and cultural competency to name a few. The Division has an extensive Quality Improvement (QI) Work Plan that describes the process for assuring such things as access, timeliness, array of services, authorization, and documentation. Our QI Committee ensures communication between the Mental Health Advisory Board, our Business Analysis work group, and our staff/consumer training forum (Q2). There is also a lengthy section on Privacy and Security Provisions that includes provisions for electronic information exchange. As the Mental Health Plan, Inyo Mental Health is reviewed on a triennial basis and audited to the standards set forth in this contract. The amount of $8,113,337,000 is the amount of managed care funds allocated Statewide to County Mental Health Plans for the provision of managed care services for our targeted population of MediCal-eligible residents for a five year period. The contract thoroughly describes the payment provisions and contingencies. While there is a maximum amount reflected in the contract, it is clear that Federal Financial Participation (FFP) cannot be limited for services

delivered.

ALTERNATIVES:

Your Board could deny approval of the contract. DHCS will not release FFP until the agreement is in place and Inyo County Mental Health would not be the MediCal Mental Health Managed Care Plan and receive revenue for services provided.

OTHER AGENCY INVOLVEMENT:

Mental Health is a division of HHS and is blended with the Substance Use Disorders Services as Behavioral Health.

FINANCING:

100% Federal funds. These funds are budgeted in Mental Health (045200) as revenue in the Mental Health MediCal object code (4748). Approximate revenues for the remainder of FY 12/13 revenue = $116,174; FY 13/14 = $697,054; FY 14/15 = $697,054; FY 15/16 = $697,054; FY 16/17 = $697,054 and FY 17/18 = $580,873. However, it is stated in the agreement that nothing in this contract shall limit our ability to submit claims for appropriate FFP reimbursement based on our actual costs. If the costs submitted were to exceed the contracted amount, an amendment to the contract would be initiated to cover all allowable costs. Additionally if our costs were lower than the contracted amounts we would only receive funding to cover the actual costs. No County General funds are used in the Mental Health budget.

APPROVALS	
COUNTY COUNSEL:	**AGREEMENTS, CONTRACTS AND ORDINANCES AND CLOSED SESSION AND RELATED ITEMS** *(Must be reviewed and approved by County Counsel prior to submission to the Board Clerk.)* Approved: yes 4/22/2013 Date:
AUDITOR/CONTROLLER:	**ACCOUNTING/FINANCE AND RELATED ITEMS** *(Must be reviewed and approved by the Auditor/Controller prior to submission to the Board Clerk.)* Approved: ✓ 4/30/13 Date:
PERSONNEL DIRECTOR:	**PERSONNEL AND RELATED ITEMS** *(Must be reviewed and approved by the Director of Personnel Services prior to submission to the Board Clerk.)* Approved: 4/30/13 Date:

DEPARTMENT HEAD SIGNATURE:

(Not to be signed until all approvals are received) Jean Turner BE Date:

STATE OF CALIFORNIA

STANDARD AGREEMENT

STD 213_DHCS (Rev. 01/13)

REGISTRATION NUMBER	AGREEMENT NUMBER
	12-89366

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

STATE AGENCY'S NAME (Also known as DHCS, CDHS, DHS or the State)

Department of Health Care Services

CONTRACTOR'S NAME (Also referred to as Contractor)

Inyo County Mental Health

2. The term of this Agreement is: May 1, 2013 through June 30, 2018

3. The maximum amount of this Agreement is: $ 8,113,337,000
Eight billion, one hundred thirteen million, three hundred thirty-seven thousand dollars.

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

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

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

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

CONTRACTOR		California Department of General Services Use Only
CONTRACTOR'S NAME *(if other than an individual, state whether a corporation, partnership, etc.)* Inyo County Mental Health		
BY *(Authorized Signature)*	DATE SIGNED *(Do not type)*	
PRINTED NAME AND TITLE OF PERSON SIGNING Gail Zwier, Ph.D., Director		
ADDRESS 162 J Grove Street Bishop, CA 93514		
STATE OF CALIFORNIA		
AGENCY NAME Department of Health Care Services		
BY *(Authorized Signature)*	DATE SIGNED *(Do not type)*	
PRINTED NAME AND TITLE OF PERSON SIGNING Andrew Young, Chief, Contract Management Unit		[X] Exempt per: W&I Code § 14703
ADDRESS 1501 Capitol Avenue, Suite 71.5195, MS 1403, P.O. Box 997413, Sacramento, CA 95899-7413		

Exhibit A
Scope of Work

1. Service Overview

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

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

2. Project Representatives

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

Department of Health Care Services	**Inyo County Mental Health**
Erika Cristo Telephone: (916) 650-0486 Fax: (916) 440-7620 Email: Erika.Cristo@dhcs.ca.gov	Gail Zwier, PhD, Director Telephone: (760) 872-2590 Fax: (760) 873-3277 Email: gzwier@inyocounty.us

B. Direct all inquiries to:

Department of Health Care Services	**Inyo County Mental Health**
Mental Health Services Division/Program Policy Unit Attention: Dee Taylor 1500 Capitol Avenue, MS 2702 P.O. Box Number 997413 Sacramento, CA, 95899-7413 Telephone: (916) 552-9536 Fax: (916) 440-7620 Email: Dee.Taylor@dhcs.ca.gov	Attention: Gail Zwier 162 J Grove Street Bishop, CA, 93514 Telephone: (760) 872-2590 Fax: (760) 873-3277 Email: gzwier@inyocounty.us

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

3. General Authority

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

Exhibit A
Scope of Work

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

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

Exhibit A Attachment I
Service, Administrative and Operational Requirements

1. Provision of Services

A. The Contractor shall provide, or arrange and pay for, all medically necessary covered Specialty Mental Health Services to beneficiaries, as defined for the purposes of this contract, of Inyo County.

B. The Contractor shall ensure that all medically necessary covered Specialty Mental Health Services are sufficient in amount, duration, or scope to reasonably be expected to achieve the purpose for which the services are furnished. The Contractor shall not arbitrarily deny or reduce the amount, duration, or scope of a medically necessary covered Specialty Mental Health Service solely because of diagnosis, type of illness, or condition of the beneficiary except as specifically provided in the medical necessity criteria applicable to the situation as provided in the California Code of Regulations (Cal. Code Regs.), title (tit.) 9, §§1820.205, 1830.205, and 1830.210.

C. The Contractor shall make all medically necessary covered Specialty Mental Health Services available in accordance with Cal. Code Regs., tit. 9, §§ 1810.345 and 1810.405, and 42 Code of Federal Regulations (C.F.R.) § 438.210 and shall ensure:

1) The availability of services to address beneficiaries' emergency psychiatric conditions 24 hours a day, 7 days a week.

2) The availability of services to address beneficiaries' urgent conditions as defined in Cal. Code Regs., tit. 9, §1810.253, 24 hours a day, and 7 days a week.

3) Timely access to routine services determined by the Contractor to be required to meet beneficiaries' needs.

D. The Contractor shall provide second opinions in accordance with Cal. Code Regs., tit. 9, § 1810. 405(e).

E. The Contractor shall provide out-of-plan services in accordance with Cal. Code Regs., tit. 9, §§1830.220 and 1810.365. The timeliness standards specified in Cal. Code Regs., tit. 9, 1810.405 apply to out-of-plan services, as well as in-plan services.

F. The Contractor shall provide a beneficiary's choice of the person providing services to the extent feasible in accordance with Cal. Code Regs., tit. 9, §1830.225 and 42 C.F.R. § 438.6(m).

G. In determining whether a service is covered under this contract based on the diagnosis of the beneficiary, the Contractor shall not exclude a beneficiary solely on the ground that the provider making the diagnosis has used the International

Exhibit A Attachment I
Service, Administrative and Operational Requirements

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

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

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

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

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

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

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

2. Availability and Accessibility of Service

Availability of Services

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

Exhibit A Attachment I
Service, Administrative and Operational Requirements

1) Meet and require its providers to meet Department standards for timely access to care and services, taking into account the urgency of need for services.

2) Require subcontracted providers to have hours of operation during which services are provided to Medi-Cal beneficiaries that are no less than the hours of operation during which the provider offers services to non-Medi-Cal beneficiaries. If the provider only serves Medi-Cal beneficiaries, the Contractor shall require that hours of operation are comparable to the hours the provider makes available for Medi-Cal services that are not covered by the Contractor, or another Mental Health Plan.

3) Make services available to beneficiaries 24 hours a day, 7 days a week, when medically necessary.

4) Establish mechanisms to ensure that network providers comply with the timely access requirements;

5) Monitor network providers regularly to determine compliance with timely access requirements;

6) Take corrective action if there is a failure to comply with timely access requirements.

Adequate Capacity and Standards

C. Documentation of adequate capacity and services. Pursuant to 42 C.F.R. § 438.207(b), the Contractor must, when requested by the Department, submit documentation to the Department, in a format specified by the Department, and after receiving reasonable advance notice of its obligation, to demonstrate that the Contractor:

1) Offers an appropriate range of specialty mental health services that is adequate for the anticipated number of beneficiaries for the service area.

2) Maintains a network of providers that is sufficient in number, mix, and geographic distribution to meet the needs of the anticipated number of beneficiaries in the service area.

D. Consistent with 42 C.F.R. § 438.207(c)(2), whenever there is a change in the Contractor's operation that would cause a decrease of 25 percent or more in services or providers available to beneficiaries, the Contractor shall report this to the Department, including details regarding the change and plans to maintain adequate services and providers available to beneficiaries.

Coordination and Continuity of Care

Exhibit A Attachment I
Service, Administrative and Operational Requirements

1) Maintain and monitor a network of appropriate providers that is supported by written agreements for subcontractors and that is sufficient to provide adequate access to all services covered under this contract. In establishing and monitoring the network, the Contractor must consider the following:

   a) The anticipated number of Medi-Cal eligible clients.

   b) The expected utilization of services, taking into account the characteristics and mental health needs of beneficiaries.

   c) The expected number and types of providers in terms of training and experience needed to meet expected utilization.

   d) The numbers of network providers who are not accepting new beneficiaries.

   e) The geographic location of providers and their accessibility to beneficiaries, considering distance, travel time, means of transportation ordinarily used by Medi-Cal beneficiaries, and physical access for disabled beneficiaries.

   f) To the extent required by Cal. Code Regs., tit. 9, §1830.220, for inpatient services, if the Contractor is unable to provide necessary medical services covered under the contract to a particular beneficiary, the Contractor must adequately and timely cover these services out of network for the beneficiary, for as long as the Contractor is unable to provide them.

   g) Pursuant to 42 C.F.R. § 438.206(b)(5) and consistent with Cal. Code Regs., tit. 9, §1830.220, the Contractor shall require that out-of-network providers coordinate authorization and payment with the Contractor. As is consistent with Cal. Code Regs., tit. 9, §1810.365, the Contractor must ensure that the cost to the beneficiary for services provided out of network pursuant to an authorization is no greater than it would be if the services were furnished within the Contractor's network.

   h) The Contractor shall demonstrate that its providers are credentialed as required by 42 C.F.R. § 438.214.

Access to Services

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

Exhibit A Attachment I
Service, Administrative and Operational Requirements

E. Coordination of health care services. The Contractor must implement procedures to:

1) Coordinate the services that the Contractor either furnishes or arranges to be furnished to the beneficiary with services that the beneficiary receives from any other Medi-Cal managed care plan or MHP in accordance with Cal. Code Regs., tit. 9 §1810.425.

2) Ensure that, in the course of coordinating care, each beneficiary's privacy is protected in accordance with all federal and state privacy laws, including but not limited to 45 C.F.R. § 160 and § 164, to the extent that such provisions are applicable.

3) Enter into a Memorandum of Understanding (MOU) with any Medi-Cal managed care plan serving the Contractor's beneficiaries in accordance with Cal. Code Regs., tit. 9, § 1810.370. The Contractor shall notify the Department in writing if the Contractor is unable to enter into an MOU or if an MOU is terminated, providing a description of the Contractor's good faith efforts to enter into or maintain the MOU. The MHP shall monitor the effectiveness of its MOU with Physical Health Care Plans.

Authorization of Services

F. Pursuant to 42 C.F.R. § 438.210(b), the Contractor shall implement mechanisms to assure authorization decision standards are met. The Contractor shall:

1) Have in place, and follow, written policies and procedures for processing requests for initial and continuing authorizations of services.

2) Have mechanisms in effect to ensure consistent application of review criteria for authorization decisions, and shall consult with the requesting provider when appropriate.

3) Have any decision to deny a service authorization request or to authorize a service in an amount, duration, or scope that is less than requested be made by a health care professional who has appropriate clinical expertise in treating the beneficiary's condition or disease.

4) Have decisions made within the timeframes outlined for service authorizations in 42 C.F.R. § 438.210(d), and notices of action related to such decisions provided within the timeframes set forth in 42 C.F.R. § 438.404(c).

5) Provide that compensation to individuals or entities that conduct utilization management activities must not be structured so as to provide incentives for the individual or entity to deny, limit, or discontinue medically necessary services to any beneficiary.

Exhibit A Attachment I
Service, Administrative and Operational Requirements

G. The Contractor shall act on an authorization request for treatment for urgent conditions within one hour of the request per Cal. Code Regs., tit. 9, § Cal. Code Regs., tit. 9, § 1810.405(c).

H. Pursuant to 42 C.F.R. § 431.201, the Contractor shall define service authorization request in a manner that at least includes a beneficiary's request for the provision of a service.

3. Emergency Psychiatric Condition Reimbursement

A. The Contractor shall pay for services for emergency psychiatric conditions received by a beneficiary from providers, whether or not the provider has a subcontract with the Contractor. Such services shall not be subject to prior authorization.

B. "Post-stabilization care services" means covered services related to an emergency medical condition that are provided after a beneficiary is stabilized in order to maintain the stabilized condition.

C. The Contractor shall comply with 42 C.F.R. § 438.114, regarding emergency, post stabilization services. For purposes of this section, emergency and post stabilization services includes acute psychiatric inpatient hospital professional services (as defined in Cal. Code Regs., tit. 9, § Section 1810.237.1) which are related to an emergency medical condition or post-stabilization care. The Contractor shall apply the definitions contained in 42 C.F.R. § 438.114. To the extent that there is a conflict between the definitions in 42 C.F.R. § 438.114, and the Contractor's obligations as described in this section, the federal regulation shall prevail.

1) If an emergency room provider, hospital or fiscal agent of a provider or hospital does not notify the Contractor of the beneficiary's screening and treatment, the Contractor must allow a minimum of ten calendar days after the beneficiary presents for emergency services or acute psychiatric inpatient hospital professional services before refusing to cover emergency services or acute psychiatric inpatient hospital professional services for this reason.

2) A beneficiary who has an emergency medical condition may not be held liable for payment of subsequent screening and treatment needed to diagnose the specific condition or stabilize the patient.

3) The Contractor may not limit what constitutes an emergency medical condition on the basis of lists of diagnoses or symptoms.

4) The attending emergency physician, or the provider actually treating the beneficiary, is responsible for determining when the beneficiary is

Exhibit A Attachment I
Service, Administrative and Operational Requirements

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

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

E. The Contractor shall comply with Cal. Code Regs., tit. 9, § 1830.215, regarding payment authorizations.

4. Provider Selection and Certification

A. The Contractor shall comply with Cal. Code Regs., tit. 9, § 1810.435, in the selection of providers and shall review its providers for continued compliance with standards at least once every three years.

B. The Contractor shall comply with the provisions of 42 C.F.R. §§ 455.104, 455.105, 1002.203, 1002.3, which relate to the provision of information about provider business transactions and provider ownership and control, prior to entering into a contract and during certification or re-certification of the provider.

C. "Satellite site" means a site owned, leased or operated by an organizational provider at which specialty mental health services are delivered to beneficiaries fewer than 20 hours per week, or, if located at a multiagency site at which specialty mental health services are delivered by no more than two employees or contractors of the provider.

D. Pursuant to 42 C.F.R. § 438.12(a)(1), the Contractor may not discriminate in the selection, reimbursement, or indemnification of any provider who is acting within the scope of his or her license or certification under applicable state law, solely on the basis of that license or certification.

E. Pursuant to 42 C.F.R. § 438.12(a)(2), in all contracts with providers the Contractor must comply with the requirements in 42 C.F.R. § 438.214.

F. The Contractor shall give practitioners or groups of practitioners who apply to be MHP contract providers and with whom the MHP decides not to contract written notice of the reason for a decision not to contract;

G. Contractor shall only use licensed, registered, or waivered providers acting within their scope of practice for services which require a license, waiver, or registration, consistent with Welfare and Institutions Code Section 5751.2 and Cal. Code Regs., tit. 9, § 1840.314(d).

H. Consistent with 42 C.F.R. § 438.214, the contractor ~~shall have written policies~~ and procedures for selection, retention, credentialing and recredentialing of providers; the provider selection policies and procedures must not discriminate against

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

I. The Contractor shall certify, or use another mental health plan's certification documents to certify, the organizational providers that subcontract with the Contractor to provide covered services in accordance with Cal. Code Regs., tit. 9, §1810.435, and the requirements specified prior to the date on which the provider begins to deliver services under the contract, and once every three years after that date. The on-site review required by Cal. Code Regs., tit. 9, § 1810.435(d), as a part of the certification process, shall be made of any site owned, leased, or operated by the provider and used to deliver covered services to beneficiaries, except that on-site review is not required for public school or satellite sites.

J. The Contractor may allow an organizational provider to begin delivering covered services to beneficiaries at a site subject to on-site review prior to the date of the on-site review, provided the site is operational and has any required fire clearances. The earliest date the provider may begin delivering covered services at a site subject to on-site review is the latest of these three (3) dates: 1) the date the provider's request for certification is received by the Department in accordance with the Contractor's certification procedures; 2) the date the site was operational; or 3) the date a required fire clearance was obtained. The Contractor shall complete any required on-site review of a provider's sites within six months of the date the provider begins delivering covered services to beneficiaries at the site.

K. The Contractor may allow an organizational provider to continue delivering covered services to beneficiaries at a site subject to on-site review as part of the recertification process prior to the date of the on-site review, provided the site is operational and has any required fire clearances. The Contractor shall complete any required on-site review of a provider's sites within six months of the date the recertification of the provider is due.

L. The Contractor and/or the Department shall each verify through an on-site review that:

1) The organizational provider possesses the necessary license to operate, if applicable, and any required certification.

2) The space owned, leased or operated by the provider and used for services or staff meets local fire codes.

3) The physical plant of any site owned, leased, or operated by the provider and used for services or staff is clean, sanitary, and in good repair.

4) The organizational provider establishes and implements maintenance policies for any site owned, leased, or operated by the provider and used for services or staff to ensure the safety and well-being of beneficiaries and

Exhibit A Attachment I
Service, Administrative and Operational Requirements

staff.

5) The organizational provider has a current administrative manual which includes: personnel policies and procedures, general operating procedures, service delivery policies, any required state or federal notices (DRA), and procedures for reporting unusual occurrences relating to health and safety issues.

6) The organizational provider maintains client records in a manner that meets the requirements of the Contractor, the requirements of Section 14 of this Attachment, and applicable state and federal standards.

7) The organizational provider has sufficient staff to allow the Contractor to claim federal financial participation (FFP) for the services that the organizational provider delivers to beneficiaries, as described in Cal. Code Regs., tit. 9, § 1840.344 through § 1840.358, as appropriate and applicable.

8) The organizational provider has written procedures for referring individuals to a psychiatrist when necessary, or to a physician, if a psychiatrist is not available.

9) The organizational provider's head of service, as defined Cal. Code Regs., tit. 9, § 622 through § 630, is a licensed mental health professional or other appropriate individual as described in these sections.

10) For organizational providers that provide or store medications, the provider stores and dispenses medications in compliance with all pertinent state and federal standards. In particular:

    a) All drugs obtained by prescription are labeled in compliance with federal and state laws. Prescription labels are altered only by persons legally authorized to do so.

    b) Drugs intended for external use only and food stuffs are stored separately from drugs intended for internal use.

    c) All drugs are stored at proper temperatures: room temperature drugs at 59-86 degrees Fahrenheit and refrigerated drugs at 36-46 degrees Fahrenheit.

    d) Drugs are stored in a locked area with access limited to those medical personnel authorized to prescribe, dispense or administer medication.

    e) Drugs are not retained after the expiration date. Intramuscular multi-dose vials are dated and initialed when opened.

Exhibit A Attachment I
Service, Administrative and Operational Requirements

f) A drug log is maintained to ensure the provider disposes of expired, contaminated, deteriorated and abandoned drugs in a manner consistent with state and federal laws.

g) Policies and procedures are in place for dispensing, administering and storing medications.

M. For organizational providers that provide day treatment intensive or day rehabilitation, the provider has a written description of the day treatment intensive and/or day rehabilitation program that complies with Section 8 of this exhibit.

N. When an on-site review of an organizational provider would not otherwise be required and the provider offers day treatment intensive and/or day rehabilitation, the Contractor or the Department, as applicable, shall, at a minimum, review the provider's written program description for compliance with the requirements of Section 8 of this exhibit.

O. On-site review is not required for hospital outpatient departments which are operating under the license of the hospital. Services provided by hospital outpatient departments may be provided either on the premises or off-site.

P. On-site review is not required for primary care and psychological clinics, as defined in the Health and Safety (Health & Saf.) Code section 1204.1 and licensed under the Health and Saf. Code. Services provided by the clinics may be provided on the premises in accordance with the conditions of the clinic's license.

Q. When on-site review of an organizational provider is required, the Contractor or the Department, as applicable, shall conduct an on-site review at least once every three years. Additional certification reviews of organizational providers may be conducted by the Contractor or Department, as applicable, at its discretion, if:

1) The provider makes major staffing changes.

2) The provider makes organizational and/or corporate structure changes (example: conversion to non-profit status).

3) The provider adds day treatment or medication support services when medications are administered or dispensed from the provider site.

4) There are significant changes in the physical plant of the provider site (some physical plant changes could require a new fire clearance).

5) There is a change of ownership or location.

6) There are complaints regarding the provider.

Exhibit A Attachment I
Service, Administrative and Operational Requirements

7) There are unusual events, accidents, or injuries requiring medical treatment for clients, staff or members of the community.

R. The Contractor shall monitor the performance of its subcontractors on an ongoing basis for compliance with the terms of this contract and shall subject the subcontractors' performance to periodic formal review, at a minimum in accordance with the recertification requirements. If the Contractor identifies deficiencies or areas for improvement, the Contractor and the subcontractor shall take corrective action.

5. Recovery from Other Sources or Providers

A. The Contractor shall recover the value of covered services rendered to beneficiaries whenever the beneficiaries are covered for the same services, either fully or partially, under any other state or federal medical care program or under other contractual or legal entitlement including, but not limited to, a private group or indemnification program, but excluding instances of the tort liability of a third party or casualty liability insurance.

B. The monies recovered are retained by the Contractor. However, Contractor's claims for FFP for services provided to beneficiaries under this contract shall be reduced by the amount recovered.

C. The Contractor shall maintain accurate records of monies recovered from other sources.

D. Nothing in this section supersedes the Contractor's obligation to follow federal requirements for claiming FFP for services provided to beneficiaries with other coverage under this contract.

6. Subrogation

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

A. Contractor may submit to the Department claims for Medi-Cal covered services rendered, but Contractor shall not make claims to or attempt to recoup the value of these services from the above-referenced entities.

B. Contractor shall notify the Department within 10 days of discovery of all cases that could reasonably result in recovery by the beneficiary of funds from a third party, third party insurance carrier, workers' compensation award, and/or uninsured motorist coverage.

Exhibit A Attachment I
Service, Administrative and Operational Requirements

C. If the Contractor receives any requests by subpoena from attorneys, insurers, or beneficiaries for copies of bills, the Contractor shall provide the Department with a copy of any document released as a result of such request. Additionally, the Contractor shall provide the name, address and telephone number of the requesting party.

D. The Contractor also agrees to assist the Department, upon request, to provide within thirty (30) days, payment information and copies of paid invoices/claims for covered services.

E. The value of the covered services shall be calculated as the usual, customary and reasonable charge made to the general public for similar services or the amount to subcontracted providers or out-of-plan providers for similar services.

F. The information provided to the Department shall include the following data:

1) Beneficiary name;

2) 14-digit Medi-Cal number;

3) Social security number or Client Identification Number (CIN);

4) Date of birth;

5) Contractor name;

6) Provider name (if different from Contractor);

7) Dates of service;

8) Diagnosis code and/or description of illness;

9) Procedure code and/or description of services rendered;

10) Amount billed by a Subcontractor or out-of-plan provider to the Contractor (if applicable);

11) Amount paid by other health insurance to the Contractor or Subcontractor;

12) Amount and date paid by the Contractor to subcontractor or out-of-plan provider (if applicable); and

13) Date of denial and reasons (if applicable).

Exhibit A Attachment I
Service, Administrative and Operational Requirements

G. The Contractor shall also provide the Department with the name, address, and telephone number of the person responsible for receiving and complying with requests for mandatory and/or optional at-risk service information.

H. Information sent to the Department, pursuant to this section, shall be sent to: State Department of Health Care Services, Third Party Liability Branch, 1500 Capitol Ave., Suite 320, Sacramento, CA 95814.

7. Beneficiary Brochure and Provider List

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

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

1) Notify all beneficiaries of their right to change providers;

2) Notify all beneficiaries of their right to request and obtain the following information:

a) Names, locations, telephone numbers of, and non-English languages spoken by current contracted providers in the beneficiary's service area, including identification of providers that are not accepting new patients.

b) Any restrictions on the beneficiary's freedom of choice among network providers.

c) Beneficiary rights and protections, as specified in 42 CFR § 438.100.

d) The amount, duration, and scope of benefits available under this Contract in sufficient detail to ensure that beneficiaries understand the benefits to which they are entitled.

e) Procedures for obtaining benefits, including authorization requirements.

f) The extent to which, and how, beneficiaries may obtain benefits from out-of-network providers.

g) The extent to which, and how, after-hours and emergency coverage are provided, including:

Exhibit A Attachment I
Service, Administrative and Operational Requirements

i. What constitutes an emergency medical condition, emergency services, and post-stabilization services, with reference to the definitions in 42 C.F.R. § 438.114(a).

ii. The fact that prior authorization is not required for emergency services.

iii. The process and procedures for obtaining emergency services, including use of the 911-telephone system or its local equivalent.

iv. The locations of any emergency settings and other locations at which providers and hospitals furnish emergency services and post-stabilization services covered under the contract.

v. The fact that, subject to the provisions of 42 C.F.R. § 438.10(f)(6), the beneficiary has a right to use any hospital or other setting for emergency care.

vi. The post-stabilization care services rules set forth in 42 C.F.R. § 422.113(c).

h) Cost sharing, if any.

i) How and where to access any benefits that are available under the State Plan but are not covered under this Contract, including any cost sharing, and how any necessary transportation is provided. Pursuant to 42 C.F.R. § 438.102(a)(2), for a counseling or referral service that the Contractor does not cover because of moral or religious objections, the Contractor need not furnish information on how and where to obtain the service. Pursuant to 42 C.F.R. § 438.102(b)(1), the Contractor must provide information about the services it does not cover on moral or religious grounds.

B. The Contractor shall ensure that the general program literature it uses to assist beneficiaries in accessing services including, but not limited to, the booklet required by Cal. Code Regs., tit. 9, § 1810.360, materials explaining the beneficiary problem resolution and fair hearing processes required by Cal. Code Regs., tit. 9, § 1850.205(c)(1), and mental health education materials used by the Contractor, are available in the threshold languages of the County in compliance with 42 C.F.R. § 438.10(c)(3).

C. Pursuant to 42 C.F.R. § 438.10(c)(4) and (5) and Cal. Code Regs., tit. 9, § 1810.410, the Contractor must make oral interpretation and sign language services available free of charge to each beneficiary. This applies to all non-English languages and not just those identified as prevalent. The Contractor must notify

Exhibit A Attachment I
Service, Administrative and Operational Requirements

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

D. Pursuant to 42 C.F.R. § 438.10(g) and Cal. Code Regs., tit. 9, § 1850.205(c)(1), the booklet shall include grievance, appeal and fair hearing procedures and timeframes, as provided in 42 C.F.R. §§ 438.400 through 438.424, using a Department-developed or Department-approved description that must include the following:

1) For State Fair Hearing

a) The right to hearing;

b) The method for obtaining a hearing; and

c) The rules that govern representation at the hearing.

2) The right to file grievances and appeals.

3) The requirements and timeframes for filing a grievance or appeal

4) The availability of assistance in the filing process.

5) The toll-free numbers that the beneficiary can use to file a grievance or an appeal by phone.

6) The fact that, when requested by the beneficiary:

a) Benefits will continue if the beneficiary files an appeal or a request for State Fair Hearing within the timeframes specified for filing.

7) The appeal rights that the Department has chosen to make available to providers in Cal. Code Regs., tit. 9, § 1850.315, to challenge the Contractor's failure to cover a service.

8) Advance Directives, as set forth in 42 C.F.R. § 438.6(i)(22).

9) Additional information that is available upon request, includes the following:

a) Information on the structure and operation of the Contractor.

b) Physician incentive plans as set forth in 42 C.F.R. § 438.6(h).

E. The Contractor shall provide beneficiaries with a copy ~~of the booklet and provider~~ list when the beneficiary first accesses services and thereafter upon request in accordance with Cal. Code Regs., tit. 9, § 1810.360.

Exhibit A Attachment I
Service, Administrative and Operational Requirements

F. The Contractor shall not make changes to any of the content in the statewide section of the booklet unless directed to do so, in writing, by the Department.

G. The Contractor shall ensure any changes to the English version of the booklet are also included in the county's threshold languages and made available in alternate formats appropriate to the beneficiary population.

H. The Contractor shall ensure written materials are produced in a format that is easily understood and available in alternative formats and in an appropriate manner that takes into consideration the special needs of those who, for example, are visually limited or have limited reading proficiency as required by 42 C.F.R. § 438.10(d)(1). Pursuant to 42 C.F.R. § 438.10(d)(2), the Contractor shall inform beneficiaries that information is available in alternate formats and how to access those formats.

I. The Contractor shall ensure that the booklet above includes the current toll-free telephone number(s) that provides information in threshold languages and is available twenty-four hours a day, seven days a week.

J. The Contractor shall ensure that provider directories:

1) Include information on the category or categories of services available from each provider;

2) Contain the names, locations, and telephone numbers of current contracted providers by category;

3) Identify options for services in languages other than English and services that are designed to address cultural differences and;

4) Provide a means by which a beneficiary can identify which providers are not accepting new beneficiaries.

K. As required by 42 C.F.R. § 438.10(f)(4), when there is a change that the State defines as significant in the scope of specialty mental health services covered by the Contractor, the update, in the form of a booklet insert, shall be provided to beneficiaries at least 30 days prior to the change.

L. Consistent with 42 C.F.R. § 438.10(f)(5), the Contractor must make a good faith effort to give written notice of termination of a contracted provider, within 15 days after receipt or issuance of the termination notice, to each beneficiary who was seen on a regular basis by the terminated provider.

Exhibit A Attachment I
Service, Administrative and Operational Requirements

8. Requirements for Day Treatment Intensive and Day Rehabilitation

A. The Contractor shall require providers to request payment authorization for day treatment intensive and day rehabilitation services:

1) In advance of service delivery when day treatment intensive or day rehabilitation will be provided for more than five days per week.

2) At least every three months for continuation of day treatment intensive.

3) At least every six months for continuation of day rehabilitation.

4) Contractor shall also require providers to request authorization for mental health services, as defined in Cal. Code Regs., tit. 9, § 1810.227, provided concurrently with day treatment intensive or day rehabilitation, excluding services to treat emergency and urgent conditions as defined in Cal. Code Regs., tit. 9, §1810.216 and § 1810.253. These services shall be authorized with the same frequency as the concurrent day treatment intensive or day rehabilitation services.

B. The Contractor shall not delegate the payment authorization function to providers. When the Contractor is the day treatment intensive or day rehabilitation provider, the Contractor shall assure that the payment authorization function does not include staff involved in the provision of day treatment intensive, day rehabilitation services, or mental health services provided concurrent to day treatment intensive or day rehabilitation services.

C. The Contractor shall require that providers of day treatment intensive and day rehabilitation meet the requirements of Cal. Code Regs., tit. 9, §§ 1840.318, 1840.328, 1840.330, 1840.350 and 1840.352.

D. The Contractor shall require that providers include, at a minimum, the following day treatment intensive and day rehabilitation service components:

1) Community meetings. These meetings shall occur at least once a day to address issues pertaining to the continuity and effectiveness of the therapeutic milieu, and shall actively involve staff and beneficiaries. Relevant discussion items include, but are not limited to: the day's schedule, any current event, individual issues that beneficiaries or staff wish to discuss to elicit support of the group and conflict resolution. Community meetings shall:

a) For day treatment intensive, include a staff person whose scope of practice includes psychotherapy.

b) For day rehabilitation, include a staff person who is a physician, a licensed/waivered/registered psychologist, clinical social worker, or

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

2) Therapeutic milieu. This component must include process groups and skill-building groups. Specific activities shall be performed by identified staff and take place during the scheduled hours of operation of the program. The goal of the therapeutic milieu is to teach, model, and reinforce constructive interactions by involving beneficiaries in the overall program. For example, beneficiaries are provided with opportunities to lead community meetings and to provide feedback to peers. The program includes behavior management interventions that focus on teaching self-management skills that children, youth, adults and older adults may use to control their own lives, to deal effectively with present and future problems, and to function well with minimal or no additional therapeutic intervention. Activities include, but are not limited to, staff feedback to beneficiaries on strategies for symptom reduction, increasing adaptive behaviors, and reducing subjective distress.

3) Process groups. These groups, facilitated by staff, shall assist each beneficiary to develop necessary skills to deal with his/her problems and issues. The group process shall utilize peer interaction and feedback in developing problem-solving strategies to resolve behavioral and emotional problems. Day rehabilitation may include psychotherapy instead of process groups, or in addition to process groups.

4) Skill-building groups. In these groups, staff shall help beneficiaries identify barriers related to their psychiatric and psychological experiences. Through the course of group interaction, beneficiaries identify skills that address symptoms and increase adaptive behaviors.

5) Adjunctive therapies. These are therapies in which both staff and beneficiaries participate. These therapies may utilize self-expression, such as art, recreation, dance, or music as the therapeutic intervention. Participants do not need to have any level of skill in the area of self-expression, but rather be able utilize the modality to develop or enhance skills directed toward achieving beneficiary plan goals. Adjunctive therapies assist the beneficiary in attaining or restoring skills which enhance community functioning including problem solving, organization of thoughts and materials, and verbalization of ideas and feelings. Adjunctive therapies provided as a component of day rehabilitation or day treatment intensive are used in conjunction with other mental health services in order to improve the outcome of those services consistent with the beneficiary's needs identified in the client plan.

E. Day treatment intensive shall additionally include:

Exhibit A Attachment I
Service, Administrative and Operational Requirements

1) Psychotherapy. Psychotherapy means the use of psychological methods within a professional relationship to assist the beneficiary or beneficiaries to achieve a better psychosocial adaptation, to acquire a greater human realization of psychosocial potential and adaptation, to modify internal and external conditions that affect individual, groups, or communities in respect to behavior, emotions and thinking, in respect to their intrapersonal and interpersonal processes. Psychotherapy shall be provided by licensed, registered, or waivered staff practicing within their scope of practice. Psychotherapy does not include physiological interventions, including medication intervention.

2) Mental Health Crisis Protocol. The Contractor shall ensure that there is an established protocol for responding to beneficiaries experiencing a mental health crisis. The protocol shall assure the availability of appropriately trained and qualified staff and include agreed upon procedures for addressing crisis situations. The protocol may include referrals for crisis intervention, crisis stabilization, or other specialty mental health services necessary to address the beneficiary's urgent or emergency psychiatric condition (crisis services). If the protocol includes referrals, the day treatment intensive or day rehabilitation program staff shall have the capacity to handle the crisis until the beneficiary is linked to an outside crisis service.

3) Written Weekly Schedule. The Contractor shall ensure that a weekly detailed schedule is available to beneficiaries and as appropriate to their families, caregivers or significant support persons and identifies when and where the service components of the program will be provided and by whom. The written weekly schedule will specify the program staff, their qualifications, and the scope of their services.

F. Staffing Requirements. Staffing ratios shall be consistent with the requirements in Cal. Code Regs., tit. 9, § 1840.350, for day treatment intensive, and Cal. Code Regs., tit. 9, § 1840.352 for day rehabilitation. For day treatment intensive, staff shall include at least one staff person whose scope of practice includes psychotherapy.

1) Program staff may be required to spend time on day treatment intensive and day rehabilitation activities outside the hours of operation and therapeutic program (e.g., time for travel, documentation, and caregiver contacts).

2) The Contractor shall require that at least one staff person be present and available to the group in the therapeutic milieu for all scheduled hours of operation.

3) The Contractor shall require day treatment intensive and day rehabilitation programs to maintain documentation that enables

Exhibit A Attachment I
Service, Administrative and Operational Requirements

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

G. If a beneficiary is unavoidably absent and does not attend all of the scheduled hours of the day rehabilitation or day treatment intensive program, the Contractor shall ensure that the provider receives Medi-Cal reimbursement only if the beneficiary is present for at least 50 percent of scheduled hours of operation for that day. The Contractor shall require that a separate entry be entered in the beneficiary record documenting the reason for the unavoidable absence and the total time (number of hours and minutes) the beneficiary actually attended the program that day. In cases where absences are frequent, it is the responsibility of the Contractor to ensure that the provider re-evaluates the beneficiary's need for the day rehabilitation or day treatment intensive program and takes appropriate action.

H. Documentation Standards. The Contractor shall ensure day treatment intensive and day rehabilitation documentation meets the documentation standards described in Section 11 of this exhibit. The documentation shall include the date(s) of service, signature of the person providing the service (or electronic equivalent), the person's type of professional degree, licensure or job title, date of signature and the total number of minutes/hours the beneficiary actually attended the program. For day treatment intensive these standards include daily progress notes on activities and a weekly clinical summary reviewed and signed by a physician, a licensed/waivered/registered psychologist, clinical social worker, or marriage and family therapist, or a registered nurse who is either staff to the day treatment intensive program or the person directing the services.

I. The Contractor shall ensure that day treatment intensive and day rehabilitation have at least one contact per month with a family member, caregiver or other significant support person identified by an adult beneficiary, or one contact per month with the legally responsible adult for a beneficiary who is a minor. This contact may be face-to-face, or by an alternative method (e.g., e-mail, telephone, etc.). Adult beneficiaries may decline this service component. The contacts should focus on the role of the support person in supporting the beneficiary's community reintegration. The Contractor shall ensure that this contact occurs outside hours of operation and outside the therapeutic program for day treatment intensive and day rehabilitation.

J. Written Program Description. The Contractor shall ensure there is a written program description for day treatment intensive and day rehabilitation. The written program description must describe the specific activities of each service and reflects each of the required components of the services as described in this

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

K. Additional higher or more specific standards. The Contractor shall retain the authority to set additional higher or more specific standards than those set forth in this contract, provided the Contractor's standards are consistent with applicable state and federal laws and regulations and do not prevent the delivery of medically necessary day treatment intensive and day rehabilitation.

L. Continuous Hours of Operation. The Contractor shall ensure that the provider applies the following when claiming for day treatment intensive and day rehabilitation services:

1) A half day shall be billed for each day in which the beneficiary receives face-to-face services in a program with services available four hours or less per day. Services must be available a minimum of three hours each day the program is open.

2) A full-day shall be billed for each day in which the beneficiary receives face-to-face services in a program with services available more than four hours per day.

3) Although the beneficiary must receive face to face services on any full-day or half-day claimed, all service activities during that day are not required to be face-to-face with the beneficiary.

4) The requirement for continuous hours or operation does not preclude short breaks (for example, a school recess period) between activities. A lunch or dinner may also be appropriate depending on the program's schedule. The Contractor shall not conduct these breaks toward the total hours of operation of the day program for purposes of determining minimum hours of service.

9. Therapeutic Behavioral Services

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

Exhibit A Attachment I
Service, Administrative and Operational Requirements

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

A. In accordance with Cal. Code Regs., tit. 9, § 1830.220, the Contractor in the child's county of origin shall provide or arrange for medically necessary specialty mental health services for children in a foster care aid code residing outside their counties of origin.

B. The Contractor shall use the standard forms issued by the Department, or the electronic equivalent of those forms generated from the Contractor's Electronic Health Record System, when a child in a foster care aid code is placed outside of his/her county of origin. The standard forms are:

1) Client Assessment,

2) Client Plan,

3) Service Authorization Request,

4) Client Assessment Update,

5) Progress Notes – Day Treatment Intensive Services,

6) Progress Notes – Day Rehabilitation Services,

7) Organizational Provider Agreement (Standard Contract).

C. The Contractor may request an exemption from using the standard documents if the Contractor is subject to an externally placed requirement, such as a federal integrity agreement, that prevents the use of the standardized forms. The Contractor shall request this exemption from the Department in writing.

D. The Contractor shall ensure that the MHP in the child's adoptive parents' county of residence provides medically necessary specialty mental health services to a child in an Adoption Assistance Program (AAP) aid code residing outside his or her county of origin in the same way as the MHP would provide services to an in-county child for whom the MHP is listed as the county of responsibility on the Medi-Cal Eligibility Data System (MEDS).

E. The MHP in the child's legal guardians' county of residence shall provide medically necessary specialty mental health services to a child in a Kin-GAP aid code residing outside his or her county of origin in the same way that it would provide services to any other child for whom the MHP is listed as the county of responsibility in MEDS.

F. The Contractor shall comply with timelines specified in Cal. Code Regs., tit. 9, § 1830.220(b)(4)(A)(1-3), when processing or submitting authorization requests for

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

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

11. Documentation Standards

The Contractor shall set standards and implement processes that will support understanding of, and compliance with, documentation standards set forth in this section and any standards set by the Contractor. The Contractor may monitor performance so that the documentation of care provided will satisfy the requirements set forth below. The documentation standards for beneficiary care are minimum standards to support claims for the delivery of specialty mental health services. All standards shall be addressed in the beneficiary record; however, there is no requirement that the records have a specific document or section addressing these topics.

A. Assessment

1) The Contractor shall ensure that the following areas are included, as appropriate, as part of a comprehensive beneficiary record when an assessment has been performed. For children or certain other beneficiaries unable to provide a history, this information may be obtained from the parents/care-givers, etc.

a) Presenting Problem. The beneficiary's chief complaint, history of the presenting problem(s), including current level of functioning, relevant family history and current family information;

b) Relevant conditions and psychosocial factors affecting the beneficiary's physical health and mental health; including, as applicable, living situation, daily activities, social support, cultural and linguistic factors and history of trauma or exposure to trauma;

c) Mental Health History. Previous treatment, including providers, therapeutic modality (e.g., medications, psychosocial treatments) and response, and inpatient admissions. If possible, include information from other sources of clinical data, such as previous mental health records, and relevant psychological testing or consultation reports;

Exhibit A Attachment I
Service, Administrative and Operational Requirements

d) Medical History. Relevant physical health conditions reported by the beneficiary or a significant support person. Include name and address of current source of medical treatment. For children and adolescents, the history must include prenatal and perinatal events and relevant/significant developmental history. If possible, include other medical information from medical records or relevant consultation reports;

e) Medications. Information about medications the beneficiary has received, or is receiving, to treat mental health and medical conditions, including duration of medical treatment. The assessment shall include documentation of the absence or presence of allergies or adverse reactions to medications, and documentation of an informed consent for medications;

f) Substance Exposure/Substance Use. Past and present use of tobacco, alcohol, caffeine, CAM (complementary and alternative medications) and over-the-counter, and illicit drugs;

g) Client Strengths. Documentation of the beneficiary's strengths in achieving client plan goals related to the beneficiary's mental health needs and functional impairments as a result of the mental health diagnosis;

h) Risks. Situations that present a risk to the beneficiary and/or others, including past or current trauma;

i) A mental status examination;

j) A complete five-axis diagnosis from the most current DSM, or a diagnosis from the most current ICD-code shall be documented, consistent with the presenting problems, history, mental status examination and/or other clinical data; and,

k) Additional clarifying formulation information, as needed.

2) Timeliness/Frequency Standard for Assessment. The Contractor shall establish written standards for timeliness and frequency for the elements identified in item A of this section.

B. Client Plans

1) The Contractor shall ensure that Client Plans:

a) Have specific observable and/or specific quantifiable goals/treatment objectives related to the beneficiary's mental health needs and functional impairments as a result of the mental health diagnosis;

Exhibit A Attachment I
Service, Administrative and Operational Requirements

b) Identify the proposed type(s) of intervention/modality including a detailed description of the intervention to be provided;

c) Have a proposed frequency and duration of intervention(s);

d) Have interventions that focus and address the identified functional impairments as a result of the mental disorder (from Cal. Code Regs., tit. 9, § 1830.205(b)); have interventions that are consistent with the client plan goal;

e) Be consistent with the qualifying diagnoses;

f) Be signed (or electronic equivalent) by:

i. The person providing the service(s), or,

ii. A person representing a team or program providing services, or

iii. A person representing the Contractor providing services; or

iv. By one of the following as a co-signer, if the client plan is used to establish that services are provided under the direction of an approved category of staff, and if the signing staff is not of the approved category:

a) A physician,

b) A licensed/waivered psychologist,

c) A licensed/registered/waivered social worker,

d) A licensed/registered/waivered marriage and family therapist, or

e) A registered nurse, including but not limited to nurse practitioners, and clinical nurse specialists.

g) Include documentation of the beneficiary's participation in and agreement with the client plan, as described in Cal. Code Regs., tit. 9, § 1810.440(c)(2)(A)(B).

i. Examples of acceptable documentation include, but are not limited to, reference to the beneficiary's participation and agreement in the body of the plan, beneficiary signature on the

Exhibit A Attachment I
Service, Administrative and Operational Requirements

plan, or a description of the beneficiary's participation and agreement in the client record;

ii. The beneficiary's signature or the signature of the beneficiary's legal representative is required on the client plan when:

a) The beneficiary is expected to be in long term treatment as determined by the MHP and,

b) The client plan provides that the beneficiary will be receiving more than one type of specialty mental health service;

iii. When the beneficiary's signature or the signature of the beneficiary's legal representative is required on the client plan and the beneficiary refuses or is unavailable for signature, the client plan shall include a written explanation of the refusal or unavailability.

2) There shall be documentation in the client plan that a copy of the client plan was offered to the beneficiary.

3) The client plan shall be updated at least annually, or when there are significant changes in the beneficiary's condition.

A. Progress Notes

1) The Contractor shall ensure that progress notes describe how services provided reduced impairment, restored functioning, or prevented significant deterioration in an important area of life functioning outlined in the client plan. Items that shall be contained in the client record related to the beneficiary's progress in treatment include:

a) Timely documentation of relevant aspects of beneficiary care, including documentation of medical necessity;

b) Documentation of beneficiary encounters, including relevant clinical decisions, when decisions are made, alternative approaches for future interventions;

c) Interventions applied, beneficiary's response to the interventions and the location of the interventions;

d) The date the services were provided;

Exhibit A Attachment I
Service, Administrative and Operational Requirements

e) Documentation of referrals to community resources and other agencies, when appropriate;

f) Documentation of follow-up care, or as appropriate, a discharge summary; and

g) The amount of time taken to provide services; and

h) The signature of the person providing the service (or electronic equivalent); the person's type of professional degree, licensure, or job title.

2) Timeliness/Frequency of Progress Notes. Progress notes shall be documented at the frequency by type of service indicated below:

a) Every Service Contact:

i. Mental Health Services;

ii. Medication Support Services;

iii. Crisis Intervention;

iv. Targeted Case Management;

b) Daily:

i. Crisis Residential;

ii. Crisis Stabilization (1x/23hr);

iii. Day Treatment Intensive; and

c) Weekly:

i. Day Treatment Intensive: a clinical summary reviewed and signed by a physician, a licensed/waivered psychologist, clinical social worker, or marriage and family therapist; or a registered nurse who is either staff to the day treatment intensive program or the person directing the service;

ii. Day Rehabilitation;

iii. Adult Residential.

B. Other

1) All entries to the beneficiary record shall be legible.

2) All entries in the beneficiary record shall include:

   a) The date of service;

   b) The signature of the person providing the service (or electronic equivalent); the person's type of professional degree, licensure or job title; and the relevant identification number, if applicable.

   c) The date the documentation was entered in the beneficiary record.

3) The Contractor shall have a written definition of what constitutes a long term care beneficiary.

4) Contractor shall require providers to obtain and retain a written medication consent form signed by the beneficiary agreeing to the administration of psychiatric medication. This documentation shall include, but not be limited to, the reasons for taking such medications; reasonable alternative treatments available, if any; the type, range of frequency and amount, method (oral or injection), and duration of taking the medication; probable side effects; possible additional side effects which may occur to beneficiaries taking such medication beyond three (3) months; and that the consent, once given, may be withdrawn at any time by the beneficiary.

12. Cultural Competence Plan

The Contractor shall comply with the provisions of the Contractor's Cultural Competence Plan submitted in accordance with Cal. Code Regs., tit. 9, § 1810.410, and approved by the Department. The Contractor shall update the Cultural Competence Plan and submit these updates to the Department for review and approval annually.

13. Implementation Plan

The Contractor shall comply with the provisions of the Contractor's Implementation Plan pursuant to Cal. Code Regs., tit. 9, § 1810.310 as approved by the Department, including the administration of beneficiary problem resolution processes as required by Cal. Code Regs., tit. 9, § 1850.205 through § 1850.208. The Contractor shall obtain written approval by the Department prior to making any changes to the Implementation Plan as approved by the Department. The Contractor may implement the changes after thirty (30) calendar days if the Department does not respond in writing within thirty calendar (30) days as provided in Cal. Code Regs., tit. 9, § 1810.310.

14. Additional Provisions

A. <u>Books and Records</u>

Exhibit A Attachment I
Service, Administrative and Operational Requirements

This provision is a supplement to provision number seven (Audit and Record Retention) in Exhibit D(F) which is attached hereto as part of this agreement.

The Contractor shall maintain such books and records as are necessary to disclose how the Contractor discharged its obligations under this contract. These books and records shall identify the quantity of covered services provided under this contract, the quality of those services, the manner and amount of payment made for those services, the beneficiaries who received covered services, the manner in which the Contractor administered the provision of specialty mental health services and the cost thereof.

Such books and records shall include, but are not limited to, all physical records originated or prepared pursuant to performance under this contract including: working papers, reports submitted to the Department, financial records, all medical and treatment records, medical charts and prescription files, and other documentation pertaining to services rendered to beneficiaries. These books and records shall be maintained for a minimum of three years after the final payment is made and all pending matters closed, or, in the event the Contractor has been notified that the Department, HHS, or the Comptroller General of the United States, or their duly authorized representatives, have commenced an audit or investigation of the contract, until such time as the matter under audit or investigation has been resolved, including the exhaustion of all legal remedies, whichever is later.

The Contractor agrees to include in any subcontract for a sum in excess of $10,000 which utilizes state funds, a provision that states: "The contracting parties shall be subject to the examination and audit of the Department or Auditor General for a period of three years after final payment under contract (Government Code § 8546.7)." The Contractor shall also be subject to the examination and audit of the Department and the State Auditor General for a period of three years after final payment under contract (Government Code § 8546.7).

B. Transfer of Care

Prior to the termination or expiration of this contract, and upon request by the Department, the Contractor shall assist the State in the orderly transfer of mental health care for beneficiaries in Inyo County. In doing this, the Contractor shall make available to the Department copies of medical records, patient files, and any other pertinent information, including information maintained by any subcontractor that is necessary for efficient case management of beneficiaries, as determined by the Department. Costs of reproduction shall be borne by the Department. In no circumstances shall a beneficiary be billed for this service.

C. Department Policy Letters

~~The Contractor shall~~ comply with all policy letters issued by the Department. The Contractor shall also comply with Department of Mental Health (DMH) Letters and Information Notices issued to all Mental Health Plans as defined in Cal. Code

Regs., tit. 9, § 1810.226 as such DMH Letters and Information Notices remain in effect unless amended, repealed, or readopted by the Department. DMH letters and Information Notices shall provide specific details of procedures established for performance of contract terms when procedures not covered in this agreement are determined to be necessary for performance under this agreement, but are not intended to change the basis and general terms of the contract.

15. Beneficiary Problem Resolution Processes

A. General Provisions

The Contractor shall represent the Contractor's position in fair hearings, as defined in Cal. Code Regs., tit. 9, § 1810.216.6, dealing with beneficiaries' appeals of denials, modifications, deferrals or terminations of covered services. The Contractor shall carry out the final decisions of the fair hearing process with respect to issues within the scope of the Contractor's responsibilities under this contract. Nothing in this section is intended to prevent the Contractor from pursuing any options available for appealing a fair hearing decision.

1) Pursuant to 42 C.F.R. § 438.228 and Cal. Code Regs., tit. 9, § 1850.205, the Contractor shall develop problem resolution processes that enable beneficiary to request and receive review of a problem or concern he or she has about any issue related to the Contractor's performance of its duties, including the delivery of specialty mental health services.

2) The Contractor's beneficiary problem resolution processes shall include:

   a) A grievance process;

   b) An appeal process; and,

   c) An expedited appeal process.

3) For the grievance, appeal, and expedited appeal processes, described in 42 C.F.R. 438 Subpart F and Cal. Code Regs., tit. 9, §§ 1850.206, 1850.207 and 1850.208 respectively, the Contractor shall comply with all of the following requirements:

   a) Assure that each beneficiary has adequate information about the Contractor's problem resolution processes by taking at least the following actions:

      i. Including information describing the grievance, appeal, and expedited appeal processes in the Contractor's beneficiary booklet and providing the beneficiary booklet to beneficiaries as described in Section 7 of this contract.

Exhibit A Attachment I
Service, Administrative and Operational Requirements

ii. Posting notices explaining grievance, appeal, and expedited appeal process procedures in locations at all Contractor provider sites. Notices shall be sufficient to ensure that the information is readily available to both beneficiaries and provider staff. The posted notice shall also explain the availability of fair hearings after the exhaustion of an appeal or expedited appeal process, including information that a fair hearing may be requested whether or not the beneficiary has received a notice of action pursuant to Cal. Code Regs., tit. 9, § 1850.210. For the purposes of this Section, a Contractor provider site means any office or facility owned or operated by the Contractor or a provider contracting with the Contractor at which beneficiaries may obtain specialty mental health services.

iii. Pursuant to Cal. Code Regs., tit. 9, § 1850.205(c)(1)(C), making available forms that may be used to file grievances, appeals, and expedited appeals and self-addressed envelopes that beneficiaries can access at all Contractor provider sites without having to make a verbal or written request to anyone.

iv. Pursuant to 42 C.F.R. § 438.406(a)(1), giving beneficiaries any reasonable assistance in completing the forms and other procedural steps not limited to providing interpreter services and toll-free numbers with TTY/TDD and interpreter capability.

b) Pursuant to 42 C.F.R. § 438.406(a)(2), the Contractor shall acknowledge receipt of each grievance appeal, and request for expedited appeal to the beneficiary in writing.

c) Consistent with 42 C.F.R. § 438.402(b)(1)(ii), a beneficiary may authorize another person to act on the beneficiary's behalf. The beneficiary may select a provider as his or her representative in the appeal or expedited appeal process, if the provider consents.

d) A beneficiary's legal representative may use the grievance, appeal, or expedited appeal processes on the beneficiary's behalf.

e) At the beneficiary's request, the Contractor shall identify staff or another individual, such as a legal guardian, to be responsible for assisting a beneficiary with these processes, including providing assistance in writing the grievance, appeal, or expedited appeal. If the individual identified by the Contractor is the person providing specialty mental health services to the beneficiary requesting assistance, the Contractor shall identify another individual to assist that beneficiary.

Exhibit A Attachment I
Service, Administrative and Operational Requirements

f) A beneficiary shall not be subject to discrimination or any other penalty for filing a grievance, appeal, or expedited appeal.

g) Procedures for these beneficiary problem resolution processes shall maintain the confidentiality of each beneficiary's information.

h) A procedure shall be included by which issues identified as a result of the grievance, appeal or expedited appeal processes are transmitted to the Contractor's Quality Improvement Committee, the Contractor's administration or another appropriate body within the Contractor's operations. These issues shall be considered in the Contractor's Quality Improvement Program, as required by Cal. Code Regs., tit. 9, § 1810.440(a)(5).

i) Individuals involved in any previous review or decision-making on the issue(s) presented in a problem resolution process shall not participate in making the decision on the grievance, appeal, or expedited appeal pursuant to 42 C.F.R. § 438.406(a)(3)(i).

j) The individual making the decision on the grievance, appeal, or expedited appeal shall have the appropriate clinical expertise, as determined by the Contractor, required to treat the beneficiary's condition, if the grievance concerns the denial of a request for an expedited appeal or if the grievance, appeal, or expedited appeal addresses any clinical issue, including a lack of medical necessity pursuant to Title per 42, C.F.R. § 438.406(a)(3)(ii).

4) Pursuant to record keeping and review requirements in 42 C.F.R. § 438.416, and to facilitate monitoring consistent with Cal. Code Regs., tit. 9, §§1810.440(a)(5), 1850.205,1850.206, 1850.207, and 1850.208, the Contractor shall:

a) Maintain a grievance and appeal log and record grievances, appeals, and expedited appeals in the log within one working day of the date of receipt of the grievance or appeal. The log entry shall include, but not be limited to, the name of the beneficiary, the date of receipt of the grievance, appeal, or expedited appeal, and the nature of the problem;

b) Record in the grievance and appeal log or another central location determined by the Contractor, the final dispositions of grievances, appeals, and expedited appeals, including the date the decision is sent to the beneficiary. If there has not been final disposition of the grievance, appeal, or expedited appeal, the reason(s) shall be included in the log;

Exhibit A Attachment I
Service, Administrative and Operational Requirements

c) Provide a staff person or other individual with responsibility to provide information requested by the beneficiary or the beneficiary's representative regarding the status of the beneficiary's grievance, appeal, or expedited appeal;

d) Acknowledge the receipt of each grievance, appeal, and expedited appeal to the beneficiary in writing;

e) Identify in its grievance, appeal, and expedited appeal documentation, the roles and responsibilities of the Contractor, the provider, and the beneficiary;

f) Notify the beneficiary, in writing, of the final disposition of the problem resolution process including the reasons for the disposition; and

g) Notify, in writing, any provider identified by the beneficiary or involved in the grievance, appeal, or expedited appeal of the final disposition of the beneficiary's grievance, appeal, or expedited appeal.

5) No provision of a Contractor's beneficiary problem resolution processes shall be construed to replace or conflict with the duties of county patients' rights advocates as described in Welfare and Institutions Code Section 5520.

B. Grievance Process

Consistent with 42 C.F.R. §§ 438.400, 438.402, 438.406 and Cal. Code Regs., tit. 9, § 1850.206, the grievance process shall, at a minimum:

1) Allow beneficiaries to present their grievance orally, or in writing;

2) Provide for a decision on the grievance and notify the affected parties within 60 calendar days of receipt of the grievance. This timeframe may be extended by up to 14 calendar days if the beneficiary requests an extension, or if the Contractor determines that there is a need for additional information and that the delay is in the beneficiary's interest. If the Contractor extends the timeframe, the Contractor shall, for any extension not requested by the beneficiary, notify the beneficiary of the extension and the reasons for the extension in writing. The written notice of the extension is not a Notice of Action as defined in Cal. Code Regs., tit. 9, § 1810.230.5; and

3) Provide for notification of the beneficiary or the appropriate representative in writing of the grievance decision and documentation of the notification or efforts to notify the beneficiary, if he or she could not be contacted.

C. Appeal Process

Exhibit A Attachment I
Service, Administrative and Operational Requirements

1) Consistent 42 C.F.R. § 438.408 and Cal. Code Regs., tit. 9, §§ 1850.205 and 1850.207, the appeal process shall, at a minimum:

   a) Allow a beneficiary to file an appeal orally or in writing pursuant to 42 C.F.R. § 438.402(b)(3)(ii);

   b) Pursuant to 42 C.F.R. § 438.402(b)(3)(ii), require a beneficiary who makes an oral appeal, that is not an expedited appeal, to subsequently submit the appeal in writing. The date the Contractor receives the oral appeal shall be considered the filing date for the purpose of applying the appeal timeframes;

   c) Pursuant to 42 C.F.R. § 438.408(b) and (c), provide for a decision on the appeal and notify the affected parties within 45 calendar days of receipt of the appeal. This timeframe may be extended by up to 14 calendar days, if the beneficiary requests an extension or the Contractor determines that there is a need for additional information and that the delay is in the beneficiary's interest. If the Contractor extends the timeframes, the Contractor shall, for any extension not requested by the beneficiary, notify the beneficiary of the extension and the reasons for the extension in writing. The written notice of the extension is not a Notice of Action as defined in Cal. Code Regs., tit. 9, §1810.230.5;

   d) Consistent with 42 C.F.R. § 438.408(f), inform the beneficiary of his or her right to request a fair hearing after the appeal process of the Contractor has been exhausted;

   e) Allow the beneficiary to have a reasonable opportunity to present evidence and arguments of fact or law, in person and/or in writing, in accordance with the beneficiary's election;

   f) Allow the beneficiary and/or his or her representative to examine the beneficiary's case file, including medical records, and any other documents or records considered before and during the appeal process, provided that there is no disclosure of the protected health information of any individual other than the beneficiary; and

   g) Allow the beneficiary and/or his or her representative, or the legal representative of a deceased beneficiary's estate, to be included as parties to the appeal.

2) Pursuant to 42 C.F.R. § 438.408(e), the Contractor shall notify the beneficiary, and/or his or her representative, of the resolution of the appeal in writing. The notice shall contain:

   a) The results of the appeal resolution process;

Exhibit A Attachment I
Service, Administrative and Operational Requirements

b) The date that the appeal decision was made;

c) If the appeal is not resolved wholly in favor of the beneficiary, the notice shall also contain:

i. Information regarding the beneficiary's right to a fair hearing and the procedure for filing for a fair hearing, if the beneficiary has not already requested a fair hearing on the issue involved in the appeal; and

ii. Information on the beneficiary's right to continue to receive benefits while the fair hearing is pending and how to request the continuation of benefits.

3) If the decision of the appeal resolution process reverses a decision to deny, limit or delay services, the Contractor shall promptly provide or arrange and pay for the services at issue in the appeal.

D. Expedited Appeal Process

"Expedited Appeal" means an appeal, as defined in Cal. Code Regs., tit. 9, § §§ 1810.203.5 and 1810.216.2, to be used when the mental health plan determines or the beneficiary and/or the beneficiary's provider certifies that following the timeframe for an appeal as established in Cal. Code Regs., tit. 9, § 1850.207, would seriously jeopardize the beneficiary's life, health, or ability to attain, maintain, or regain maximum function. In addition to meeting the requirements of 42 C.F.R. § 438.410(a), and Cal. Code Regs., tit. 9, §§ 1850.205, 1850.207(a), (d), (e), (f), (g), and (i), and 1850.208, the expedited appeal process shall, at a minimum:

1) Be used when the Contractor determines or the beneficiary and/or the beneficiary's provider certifies that taking the time for a standard appeal resolution could seriously jeopardize the beneficiary's life, health or ability to attain, maintain, or regain maximum function.

2) Pursuant to 42 C.F.R. § 438.402(b)(3), allow the beneficiary to file the request for an expedited appeal orally without requiring that the request be followed by a written appeal.

3) Pursuant to 42 C.F.R. § 438.410(b), ensure that punitive action is not taken against a beneficiary or a provider because they request an expedited appeal or support a beneficiary's request for an expedited appeal.

4) Pursuant to 42 C.F.R. § 438.408(b)(3),resolve an expedited appeal and notify the affected parties in writing, no later than three working days after

the Contractor receives the appeal. Pursuant to 42 C.F.R. § 438.408(c) this timeframe may be extended by up to 14 calendar days if the beneficiary requests an extension, or the Contractor determines that there is need for additional information and that the delay is in the beneficiary's interest. If the Contractor extends the timeframes, the Contractor shall, for any extension not requested by the beneficiary, notify the beneficiary of the extension and the reasons for the extension in writing. The written notice of the extension is not a Notice of Action as defined in Cal. Code Regs., tit. 9, § 1810.230.5.

5) Pursuant to 42 C.F.R. § 438.408(d)(2), provide a beneficiary with a written notice of the expedited appeal disposition and make reasonable efforts to provide oral notice to the beneficiary and/or his or her representative. The written notice shall meet the requirements of Section 1850.207(h).

6) Pursuant to 42 C.F.R. § 438.410(c), if the Contractor denies a request for expedited appeal resolution:

   a) Transfer the expedited appeal request to the timeframe for appeal resolution as required by Cal. Code Regs., tit. 9, § 1850.207(c).

   b) Make reasonable efforts to give the beneficiary and his or her representative prompt oral notice of the denial of the request for an expedited appeal and provide written notice within two calendar days of the date of the denial. The written notice of the denial of the request for an expedited appeal is not a Notice of Action as defined in Cal. Code Regs., tit. 9, § 1810.230.5.

E. <u>Beneficiary Problem Resolution Processes Established by Providers</u>

Nothing in the Cal. Code Regs., tit. 9, §§ 1850.205, 1850.206, 1850.207, 1850.208 and 1850.209 precludes a provider other than the Contractor from establishing beneficiary problem resolution processes for beneficiaries receiving services from that provider. When such processes exist, beneficiaries shall not be required by the Contractor to use or exhaust the provider's processes prior to using the Contractor's beneficiary problem resolution process, unless the following conditions have been met:

1) The Contractor delegates the responsibility for the beneficiary problem resolution process to the provider in writing, specifically outlining the provider's responsibility under the delegation;

2) The provider's beneficiary problem resolution process fully complies with this Section of the contract, the relevant provisions of 42 C.F.R. Subpart F, Cal. Code Regs., tit. 9, §1850.205 and § 1850.209, and depending on processes delegated, Cal. Code Regs., tit. 9, §§ 1850.206, 1850.207, and/or 1850.208; and

Exhibit A Attachment I
Service, Administrative and Operational Requirements

3) No beneficiary is prevented from accessing the grievance, appeal or expedited appeal processes solely on the grounds that the grievance, appeal or expedited appeal was incorrectly filed with either the Contractor or the provider.

F. Fair Hearing

"Fair Hearing" means the State hearing provided to beneficiaries pursuant to Title 22, CCR, Sections 50951 and 50953 and Cal. Code Regs., tit. 9, § 1810.216.6. Fair hearings must comply with 42 C.F.R. §§ 431.220(a)(5), 438.408(f), 438.414, and 438.10(g)(1).

1) If a beneficiary requests a State Fair Hearing, the Department (not the Contractor) shall grant the request. The right to a State Fair Hearing, how to obtain a hearing, and representation rules at a hearing must be explained to the beneficiary and provider by Contractor in its notice of decision or notice of action. Beneficiaries and providers shall also be informed of the following:

   a) A beneficiary may request a State Fair Hearing.

   b) The provider may request a State Fair Hearing only if the Department permits the provider to act as the beneficiary's authorized representative.

   c) The Department must permit the beneficiary to request a State Fair Hearing within a reasonable time period specified by the Department, not in excess of 90 days, from whichever of the following dates applies:

      i. From the date indicated on the Contractor's notice of action, if the Department does not require exhaustion of the Contractor-level appeal procedures and the beneficiary appeals directly to the Department for a fair hearing.

      ii. From the date indicated on the Contractor's notice of resolution, if the Department requires exhaustion of Contractor-level appeals.

2) The Department must reach its decisions within the specified timeframes:

   a) Standard resolution: within 90 days of the date the beneficiary filed the appeal with the Contractor, if the beneficiary filed initially with the Contractor (excluding the days the beneficiary took to subsequently file for a State Fair Hearing), or the date the beneficiary filed for direct access to a State Fair Hearing.

b) Expedited resolution (if the appeal was heard first through the Contractor appeal process): within 3 working days from agency receipt of a hearing request for a denial of a service that:

i. Meets the criteria for an expedited appeal process but was not resolved using the Contractor's expedited appeal timeframes, or

ii. Was resolved wholly or partially adversely to the beneficiary using the Contractor's expedited appeal timeframes.

3) Pursuant to 42 C.F.R. § 438.408(f)(2), the parties to the State Fair Hearing include the Contractor as well as the beneficiary and his or her representative or the representative of a deceased beneficiary's estate.

G. Expedited Fair Hearing

"Expedited Fair Hearing" means a fair hearing, as described in 42 C.F.R. § 438.410(a), and Cal. Code Regs., tit. 9, §§ 1810.216.4 and 1810.216.6, to be used when the Contractor determines, or the beneficiary and/or the beneficiary's provider certifies, that the following the timeframe for a fair hearing as established in 42 C.F.R. § 431.244(f)(1) would seriously jeopardize the beneficiary's life, health, or ability to attain, maintain, or regain maximum function.

H. Continuation of Services Pending Fair Hearing Decision

1) A beneficiary receiving specialty mental health services shall have a right to file for continuation of specialty mental health services pending the outcome of a fair hearing pursuant to Cal. Code Regs., tit. 22., § 51014.2, and Cal. Code Regs., tit. 9, § 1850.215.

2) The Contractor shall continue to provide specialty mental health services pending the outcome of a fair hearing in accordance with Cal. Code Regs., tit. 22, § 51014.2. If the Contractor allows providers to deliver specialty mental health services for a set number of visits or a set duration of time without prior authorization, the Contractor shall continue to provide specialty mental health services pending the outcome of a fair hearing when the Contractor denies a payment authorization request from a provider requesting continuation of services beyond the number or duration permitted without prior authorization and the beneficiary files a timely request for fair hearing.

3) Before requesting a state fair hearing, the beneficiary must exhaust the Contractor's problem resolution processes as described in Cal. Code Regs., tit. 9, § 1850.205.

I. Provision of Notice of Action

Exhibit A Attachment I
Service, Administrative and Operational Requirements

1) Consistent with 42 C.F.R. § 438.400(b) and Cal. Code Regs., tit. 9, § 1810.200 "Action," in the case of an MHP, means:

   a) A denial, modification, reduction or termination of a provider's request for MHP payment authorization of a specialty mental health service covered by the MHP.

   b) A determination by the MHP or its providers that the medical necessity criteria in Cal. Code Regs., tit. 9, §§ 1830.205(b)(1), (b)(2), (b)(3)(C), or 1830.210(a) have not been met and the beneficiary is not entitled to any specialty mental health services from the MHP.

   c) A failure by the MHP to provide a specialty mental health service covered by the MHP within the timeframe for delivery of the service established by the MHP; or

   d) A failure by the MHP to act within the timeframes for resolution of grievances, appeals, or the expedited appeals.

2) Pursuant to 42 C.F.R. § 438.404(a), the Notice of Action (NOA) shall be in writing and shall meet the language and format requirements of 42 C.F.R. § 438.10(c) and (d) to ensure ease of understanding. The Notice of Action shall contain the items specified in 42 C.F.R. § 438.404 (b) and Cal. Code Regs., tit. 9, § 1850.210.

3) The Contractor shall provide a beneficiary with an NOA when the Contractor denies or modifies a Contractor payment authorization request from a provider for a specialty mental health service to the beneficiary.

4) When the denial or modification involves a request from a provider for continued Contractor payment authorization of a specialty mental health service or when the Contractor reduces or terminates a previously approved Contractor payment authorization, notice shall be provided in accordance with Cal. Code. Regs., tit. 22, § 51014.1.

5) A NOA is not required when a denial is a non-binding verbal description to a provider of the specialty mental health services that may be approved by the Contractor.

6) A NOA is not required when the Contractor modifies the duration of any approved specialty mental health services as long as the Contractor provides an opportunity for the provider to request Contractor payment authorization of additional specialty mental health services before the end of the approved duration of services.

7) Except as provided in subsection 6 below, a NOA is not required when the denial or modification is a denial or modification of a request for Contractor

payment authorization for a specialty mental health service that has already been provided to the beneficiary.

8) A NOA is required when the Contractor denies or modifies a payment authorization request from a provider for a specialty mental health service that has already been provided to the beneficiary when the denial or modification is a result of post-service, prepayment determination by the Contractor that the service was not medically necessary or otherwise was not a service covered by the Contractor.

9) The Contractor shall deny the Contractor payment authorization request and provide the beneficiary with a NOA when the Contractor does not have sufficient information to approve or modify, or deny on the merits, a Contractor payment authorization request from a provider within the timeframes required by Cal. Code Regs., tit. 9, §§ 1820.220 or 1830.215.

10) The Contractor shall provide the beneficiary with a NOA if the Contractor fails to notify the affected parties of a grievance decision within 60 calendar days, of an appeal decision within 45 days, or of an expedited appeal decision within three working days. If the timeframe for a grievance, appeal or expedited appeal decision is extended pursuant to Cal. Code Regs., tit. 9, §§ 1850.206, 1850.207 or 1850.208 and the Contractor failed to notify the affected parties of its decision within the extension period, the Contractor shall provide the beneficiary with a NOA.

11) The Contractor shall provide a beneficiary with a NOA if the Contractor fails to provide a specialty mental health service covered by the Contractor within the timeframe for delivery of the service established by the Contractor.

12) The Contractor shall comply with the requirements of 42 C.F.R. § 438.404(b), and Cal. Code Regs., tit. 9, § 1850.210, regarding the content of NOAs and with the following timeframes for mailing of NOAs:

    a) The written NOA issued pursuant to (1) or (6) above shall be deposited with the United States Postal Service in time for pick-up no later than the third working day after the action. A Notice of Action issued pursuant to (2) above shall be provided in accordance with the applicable timelines set forth in Cal. Code Regs., tit. 22, § 51014.1.

    b) The written NOA issued pursuant to (7) or (8) above shall be deposited with the United States Postal Service in time for pick-up on the date that the applicable timeframe expires.

    c) The written NOA issued pursuant to subsection (9) above shall be deposited with the United States Postal Service in time for pick up on the date that the timeframe for delivery of the service established by the Contractor expires.

Exhibit A Attachment I
Service, Administrative and Operational Requirements

13) When a NOA would not be required as described in (3)-(5) above, the Contractor shall provide a beneficiary with an NOA when the Contractor or its providers determine that the medical necessity criteria in Cal. Code Regs., tit. 9, §§1830.205(b)(1),(b)(2),(b)(3)(C), or 1830.210(a) have not been met and that the beneficiary is not entitled to any specialty mental health services from the Contractor. A NOA is not required when a provider, including the Contractor acting as a provider, determines that a beneficiary does not qualify for a specific service covered by the Contractor, including but not limited to: crisis intervention, crisis stabilization, crisis residential treatment services, psychiatric inpatient hospital services, or any specialty mental health service to treat a beneficiary's urgent condition, provided that the determination does not apply to any other specialty mental health service covered by the Contractor. The NOA shall, at the election of the Contractor, be hand-delivered to the beneficiary on the date of the action or mailed to the beneficiary in accordance with Cal. Code Regs., tit. 9, § 1850.210(f)(1), and shall specify the information contained in Cal. Code Regs., tit. 9, § 1850.212(b).

14) For the purpose of this Section, each reference to a Medi-Cal managed care plan in Cal. Code Regs., tit. 22, § 51014.1, shall mean the Contractor.

15) For the purposes of this Section, "medical service", as used in Cal. Code Regs., tit. 22, § 51014.1, shall mean specialty mental health services that are subject to prior authorization by a Contractor pursuant to Cal. Code Regs., tit. 9, §§ 1820.100 and 1830.100.

16) The Contractor shall retain copies of all Notices of Action issued to beneficiaries under this Section in a centralized file accessible to the Department.

J. Contents of a NOA

1) The NOA issued pursuant to Section I of this contract and 42 C.F.R. § 438.404(b) and Cal. Code Regs., tit. 9, §§1850.210(a)-(e) and 1850.212, shall contain the following information:

a) The action taken by the Contractor;

b) The reason for the action taken;

c) Citations to the regulations or Contractor payment authorization procedures supporting the action;

d) The beneficiary's right to file an appeal or expedited appeal with the Contractor;

e) The circumstances under which an expedited resolution is available, and how to request it; and,

f) Information about the beneficiary's right to request a fair hearing or an expedited fair hearing, including:

i. The method by which a hearing may be obtained;

ii. A statement that the beneficiary may be either self-represented, or represented by an authorized third party such as legal counsel, a relative, friend or any other person;

iii. An explanation of the circumstances under which a specialty mental health service will be continued if a fair hearing is requested; and,

iv. The time limits for requesting a fair hearing or an expedited fair hearing.

2) A NOA issued pursuant to Cal. Code Regs., tit. 9, §§ 1850.210(g) and 1850.212(b), relating to denials for lack of medical necessity, shall specify the following:

a) The reason that the medical necessity criteria were not met, including a citation to the applicable regulation;

b) The beneficiary's options for obtaining care from sources other than the Contractor, if applicable;

c) The beneficiary's right to request a second opinion on the determination;

d) The beneficiary's right to file an appeal or expedited appeal with the Contractor; and,

e) The beneficiary's right to request a fair hearing or an expedited fair hearing, including:

i. The method by which a hearing may be obtained;

ii. The time period in which the request for a fair hearing or expedited fair hearing must be filed; and,

iii. That the beneficiary may be either self–represented, or represented by an authorized third party such as legal counsel, a relative, friend or any other person;

Exhibit A Attachment I
Service, Administrative and Operational Requirements

K. Consistent with 42 C.F.R. § 438.404(c), the Contractor shall give notice at least 10 days before the effective date of action when the action is a termination, suspension, or reduction of previously authorized Medi-Cal-covered services, except:

1) The period of advanced notice is shortened to 5 days if probable beneficiary fraud has been verified;

2) The action shall be effective on the date of the Notice under the following circumstances:

a) The death of a beneficiary;

b) Receipt of a signed written beneficiary statement requesting service termination or giving information requiring termination or reduction of services (provided the beneficiary understands that this will be the result of supplying that information);

c) The beneficiary's admission to an institution where he or she is ineligible for further services;

d) The beneficiary's whereabouts are unknown and mail directed to him or her has no forwarding address;

e) Notice that the beneficiary has been accepted for Medicaid services by another local jurisdiction;

f) A change in the beneficiary's physician's prescription for the level of medical care; or

g) Endangerment of the safety or health of individuals in the facility; improvement in the resident's health sufficient to allow a more immediate transfer or discharge; urgent medical needs that require a resident's immediate transfer or discharge; or notice that a resident has not resided in the nursing facility for 30 days (but only in adverse actions based on NF transfers).

3) If payment is denied, the Contractor shall give notice to the beneficiary on the date of the action.

L. Pursuant to Cal. Code Regs., tit. 9, § 1810.375(a), the Contractor is required to submit to the Department a report that summarizes beneficiary grievances, appeals and expedited appeals filed from July 1 of the previous year through June 30 of that year by October 1 of each year. The report shall include the total number of grievances, appeals and expedited appeals by type, by subject areas established by the Department, and by disposition.

Exhibit A Attachment I
Service, Administrative and Operational Requirements

16. Subcontracts

A. This provision is a supplement to provision number five (Subcontract Requirements) in Exhibit D(F) which is attached hereto as part of this agreement. As allowed by provision five in Exhibit D(F), the Department hereby, and until further notice, waives its right to prior approval of subcontracts and approval of existing subcontracts.

B. No subcontract terminates the legal responsibility of the Contractor to the Department to assure that all activities under this contract are carried out.

C. All subcontracts shall be in writing.

D. All inpatient subcontracts shall require that subcontractors maintain necessary licensing and certification.

E. Each subcontract shall contain:

1) Full disclosure of the method and amount of compensation or other consideration to be received by the subcontractor from the Contractor.

2) Specification of the services to be provided.

3) Specification that the subcontract shall be governed by, and construed in accordance with, all laws and regulations, and all contractual obligations of the Contractor under this contract.

4) Specification of the term of the subcontract including the beginning and ending dates, as well as methods for amendment, termination and, if applicable, extension of the subcontract. The subcontract must be subject to full or partial termination if the subcontractor's performance is inadequate.

5) The nondiscrimination and compliance provisions of this contract as described in Exhibit E, Section 3.

6) Subcontractor's agreement to submit reports as required by the Contractor.

7) The subcontractor's agreement to make all of its books and records pertaining to the goods and services furnished under the terms of the subcontract available for inspection, examination or copying by the Department, HHS, the Comptroller General of the United States, and other authorized federal and state agencies, or their duly authorized representatives. The subcontract shall also state that inspection shall occur at all reasonable times, at the subcontractor's place of business, or at such other mutually agreeable location in California, in a form maintained in accordance with the general standards applicable to such book or record

keeping, for a term of at least five years from the close of the state fiscal year in which the subcontract was in effect.

8) Subcontractor's agreement that assignment or delegation of the subcontract shall be void unless prior written approval is obtained from the Contractor.

9) Subcontractor's agreement to hold harmless both the State and beneficiaries in the event the Contractor cannot or does not pay for services performed by the subcontractor pursuant to the subcontract.

10) The subcontractor's agreement to comply with the Contractor's policies and procedures on advance directives and the Contractor's obligations for Physician Incentive Plans, if applicable based on the services provided under the subcontract.

11) A requirement that the Contractor monitors the subcontractor and the subcontractor's obligation to provide a corrective action plan if deficiencies are identified.

17. Delegation

Unless specifically prohibited by this contract or by federal or state law, Contractor may delegate duties and obligations of Contractor under this contract to subcontracting entities if Contractor determines that the subcontracting entities selected are able to perform the delegated duties in an adequate manner in compliance with the requirements of this contract. In addition, Contractor may accept the certification of a provider by another Mental Health Plan, or by the Department, in order to meet the Contractor's obligations under Section 4. However, regardless of any such delegation to a subcontracting entity or acceptance of a certification by another MHP, Contractor shall remain ultimately responsible for adequate performance of all duties and obligations under this contract.

18. Program Integrity Requirements

A. The Contractor shall comply with the provisions of 42 C.F.R. §§ 438.604, 438.606 and 438.608, regarding the certification of accurate data submitted by the Contractor to the State and which require the Contractor to have administrative or management arrangements or procedures designed to guard against fraud and abuse.

B. The Contractor shall comply with the provisions of 42 C.F.R. § 438.610, which relate to prohibited affiliations with individuals or affiliates of individuals debarred, suspended, or otherwise excluded from participating in procurement activities under the Federal Acquisition Regulation or from participating in non-procurement activities under regulations issued under Executive Order No. 12549 or under the guidelines implementing Executive Order No. 12549.

Exhibit A Attachment I
Service, Administrative and Operational Requirements

C. Pursuant to 42 C.F.R. § 438.214(d), the Contractor shall not employ or contract with providers or other individuals and entities excluded from participation in federal health care programs (as defined in section 1128B(f) of the Social Security Act) under either Section 1128, 1128A, or 1156 of the Social Security Act. FFP is not available for amounts expended for providers excluded by Medicare, Medicaid, or the State Children's Health Insurance Program, except for emergency services.

D. The Contractor shall periodically check the Office of the Inspector General's List of Excluded Individuals/Entities and the Medi-Cal Suspended and Ineligible Provider List (S & I List) to prevent employment of, or payments to, any individuals or entities on those lists, and per DMH Letter Number 10-05, this must be satisfied prior to Medi-Cal certification of any individual or organizational provider. If the provider is listed on either the Office of the Inspector General's List of Excluded Individuals/Entities or the Medi-Cal S & I List, the Contractor shall not certify or pay any provider with Medi-Cal funds, and any such inappropriate payments or overpayments may be subject to recovery and/or be the basis for other sanctions by the appropriate authority.

E. Report. Pursuant to 42 C.F.R. § 455.1(a)(1), the Contractor must report fraud and abuse information to the Department.

1) If the Contractor identifies an issue or receives notification of a complaint concerning an incident of possible potential fraud or abuse, the Contractor shall conduct an internal investigation to determine the validity of the issue/complaint, regarding potential fraud and/or abuse, and develop and implement corrective action, if needed. The majority of potential fraud or abuse issues are expected to be resolved at the Contractor level.

2) If the Contractor's internal investigation concludes that fraud or abuse has occurred or is suspected, the issue is egregious, or beyond the scope of the Contractor's ability to pursue, the Contractor shall report the issue to the Department for review and disposition.

3) The Department is to be notified if the Contractor discontinues a provider contract or disciplines a provider due to a fraud or abuse issue.

F. Service Verification. To assist the Department in meeting its obligation under 42 C.F.R. § 455.1(a)(2), the Contractor shall have a way to verify whether services were actually furnished to beneficiaries.

19. Disclosures

A. Disclosure of 5% or More Ownership Interest:

1) Pursuant to 42 C.F.R. § 455.104, ~~Medicaid managed care en~~tities must disclose certain information related to persons who have an ownership or control interest in the managed care entity, as defined in 42 C.F.R. §

Exhibit A Attachment I
Service, Administrative and Operational Requirements

455.101. The parties hereby acknowledge that because the Contractor is a political subdivision of the State of California, there are no persons who meet such definition and therefore there is no information to disclose.

a) In the event that, in the future, any person obtains an interest of 5% or more of any mortgage, deed of trust, note or other obligation secured by Contractor, and that interest equals at least 5% of Contractor's property or assets, then the Contractor will make the disclosures set forth in i and subsection 2(a).

i. The Contractor will disclose the name, address, date of birth, and Social Security Number of any managing employee, as that term is defined in 42 C.F.R. § 455.101. For purposes of this disclosure, Contractor may use the business address for any member of its Board of Supervisors.

ii. The Contractor shall provide any such disclosure upon execution of this contract, upon its extension or renewal, and within 35 days after any change in Contractor ownership or upon request of the Department.

2) The Contractor shall ensure that its subcontractors/network providers submit the disclosures below to the Contractor regarding the network providers' (disclosing entities') ownership and control. The Contractor's network providers must be required to submit updated disclosures to the Contractor upon submitting the provider application, before entering into or renewing the network providers' contracts, and within 35 days after any change in the subcontractor/network provider's ownership or upon request of the Department.

a) Disclosures to be Provided:

i. The name and address of any person (individual or corporation) with an ownership or control interest in the network provider. The address for corporate entities shall include, as applicable, a primary business address, every business location, and a P.O. Box address;

ii. Date of birth and Social Security Number (in the case of an individual);

iii. Other tax identification number (in the case of a corporation with an ownership or control interest in the managed care entity or in any subcontractor in which the managed care entity has a 5 percent or more interest);

iv. Whether the person (individual or corporation) with an ownership or control interest in the Contractor's network provider is related to another person with ownership or control interest in the same or any other network provider of the Contractor as a spouse, parent, child, or sibling; or whether the person (individual or corporation) with an ownership or control interest in any subcontractor in which the managed care entity has a 5 percent or more interest is related to another person with ownership or control interest in the managed care entity as a spouse, parent, child, or sibling;

v. The name of any other disclosing entity in which the Contractor or subcontracting network provider has an ownership or control interest; and

vi. The name, address, date of birth, and Social Security Number of any managing employee of the managed care entity.

3) All disclosures must be provided to the Medicaid agency.

B. Disclosures Related to Business Transactions – Contractor must submit disclosures and updated disclosures to the Department or HHS including information regarding certain business transactions within 35 days, upon request.

1) The following information must be disclosed:

a) The ownership of any subcontractor with whom the Contractor has had business transactions totaling more than $25,000 during the 12-month period ending on the date of the request; and,

b) Any significant business transactions between the Contractor and any wholly owned supplier, or between the Contractor and any subcontractor, during the 5-year period ending on the date of the request.

2) Contractor must obligate Network Providers to submit the same disclosures regarding network providers' as noted under subsection 1(a) and (b) within 35 days upon request.

C. Disclosures Related to Persons Convicted of Crimes – Contractor shall submit the following disclosures to the Department regarding the Contractor's management:

1) The identity of any person who is a managing employee of the Contractor who has been convicted of a crime related to federal health care programs. (42 C.F.R. §.455.106(a)(1), (2).)

Exhibit A Attachment I
Service, Administrative and Operational Requirements

2) The identity of any person who is an agent of the Contractor who has been convicted of a crime related to federal health care programs. (42 C.F.R. § 455.106(a)(1), (2).) For this purpose, the word "agent" has the meaning described in 42 C.F.R. § 455.101.

3) The Contractor shall supply the disclosures before entering into the contract and at any time upon the Department's request.

4) Network providers should submit the same disclosures to the Contractor regarding the network providers' owners, persons with controlling interest, agents, and managing employees' criminal convictions. Network providers shall supply the disclosures before entering into the contract and at any time upon the Department's request.

20. Medi-Cal Eligibility Data System (MEDS) and MEDS Monthly Extract File (MMEF) Access

The Contractor shall enter into a Medi-Cal Privacy and Security Agreement (PSA) with the Department prior to obtaining access to MEDS and the MEDS monthly extract file (MMEF). The Contractor agrees to comply with the provisions as specified in the PSA. The County Mental Health Director or his or her authorized designee shall certify annually that Contractor is in compliance with the PSA agreement. Failure to comply with the terms of the agreement will result in the termination of access to MEDS and MMEF.

21. Additional Requirements

A. Advance Directives. The Contractor shall maintain written policies and procedures on advance directives in compliance with the requirements of 42 C.F.R. §§ 422.128 and 438.6(i)(1), (3) and (4). Any written materials prepared by the Contractor for beneficiaries shall be updated to reflect changes in state laws governing advance directives as soon as possible, but no later than 90 days after the effective date of the change. For purposes of this contract, advance directives means a written instruction, such as a living will or durable power of attorney for health care, recognized under State law, relating to the provision of health care when the individual is incapacitated as defined in 42 C.F.R. § 489.100.

B. Physician Incentive Plans. The Contractor shall obtain approval from the Department prior to implementing a Physician Incentive Plan. A Physician Incentive Plan is any compensation arrangement to pay a physician or physician group that may directly or indirectly have the effect of reducing or limiting the services provided to any beneficiary. For purposes of this definition, the words shall have the meanings set forth in 42 C.F.R. § 422.208(a). The Department shall approve the Contractor's request only if the proposed Physician Incentive Plan complies with all applicable federal and state regulations.

1) Pursuant to 42 C.F.R. § 438.6(h), the Contractor shall comply with the requirements set forth in 42 CFR §§ 422.208 and 422.210.

Exhibit A Attachment I
Service, Administrative and Operational Requirements

2) The Contractor may operate a Physician Incentive Plan only if no specific payment can be made directly or indirectly under a Physician Incentive Plan to a physician or physician group as an inducement to reduce or limit medically necessary services furnished to an individual.

3) When seeking approval from the Department for its Physician Incentive Plan, the Contractor will disclose the following:

   a) Whether services not furnished by physician/group are covered by incentive plan. No further disclosure required if the Physician Incentive Plan does not cover services not furnished by physician/group;

   b) The type of incentive arrangement, e.g. withhold, bonus, capitation;

   c) The percentage of funds withheld or bonus provided (if applicable);

   d) The size of the panel, and, if patients are pooled, the approved method used for pooling; and,

   e) If the physician/group is at substantial financial risk, proof that the physician/group has adequate stop loss coverage, including amount and type of stop-loss.

4) If a physician or physician group is put at substantial financial risk for services not provided by the physician/group, the Contractor shall ensure adequate stop-loss protection to individual physicians and conduct annual beneficiary surveys.

5) The Contractor shall provide information on its Physician Incentive Plan to any Medicaid beneficiary upon request (this includes the right to adequate and timely information on a Physician Incentive Plan).

6) If required to conduct beneficiary survey, survey results shall be disclosed to the Department and, upon request, to beneficiaries, per the Social Security Act (SSA) 1903(m)(2)(A)(x); 42 C.F.R. §§ 422.208; 422.210;438.6(h); and SSA 1876(i)(8)(A)(ii)(II).

C. Sharing of Information with Beneficiaries. The Contractor shall not prohibit nor otherwise restrict, a licensed, waivered, or registered professional, as defined in Cal. Code Regs., tit. 9, §§ 1810.223 and 1810.254, who is acting within the lawful scope of practice (pursuant to 42 C.F.R. § 438.102(a)(1)), from advising or advocating on behalf of a beneficiary for whom the provider is providing mental health services for any of the following:

Exhibit A Attachment I
Service, Administrative and Operational Requirements

1) The beneficiary's health status, medical care, or treatment options, including any alternative treatment that may be self-administered;

2) Information on the beneficiary needs in order to decide among all relevant treatment options;

3) The risks, benefits, and consequences of treatment not receiving treatment ; and

4) The beneficiary's right to participate in decisions regarding his or her health care, including the right to refuse treatment, and to express preferences about future treatment decisions.

D. Limitation on Services for Moral or Religious Grounds. Pursuant to 42 C.F.R. § 438.102(a)(2), the Contractor shall not be required to provide, reimburse for, or provide coverage of, a counseling or referral service if the Contractor objects to the service on moral or religious grounds.

E. If the Contractor elects not to provide, reimburse for, or provide coverage of, a counseling or referral service because of an objection on moral or religious grounds, it must furnish information about the services it does not cover as follows:

a) To the Department:

a) Prior to executing this contract;

b) Whenever it adopts the policy during the term of the contract;

b) Consistent with the provisions of 42 C.F.R. § 438.10:

a) To potential beneficiaries before and during enrollment; and

b) To beneficiaries within 90 days after adopting the policy with respect to any particular service.

F. Beneficiary Liability for Payment. Pursuant to Cal. Code Regs., tit. 9, § 1810.365, the Contractor or an affiliate, vendor, contractor, or sub-subcontractor of the Contractor shall not submit a claim to, or demand or otherwise collect reimbursement from, the beneficiary or persons acting on behalf of the beneficiary for any specialty mental health or related administrative services provided under this contract, except to collect other health insurance coverage, share of cost, and co-payments. Consistent with 42 C.F.R. § 438.106, the Contractor or an affiliate, vendor, contractor, or sub-subcontractor of the Contractor shall not hold beneficiaries liable for debts in the event that the Contractor becomes insolvent, for costs of covered services for which the State does not pay the Contractor, for costs of covered services for which the State or the Contractor does not pay the

Exhibit A Attachment I
Service, Administrative and Operational Requirements

Contractor's providers, for costs of covered services provided under a contract, referral or other arrangement rather than from the Contractor, or for payment of subsequent screening and treatment needed to diagnose the specific condition of or stabilize a beneficiary with an emergency psychiatric condition.

G. Health Information System. Pursuant to 42 C.F.R. § 438.242 and consistent with Cal. Code Regs., tit. 9, § 1810.376, the Contractor shall maintain a health information system that collects, analyzes, integrates, and reports data. The system shall provide information on areas including, but not limited to, utilization, grievances, and appeals.

1) The Contractor's health information system shall, at a minimum:

a) Collect data on beneficiary and provider characteristics as specified by the Department, and on services furnished to beneficiaries as specified by the Department;

b) Ensure that data received from providers is accurate and complete by:

i. Verifying the accuracy and timeliness of reported data;

ii. Screening the data for completeness, logic, and consistency; and

iii. Collecting service information in standardized formats to the extent feasible and appropriate.

c) Make all collected data available to the Department and, upon request, to CMS.

2) Consistent with Cal. Code Regs., tit. 9, § 1810.376(c), the Contractor's health information system is not required to collect and analyze all elements in electronic formats.

H. Cost Sharing. Pursuant to 42 C.F.R. § 438.108, any cost sharing imposed on Medicaid beneficiaries shall be in accordance with 42 C.F.R. §§ 447.50 through 447.60.

22. Quality Management (QM) Program

A. The Contractor's Quality Management (QM) Program shall improve Contractor's established outcomes through structural and operational processes and activities that are consistent with current standards of practice.

B. The Contractor shall have a written description of the QM Program which clearly defines the QM Program's structure and elements, assigns responsibility to

Exhibit A Attachment I
Service, Administrative and Operational Requirements

appropriate individuals, and adopts or establishes quantitative measures to assess performance and to identify and prioritize area(s) for improvement. The QM Program shall be evaluated annually and updated as necessary per Cal. Code Regs., tit. 9, § 1810.440(a)(6) and 42 C.F.R. § 438.240(e).

C. The QM Program shall conduct performance monitoring activities throughout the Contractor's operations. These activities shall include, but not be limited to, beneficiary and system outcomes, utilization management, utilization review, provider appeals, credentialing and monitoring, and resolution of beneficiary grievances.

D. The Contractor shall ensure continuity and coordination of care with physical health care providers. The Contractor shall coordinate with other human services agencies used by its beneficiaries. The Contractor shall assess the effectiveness of any MOU with a physical health care plan.

E. The Contractor shall have mechanisms to detect both underutilization of services and overutilization of services, as required by 42 C.F.R. § 438.240(b)(3).

F. The Contractor shall implement mechanisms to assess beneficiary/family satisfaction. The Contractor shall assess beneficiary/family satisfaction by:

1) Surveying beneficiary/family satisfaction with the Contractor's services at least annually;

2) Evaluating beneficiary grievances, appeals and fair hearings at least annually; and

3) Evaluating requests to change persons providing services at least annually.

4) The Contractor shall inform providers of the results of beneficiary/family satisfaction activities.

G. The Contractor shall implement mechanisms to monitor the safety and effectiveness of medication practices. The monitoring mechanism shall be under the supervision of a person licensed to prescribe or dispense prescription drugs. Monitoring shall occur at least annually.

H. The Contractor shall implement mechanisms to address meaningful clinical issues affecting beneficiaries system-wide.

I. The Contractor shall implement mechanisms to monitor appropriate and timely intervention of occurrences that raise quality of care concerns. The Contractor shall take appropriate follow-up action when such an occurrence is identified. The results of the intervention shall be evaluated by the Contractor at least annually.

Exhibit A Attachment I
Service, Administrative and Operational Requirements

J. The Contractor shall have a QM Work Plan covering the current contract cycle with documented annual evaluations and documented revisions as needed. The QM Work Plan shall include:

1) Evidence of the monitoring activities including, but not limited to, review of beneficiary grievances, appeals, expedited appeals, fair hearings, expedited fair hearings, provider appeals, and clinical records review as required by Cal. Code Regs., tit. 9, § 1810.440(a)(5) and 42 C.F.R. § 438.416;

2) Evidence that QM activities, including performance improvement projects, have contributed to meaningful improvement in clinical care and beneficiary service;

3) A description of completed and in-process QM activities, including performance improvement projects. The description shall include:

a) Monitoring efforts for previously identified issues, including tracking issues over time;

b) Objectives, scope, and planned QM activities for each year; and,

c) Targeted areas of improvement or change in service delivery or program design.

4) A description of mechanisms the Contractor has implemented to assess the accessibility of services within its service delivery area. This shall include goals for responsiveness for the Contractor's 24-hour toll-free telephone number, timeliness for scheduling of routine appointments, timeliness of services for urgent conditions, and access to after-hours care; and

5) Evidence of compliance with the requirements for cultural competence and linguistic competence specified in Cal. Code Regs., tit. 9, § 1810.410.

23. Quality Improvement (QI) Program

A. The Contractor's QI program shall monitor the Contractor's service delivery system with the aim of improving the processes of providing care and better meeting the needs of its beneficiaries.

B. The Contractor shall establish a QI Committee to review the quality of specialty mental health services provided to beneficiaries. The QI Committee shall recommend policy decisions; review and evaluate the results of QI activities, including performance improvement projects; institute needed QI actions; ensure follow-up of QI processes; and document QI Committee meeting minutes regarding decisions and actions taken.

Exhibit A Attachment I
Service, Administrative and Operational Requirements

C. The QI Program shall be accountable to the Contractor's Director as described in Cal. Code Regs., tit. 9, § 1810.440(a)(1).

D. Operation of the QI program shall include substantial involvement by a licensed mental health staff person, as described in Cal. Code. Regs., tit. 9, § 1810.440(a)(4).

E. The QI Program shall include active participation by the Contractor's practitioners and providers, as well as beneficiaries and family members, in the planning, design and execution of the QI Program, as described in Cal. Code. Regs., tit. 9, § 1810.440(a)(2)(A-C).

F. The Contractor shall maintain a minimum of two active Performance Improvement Projects (PIPs) that meet the criteria in 42 C.F.R. § 438.240(b)(1) and (d). Performance improvement projects shall focus on a clinical area, as well as one non-clinical area.

G. QI activities shall include:

1) Collecting and analyzing data to measure against the goals, or prioritized areas of improvement that have been identified;

2) Identifying opportunities for improvement and deciding which opportunities to pursue;

3) Identifying relevant committees internal or external to the Contractor to ensure appropriate exchange of information with the QI Committee;

4) Obtaining input from providers, beneficiaries and family members in identifying barriers to delivery of clinical care and administrative services;

5) Designing and implementing interventions for improving performance;

6) Measuring effectiveness of the interventions;

7) Incorporating successful interventions into the Contractor's operations as appropriate; and

8) Reviewing beneficiary grievances, appeals, expedited appeals, fair hearings, expedited fair hearings, provider appeals, and clinical records review as required by Cal. Code Regs., tit. 9, § 1810.440(a)(5).

24. Utilization Management (UM) Program

A. The Utilization Management Program shall be responsible for assuring that beneficiaries have appropriate access to specialty mental health services as required in Cal. Code Regs., tit. 9, § 1810.440(b)(1)-(3).

Exhibit A Attachment I
Service, Administrative and Operational Requirements

B. The Utilization Management (UM) Program shall evaluate medical necessity, appropriateness and efficiency of services provided to Medi-Cal beneficiaries prospectively or retrospectively.

C. The Contractor shall implement mechanisms to assess the capacity of service delivery for its beneficiaries. This includes monitoring the number, type, and geographic distribution of mental health services within the Contractor's delivery system.

D. The Contractor shall implement mechanisms to assess the accessibility of services within its service delivery area. This shall include the assessment of responsiveness of the Contractor's 24 hour toll-free telephone number, timeliness of scheduling routine appointments, timeliness of services for urgent conditions, and access to after-hours care.

25. Practice Guidelines

The Contractor shall comply with 42 C.F.R. § 438.236(b) and Cal. Code Regs., tit. 9, § 1810.326 which requires the adoption of practice guidelines.

A. Such guideline shall meet the following requirements:

1) They are based on valid and reliable clinical evidence or a consensus of health care professionals in the applicable field;

2) They consider the needs of the beneficiaries;

3) They are adopted in consultation with contracting health care professionals; and

4) They are reviewed and updated periodically as appropriate.

B. Contractor shall disseminate the guidelines to all affected providers and, upon request, to beneficiaries and potential beneficiaries.

C. Contractor shall take steps to assure that decisions for utilization management, beneficiary education, coverage of services, and any other areas to which the guidelines apply shall be consistent with the guidelines.

Exhibit A Attachment II
Definitions

The definitions contained in Cal. Code Regs., tit. 9, § 1810.100 et. seq. shall apply in this contract.

A. "Beneficiary" means a Medi-Cal recipient who is currently receiving services from the Contractor.

B. "Contractor" means Inyo County Mental Health.

C. "Covered Specialty Mental Health Services" means mental health services, medication support services, day treatment intensive, day rehabilitation, crisis intervention, crisis stabilization, adult residential treatment services, crisis residential services, psychiatric health facility services, and targeted case management as described in California's Medicaid State Plan and as defined in Cal. Code Regs., tit. 9, § 1810.247, to the extent described in Cal. Code Regs., tit. 9, § 1810.345. Covered Specialty Mental Health Services also include psychiatric inpatient hospital services as defined in Cal. Code Regs., tit. 9, § 1810.238, and Early and Periodic Screening, Diagnosis and Treatment (EPSDT) Supplemental Specialty Mental Health Services as defined in Cal. Code Regs., tit. 9, § 1810.215. Psychiatric nursing facility services are not included.

D. "Department" means the California Department of Health Care Services (DHCS).

E. "Director" means the Director of DHCS.

F. "HHS" means the United States Department of Health and Human Service

G. "PIHP" means Prepaid Inpatient Health Plan as described in 42 C.F.R. § 438.2. A PIHP is an entity that:

1) Provides medical services to beneficiaries under contract with the Department of Health Care Services, and on the basis of prepaid capitation payments, or other payment arrangement that does not use state plan rates;

2) Provides, arranges for, or otherwise has responsibility for the provision of any inpatient hospital or institutional services for its beneficiaries; and

3) Does not have a comprehensive risk contract.

H. "Subcontract" means an agreement entered into by the Contractor with any of the following:

1) A provider of specialty mental health services who agrees to furnish covered services to beneficiaries.

Exhibit A Attachment II
Definitions

2) Any other organization or person who agrees to perform any administrative function or service for the Contractor specifically related to securing or fulfilling the Contractor's obligations to the Department under the terms of this contract.

Exhibit B
Budget Detail and Payment Provisions

1. Payment Provisions

This program may be funded using one or more of the following funding sources: funds distributed to the counties from the Mental Health Subaccount, the Mental Health Equity Subaccount, and the Vehicle License Collection Account of the Local Revenue Fund, funds from the Mental Health Account and the Behavioral Health Subaccount of the Local Revenue Fund 2011, funds from the Mental Health Services Fund, and any other funds from which the Controller makes distributions to the counties in compliance with applicable statute and regulations including Welf. & Inst. Code §§ 5891, 5892 and 14705(a)(2). These funding sources may be used by the Contractor to pay for services and then certify as public expenditures in order to be reimbursed federal funds.

2. Budget Contingency Clause

This provision is a supplement to provision number nine (Federal Contract Funds) in Exhibit D(F) which is attached hereto as part of this agreement.

A. Federal Budget

If federal funding for FFP reimbursement in relation to this contract is eliminated or substantially reduced by Congress, the Department and the Contractor each shall have the option either to cancel this contract or to propose a contract amendment to address changes to the program required as a result of the elimination or reduction of federal funding.

B. Delayed Federal Funding

Contractor and Department agree to consult with each other on interim measures for program operation that may be required to maintain adequate services to beneficiaries in the event that there is likely to be a delay in the availability of federal funding.

3. Federal Financial Participation

Nothing in this contract shall limit the Contractor's ability to submit claims for appropriate FFP reimbursement based on actual, total fund expenditures for any covered services or quality assurance, utilization review, Medi-Cal Administrative Activities and/or administrative costs. In accordance the Welf. & Inst. Code § 14705(c), the Contractor shall ensure compliance with all requirements necessary for Medi-Cal reimbursement for these services and activities. Claims for FFP reimbursement shall be submitted by the Contractor to the Department for adjudication throughout the fiscal year. Pursuant to the Welf. & Inst. Code § 14705(d), the Contractor shall certify to the state that it has incurred public expenditures prior to requesting the reimbursement of federal funds.

Exhibit B
Budget Detail and Payment Provisions

4. Cost Reporting

A. The Contractor shall submit a fiscal year-end cost report no later than December 31 following the close of each fiscal year unless that date is extended by the Department, in accordance with the Welf. & Inst. Code § 14705(c), and/or guidelines established by the Department. Data submitted shall be full and complete and the cost report shall be certified by the Contractor's Mental Health Director and one of the following: (1) the Contractor's chief financial officer (or equivalent), (2) an individual who has delegated authority to sign for, and reports directly to, the Contractor's chief financial officer, or (3) the Contractor's auditor-controller, or equivalent. The cost report shall include both Contractor's costs and the cost of its subcontractors, if any. The cost report shall be completed in accordance with instructions contained in the Department's Cost and Financial Reporting System Instruction Manual which can be accessed through the Department's Information Technology Web Services (ITWS) for the applicable year, as well as any instructions that are incorporated by reference thereto; however, to the extent that the Contractor disagrees with such instructions, it may raise that disagreement in writing with the Department at the time the cost report is filed, and shall have the right to appeal such disagreement pursuant to procedures developed under the Welf. & Inst. Code § 14171.

B. In accordance with Welf. & Inst. Code § 5655 , the Department shall provide technical assistance and consultation to the Contractor regarding the preparation and submission of timely cost reports. If the Contractor does not submit the cost report by the reporting deadline, including any extension period granted by the Department, the Department, in accordance with Welf.& Inst. Code § 14712(e), may withhold payments of additional funds until the cost report that is due has been submitted.

C. Upon receipt of an amended cost report, which includes reconciled units of service, and a certification statement that has been signed by the Contractor's Mental Health Director and one of the following: 1) the Contractor's Chief Financial Officer (or equivalent), (2) an individual who has delegated authority to sign for, and reports directly to the Contractor's Chief Financial Officer, or (3) the county's auditor controller, or equivalent, the Department shall preliminarily settle the cost report. After completing its preliminary settlement, the Department shall so notify the Contractor if additional FFP is due to the Contractor. The Department shall submit a claim to the federal government for the related FFP within 30 days contingent upon sufficient budget authority. If funds are due to the State, the Department shall invoice the Contractor and the Contractor shall return the overpayment to the Department.

5. Audits and Recovery of Overpayments

A. Pursuant to Welf. & Inst. Code § 14707, in the case of federal audit exceptions, the Department will follow federal audit appeal processes unless the Department, in

Exhibit B
Budget Detail and Payment Provisions

consultation with the California Mental Health Director's Association, determines that those appeals are not cost beneficial.

1) Whenever there is a final federal audit exception against the State resulting from a claim for federal funds for an expenditure by individual counties that is not federally allowable, the department may offset federal reimbursement and request the Controller's office to offset the distribution of funds to the Contractor from the Mental Health Subaccount, the Mental Health Equity Subaccount and the Vehicle License Collection Account of the Local Revenue Fund; funds from the Mental Health Account and the Behavioral Health Subaccount of the Local Revenue Fund 2011; and any other mental health realignment funds from which the Controller makes distributions to the counties by the amount of the exception. The Department shall provide evidence to the Controller that the county had been notified of the amount of the audit exception no less than 30 days before the offset is to occur.

2) The Department will involve the Contractor in developing responses to any draft federal audit reports that directly impact the county.

B. Pursuant to Welf. & Inst. Code § 14718(b)(2), the Department may offset the amount of any federal disallowance, audit exception, or overpayment against subsequent claims from the Contractor.

1) The Department may offset the amount of any state disallowance, audit exception, or overpayment for fiscal years through and including 2010-11 against subsequent claims from the Contractor.

2) Offsets may be done at any time, after the department has invoiced or otherwise notified the Contractor about the audit exception, disallowance, or overpayment. The Department shall determine the amount that may be withheld from each payment to the mental health plan.

3) The maximum withheld amount shall be 25 percent of each payment as long as the Department is able to comply with the federal requirements for repayment of FFP pursuant 42 United States Code (U.S.C.) §1396b(d)(2)). The Department may increase the maximum amount when necessary for compliance with federal laws and regulations.

C. Pursuant to the Welf. & Inst. Code § 14170 , cost reports submitted to the Department are subject to audit in the manner and form prescribed by the Department. The year-end cost report shall include both Contractor's costs and the costs of its subcontractors, if any. Contractor and its subcontractors shall be subject to audits and/or reviews, including client record reviews, by the Department. In accordance with the Welf. & Inst. Code § 14170 , any audit of Contractor's cost report shall occur within three years of the date of receipt by the Department of the final cost report with signed certification by the Contractor's Mental Health Director and one of the following: (1) the Contractor's Chief

Exhibit B
Budget Detail and Payment Provisions

Financial Officer (or equivalent), (2) an individual who has delegated authority to sign for, and reports directly to the Contractor's Chief Financial Officer, or (3) the county auditor controller, or equivalent. Both signatures are required before the cost report shall be considered final. For purposes of this section, the cost report shall be considered audited once the Department has informed the Contractor of its intent to disallow costs on the cost report, or once the Department has informed the Contractor of its intent to close the audit without disallowances.

D. If the adjustments result in the Department owing FFP to the Contractor, the Department shall submit a claim to the federal government for the related FFP within 30 days contingent upon sufficient budget authority.

6. Claims Adjudication Process

A. In accordance with the Welf. & Inst. Code §14705(c), claims for federal funds in reimbursement for services shall comply with eligibility and service requirements under applicable federal and state law.

B. The Contractor shall certify each claim submitted to the Department in accordance with Cal. Code Regs., tit. 9, § 1840.112 and 42 C.F.R. § 433.51, at the time the claims are submitted to the Department. The Contractor's Chief Financial Officer or his or her equivalent, or an individual with authority delegated by the county auditor-controller, shall sign the certification, declaring, under penalty of perjury, that the Contractor has incurred an expenditure to cover the services included in the claims to satisfy the requirements for FFP. The Contractor's Mental Health Director or an individual with authority delegated by the Mental Health Director shall sign the certification, declaring, under penalty of perjury that, to the best of his or her knowledge and belief, the claim is in all respects true, correct, and in accordance with the law and meets the requirements of Cal. Code Regs., tit. 9, § 1840.112(b). The Contractor shall have mechanisms that support the Mental Health Director's certification, including the certification that the services for which claims were submitted were actually provided to the beneficiary. If the Department requires additional information from the Contractor that will be used to establish Department payments to the Contractor, the Contractor shall certify that the additional information provided is in accordance with 42 C.F.R. § 438.604.

C. Claims not meeting federal and/or state requirements shall be returned to Contractor as not approved for payment, along with a reason for denial. Claims meeting all Health Insurance Portability and Accountability Act (HIPAA) transaction requirements and any other applicable federal or state privacy laws or regulations and certified by the Contractor in accordance with Cal. Code Regs., tit. 9, § 1840.112, shall be processed for adjudication.

D. Good cause justification for late claim submission is governed by applicable federal and state laws and regulations and is subject to approval by the Department.

Exhibit B
Budget Detail and Payment Provisions

E. In the event that the Department or the Contractor determines that changes requiring a change in the Contractor's or Department's obligation must be made relating to either the Department's or the Contractor's claims submission and adjudication systems due to federal or state law changes or business requirements, both the Department and the Contractor agree to provide notice to the other party as soon as practicable prior to implementation. This notice shall include information and comments regarding the anticipated requirements and impacts of the projected changes. The Department and the Contractor agree to meet and discuss the design, development, and costs of the anticipated changes prior to implementation.

F. The Contractor shall comply with Cal. Code Regs., tit. 9, § 1840.304, when submitting claims for FFP for services billed by individual or group providers. The Contractor shall submit service codes from the Health Care Procedure Coding System (HCPCS) published in the most current Mental Health Medi-Cal billing manual.

7. Payment Data Certification

Contractor shall certify the data it provides to the Department to be used in determining payment of FFP to the Contractor, in accordance with 42 C.F.R. §§ 438.604 and 438.606.

8. System Changes

In the event changes in federal or state law or regulations, including court decisions and interpretations, necessitate a change in either the fiscal or program obligations or operations of the Contractor or the Department, or a change in obligation for the cost of providing covered services the Department and the Contractor agree to negotiate, pursuant to the Welf. & Inst. Code § 14714(c) regarding (a) changes required to remain in compliance with the new law or changes in existing obligations, (b) projected programmatic and fiscal impacts, (c) necessary contract amendments. To the extent that contract amendments are necessary, the parties agree to act to ensure appropriate amendments are made to accommodate any changes required by law or regulation.

9. Administrative Reimbursement

A. The Contractor may submit claims for reimbursement of Medical Administrative Activities (MAA) pursuant to Welf. & Inst. Code § 14132.47. The Contractor shall not submit claims for MAA unless it has submitted a claiming plan to the Department which was approved by the Department and is effective during the quarter in which the costs being claimed were incurred. In addition, the Contractor shall not submit claims for reimbursements of MAA that are not consistent with the Contractor's approved MAA claiming plan. The Contractor shall not use the relative value methodology to report its MAA costs on the year-end cost report. Rather, the Contractor shall calculate and report MAA units on the cost report by multiplying the amount of time (minutes, hours, etc.) spent on MAA activities by the

Exhibit B
Budget Detail and Payment Provisions

salary plus benefits of the staff performing the activity and then allocating indirect administrative and other appropriately allocated costs.

B. Pursuant to the Welf. & Inst. Code § 14711(c), administrative costs shall be claimed separately in a manner consistent with federal Medicaid requirements and the approved Medicaid state plans and waivers and shall be limited to 15 percent of the total actual cost of direct client services. The cost of performing quality assurance and utilization review activities shall be reimbursed separately and shall not be included in administrative costs.

10. Notification of Request for Contract Amendment

In addition to the provisions in Exhibit E, Additional Provisions, both parties agree to notify the other party whenever an amendment to this contract is to be requested so that informal discussion and consultation can occur prior to a formal amendment process.

Exhibit E
Additional Provisions

1. Amendment Process

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

2. Cancellation/Termination

A. General Provisions

1) As required by Welf. & Inst. Code § 14712, if the Contractor decides not to contract with the Department, does not renew its contract, or is unable to meet the standards set by the Department, the Contractor agrees to inform the Department of this decision in writing.

2) If the Contractor is unwilling to contract for the delivery of specialty mental health services or if the Department or Contractor determines that the Contractor is unable to adequately provide specialty mental health services or that the Contractor does not meet the standards the Department deems necessary for a mental health plan, the Department shall ensure that specialty mental health services are provided to Medi-Cal beneficiaries.

3) The Department may contract with qualifying individual counties, counties acting jointly, or other qualified entities approved by the Department for the delivery of specialty mental health services in any county that is unable or unwilling to contract with the Department. The Contractor may not subsequently contract to provide specialty mental health services unless the Department elects to contract with the Contractor.

4) If the Contractor does not contract with the Department to provide specialty mental health services, the Department will work with the Department of Finance and the Controller to obtain funds from the Contractor in accordance with Government (Govt.) Code 30027.10.

B. Contract Renewal

1) Pursuant to Welf. & Inst. Code § 14714(b), this contract may be renewed if the Contractor continues to meet the statutory and regulatory requirements governing this contract, as well as the terms and conditions of this contract. Failure to meet these requirements shall be cause for nonrenewal of the contract. The Department may base the decision to renew on timely

Exhibit E
Additional Provisions

completion of a mutually agreed-upon plan of correction of any deficiencies, submissions of required information in a timely manner, and/or other conditions of the contract.

2) In the event the contract is not renewed based on the reasons specified in (1), the Department will notify the Department of Finance, the fiscal and policy committees of the Legislature, and the Controller of the amounts to be sequestered from the Mental Health Subaccount, the Mental Health Equity Account, and the Vehicle License Fee Collection Account of the Local Revenue Fund and the Mental Health Account and the Behavioral Health Subaccount of the Local Revenue Fund 2011, and the Controller will sequester those funds in the Behavioral Health Subaccount pursuant to Govt. Code § 30027.10. Upon this sequestration, the Department will use the funds in accordance with Govt. Code § 30027.10

C. Contract Amendment Negotiations

Should either party during the life of this contract desire a change in this contract, such change shall be proposed in writing to the other party. The other party shall acknowledge receipt of the proposal in writing within 10 days and shall have 60 days (or such different period as the parties mutually may set) after receipt of such proposal to review and consider the proposal, to consult and negotiate with the proposing party, and to accept or reject the proposal. Acceptance or rejection may be made orally within the 60-day period, and shall be confirmed in writing within five days thereafter. The party proposing any such change shall have the right to withdraw the proposal at any time prior to acceptance or rejection by the other party. Any such proposal shall set forth a detailed explanation of the reason and basis for the proposed change, a complete statement of costs and benefits of the proposed change and the text of the desired amendment to this contract that would provide for the change. If the proposal is accepted, this contract shall be amended to provide for the change mutually agreed to by the parties on the condition that the amendment is approved by the Department of General Services, if necessary.

D. Contract Termination

The Department or the Contractor may terminate this contract in accordance with Cal. Code Regs., tit. 9, § 1810.323.

1) DHCS reserves the right to cancel or terminate this Agreement immediately for cause.

2) The term "for cause" shall mean that the Contractor fails to meet the terms, conditions, and/or responsibilities of this Agreement.

Exhibit E
Additional Provisions

3) Agreement termination or cancellation shall be effective as of the date indicated in DHCS' notification to the Contractor. The notice shall identify any final performance, invoicing or payment requirements.

4) Upon receipt of a notice of termination or cancellation, the Contractor shall take immediate steps to stop performance and to cancel, or if cancelation is not possible reduce, subsequent agreement costs.

5) In the event of early termination or cancellation, the Contractor shall be entitled to payment for all allowable costs authorized under this Agreement and incurred up to the date of termination or cancellation, including authorized non-cancelable obligations, provided such expenses do not exceed the stated maximum amounts payable.

6) Pursuant to the Welf. & Inst. Code § 14714(d), the Department will immediately terminate a contract when the director finds that there is an immediate threat to the health and safety of Medi-Cal beneficiaries. Termination of the contract for other reasons will be subject to reasonable notice to the Contractor of the Department's intent to terminate, as well as notification to affected beneficiaries.

E. Termination of Obligations

1) All obligations to provide covered services under this contract shall automatically terminate on the effective date of any termination of this contract. The Contractor shall be responsible for providing covered services to beneficiaries until the termination or expiration of the contract and shall remain liable for the processing and payment of invoices and statements for covered services provided to beneficiaries prior to such expiration or termination.

2) When Contractor terminates a subcontract with a provider, Contractor shall make a good faith effort to provide notice of this termination, within 15 days, to the persons that Contractor, based on available information, determines have recently been receiving services from that provider.

F. Contract Disputes

Should a dispute arise between the Contractor and the Department relating to performance under this contract, other than disputes governed by a dispute resolution process in Chapter 11 of Division 1, Cal. Code Regs., tit. 9, or the processes governing the audit appeals process in Chapter 9 of Division 1, Cal. Code Regs., tit. 9 the Contractor shall follow the Dispute Resolution Process outlined in provision number 15 of Exhibit D(F) which is attached hereto as part of this agreement.

Exhibit E
Additional Provisions

3. Fulfillment of Obligation

No covenant, condition, duty, obligation, or undertaking continued or made a part of this contract shall be waived except by written agreement of the parties hereto, and forbearance or indulgence in any other form or manner by either party in any regard whatsoever will not constitute a waiver of the covenant, condition, duty, obligation, or undertaking to be kept, performed or discharged by the party to which the same may apply. Until performance or satisfaction of all covenants, conditions, duties, obligations, and undertakings is complete, the other party shall have the right to invoke any remedy available under this contract, or under law, notwithstanding such forbearance or indulgence.

4. Additional Provisions

A. Inspection Rights

The Contractor shall allow the Department, DHCS, HHS, the Comptroller General of the United States, and other authorized federal and state agencies, or their duly authorized representatives, to inspect or otherwise evaluate the quality, appropriateness, and timeliness of services performed under this contract, and to inspect, evaluate, and audit any and all books, records, and facilities maintained by the Contractor and its subcontractors pertaining to such services at any time during normal business hours. Books and records include, but are not limited to, all physical records originated or prepared pursuant to the performance under this contract including working papers, reports, financial records and books of account, beneficiary records, prescription files, subcontracts, and any other documentation pertaining to covered services and other related services for beneficiaries. Upon request, at any time during the period of this contract, the Contractor shall furnish any such record, or copy thereof, to the Department, DHCS, or HHS. Authorized agencies shall maintain the confidentiality of such books and records in accordance with applicable laws and regulations.

B. Notices

Unless otherwise specified in this contract, all notices to be given under this contract shall be in writing and shall be deemed to have been given when mailed, to the Department or the Contractor at the following addresses, unless the contract explicitly requires notice to another individual or organizational unit:

Department of Health Care Services
Mental Health Services Division
1500 Capitol Avenue, MS 2702
P.O. Box 997413
Sacramento, CA 95899-7413

Inyo County Mental Health
162 J Grove Street
Bishop, CA 93514

C. Nondiscrimination

Exhibit E
Additional Provisions

1) Consistent with the requirements of applicable federal law such as 42 C.F.R. §§ 438.6(d)(3) and (4) or state law, the Contractor shall not engage in any unlawful discriminatory practices in the admission of beneficiaries, assignments of accommodations, treatment, evaluation, employment of personnel, or in any other respect on the basis of race, color, gender, religion, marital status, national origin, age, sexual preference or mental or physical handicap. The Contractor will not discriminate against beneficiaries on the basis of health status or need for health care services, pursuant to 42 C.F.R. § 438.6(d)(3).

2) The Contractor shall comply with the provisions of Section 504 of the Rehabilitation Act of 1973, as amended, pertaining to the prohibition of discrimination against qualified handicapped persons in all federally assisted programs or activities, as detailed in regulations signed by the Secretary of Health and Human Services, effective June 2, 1977, and found in the Federal Register, Volume 42, No. 86, dated May 4, 1977.

3) The Contractor shall include the nondiscrimination and compliance provisions of this contract in all subcontracts to perform work under this contract.

4) Notwithstanding other provisions of this section, the Contractor may require a determination of medical necessity pursuant to Cal. Code Regs., tit. 9, §§ 1820.205, 1830.205 and/or 1830.210, prior to providing covered services to a beneficiary.

D. Patients' Rights

1) The parties to this contract shall comply with applicable laws and regulations relating to patients' rights, including but not limited to Welfare and Institutions Code 5325, Cal. Code Regs., tit. 9, §§ 860 through 868, and 42 C.F.R. § 438.100. The Contractor shall ensure that its subcontractors comply with these provisions.

2) Pursuant to 42 C.F.R. § 438.100, the Contractor shall have written policies regarding the beneficiary rights specified in this section and ensure that its staff and subcontract providers take those rights into account when providing services, including the right to:

   a) Receive information in accordance with 42 C.F.R. § 438.10.

   b) Be treated with respect and with due consideration for his or her dignity and privacy.

   c) Receive information on available treatment options and alternatives, presented in a manner appropriate to the beneficiary's condition and ability to understand.

Exhibit E
Additional Provisions

d) Participate in decisions regarding his or her health care, including the right to refuse treatment.

e) Be free from any form of restraint or seclusion used as a means of coercion, discipline, convenience, or retaliation.

f) Request and receive a copy of his or her medical records, and to request that they be amended or corrected, as specified in 45 C.F.R. §§ 164.524 and 164.526.

g) To be furnished services in accordance with 42 C.F.R. §§ 438.206 through 438.210.

h) To freely exercise his or her rights, and the exercise of those rights will not adversely affect the way the Contractor and its providers or the Department treat the beneficiary.

E. Relationship of the Parties

The Department and the Contractor are, and shall at all times be deemed to be, independent agencies. Each party to this contract shall be wholly responsible for the manner in which it performs the obligations and services required of it by the terms of this contract. Nothing herein contained shall be construed as creating the relationship of employer and employee, or principal and agent, between the parties or any of their agents or employees. Each party assumes exclusively the responsibility for the acts of its employees or agents as they relate to the services to be provided during the course and scope of their employment. The Department and its agents and employees shall not be entitled to any rights or privileges of the Contractor's employees and shall not be considered in any manner to be Contractor employees. The Contractor and its agents and employees, shall not be entitled to any rights or privileges of state employees and shall not be considered in any manner to be state employees.

F. Waiver of Default

Waiver of any default shall not be deemed to be a waiver of any subsequent default. Waiver of breach of any provision of this agreement shall not be deemed to be a waiver of any other or subsequent breach, and shall not be construed to be a modification of the terms of this contract.

5. Duties of the State

In discharging its obligations under this contract, and in addition to the obligations set forth in other parts of this contract, the Department shall perform ~~the following duties:~~

A. Payment for Services

Exhibit E
Additional Provisions

The Department shall make the appropriate payments set forth in Exhibit B and take all available steps to secure and pay FFP to the Contractor, once the Department receives FFP, for claims submitted by the Contractor. The Department shall notify Contractor and allow Contractor an opportunity to comment to the Department when questions are posed by CMS, or when there is a federal deferral, withholding, or disallowance with respect to claims made by the Contractor.

B. Reviews

The Department shall conduct reviews of access to and quality of care in Contractor's county at least once every three years and issue reports to the Contractor detailing findings, recommendations, and corrective action, as appropriate, pursuant to Cal. Code Regs., tit. 9, §§ 1810.380 and 1810.385. The Department shall also arrange for an annual external quality review of the Contractor as required by 42 C.F.R. § 438.204(d) and Cal. Code Regs., tit. 9, § 1810.380(a)(7).

C. Monitoring for Compliance

The Department shall monitor the Contractor's operations for compliance with the provisions of this contract, and applicable federal and state law and regulations. Such monitoring activities shall include, but not be limited to, inspection and auditing of Contractor facilities, management systems and procedures, and books and records, as the Department deems appropriate, at any time during the Contractor's or facility's normal business hours. When monitoring activities identify areas of non-compliance, the Department shall issue reports to the Contractor detailing findings, recommendations, and corrective action. Failure to comply with required corrective action could lead to civil penalties, as appropriate, pursuant to Cal. Code Regs., tit. 9, §§ 1810.380 and 1810.385.

D. The Department shall review and either approve, disapprove, or request additional information for each Implementation Plan as defined in Cal. Code Regs., tit. 9, §§ 1810.221 and 1810.310 . Notices of Approval, Notices of Disapproval and requests for additional information shall be forwarded to the Contractor within 60 days of the receipt of the Implementation Plan. A Contractor shall submit proposed changes to its approved Implementation Plan in writing to the Department for review. A Contractor shall submit proposed changes in the policies, processes or procedures that would modify the Contractor's current Implementation Plan prior to implementing the proposed changes.(See Cal. Code Regs., tit. 9, § 1810.310 (b)-(c)).

E. The Department shall act promptly to review the Contractor's Cultural Competence Plan submitted pursuant to Cal. Code Regs., tit. 9, § 1810.410. The Department shall provide a Notice of Approval or a Notice of Disapproval, including the reasons for the disapproval, to the Contractor within 60 calendar days after receipt of the

Exhibit E
Additional Provisions

plan from the Contractor. If the Department fails to provide a Notice of Approval or Disapproval, the Contractor may implement the plan 60 calendar days from its submission to the Department.

F. Certification of Organizational Provider Sites Owned or Operated by the Contractor

1) The Department shall certify the organizational provider sites that are owned, leased or operated by the Contractor, in accordance with Cal. Code Regs., tit. 9, § 1810.435, and the requirements specified in Exhibit B, Section 4 of this contract. This certification shall be performed prior to the date on which the Contractor begins to deliver services under this contract at these sites and once every three years after that date, unless the Department determines an earlier date is necessary. The on-site review required by Cal. Code Regs., tit. 9, § 1810.435(e), shall be conducted of any site owned, leased, or operated by the Contractor and used for to deliver covered services to beneficiaries, except that on-site review is not required for public school or satellite sites.

2) The Department may allow the Contractor to begin delivering covered services to beneficiaries at a site subject to on-site review by the Department prior to the date of the on-site review, provided the site is operational and has any required fire clearances. The earliest date the Contractor may begin delivering covered services at a site subject to on site review by the Department is the date the Contractor requested certification of the site in accordance with procedures established by the Department, the date the site was operational, or the date a required fire clearance was obtained, whichever date is latest.

3) The Department may allow the Contractor to continue delivering covered services to beneficiaries at a site subject to on-site review by the Department as part of the recertification process prior to the date of the on-site review, provided the site is operational and has all required fire clearances.

4) Nothing in this section precludes the Department from establishing procedures for issuance of separate provider identification numbers for each of the organizational provider sites operated by the Contractor to facilitate the claiming of FFP by the Contractor and the Department's tracking of that information.

G. Distribution of Informing Materials

The Department shall provide annual notice to all beneficiaries in accordance with 42 C.F.R. § 438.10(f)(2), and Cal. Code Regs., tit. 9, § 1810.360(c).

H. Sanctions

Exhibit E
Additional Provisions

The Department shall conduct oversight and impose sanctions on the Contactor for violations of the terms of this contract, and applicable federal and state law and regulations, in accordance with Welf. & Inst. Code § 14712(e) and Cal. Code Regs., tit. 9, §§ 1810.380 and 1810.385.

I. Notification

The Department shall notify beneficiaries of their Medi-Cal specialty mental health benefits and options available upon termination or expiration of this contract.

J. Performance Measurement

The Department shall measure the Contractor's performance based on Medi-Cal approved claims and other data available to the Department using standard measures established by the Department in consultation with stakeholders.

6. State and Federal Law Governing this Contract

A. Contractor agrees to comply with all applicable federal and state law, including the applicable sections of the state plan and waiver, particularly the statutes and regulations incorporated by reference below, in its provision of services as the Mental Health Plan. The Department will notify Contractor of any changes to these statutes and regulations. Contractor agrees to comply with any changes to these statutes and regulations that may occur during the contract period and any new applicable statutes or regulations, but either the Department or Contractor may request consultation and discussion of new or changed statutes or regulations, including whether contract amendments may be necessary.

B. Pursuant to Welf. & Inst. Code § 14704, a regulation or order concerning Medi-Cal specialty mental health services adopted by the State Department of Mental Health pursuant to Division 5 (commencing with Section 5000), as in effect preceding the effective date of this section, shall remain in effect and shall be fully enforceable, unless and until the readoption, amendment, or repeal of the regulation or order by DHCS, or until it expires by its own terms.

C. Specifically, the following federal law applies to this contract:

1) Title 42 United States Code, to the extent that these requirements are applicable

2) 42 C.F.R. to the extent that these requirements are applicable;

3) 42 C.F.R. § 438 – Managed Care, limited to those provisions that apply to Prepaid Inpatient Health Plans (PIHP);

4) 45 C.F.R. §§ 160 and 164to the extent that these requirements are applicable;

Exhibit E
Additional Provisions

5) Title VI of the Civil Rights Act of 1964;

6) Title IX of the Education Amendments of 1972;

7) Age Discrimination Act of 1975;

8) Rehabilitation Act of 1973;

9) Titles II and III of the Americans with Disabilities Act;

10) Deficit Reduction Act of 2005;

11) Balanced Budget Act of 1997.

12) The Contractor shall comply with the provisions of the Copeland Anti-Kickback Act, which requires that all contracts and subcontracts in excess of $2000 for construction or repair awarded by the Contractor and its subcontractors shall include a provision for compliance with the Copeland Anti-Kickback Act.

13) The Contractor shall comply with the provisions of the Davis-Bacon Act, as amended, which provides that, when required by Federal Medicaid program legislation, all construction contracts awarded by the Contractor and its subcontractors of more than $2,000 shall include a provision for compliance with the Davis-Bacon Act as supplemented by Department of Labor regulations.

14) The Contractor shall comply with the provisions of the Contract Work Hours and Safety Standards Act, as applicable, which requires that all subcontracts awarded by the Contractor in excess of $2,000 for construction and in excess of $2,500 for other subcontracts that involve the employment of mechanics or laborers shall include a provision for compliance with the Contract Work Hours and Safety Standards Act.

D. State Law:

1) Division 5, Welf. & Inst. Code, to the extent that these requirements are applicable to the services and functions set forth in this contract

2) Welf. & Inst. Code §§ 5779-5782

3) Welf. & Inst. Code §§ 14680-14685.1

4) Welf. & Inst. Code §§ 14700-14726

Exhibit E
Additional Provisions

5) Chapter 7, Division 9, Welf. & Inst. Code, to the extent that these requirements are applicable to the services and functions set forth in this contract

6) Cal. Code Regs., tit. 9, § 1810.100 et. seq. – Medi-Cal Specialty Mental Health Services

7) Cal. Code Regs., tit. 22, §§ 50951 and 50953

8) Cal. Code Regs., tit. 22, §§ 51014.1 and 51014.2

EXHIBIT F

Privacy and Information Security Provisions

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

Exhibit F consists of the following parts:

A. Part I, HIPAA Business Associate Addendum, which provides for the privacy and security of PHI.

B. Part II, which provides for the privacy and security of PI in accordance with specified provisions of the IEA and the Computer Matching and Privacy Protection Act Agreement between the Social Security Administration and the California Health and Human Services Agency (Computer Agreement) to the extent Contractor access, receives, or transmits PI under these Agreements. Exhibit F, Part II, further provides for the privacy and security of PI as defined under Civil Code §§ 1798.3(a) and 1798.29. These terms of the California Information Practices Act (CIPA) are included here because they do not apply to counties directly, and the statute requires the Department to contractually extend these CIPA terms to contractors if they use the Department's PI to accomplish a function for the Department.

C. Part III, Miscellaneous Provision, sets forth additional terms and conditions that extend to the provisions of Exhibit F in its entirety.

EXHIBIT F

Privacy and Information Security Provisions

Part I: HIPAA Business Associate Addendum

1. Recitals

A. A business associate relationship under the Health Insurance Portability and Accountability Act of 1996, Public Law 104-191 ("HIPAA"), the Health Information Technology for Economic and Clinical Health Act, Public Law 111-005 ('the HITECH Act"), 42 U.S.C. § 17921 et seq., and their implementing privacy and security regulations at 45 C.F.R. Parts 160 and 164 ("the HIPAA regulations") between Department and Contractor arises only to the extent that Contractor performs functions or activities on behalf of the Department pursuant to this Agreement that are described in the definition of "business associate" in 45 C.F.R. § 160.103, including but not limited to utilization review, quality assurance, or benefit management.

B. The Department wishes to disclose to Contractor certain information pursuant to the terms of this Agreement, some of which may constitute Protected Health Information ("PHI"), including protected health information in electronic media ("ePHI"), under federal law, to be used or disclosed in the course of providing services and activities as set forth in Section 1.A. of Exhibit F, Part I of this Agreement. This information is hereafter referred to as "Department PHI".

C. To the extent Contractor performs the services, functions and activities on behalf of Department as set forth in Section 1.A. of Exhibit F, Part I of this Agreement, Contractor is the Business Associate of the Department acting on the Department's behalf and provides services, arranges, performs or assists in the performance of functions or activities on behalf of the Department and creates, receives, maintains, transmits, uses or discloses PHI and ePHI in the provision of such services or in the performance of such functions or activities. The Department and Contractor are each a party to this Agreement and are collectively referred to as the "parties."

D. The purpose of this Part I is to protect the privacy and security of the PHI and ePHI that may be created, received, maintained, transmitted, used or disclosed pursuant to this Agreement, and to comply with certain standards and requirements of HIPAA, the HITECH Act and the HIPAA regulations, including, but not limited to, the requirement that the Department must enter into a contract containing specific requirements with Contractor prior to the disclosure of PHI to Contractor, as set forth in 45 C.F.R. Parts 160 and 164 and the HITECH Act.

E. The terms used in this Part I, but not otherwise defined, shall have the same meanings as those terms have in the HIPAA regulations. Any reference to statutory or regulatory language shall be to such language as in effect or as amended.

EXHIBIT F
Privacy and Information Security Provisions

2. Definitions

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

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

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

D. Department PHI shall mean Protected Health Information or Electronic Protected Health Information, as defined below, accessed by Contractor in a database maintained by the Department, received by Contractor from the Department or acquired or created by Contractor in connection with performing the functions, activities and services on behalf of the Department as specified in Section 1.A. of Exhibit F, Part I of this Agreement. The terms PHI as used in this document shall mean Department PHI.

E. Electronic Health Records hall have the meaning given to such term in the HITECH Act, including, but not limited to, 42 U.S.C. § 17921 and implementing regulations.

F. Electronic Protected Health Information (ePHI) means individually identifiable health information transmitted by electronic media or maintained in electronic media, including but not limited to electronic media as set forth under 45 C.F.R. § 160.103.

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

H. Privacy Rule shall mean the HIPAA Regulations that are found at 45 C.F.R. Parts 160 and 164, Subparts A and E.

I. Protected Health Information (PHI) means individually identifiable health information that is transmitted by electronic media, maintained in electronic media, or is transmitted or maintained in any other form or medium, as set forth under 45 C.F.R. § 160.103 and as defined under HIPAA.

EXHIBIT F
Privacy and Information Security Provisions

J. Required by law, as set forth under 45 C.F.R. § 164.103, means a mandate contained in law that compels an entity to make a use or disclosure of PHI that is enforceable in a court of law. This includes, but is not limited to, court orders and court-ordered warrants, subpoenas or summons issued by a court, grand jury, a governmental or tribal inspector general, or an administrative body authorized to require the production of information, and a civil or an authorized investigative demand. It also includes Medicare conditions of participation with respect to health care providers participating in the program, and statutes or regulations that require the production of information, including statutes or regulations that require such information if payment is sought under a government program providing public benefits.

K. Secretary means the Secretary of the U.S. Department of Health and Human Services ("HHS") or the Secretary's designee.

L. Security Incident means the attempted or successful unauthorized access, use, disclosure, modification, or destruction of Department PHI, or confidential data utilized by Contractor to perform the services, functions and activities on behalf of Department as set forth in Section 1.A. of Exhibit F, Part I of this Agreement; or interference with system operations in an information system that processes, maintains or stores Department PHI.

M. Security Rule shall mean the HIPAA regulations that are found at 45 C.F.R. Parts 160 and 164.

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

3. Terms of Agreement

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

B. **Specific Use and Disclosure Provisions**. Except as otherwise indicated in this Exhibit F, Part I, Contractor may:

EXHIBIT F
Privacy and Information Security Provisions

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

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

C. **Prohibited Uses and Disclosures**

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

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

D. **Responsibilities of Contractor**

Contractor agrees:

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

2) **Compliance with the HIPAA Security Rule.** To implement administrative, physical, and technical safeguards that reasonably and appropriately protect the confidentiality, integrity, and availability of the Department PHI, including electronic PHI, that it creates, receives, maintains, uses or transmits on behalf of the Department, in compliance with 45 C.F.R. §§ 164.308, 164.310 and 164.312, and to prevent use or disclosure of Department PHI other than as provided for by this Agreement. Contractor shall implement reasonable and appropriate policies and procedures to comply with the standards,

EXHIBIT F
Privacy and Information Security Provisions

implementation specifications and other requirements of 45 C.F.R. § 164, subpart C, in compliance with 45 C.F.R. § 164.316. Contractor shall develop and maintain a written information privacy and security program that includes administrative, technical and physical safeguards appropriate to the size and complexity of the Contractor's operations and the nature and scope of its activities, and which incorporates the requirements of section 3, Security, below. Contractor will provide the Department with its current and updated policies upon request.

3) **Security**. Contractor shall take any and all steps necessary to ensure the continuous security of all computerized data systems containing PHI and/or PI, and to protect paper documents containing PHI and/or PI. These steps shall include, at a minimum:

   a) Complying with all of the data system security precautions listed in Attachment A, Business Associate Data Security Requirements;

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

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

4) **Security Officer**. Contractor shall designate a Security Officer to oversee its data security program who shall be responsible for carrying out the requirements of this section and for communicating on security matters with the Department.

5) **Mitigation of Harmful Effects**. To mitigate, to the extent practicable, any harmful effect that is known to Contractor of a use or disclosure of Department PHI by Contractor or its subcontractors in violation of the requirements of this Exhibit F, Part I.

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

7) **Contractor's Agents and Subcontractors**.

   a) To enter into written agreements with any agents, including subcontractors and vendors to whom Contractor provides Department PHI, that impose the same restrictions and conditions on such agents, subcontractors and vendors that apply to Contractor

EXHIBIT F
Privacy and Information Security Provisions

with respect to such Department PHI under this Exhibit F, and that require compliance with all applicable provisions of HIPAA, the HITECH Act and the HIPAA regulations, including the requirement that any agents, subcontractors or vendors implement reasonable and appropriate administrative, physical, and technical safeguards to protect such PHI. Contractor shall incorporate, when applicable, the relevant provisions of this Exhibit F, Part I into each subcontract or subaward to such agents, subcontractors and vendors, including the requirement that any security incidents or breaches of unsecured PHI be reported to Contractor.

b) In accordance with 45 C.F.R. § 164.504(e)(1)(ii), upon Contractor's knowledge of a material breach or violation by its subcontractor of the agreement between Contractor and the subcontractor, Contractor shall:

i. Provide an opportunity for the subcontractor to cure the breach or end the violation and terminate the agreement if the subcontractor does not cure the breach or end the violation within the time specified by the Department; or

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

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

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

EXHIBIT F
Privacy and Information Security Provisions

b) If Contractor maintains an Electronic Health Record with PHI, and an individual requests a copy of such information in an electronic format, Contractor shall provide such information in an electronic format to enable the Department to fulfill its obligations under the HITECH Act, including but not limited to, 42 U.S.C. §17935(e).This section shall be effective as of the date that 42 U.S.C. § 17935(e) and its implementing regulations apply to the Department.

9) **Amendment of Department PHI**. To make any amendment(s) to Department PHI that were requested by a patient and that the Department directs or agrees should be made to assure compliance with 45 C.F.R. § 164.526, in the time and manner designated by the Department, with the Contractor being given a minimum of twenty (20) days within which to make the amendment.

10) **Internal Practices**. To make Contractor's internal practices, books and records relating to the use and disclosure of Department PHI available to the Department or to the Secretary, for purposes of determining the Department's compliance with the HIPAA regulations. If any information needed for this purpose is in the exclusive possession of any other entity or person and the other entity or person fails or refuses to furnish the information to Contractor, Contractor shall provide written notification to the Department and shall set forth the efforts it made to obtain the information.

11) **Documentation of Disclosures**. To document and make available to the Department or (at the direction of the Department)to an Individual such disclosures of Department PHI, and information related to such disclosures, necessary to respond to a proper request by the subject Individual for an accounting of disclosures of such PHI, in accordance with the HITECH Act and its implementing regulations, including but not limited to 45 C.F.R. § 164.528 and 42 U.S.C. § 17935(c). If Contractor maintains electronic health records for the Department as of January 1, 2009, Contractor must provide an accounting of disclosures, including those disclosures for treatment, payment or health care operations, effective with disclosures on or after January 1, 2014. If Contractor acquires electronic health records for the Department after January 1, 2009, Contractor must provide an accounting of disclosures, including those disclosures for treatment, payment or health care operations, effective with disclosures on or after the date the electronic health record is acquired, or on or after January 1, 2011, whichever date is later. The electronic accounting of disclosures shall be for disclosures during the three years prior to the request for an accounting. This section shall be effective only as of the date that 42 U.S.C. § 17935(c) and its implementing regulations apply to the Department.

12) **Breaches and Security Incidents.** During the term of this Agreement, Contractor agrees to implement reasonable systems for the discovery and

EXHIBIT F
Privacy and Information Security Provisions

prompt reporting of any breach or security incident, and to take the following steps:

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

b) Notice shall be provided to the Department Program Contract Manager and the Department Information Security Officer. If the incident occurs after business hours or on a weekend or holiday and involves electronic PHI, notice shall be provided by calling the Department Information Security Officer. Notice shall be made using the DHCS "Privacy Incident Report" form, including all information known at the time. Contractor shall use the most current version of this form, which is posted on the DHCS Information Security Officer website (www.dhcs.ca.gov, then select "Privacy" in the left column and then "Business Partner" near the middle of the page) or use this link:

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

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

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

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

d) **Investigation and Investigation Report.** To immediately investigate such suspected security incident, security incident, breach, or unauthorized access, use or disclosure of PHI . Within 72 hours of

EXHIBIT F
Privacy and Information Security Provisions

the discovery, Contractor shall submit an updated "Privacy Incident Report" containing the information marked with an asterisk and all other applicable information listed on the form, to the extent known at that time, to the Department Program Contract Manager and the Department Information Security Officer.

e) **Complete Report**. To provide a complete report of the investigation to the Department Program Contract Manager and the Department Information Security Officer within ten (10) working days of the discovery of the breach or unauthorized use or disclosure. The report shall be submitted on the "Privacy Incident Report" form and shall include an assessment of all known factors relevant to a determination of whether a breach occurred under applicable provisions of HIPAA, the HITECH Act, and the HIPAA regulations. The report shall also include a full, detailed corrective action plan, including information on measures that were taken to halt and/or contain the improper use or disclosure. If the Department requests information in addition to that listed on the "Privacy Incident Report" form, Contractor shall make reasonable efforts to provide the Department with such information. If, because of the circumstances of the incident, Contractor needs more than ten(10) working days from the discovery to submit a complete report, the Department may grant a reasonable extension of time, in which case Contractor shall submit periodic updates until the complete report is submitted. If necessary, a Supplemental Report may be used to submit revised or additional information after the completed report is submitted, by submitting the revised or additional information on an updated "Privacy Incident Report" form. The Department will review and approve the determination of whether a breach occurred and individual notifications are required, and the corrective action plan.

f) **Responsibility for Reporting of Breaches.** If the cause of a breach of Department PHI is attributable to Contractor or its agents, subcontractors or vendors, Contractor is responsible for all required reporting of the breach as specified in 42 U.S.C. § 17932and its implementing regulations, including notification to media outlets and to the Secretary. If a breach of unsecured Department PHI involves more than 500 residents of the State of California or its jurisdiction, Contractor shall notify the Secretary of the breach immediately upon discovery of the breach. If Contractor has reason to believe that duplicate reporting of the same breach or incident may occur because its subcontractors, agents or vendors may report the breach or incident to the Department in addition to Contractor, Contractor shall notify the Department, and the Department and Contractor may take appropriate action to prevent duplicate reporting.

EXHIBIT F
Privacy and Information Security Provisions

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

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

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

13) **Termination of Agreement.** In accordance with § 13404(b) of the HITECH Act and to the extent required by the HIPAA regulations, if Contractor knows of a material breach or violation by the Department of this Exhibit F, Part I, it shall take the following steps:

EXHIBIT F
Privacy and Information Security Provisions

a) Provide an opportunity for the Department to cure the breach or end the violation and terminate the Agreement if the Department does not cure the breach or end the violation within the time specified by Contractor; or

b) Immediately terminate the Agreement if the Department has breached a material term of the Exhibit F, Part I and cure is not possible.

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

E. **Obligations of the Department**

The Department agrees to:

1) **Permission by Individuals for Use and Disclosure of PHI**. Provide the Contractor with any changes in, or revocation of, permission by an Individual to use or disclose Department PHI, if such changes affect the Contractor's permitted or required uses and disclosures.

2) **Notification of Restrictions**. Notify the Contractor of any restriction to the use or disclosure of Department PHI that the Department has agreed to in accordance with 45 C.F.R. § 164.522, to the extent that such restriction may affect the Contractor's use or disclosure of PHI.

3) **Requests Conflicting with HIPAA Rules**. Not request the Contractor to use or disclose Department PHI in any manner that would not be permissible under the HIPAA regulations if done by the Department.

4) **Notice of Privacy Practices**. Provide Business Associate with the Notice of Privacy Practices that DHCS produces in accordance with 45 C.F.R. § 164.520, as well as any changes to such notice. Visit the DHCS Privacy Office to view the most current Notice of Privacy Practices at: http://www.dhcs.ca.gov/formsandpubs/laws/priv/Pages/default.aspx or the DHCS website at www.dhcs.ca.gov (select "Privacy in the right column and "Notice of Privacy Practices" on the right side of the page).

F. **Audits, Inspection and Enforcement**

If Contractor is the subject of an audit, compliance review, or complaint investigation by the Secretary or the Office of Civil Rights, U.S. Department of

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

G. **Termination**

1) **Term**. The Term of this Exhibit F, Part I, shall extend beyond the termination of the Agreement and shall terminate when all Department PHI is destroyed or returned to the Department, in accordance with 45 C.F.R. § 164.504(e)(2)(ii)(I).

2) **Termination for Cause**. In accordance with 45 C.F.R. § 164.504(e)(1)(ii), upon the Department's knowledge of a material breach or violation of this Exhibit F, Part I, by Contractor, the Department shall:

   a) Provide an opportunity for Contractor to cure the breach or end the violation and terminate this Agreement if Contractor does not cure the breach or end the violation within the time specified by the Department; or

   b) Immediately terminate this Agreement if Contractor has breached a material term of this Exhibit F, Part I, and cure is not possible.

EXHIBIT F
Privacy and Information Security Provisions

Part II: Privacy and Security of Personal Information and Personally Identifiable Information Not Subject to HIPAA

1. Recitals

A. In addition to the Privacy and Security Rules under the Health Insurance Portability and Accountability Act of 1996 (HIPAA) the Department is subject to various other legal and contractual requirements with respect to the personal information (PI) and personally identifiable information (PII)it maintains. These include:

1) The California Information Practices Act of 1977 (California Civil Code §§ 1798 et seq.).

2) The Agreement between the Social Security Administration (SSA) and the Department, known as the Information Exchange Agreement (IEA), which incorporates the Computer Matching and Privacy Protection Act Agreement (CMPPA) between the SSA and the California Health and Human Services Agency. The IEA, including the CMPPA, is attached to this Exhibit F as Attachment B and is hereby incorporated in this Agreement.

B. The purpose of this Exhibit F, Part II is to set forth Contractor's privacy and security obligations with respect to PI and PII that Contractor may create, receive, maintain, use, or disclose for or on behalf of Department pursuant to this Agreement. Specifically this Exhibit applies to PI and PII which is not Protected Health Information (PHI) as defined by HIPAA and therefore is not addressed in Exhibit F, Part I of this Agreement, the HIPAA Business Associate Addendum.

C. The IEA Agreement referenced in A.2) above requires the Department to extend its substantive privacy and security terms to subcontractors who receive data provided to DHCS by the Social Security Administration. If Contractor receives data from DHCS that includes data provided to DHCS by the Social Security Administration, Contractor must comply with the following specific sections of the IEA Agreement: E. Security Procedures, F. Contractor/Agent Responsibilities, and G. Safeguarding and Reporting Responsibilities for Personally Identifiable Information ("PII"), and in Attachment 4 to the IEA, Electronic Information Exchange Security Requirements, Guidelines and Procedures for Federal, State and Local Agencies Exchanging Electronic Information with the Social Security Administration. Contractor must also ensure that any agents, including a subcontractor, to whom it provides DHCS data that includes data provided by the Social Security Administration, agree to the same requirements for privacy and security safeguards for such confidential data that apply to Contractor with respect to such information.

D. The terms used in this Exhibit F, Part II, but not otherwise defined, shall have the same meanings as those terms have in the above referenced statute and

EXHIBIT F
Privacy and Information Security Provisions

Agreement. Any reference to statutory, regulatory, or contractual language shall be to such language as in effect or as amended.

2. Definitions

A. "Breach" shall have the meaning given to such term under the IEA and CMPPA. It shall include a "PII loss" as that term is defined in the CMPPA.

B. "Breach of the security of the system" shall have the meaning given to such term under the California Information Practices Act, Civil Code § 1798.29(d).

C. "CMPPA Agreement" means the Computer Matching and Privacy Protection Act Agreement between the Social Security Administration and the California Health and Human Services Agency (CHHS).

D. "Department PI" shall mean Personal Information, as defined below, accessed in a database maintained by the Department, received by Contractor from the Department or acquired or created by Contractor in connection with performing the functions, activities and services specified in this Agreement on behalf of the Department.

E. "IEA" shall mean the Information Exchange Agreement currently in effect between the Social Security Administration (SSA) and the California Department of Health Care Services (DHCS).

F. "Notice-triggering Personal Information" shall mean the personal information identified in Civil Code section 1798.29(e) whose unauthorized access may trigger notification requirements under Civil Code § 1709.29. For purposes of this provision, identity shall include, but not be limited to, name, identifying number, symbol, or other identifying particular assigned to the individual, such as a finger or voice print, a photograph or a biometric identifier. Notice-triggering Personal Information includes PI in electronic, paper or any other medium.

G. "Personally Identifiable Information" (PII) shall have the meaning given to such term in the IEA and CMPPA.

H. "Personal Information" (PI) shall have the meaning given to such term in California Civil Code § 1798.3(a).

I. "Required by law" means a mandate contained in law that compels an entity to make a use or disclosure of PI or PII that is enforceable in a court of law. This includes, but is not limited to, court orders and court-ordered warrants, subpoenas or summons issued by a court, grand jury, a governmental or tribal inspector general, or an administrative body authorized to require the production of information, and a civil or an authorized investigative demand. It also includes Medicare conditions of participation with respect to health care providers participating in the program, and statutes or regulations that require the production

EXHIBIT F
Privacy and Information Security Provisions

of information, including statutes or regulations that require such information if payment is sought under a government program providing public benefits.

J. "Security Incident" means the attempted or successful unauthorized access, use, disclosure, modification, or destruction of PI, or confidential data utilized in complying with this Agreement; or interference with system operations in an information system that processes, maintains or stores PI.

3. Terms of Agreement

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

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

B. **Responsibilities of Contractor**

Contractor agrees:

1) **Nondisclosure**. Not to use or disclose Department PI or PII other than as permitted or required by this Agreement or as required by applicable state and federal law.

2) **Safeguards**. To implement appropriate and reasonable administrative, technical, and physical safeguards to protect the security, confidentiality and integrity of Department PI and PII, to protect against anticipated threats or hazards to the security or integrity of Department PI and PII, and to prevent use or disclosure of Department PI or PII other than as provided for by this Agreement. Contractor shall develop and maintain a written information privacy and security program that include administrative, technical and physical safeguards appropriate to the size and complexity of Contractor's operations and the nature and scope of its activities, which incorporate the requirements of Section 3, Security, below. Contractor will provide DHCS with its current policies upon request.

3) **Security**. Contractor shall take any and all steps necessary to ensure the continuous security of all computerized data systems containing PHI and/or PI, and to protect paper documents containing PHI and/or PI. These steps shall include, at a minimum:

a) Complying with all of the data system security precautions listed in Attachment A, Business Associate Data Security Requirements; and

EXHIBIT F
Privacy and Information Security Provisions

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

c) If the data obtained by User(s) from DHCS includes PII, User(s) shall also comply with the substantive privacy and security requirements in the Computer Matching and Privacy Protection Act Agreement between the SSA and the California Health and Human Services Agency (CHHS) and in the Agreement between the SSA and DHCS, known as the Information Exchange Agreement (IEA), which are attached as Attachment B and are incorporated into this Agreement. The specific sections of the IEA with substantive privacy and security requirements to be complied with are sections E, F, and G, and in Attachment 4 to the IEA, Electronic Information Exchange Security Requirements, Guidelines and Procedures for Federal, State and Local Agencies Exchanging Electronic Information with the SSA. The User(s) also agree to ensure that any agents, including a subcontractor, to whom they provide DHCS PII agree to the same requirements for privacy and security safeguards for confidential data that apply to the User(s) with respect to such information.

4) **Mitigation of Harmful Effects.**To mitigate, to the extent practicable, any harmful effect that is known to Contractor of a use or disclosure of Department PI or PII by Contractor or its subcontractors in violation of this Exhibit F, Part II.

5) **Contractor's Agents and Subcontractors**. To impose the same restrictions and conditions set forth in this Exhibit F, Part II on any subcontractors or other agents with whom Contractor subcontracts any activities under this Agreement that involve the disclosure of Department PI or PII to the subcontractor.

6) **Availability of Information to DHCS.**To make Department PI and PII available to the Department for purposes of oversight, inspection, amendment, and response to requests for records, injunctions, judgments, and orders for production of Department PI and PII. If Contractor receives Department PII, upon request by DHCS, Contractor shall provide DHCS with a list of all employees, contractors and agents who have access to Department PII, including employees, contractors and agents of its subcontractors and agents.

7) **Cooperation with DHCS**. With respect to Department PI, to cooperate with ~~and assist the~~ Department to the extent necessary to ensure the Department's compliance with the applicable terms of the CIPA including, but not limited to, accounting of disclosures of Department PI, correction of

EXHIBIT F
Privacy and Information Security Provisions

errors in Department PI, production of Department PI, disclosure of a security breach involving Department PI and notice of such breach to the affected individual(s).

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

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

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

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

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

EXHIBIT F
Privacy and Information Security Provisions

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

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

e) **Complete Report**. To provide a complete report of the investigation to the Department Program Contract Manager and the Department Information Security Officer within ten (10) working days of the discovery of the breach or unauthorized use or disclosure. The report shall be submitted on the "Privacy Incident Report" form and shall include an assessment of all known factors relevant to a determination of whether a breach occurred. The report shall also include a full, detailed corrective action plan, including information on measures that were taken to halt and/or contain the improper use or disclosure. If the Department requests information in addition to that listed on the "Privacy Incident Report" form, Contractor shall make reasonable efforts to provide the Department with such information. If, because of the circumstances of the incident, Contractor needs more than ten(10) working days from the discovery to submit a complete report, the Department may grant a reasonable extension of time, in which case Contractor shall submit periodic updates until the complete report is submitted. If necessary, a Supplemental Report may be used to submit revised or additional information after the completed report is submitted, by submitting the revised or additional information on an updated "Privacy Incident Report" form. The Department will review and approve the determination of whether a breach occurred and individual notifications are required, and the corrective action plan.

f) **Responsibility for Reporting of Breaches**. If the cause of a breach of Department PI or PII is attributable to Contractor or its agents, subcontractors or vendors, Contractor is responsible for all required reporting of the breach as specified in CIPA, § 1798.29(a) – (d) and as may be required under the IEA. Contractor shall bear all costs of required notifications to individuals as well as any costs associated with the breach. The Department Program Contract Manager and the Department Information Security Officer and Privacy ~~Officer shall~~ approve the time, manner and content of any such notifications and their review and approval must be obtained before the notifications

EXHIBIT F
Privacy and Information Security Provisions

are made. The Department will provide its review and approval expeditiously and without unreasonable delay. If Contractor has reason to believe that duplicate reporting of the same breach or incident may occur because its subcontractors, agents or vendors may report the breach or incident to the Department in addition to Contractor, Contractor shall notify the Department, and the Department and Contractor may take appropriate action to prevent duplicate reporting.

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

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

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

EXHIBIT F
Privacy and Information Security Provisions

Part III: Miscellaneous Terms and Conditions Applicable to Exhibit F

1. Disclaimer

The Department makes no warranty or representation that compliance by Contractor with this Exhibit F, HIPAA or the HIPAA regulations will be adequate or satisfactory for Contractor's own purposes or that any information in Contractor's possession or control, or transmitted or received by Contractor, is or will be secure from unauthorized use or disclosure. Contractor is solely responsible for all decisions made by Contractor regarding the safeguarding of the Department PHI.

2. Amendment

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

1) Contractor does not promptly enter into negotiations to amend this Exhibit F when requested by the Department pursuant to this section; or

2) Contractor does not enter into an amendment providing assurances regarding the safeguarding of Department PHI that the Department deems is necessary to satisfy the standards and requirements of HIPAA and the HIPAA regulations.

3. Judicial or Administrative Proceedings

Contractor will notify the Department if it is named as a defendant in a criminal proceeding for a violation of HIPAA or other security or privacy law. The Department may terminate this Agreement if Contractor is found guilty of a criminal violation of HIPAA. The Department may terminate this Agreement if a finding or stipulation that the Contractor has violated any standard or requirement of HIPAA, or other security or privacy laws is made in any administrative or civil proceeding in which the Contractor is a party or has been joined. DHCS will consider the nature and seriousness of the violation in deciding whether or not to terminate the Agreement.

4. Assistance in Litigation or Administrative Proceedings

Contractor shall make itself and any subcontractors, employees or agents assisting Contractor in the performance of its obligations under this Agreement, available to the

EXHIBIT F
Privacy and Information Security Provisions

Department at no cost to the Department to testify as witnesses, or otherwise, in the event of litigation or administrative proceedings being commenced against the Department, its directors, officers or employees based upon claimed violation of HIPAA, or the HIPAA regulations, which involves inactions or actions by the Contractor, except where Contractor or its subcontractor, employee or agent is a named adverse party.

5. No Third-Party Beneficiaries

Nothing express or implied in the terms and conditions of this Exhibit F is intended to confer, nor shall anything herein confer, upon any person other than the Department or Contractor and their respective successors or assignees, any rights, remedies, obligations or liabilities whatsoever.

6. Interpretation

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

7. Conflict

In case of a conflict between any applicable privacy or security rules, laws, regulations or standards the most stringent shall apply. The most stringent means that safeguard which provides the highest level of protection to PHI from unauthorized disclosure. Further, Contractor must comply within a reasonable period of time with changes to these standards that occur after the effective date of this Agreement.

8. Regulatory References

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

9. Survival

The respective rights and obligations of Contractor under Section 3, Item D of Exhibit F, Part I, Responsibilities of Contractor, shall survive the termination or expiration of this Agreement.

10. No Waiver of Obligations

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

11. Audits, Inspection and Enforcement

EXHIBIT F
Privacy and Information Security Provisions

From time to time, and subject to all applicable federal and state privacy and security laws and regulations, the Department may conduct a reasonable inspection of the facilities, systems, books and records of Contractor to monitor compliance with this Exhibit F. Contractor shall promptly remedy any violation of any provision of this Exhibit F. The fact that the Department inspects, or fails to inspect, or has the right to inspect, Contractor's facilities, systems and procedures does not relieve Contractor of its responsibility to comply with this Exhibit F. The Department's failure to detect a non-compliant practice, or a failure to report a detected non-compliant practice to Contractor does not constitute acceptance of such practice or a waiver of the Department's enforcement rights under this Agreement, including this Exhibit F.

12. Due Diligence

Contractor shall exercise due diligence and shall take reasonable steps to ensure that it remains in compliance with this Exhibit F and is in compliance with applicable provisions of HIPAA, the HITECH Act and the HIPAA regulations, and that its agents, subcontractors and vendors are in compliance with their obligations as required by this Exhibit F.

13. Term

The Term of this Exhibit F shall extend beyond the termination of the Agreement and shall terminate when all Department PHI is destroyed or returned to the Department, in accordance with 45 C.F.R. § 164.504(e)(2)(ii)(I), and when all Department PI and PII is destroyed in accordance with Attachment A.

14. Effect of Termination

Upon termination or expiration of this Agreement for any reason, Contractor shall return or destroy all Department PHI, PI and PII that Contractor still maintains in any form, and shall retain no copies of such PHI, PI or PII. If return or destruction is not feasible, Contractor shall notify the Department of the conditions that make the return or destruction infeasible, and the Department and Contractor shall determine the terms and conditions under which Contractor may retain the PHI, PI or PII. Contractor shall continue to extend the protections of this Exhibit F to such Department PHI, PI and PII, and shall limit further use of such data to those purposes that make the return or destruction of such data infeasible. This provision shall apply to Department PHI, PI and PII that is in the possession of subcontractors or agents of Contractor.

EXHIBIT F
Privacy and Information Security Provisions

Attachment A
Business Associate Data Security Requirements

1. Personnel Controls

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

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

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

D. **Background Check**. Before a member of the workforce may access Department PHI or PI, a background screening of that worker must be conducted. The screening should be commensurate with the risk and magnitude of harm the employee could cause, with more thorough screening being done for those employees who are authorized to bypass significant technical and operational security controls. The Contractor shall retain each workforce member's background check documentation for a period of three (3) years.

2. Technical Security Controls

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

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

EXHIBIT F
Privacy and Information Security Provisions

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

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

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

F. **Patch Management**. All workstations, laptops and other systems that process and/or store Department PHI or PI must have critical security patches applied, with system reboot if necessary. There must be a documented patch management process which determines installation timeframe based on risk assessment and vendor recommendations. At a maximum, all applicable patches must be installed within 30 days of vendor release. Applications and systems that cannot be patched within this time frame due to significant operational reasons must have compensatory controls implemented to minimize risk until the patches can be installed. Applications and systems that cannot be patched must have compensatory controls implemented to minimize risk, where possible.

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

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

H. **Data Destruction**. When no longer needed, all Department PHI or PI must be wiped using the Gutmann or US Department of Defense (DoD) 5220.22-M (7 Pass) standard, or by degaussing. Media may also be physically destroyed in accordance with NIST Special Publication 800-88, Other methods require prior written permission of the Department Information Security Office.

EXHIBIT F
Privacy and Information Security Provisions

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

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

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

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

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

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

3. Audit Controls

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

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

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

EXHIBIT F
Privacy and Information Security Provisions

4. Business Continuity / Disaster Recovery Controls

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

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

5. Paper Document Controls

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

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

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

D. **Removal of Data**. Only the minimum necessary Department PHI or PI may be removed from the premises of the Contractor except with express written permission of the Department. Department PHI or PI shall not be considered "removed from the premises" if it is only being transported from one of Contractor's locations to another of Contractors locations.

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

F. **Mailing**. Mailings containing Department PHI or PI shall be sealed and secured from damage or inappropriate viewing of such PHI or PI to the extent possible.

EXHIBIT F
Privacy and Information Security Provisions

Mailings which include 500 or more individually identifiable records of Department PHI or PI in a single package shall be sent using a tracked mailing method which includes verification of delivery and receipt, unless the prior written permission of the Department to use another method is obtained.

Special Terms and Conditions

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

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

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

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

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

Index of Special Terms and Conditions

1. Federal Equal Employment Opportunity Requirements
2. Travel and Per Diem Reimbursement
3. Procurement Rules
4. Equipment Ownership / Inventory / Disposition
5. Subcontract Requirements
6. Income Restrictions
7. Audit and Record Retention
8. Site Inspection
9. Federal Contract Funds
10. Intellectual Property Rights
11. Air or Water Pollution Requirements
12. Prior Approval of Training Seminars, Workshops or Conferences
13. Confidentiality of Information
14. Documents, Publications, and Written Reports
15. Dispute Resolution Process (Revised 2/2012)
16. Financial and Compliance Audit Requirements
17. Human Subjects Use Requirements
18. Novation Requirements
19. Debarment and Suspension Certification
20. Smoke-Free Workplace Certification
21. Covenant Against Contingent Fees
22. Payment Withholds
23. Performance Evaluation
24. Officials Not to Benefit
25. Four-Digit Date Compliance
26. Prohibited Use of State Funds for Software
27. Use of Small, Minority Owned and Women's Businesses
28. Alien Ineligibility Certification
29. Union Organizing
30. Contract Uniformity (Fringe Benefit Allowability)
31. Suspension or Stop Work Notification
32. Lobbying Restrictions and Disclosure Certification

1. Federal Equal Opportunity Requirements

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

a. The Contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, national origin, physical or mental handicap, disability, age or status as a disabled veteran or veteran of the Vietnam era. The Contractor will take affirmative action to ensure that qualified applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex, national origin, physical or mental handicap, disability, age or status as a disabled veteran or veteran of the Vietnam era. Such action shall include, but not be limited to the following: employment, upgrading, demotion or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and career development opportunities and selection for training, including apprenticeship. The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the Federal Government or DHCS, setting forth the provisions of the Equal Opportunity clause, Section 503 of the Rehabilitation Act of 1973 and the affirmative action clause required by the Vietnam Era Veterans' Readjustment Assistance Act of 1974 (38 U.S.C. 4212). Such notices shall state the Contractor's obligation under the law to take affirmative action to employ and advance in employment qualified applicants without discrimination based on their race, color, religion, sex, national origin physical or mental handicap, disability, age or status as a disabled veteran or veteran of the Vietnam era and the rights of applicants and employees.

b. The Contractor will, in all solicitations or advancements for employees placed by or on behalf of the Contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, national origin physical or mental handicap, disability, age or status as a disabled veteran or veteran of the Vietnam era.

c. The Contractor will send to each labor union or representative of workers with which it has a collective bargaining agreement or other contract or understanding a notice, to be provided by the Federal Government or the State, advising the labor union or workers' representative of the Contractor's commitments under the provisions herein and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

d. The Contractor will comply with all provisions of and furnish all information and reports required by Section 503 of the Rehabilitation Act of 1973, as amended, the Vietnam Era Veterans' Readjustment Assistance Act of 1974 (38 U.S.C. 4212) and of the Federal Executive Order No. 11246 as amended, including by Executive Order 11375, 'Amending Executive Order 11246 Relating to Equal Employment Opportunity,' and as supplemented by regulation at 41 CFR part 60, "Office of the Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor," and of the rules, regulations, and relevant orders of the Secretary of Labor.

e. The Contractor will furnish all information and reports required by Federal Executive Order No. 11246 as amended, including by Executive Order 11375, 'Amending Executive Order 11246 Relating to Equal Employment Opportunity,' and as supplemented by regulation at 41 CFR part 60, "Office of the Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor," and the Rehabilitation Act of 1973, and by the rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to its books, records, and accounts by the State and its designated representatives and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.

f. In the event of the Contractor's noncompliance with the requirements of the provisions herein or with any federal rules, regulations, or orders which are referenced herein, this Agreement may be cancelled, terminated, or suspended in whole or in part and the Contractor may be declared ineligible for further federal and state contracts in accordance with procedures authorized in Federal Executive Order No. 11246 as amended and such other sanctions may be imposed and remedies invoked as provided in Federal Executive Order No. 11246 as amended, including by Executive Order 11375, 'Amending Executive Order 11246 Relating to Equal Employment Opportunity,' and as supplemented by regulation at 41 CFR part 60, "Office of the Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor," or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.

g. The Contractor will include the provisions of Paragraphs a through g in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to Federal Executive Order No. 11246 as amended, including by Executive Order 11375, 'Amending Executive Order 11246 Relating to Equal Employment Opportunity,' and as supplemented by regulation at 41 CFR part 60, "Office of the Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor," or Section 503 of the Rehabilitation Act of 1973 or (38 U.S.C. 4212) of the Vietnam Era Veteran's Readjustment Assistance Act, so that such provisions will be binding upon each subcontractor or vendor. The Contractor will take such action with respect to any subcontract or purchase order as the Director of the Office of Federal Contract Compliance Programs or DHCS may direct as a means of enforcing such provisions including sanctions for noncompliance provided, however, that in the event the Contractor becomes involved in, or is threatened with litigation by a subcontractor or vendor as a result of such direction by DHCS, the Contractor may request in writing to DHCS, who, in turn, may request the United States to enter into such litigation to protect the interests of the State and of the United States.

2. Travel and Per Diem Reimbursement

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

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

3. Procurement Rules

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

a. **Equipment/Property definitions**

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

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

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

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

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

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

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

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

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

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

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

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

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

[1] Avoid purchasing unnecessary or duplicate items.

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

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

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

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

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

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

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

4. Equipment/Property Ownership / Inventory / Disposition

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

g. **Motor Vehicles**

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

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

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

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

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

Automobile Liability Insurance

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

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

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

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

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

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

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

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

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

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

5. Subcontract Requirements

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

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

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

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

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

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

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

(c) A Joint Powers Authority,

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

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

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

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

(h) Entities and/or service types identified as exempt from advertising and competitive bidding in State Contracting Manual Chapter 5 Section 5.80 Subsection B.3. View this publication at the following Internet address: http://www.dgs.ca.gov/ols/Resources/StateContractManual.aspx.

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

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

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

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

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

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

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

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

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

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

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

6. Income Restrictions

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

7. Audit and Record Retention

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

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

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

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

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

d. The Contractor and/or Subcontractor shall preserve and make available his/her records (1) for a period of three years from the date of final payment under this Agreement, and (2) for such longer period, if any, as is required by applicable statute, by any other provision of this Agreement, or by subparagraphs (1) or (2) below.

   (1) If this Agreement is completely or partially terminated, the records relating to the work terminated shall be preserved and made available for a period of three years from the date of any resulting final settlement.

   (2) If any litigation, claim, negotiation, audit, or other action involving the records has been started before the expiration of the three-year period, the records shall be retained until completion of the action and resolution of all issues which arise from it, or until the end of the regular three-year period, whichever is later.

e. The Contractor and/or Subcontractor shall comply with the above requirements and be aware of the penalties for violations of fraud and for obstruction of investigation as set forth in Public Contract Code § 10115.10, if applicable.

f. The Contractor and/or Subcontractor may, at its discretion, following receipt of final payment under this Agreement, reduce its accounts, books and records related to this Agreement to microfilm, computer disk, CD ROM, DVD, or other data storage medium. Upon request by an authorized representative to inspect, audit or obtain copies of said records, the Contractor and/or Subcontractor must supply or make available applicable devices, hardware, and/or software necessary to view, copy and/or print said records. Applicable devices may include, but are not limited to, microfilm readers and microfilm printers, etc.

g. The Contractor shall, if applicable, comply with the Single Audit Act and the audit reporting requirements set forth in OMB Circular A-133.

8. Site Inspection

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

9. Federal Contract Funds

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

a. It is mutually understood between the parties that this Agreement may have been written before ascertaining the availability of congressional appropriation of funds, for the mutual benefit of both parties, in order to avoid program and fiscal delays which would occur if the Agreement were executed after that determination was made.

b. This agreement is valid and enforceable only if sufficient funds are made available to the State by the United States Government for the fiscal years covered by the term of this Agreement. In addition, this Agreement is subject to any additional restrictions, limitations, or conditions enacted by the Congress or any statute enacted by the Congress which may affect the provisions, terms or funding of this Agreement in any manner.

c. It is mutually agreed that if the Congress does not appropriate sufficient funds for the program, this Agreement shall be amended to reflect any reduction in funds.

d. DHCS has the option to invalidate or cancel the Agreement with 30-days advance written notice or to amend the Agreement to reflect any reduction in funds.

10. Intellectual Property Rights

a. Ownership

(1) Except where DHCS has agreed in a signed writing to accept a license, DHCS shall be and remain, without additional compensation, the sole owner of any and all rights, title and interest in all Intellectual Property, from the moment of creation, whether or not jointly conceived, that are made, conceived, derived from, or reduced to practice by Contractor or DHCS and which result directly or indirectly from this Agreement.

(2) For the purposes of this Agreement, Intellectual Property means recognized protectable rights and interest such as: patents, (whether or not issued) copyrights, trademarks, service marks, applications for any of the foregoing, inventions, trade secrets, trade dress, logos, insignia, color combinations, slogans, moral rights, right of publicity, author's rights, contract and licensing rights, works, mask works, industrial design rights, rights of priority, know how, design flows, methodologies, devices, business processes, developments, innovations, good will and all other legal rights protecting intangible proprietary information as may exist now and/or here after come into existence, and all renewals and extensions, regardless of whether those rights arise under the laws of the United States, or any other state, country or jurisdiction.

(a) For the purposes of the definition of Intellectual Property, "works" means all literary works, writings and printed matter including the medium by which they are recorded or reproduced, photographs, art work, pictorial and graphic representations and works of a similar nature, film, motion pictures, digital images, animation cells, and other audiovisual works including positives and negatives thereof, sound recordings, tapes, educational materials, interactive videos and any other materials or products created, produced, conceptualized and fixed in a tangible medium of expression. It includes preliminary and final products and any materials and information developed for the purposes of producing those final products. Works does not include articles submitted to peer review or reference journals or independent research projects.

(3) In the performance of this Agreement, Contractor will exercise and utilize certain of its Intellectual Property in existence prior to the effective date of this Agreement. In addition, under this Agreement, Contractor may access and utilize certain of DHCS' Intellectual Property in existence prior to the effective date of this Agreement. Except as otherwise set forth herein, Contractor shall not use any of DHCS' Intellectual Property now existing or hereafter existing for any purposes without the prior written permission of DHCS. **Except as otherwise set forth herein, neither the Contractor nor DHCS shall give any ownership interest in or rights to its Intellectual Property to the other Party.** If during the term of this Agreement, Contractor accesses any third-party Intellectual Property that is licensed to DHCS, Contractor agrees to abide by all license and confidentiality restrictions applicable to DHCS in the third-party's license agreement.

(4) Contractor agrees to cooperate with DHCS in establishing or maintaining DHCS' exclusive rights in the Intellectual Property, and in assuring DHCS' sole rights against third parties with respect to the Intellectual Property. If the Contractor enters into any agreements or subcontracts with other parties in order to perform this Agreement, Contractor shall require the terms of the Agreement(s) to include all Intellectual Property provisions. Such terms must include, but are not limited to, the subcontractor assigning and agreeing to assign to DHCS all rights, title and interest in Intellectual Property made, conceived, derived from, or reduced to practice by the subcontractor, Contractor or DHCS and which result directly or indirectly from this Agreement or any subcontract.

(5) Contractor further agrees to assist and cooperate with DHCS in all reasonable respects, and execute all documents and, subject to reasonable availability, give testimony and take all further acts reasonably necessary to acquire, transfer, maintain, and enforce DHCS' Intellectual Property rights and interests.

b. Retained Rights / License Rights

(1) Except for Intellectual Property made, conceived, derived from, or reduced to practice by Contractor or DHCS and which result directly or indirectly from this Agreement, Contractor shall retain title to all of its Intellectual Property to the extent such Intellectual Property is in existence prior to the effective date of this Agreement. Contractor hereby grants to DHCS, without additional compensation, a permanent, non-exclusive, royalty free, paid-up, worldwide, irrevocable, perpetual, non-terminable license to use, reproduce, manufacture, sell, offer to sell, import, export, modify, publicly and privately display/perform, distribute, and dispose Contractor's Intellectual Property with the right to sublicense through multiple layers, for any purpose whatsoever, to the extent it is incorporated in the Intellectual Property resulting from this Agreement, unless Contractor assigns all rights, title and interest in the Intellectual Property as set forth herein.

(2) Nothing in this provision shall restrict, limit, or otherwise prevent Contractor from using any ideas, concepts, know-how, methodology or techniques related to its performance under this Agreement, provided that Contractor's use does not infringe the patent, copyright, trademark rights, license or other Intellectual Property rights of DHCS or third party, or result in a breach or default of any provisions of this Exhibit or result in a breach of any provisions of law relating to confidentiality.

c. Copyright

(1) Contractor agrees that for purposes of copyright law, all works [as defined in Paragraph a, subparagraph (2)(a) of this provision] of authorship made by or on behalf of Contractor in connection with Contractor's performance of this Agreement shall be deemed "works made for hire". Contractor further agrees that the work of each person utilized by Contractor in connection with the performance of this Agreement will be a "work made for hire," whether that person is an employee of Contractor or that person has entered into an agreement with Contractor to perform the work. Contractor shall enter into a written agreement with any such person that: (i) all work performed for Contractor shall be deemed a "work made for hire" under the Copyright Act and (ii) that person shall assign all right, title, and interest to DHCS to any work product made, conceived, derived from, or reduced to practice by Contractor or DHCS and which result directly or indirectly from this Agreement.

(2) All materials, including, but not limited to, visual works or text, reproduced or distributed pursuant to this Agreement that include Intellectual Property made, conceived, derived from, or reduced to practice by Contractor or DHCS and which result directly or indirectly from this Agreement, shall include DHCS' notice of copyright, which shall read in 3mm or larger typeface: "© *[Enter Current Year e.g., 2010, etc.]*, California Department of Health Care Services. This material may not be reproduced or disseminated without prior written permission from the California Department of Health Care Services." This notice should be placed prominently on the materials and set apart from other matter on the page where it appears. Audio productions shall contain a similar audio notice of copyright.

d. Patent Rights

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

e. Third-Party Intellectual Property

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

for Contractor's performance of this Agreement, Contractor shall obtain a license under terms acceptable to DHCS.

f. Warranties

(1) Contractor represents and warrants that:

(a) It is free to enter into and fully perform this Agreement.

(b) It has secured and will secure all rights and licenses necessary for its performance of this Agreement.

(c) Neither Contractor's performance of this Agreement, nor the exercise by either Party of the rights granted in this Agreement, nor any use, reproduction, manufacture, sale, offer to sell, import, export, modification, public and private display/performance, distribution, and disposition of the Intellectual Property made, conceived, derived from, or reduced to practice by Contractor or DHCS and which result directly or indirectly from this Agreement will infringe upon or violate any Intellectual Property right, non-disclosure obligation, or other proprietary right or interest of any third-party or entity now existing under the laws of, or hereafter existing or issued by, any state, the United States, or any foreign country. There is currently no actual or threatened claim by any such third party based on an alleged violation of any such right by Contractor.

(d) Neither Contractor's performance nor any part of its performance will violate the right of privacy of, or constitute a libel or slander against any person or entity.

(e) It has secured and will secure all rights and licenses necessary for Intellectual Property including, but not limited to, consents, waivers or releases from all authors of music or performances used, and talent (radio, television and motion picture talent), owners of any interest in and to real estate, sites, locations, property or props that may be used or shown.

(f) It has not granted and shall not grant to any person or entity any right that would or might derogate, encumber, or interfere with any of the rights granted to DHCS in this Agreement.

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

(h) It has no knowledge of any outstanding claims, licenses or other charges, liens, or encumbrances of any kind or nature whatsoever that could affect in any way Contractor's performance of this Agreement.

(2) DHCS MAKES NO WARRANTY THAT THE INTELLECTUAL PROPERTY RESULTING FROM THIS AGREEMENT DOES NOT INFRINGE UPON ANY PATENT, TRADEMARK, COPYRIGHT OR THE LIKE, NOW EXISTING OR SUBSEQUENTLY ISSUED.

g. Intellectual Property Indemnity

(1) Contractor shall indemnify, defend and hold harmless DHCS and its licensees and assignees, and its officers, directors, employees, agents, representatives, successors, and users of its products, ("Indemnitees") from and against all claims, actions, damages, losses, liabilities (or actions or proceedings with respect to any thereof), whether or not rightful, arising from any and all actions or claims by any third party or expenses related thereto (including, but not limited to, all legal expenses, court costs, and attorney's fees incurred in investigating, preparing, serving as a witness in, or defending against, any such claim, action, or proceeding, commenced or threatened) to which any of the Indemnitees may be subject, whether or not Contractor is a party to any pending or threatened litigation, which arise out of or are related to (i) the incorrectness or breach of any of the representations, warranties, covenants or agreements of Contractor pertaining to Intellectual Property; or (ii) any Intellectual Property infringement, or any other type of actual or alleged infringement claim, arising out of DHCS' use, reproduction, manufacture, sale, offer to sell, distribution, import, export, modification, public and private performance/display, license, and disposition of the Intellectual Property made, conceived, derived from, or reduced to practice by

Contractor or DHCS and which result directly or indirectly from this Agreement. This indemnity obligation shall apply irrespective of whether the infringement claim is based on a patent, trademark or copyright registration that issued after the effective date of this Agreement. DHCS reserves the right to participate in and/or control, at Contractor's expense, any such infringement action brought against DHCS.

(2) Should any Intellectual Property licensed by the Contractor to DHCS under this Agreement become the subject of an Intellectual Property infringement claim, Contractor will exercise its authority reasonably and in good faith to preserve DHCS' right to use the licensed Intellectual Property in accordance with this Agreement at no expense to DHCS. DHCS shall have the right to monitor and appear through its own counsel (at Contractor's expense) in any such claim or action. In the defense or settlement of the claim, Contractor may obtain the right for DHCS to continue using the licensed Intellectual Property; or, replace or modify the licensed Intellectual Property so that the replaced or modified Intellectual Property becomes non-infringing provided that such replacement or modification is functionally equivalent to the original licensed Intellectual Property. If such remedies are not reasonably available, DHCS shall be entitled to a refund of all monies paid under this Agreement, without restriction or limitation of any other rights and remedies available at law or in equity.

(3) Contractor agrees that damages alone would be inadequate to compensate DHCS for breach of any term of this Intellectual Property Exhibit by Contractor. Contractor acknowledges DHCS would suffer irreparable harm in the event of such breach and agrees DHCS shall be entitled to obtain equitable relief, including without limitation an injunction, from a court of competent jurisdiction, without restriction or limitation of any other rights and remedies available at law or in equity.

h. Federal Funding

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

i. Survival

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

11. Air or Water Pollution Requirements

Any federally funded agreement and/or subcontract in excess of $100,000 must comply with the following provisions unless said agreement is exempt under 40 CFR 15.5.

a. Government contractors agree to comply with all applicable standards, orders, or requirements issued under section 306 of the Clean Air Act [42 U.S.C. 1857(h)], section 508 of the Clean Water Act (33 U.S.C. 1368), Executive Order 11738, and Environmental Protection Agency regulations (40 CFR part 15).

b. Institutions of higher education, hospitals, nonprofit organizations and commercial businesses agree to comply with all applicable standards, orders, or requirements issued under the Clean Air Act (42 U.S.C. 7401 et seq.), as amended, and the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.), as amended.

12. Prior Approval of Training Seminars, Workshops or Conferences

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

13. Confidentiality of Information

a. The Contractor and its employees, agents, or subcontractors shall protect from unauthorized disclosure names and other identifying information concerning persons either receiving services pursuant to this Agreement or persons whose names or identifying information become available or are disclosed to the Contractor, its employees, agents, or subcontractors as a result of services performed under this Agreement, except for statistical information not identifying any such person.

b. The Contractor and its employees, agents, or subcontractors shall not use such identifying information for any purpose other than carrying out the Contractor's obligations under this Agreement.

c. The Contractor and its employees, agents, or subcontractors shall promptly transmit to the DHCS Program Contract Manager all requests for disclosure of such identifying information not emanating from the client or person.

d. The Contractor shall not disclose, except as otherwise specifically permitted by this Agreement or authorized by the client, any such identifying information to anyone other than DHCS without prior written authorization from the DHCS Program Contract Manager, except if disclosure is required by State or Federal law.

e. For purposes of this provision, identity shall include, but not be limited to name, identifying number, symbol, or other identifying particular assigned to the individual, such as finger or voice print or a photograph.

f. As deemed applicable by DHCS, this provision may be supplemented by additional terms and conditions covering personal health information (PHI) or personal, sensitive, and/or confidential information (PSCI). Said terms and conditions will be outlined in one or more exhibits that will either be attached to this Agreement or incorporated into this Agreement by reference.

14. Documents, Publications and Written Reports

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

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

15. Dispute Resolution Process

a. A Contractor grievance exists whenever there is a dispute arising from DHCS' action in the administration of an agreement. If there is a dispute or grievance between the Contractor and DHCS, the Contractor must seek resolution using the procedure outlined below.

(1) The Contractor should first informally discuss the problem with the DHCS Program Contract Manager. If the problem cannot be resolved informally, the Contractor shall direct its grievance together with any evidence, in writing, to the program Branch Chief. The grievance shall state the issues in dispute, the legal authority or other basis for the Contractor's position and the remedy sought. The Branch Chief shall render a decision within ten (10) working days after receipt of the written grievance from the Contractor. The Branch Chief shall respond in writing to the Contractor indicating the decision and reasons therefore. If the Contractor disagrees with the Branch Chief's decision, the Contractor may appeal to the second level.

(2) When appealing to the second level, the Contractor must prepare an appeal indicating the reasons for disagreement with Branch Chief's decision. The Contractor shall include with the appeal a copy of the Contractor's original statement of dispute along with any supporting evidence and a copy of the Branch Chief's decision. The appeal shall be addressed to the Deputy Director of the division in which the branch is organized within ten (10) working days from receipt of the Branch Chief's

decision. The Deputy Director of the division in which the branch is organized or his/her designee shall meet with the Contractor to review the issues raised. A written decision signed by the Deputy Director of the division in which the branch is organized or his/her designee shall be directed to the Contractor within twenty (20) working days of receipt of the Contractor's second level appeal.

b. If the Contractor wishes to appeal the decision of the Deputy Director of the division in which the branch is organized or his/her designee, the Contractor shall follow the procedures set forth in Health and Safety Code Section 100171.

c. Unless otherwise stipulated in writing by DHCS, all dispute, grievance and/or appeal correspondence shall be directed to the DHCS Program Contract Manager.

d. There are organizational differences within DHCS' funding programs and the management levels identified in this dispute resolution provision may not apply in every contractual situation. When a grievance is received and organizational differences exist, the Contractor shall be notified in writing by the DHCS Program Contract Manager of the level, name, and/or title of the appropriate management official that is responsible for issuing a decision at a given level.

16. Financial and Compliance Audit Requirements

a. The definitions used in this provision are contained in Section 38040 of the Health and Safety Code, which by this reference is made a part hereof.

b. Direct service contract means a contract or agreement for services contained in local assistance or subvention programs or both (see Health and Safety [H&S] Code Section 38020). Direct service contracts shall not include contracts, agreements, grants, or subventions to other governmental agencies or units of government nor contracts or agreements with regional centers or area agencies on aging (H&S Code Section 38030).

c. The Contractor, as indicated below, agrees to obtain one of the following audits:

(1) ***If the Contractor is a nonprofit organization (as defined in H&S Code Section 38040)*** and receives **$25,000 or more** from any State agency under a direct service contract or agreement; the Contractor agrees to obtain an annual single, organization wide, financial and compliance audit. Said audit shall be conducted according to Generally Accepted Auditing Standards. This audit does not fulfill the audit requirements of Paragraph c(3) below. The audit shall be completed by the 15th day of the fifth month following the end of the Contractor's fiscal year, **and/or**

(2) ***If the Contractor is a nonprofit organization (as defined in H&S Code Section 38040)*** and receives **less than $25,000** per year from any State agency under a direct service contract or agreement, the Contractor agrees to obtain a biennial single, organization wide financial and compliance audit, unless there is evidence of fraud or other violation of state law in connection with this Agreement. This audit does not fulfill the audit requirements of Paragraph c(3) below. The audit shall be completed by the 15th day of the fifth month following the end of the Contractor's fiscal year, **and/or**

(3) ***If the Contractor is a State or Local Government entity or Nonprofit organization (as defined by the Federal Office of Management and Budget [OMB] Circular A-133)*** and expends $500,000 or more in Federal awards, the Contractor agrees to obtain an annual single, organization wide, financial and compliance audit according to the requirements specified in OMB Circular A-133 entitled "Audits of States, Local Governments, and Non-Profit Organizations". An audit conducted pursuant to this provision will fulfill the audit requirements outlined in Paragraphs c(1) and c(2) above. The audit shall be completed by the end of the ninth month following the end of the audit period. The requirements of this provision apply if:

(a) The Contractor is a recipient expending Federal awards received directly from Federal awarding agencies, or

(b) The Contractor is a subrecipient expending Federal awards received from a pass-through entity such as the State, County or community based organization.

(4) If the Contractor submits to DHCS a report of an audit other than an OMB A-133 audit, the Contractor must also submit a certification indicating the Contractor has not expended $500,000 or more in federal funds for the year covered by the audit report.

d. Two copies of the audit report shall be delivered to the DHCS program funding this Agreement. The audit report must identify the Contractor's legal name and the number assigned to this Agreement. The audit report shall be due within 30 days after the completion of the audit. Upon receipt of said audit report, the DHCS Program Contract Manager shall forward the audit report to DHCS' Audits and Investigations Unit if the audit report was submitted under Section 16.c(3), unless the audit report is from a City, County, or Special District within the State of California whereby the report will be retained by the funding program.

e. The cost of the audits described herein may be included in the funding for this Agreement up to the proportionate amount this Agreement represents of the Contractor's total revenue. The DHCS program funding this Agreement must provide advance written approval of the specific amount allowed for said audit expenses.

f. The State or its authorized designee, including the Bureau of State Audits, is responsible for conducting agreement performance audits which are not financial and compliance audits. Performance audits are defined by Generally Accepted Government Auditing Standards.

g. Nothing in this Agreement limits the State's responsibility or authority to enforce State law or regulations, procedures, or reporting requirements arising thereto.

h. Nothing in this provision limits the authority of the State to make audits of this Agreement, provided however, that if independent audits arranged for by the Contractor meet Generally Accepted Governmental Auditing Standards, the State shall rely on those audits and any additional audit work and shall build upon the work already done.

i. The State may, at its option, direct its own auditors to perform either of the audits described above. The Contractor will be given advance written notification, if the State chooses to exercise its option to perform said audits.

j. The Contractor shall include a clause in any agreement the Contractor enters into with the audit firm doing the single organization wide audit to provide access by the State or Federal Government to the working papers of the independent auditor who prepares the single organization wide audit for the Contractor.

k. Federal or state auditors shall have "expanded scope auditing" authority to conduct specific program audits during the same period in which a single organization wide audit is being performed, but the audit report has not been issued. The federal or state auditors shall review and have access to the current audit work being conducted and will not apply any testing or review procedures which have not been satisfied by previous audit work that has been completed.

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

17. Human Subjects Use Requirements

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

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

18. Novation Requirements

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

19. Debarment and Suspension Certification

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

a. By signing this Agreement, the Contractor/Grantee agrees to comply with applicable federal suspension and debarment regulations including, but not limited to 7 CFR Part 3017, 45 CFR 76, 40 CFR 32 or 34 CFR 85.

b. By signing this Agreement, the Contractor certifies to the best of its knowledge and belief, that it and its principals:

(1) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded by any federal department or agency;

(2) Have not within a three-year period preceding this application/proposal/agreement been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;

(3) Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State or local) with commission of any of the offenses enumerated in Paragraph b(2) herein; and

(4) Have not within a three-year period preceding this application/proposal/agreement had one or more public transactions (Federal, State or local) terminated for cause or default.

(5) Shall not knowingly enter into any lower tier covered transaction with a person who is proposed for debarment under federal regulations (i.e., 48 CFR part 9, subpart 9.4), debarred, suspended, declared ineligible, or voluntarily excluded from participation in such transaction, unless authorized by the State.

(6) Will include a clause entitled, "Debarment and Suspension Certification" that essentially sets forth the provisions herein, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.

c. If the Contractor is unable to certify to any of the statements in this certification, the Contractor shall submit an explanation to the DHCS Program Contract Manager.

d. The terms and definitions herein have the meanings set out in the Definitions and Coverage sections of the rules implementing Federal Executive Order 12549.

e. If the Contractor knowingly violates this certification, in addition to other remedies available to the Federal Government, the DHCS may terminate this Agreement for cause or default.

20. Smoke-Free Workplace Certification

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

a. Public Law 103-227, also known as the Pro-Children Act of 1994 (Act), requires that smoking not be permitted in any portion of any indoor facility owned or leased or contracted for by an entity and used routinely or regularly for the provision of health, day care, early childhood development services, education or library services to children under the age of 18, if the services are funded by federal programs either directly or through state or local governments, by federal grant, contract, loan, or loan guarantee. The law also applies to children's services that are provided in indoor facilities that are constructed, operated, or maintained with such federal funds. The law does not apply to children's services provided in private residences; portions of facilities used for inpatient drug or alcohol treatment; service providers whose sole source of applicable federal funds is Medicare or Medicaid; or facilities where WIC coupons are redeemed.

b. Failure to comply with the provisions of the law may result in the imposition of a civil monetary penalty of up to $1,000 for each violation and/or the imposition of an administrative compliance order on the responsible party.

c. By signing this Agreement, Contractor or Grantee certifies that it will comply with the requirements of the Act and will not allow smoking within any portion of any indoor facility used for the provision of services for children as defined by the Act. The prohibitions herein are effective December 26, 1994.

d. Contractor or Grantee further agrees that it will insert this certification into any subawards (subcontracts or subgrants) entered into that provide for children's services as described in the Act.

21. Covenant Against Contingent Fees

(Applicable only to federally funded agreements.)

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

22. Payment Withholds

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

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

23. Performance Evaluation

(Not applicable to grant agreements.)

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

24. Officials Not to Benefit

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

25. Four-Digit Date Compliance

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

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

26. Prohibited Use of State Funds for Software

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

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

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

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

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

(1) Ensure that small businesses, minority-owned firms, and women's business enterprises are used to the fullest extent practicable.

(2) Make information on forthcoming purchasing and contracting opportunities available and arrange time frames for purchases and contracts to encourage and facilitate participation by small businesses, minority-owned firms, and women's business enterprises.

(3) Consider in the contract process whether firms competing for larger contracts intend to subcontract with small businesses, minority-owned firms, and women's business enterprises.

(4) Encourage contracting with consortiums of small businesses, minority-owned firms and women's business enterprises when a contract is too large for one of these firms to handle individually.

(5) Use the services and assistance, as appropriate, of such organizations as the Federal Small Business Administration and the U.S. Department of Commerce's Minority Business Development Agency in the solicitation and utilization of small businesses, minority-owned firms and women's business enterprises.

28. Alien Ineligibility Certification

(Applicable to sole proprietors entering federally funded agreements.)

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

29. Union Organizing

(Applicable only to grant agreements.)

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

a. No state funds disbursed by this grant will be used to assist, promote or deter union organizing.

b. Grantee shall account for state funds disbursed for a specific expenditure by this grant, to show those funds were allocated to that expenditure.

c. Grantee shall, where state funds are not designated as described in b herein, allocate, on a pro-rata basis, all disbursements that support the grant program.

d. If Grantee makes expenditures to assist, promote or deter union organizing, Grantee will maintain records sufficient to show that no state funds were used for those expenditures, and that Grantee shall provide those records to the Attorney General upon request.

30. Contract Uniformity (Fringe Benefit Allowability)

(Applicable only to nonprofit organizations.)

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

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

b. As used herein, fringe benefits do not include:

(1) Compensation for personal services paid currently or accrued by the Contractor for services of employees rendered during the term of this Agreement, which is identified as regular or normal salaries and wages, annual leave, vacation, sick leave, holidays, jury duty and/or military leave/training.
(2) Director's and executive committee member's fees.
(3) Incentive awards and/or bonus incentive pay.
(4) Allowances for off-site pay.
(5) Location allowances.
(6) Hardship pay.
(7) Cost-of-living differentials

c. Specific allowable fringe benefits include:

(1) Fringe benefits in the form of employer contributions for the employer's portion of payroll taxes (i.e., FICA, SUI, SDI), employee health plans (i.e., health, dental and vision), unemployment insurance, worker's compensation insurance, and the employer's share of pension/retirement plans, provided they are granted in accordance with established written organization policies and meet all legal and Internal Revenue Service requirements.

d. To be an allowable fringe benefit, the cost must meet the following criteria:

(1) Be necessary and reasonable for the performance of the Agreement.
(2) Be determined in accordance with generally accepted accounting principles.
(3) Be consistent with policies that apply uniformly to all activities of the Contractor.

e. Contractor agrees that all fringe benefits shall be at actual cost.

f. Earned/Accrued Compensation

(1) Compensation for vacation, sick leave and holidays is limited to that amount earned/accrued within the agreement term. Unused vacation, sick leave and holidays earned from periods prior to the agreement term cannot be claimed as allowable costs. See Provision f (3)(a) for an example.

(2) For multiple year agreements, vacation and sick leave compensation, which is earned/accrued but not paid, due to employee(s) not taking time off may be carried over and claimed within the overall term of the multiple years of the Agreement. Holidays cannot be carried over from one agreement year to the next. See Provision f (3)(b) for an example.

(3) For single year agreements, vacation, sick leave and holiday compensation that is earned/accrued but not paid, due to employee(s) not taking time off within the term of the Agreement, cannot be claimed as an allowable cost. See Provision f (3)(c) for an example.

(a) **Example No. 1:**

If an employee, John Doe, earns/accrues three weeks of vacation and twelve days of sick leave each year, then that is the maximum amount that may be claimed during a one year agreement. If John Doe has five weeks of vacation and eighteen days of sick leave at the beginning of an agreement, the Contractor during a one-year budget period may only claim up to three weeks of vacation and twelve days of sick leave as actually used by the employee. Amounts earned/accrued in periods prior to the beginning of the Agreement are not an allowable cost.

(b) **Example No. 2:**

If during a three-year (multiple year) agreement, John Doe does not use his three weeks of vacation in year one, or his three weeks in year two, but he does actually use nine weeks in year three; the Contractor would be allowed to claim all nine weeks paid for in year three. The total compensation over the three-year period cannot exceed 156 weeks (3 x 52 weeks).

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

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

31. Suspension or Stop Work Notification

a. DHCS may, at any time, issue a notice to suspend performance or stop work under this Agreement. The initial notification may be a verbal or written directive issued by the funding Program's Contract Manager. Upon receipt of said notice, the Contractor is to suspend and/or stop all, or any part, of the work called for by this Agreement.

b. Written confirmation of the suspension or stop work notification with directions as to what work (if not all) is to be suspended and how to proceed will be provided within 30 working days of the verbal notification. The suspension or stop work notification shall remain in effect until further written notice is received from DHCS. The resumption of work (in whole or part) will be at DHCS' discretion and upon receipt of written confirmation.

(1) Upon receipt of a suspension or stop work notification, the Contractor shall immediately comply with its terms and take all reasonable steps to minimize or halt the incurrence of costs allocable to the performance covered by the notification during the period of work suspension or stoppage.

(2) Within 90 days of the issuance of a suspension or stop work notification, DHCS shall either:

(a) Cancel, extend, or modify the suspension or stop work notification; or

(b) Terminate the Agreement as provided for in the Cancellation / Termination clause of the Agreement.

c. If a suspension or stop work notification issued under this clause is canceled or the period of suspension or any extension thereof is modified or expires, the Contractor may resume work only upon written concurrence of funding Program's Contract Manager.

d. If the suspension or stop work notification is cancelled and the Agreement resumes, changes to the services, deliverables, performance dates, and/or contract terms resulting from the suspension or stop work notification shall require an amendment to the Agreement.

e. If a suspension or stop work notification is not canceled and the Agreement is cancelled or terminated pursuant to the provision entitled Cancellation / Termination, DHCS shall allow reasonable costs resulting from the suspension or stop work notification in arriving at the settlement costs.

f. DHCS shall not be liable to the Contractor for loss of profits because of any suspension or stop work notification issued under this clause.

32. Lobbying Restrictions and Disclosure Certification

(Applicable to federally funded agreements in excess of $100,000 per Section 1352 of the 31, U.S.C.)

a. Certification and Disclosure Requirements

(1) Each person (or recipient) who requests or receives a contract or agreement, subcontract, grant, or subgrant, which is subject to Section 1352 of the 31, U.S.C., and which exceeds $100,000 at any tier, shall file a certification (in the form set forth in Attachment 1, consisting of one page, entitled "Certification Regarding Lobbying") that the recipient has not made, and will not make, any payment prohibited by Paragraph b of this provision.

(2) Each recipient shall file a disclosure (in the form set forth in Attachment 2, entitled "Standard Form-LLL 'disclosure of Lobbying Activities'") if such recipient has made or has agreed to make any payment using nonappropriated funds (to include profits from any covered federal action) in connection with a contract, or grant or any extension or amendment of that contract, or grant, which would be prohibited under Paragraph b of this provision if paid for with appropriated funds.

(3) Each recipient shall file a disclosure form at the end of each calendar quarter in which there occurs any event that requires disclosure or that materially affect the accuracy of the information contained in any disclosure form previously filed by such person under Paragraph a(2) herein. An event that materially affects the accuracy of the information reported includes:

(a) A cumulative increase of $25,000 or more in the amount paid or expected to be paid for influencing or attempting to influence a covered federal action;

(b) A change in the person(s) or individuals(s) influencing or attempting to influence a covered federal action; or

(c) A change in the officer(s), employee(s), or member(s) contacted for the purpose of influencing or attempting to influence a covered federal action.

(4) Each person (or recipient) who requests or receives from a person referred to in Paragraph a(1) of this provision a contract or agreement, subcontract, grant or subgrant exceeding $100,000 at any tier under a contract or agreement, or grant shall file a certification, and a disclosure form, if required, to the next tier above.

(5) All disclosure forms (but not certifications) shall be forwarded from tier to tier until received by the person referred to in Paragraph a(1) of this provision. That person shall forward all disclosure forms to DHCS Program Contract Manager.

b. Prohibition

Section 1352 of Title 31, U.S.C., provides in part that no appropriated funds may be expended by the recipient of a federal contract or agreement, grant, loan, or cooperative agreement to pay any person for

influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with any of the following covered federal actions: the awarding of any federal contract or agreement, the making of any federal grant, the making of any federal loan, entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal contract or agreement, grant, loan, or cooperative agreement.

Attachment 1
State of California
Department of Health Care Services

CERTIFICATION REGARDING LOBBYING

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

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

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

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

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

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

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

California Department of Health Care Services

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

Attachment 2

CERTIFICATION REGARDING LOBBYING

Approved by OMB
0348-0046

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

1. Type of Federal Action: [ ] a. contract b. grant c. cooperative agreement d. loan e. loan guarantee f. loan insurance	2. Status of Federal Action: [ ] a. bid/offer/application b. initial award c. post-award	3. Report Type: [ ] a. initial filing b. material change For Material Change Only: Year _____ quarter _____ date of last report _____.
4. Name and Address of Reporting Entity: ☐ Prime ☐ Subawardee Tier ___, if known: Congressional District, If known:	5. If Reporting Entity in No. 4 is Subawardee, Enter Name and Address of Prime: Congressional District, If known:	
6. Federal Department/Agency	7. Federal Program Name/Description: CDFA Number, if applicable: _____	
8. Federal Action Number, if known:	9. Award Amount, if known: $	
10.a. Name and Address of Lobbying Registrant *(If individual, last name, first name, MI)*:	b. Individuals Performing Services *(including address if different from 10a.* *(Last name, First name, MI)*:	
11. Information requested through this form is authorized by title 31 U.S.C. section 1352. This disclosure of lobbying activities is a material representation of fact upon which reliance was placed by the tier above when this transaction was made or entered into. This disclosure is required pursuant to 31 U.S.C. 1352. This information will be available for public inspection. Any person that fails to file the required disclosure shall be subject to a not more than $100,000 for each such failure.	Signature: _____ Print Name: _____ Title: Telephone No.: _____ Date: _____	
Federal Use Only	Authorized for Local Reproduction Standard Form-LLL (Rev. 7-97)	

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

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

1. Identify the type of covered Federal action for which lobbying activity is and/or has been secured to influence the outcome of a covered Federal action.

2. Identify the status of the covered Federal action.

3. Identify the appropriateclassification of this report. If this is a followup report caused by a material change to the information previously reported, enter the year and quarter in which the change occurred. Enter the date of the last previously submitted report by this reporting entity for this covered Federal action.

4. Enter the full name, address, city, State and zip code of the reporting entity. Include Congressional District, if known. Check the appropriate classification of the reporting entity that designates if itis, or expects to be,a prime or subaward recipient. Identify the tier of the subawardee, e.g., the first subawardee of the prime is the 1st tier. Subawards include but are not limited to subcontracts, subgrants and contract awards under grants.

5. If the organization filing the report in item 4 checks "Subawardee," then enter the full name, address, city, State and zip code of the prime Federal recipient. Include Congressional District, if known.

6. Enter the name of the Federal agency making the award or loan commitment. Include at least one organizationallevel below agency name, if known. For example, Department of Transportation, United States Coast Guard.

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

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

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

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

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

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

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

INFORMATION EXCHANGE AGREEMENT
BETWEEN
THE SOCIAL SECURITY ADMINISTRATION (SSA)
AND
THE CALIFORNIA DEPARTMENT OF HEALTH CARE SERVICES (STATE AGENCY)

A. **PURPOSE:** The purpose of this Information Exchange Agreement ("IEA") is to establish terms, conditions, and safeguards under which SSA will disclose to the State Agency certain information, records, or data (herein "data") to assist the State Agency in administering certain federally funded state-administered benefit programs (including state-funded state supplementary payment programs under Title XVI of the Social Security Act) identified in this IEA. By entering into this IEA, the State Agency agrees to comply with:

- the terms and conditions set forth in the Computer Matching and Privacy Protection Act Agreement ("CMPPA Agreement") attached as **Attachment 1**, governing the State Agency's use of the data disclosed from SSA's Privacy Act System of Records; and
- all other terms and conditions set forth in this IEA.

B. **PROGRAMS AND DATA EXCHANGE SYSTEMS:** (1) The State Agency will use the data received or accessed from SSA under this IEA for the purpose of administering the federally funded, state-administered programs identified in **Table 1** below. In **Table 1**, the State Agency has identified: (a) each federally funded, state-administered program that it administers; and (b) each SSA data exchange system to which the State Agency needs access in order to administer the identified program. The list of SSA's data exchange systems is attached as **Attachment 2**:

TABLE 1

FEDERALLY FUNDED BENEFIT PROGRAMS	
Program	**SSA Data Exchange System(s)**
[X] Medicaid	BENDEX/SDX/EVS/SVES/SOLQ/SVES I-Citizenship /Quarters of Coverage/Prisoner Query
☐ Temporary Assistance to Needy Families (TANF)	
☐ Supplemental Nutrition Assistance Program (SNAP- formally Food Stamps)	
☐ Unemployment Compensation (Federal)	
☐ Unemployment Compensation (State)	
☐ State Child Support Agency	
☐ Low-Income Home Energy Assistance Program (LI-HEAP)	
☐ Workers Compensation	
☐ Vocational Rehabilitation Services	

☐ Foster Care (IV-E)	
☐ State Health Insurance Program (S-CHIP)	
☐ Women, Infants and Children (W.I.C.)	
[X] Medicare Savings Programs (MSP)	LIS File
[X] Medicare 1144 (Outreach)	Medicare 1144 Outreach File
☐ *Other Federally Funded, State-Administered Programs (List Below)*	
Program	SSA Data Exchange System(s)

(2) The State Agency will use each identified data exchange system ***only*** for the purpose of administering the specific program for which access to the data exchange system is provided. SSA data exchange systems are protected by the Privacy Act and federal law prohibits the use of SSA's data for any purpose other than the purpose of administering the specific program for which such data is disclosed. In particular, the State Agency will use: (a) the **tax return data** disclosed by SSA only to determine individual eligibility for, or the amount of, assistance under a state plan pursuant to Section 1137 programs and child support enforcement programs in accordance with 26 U.S.C. § 6103(1)(8); and (b) the **citizenship status data** disclosed by SSA under the Children's Health Insurance Program Reauthorization Act of 2009, Pub. L. 111-3, only for the purpose of determining entitlement to Medicaid and CHIP program for new applicants. The State Agency also acknowledges that SSA's citizenship data may be less than 50 percent current. Applicants for SSNs report their citizenship data at the time they apply for their SSNs; there is no obligation for an individual to report to SSA a change in his or her immigration status until he or she files a claim for benefits.

C. **PROGRAM QUESTIONNAIRE:** Prior to signing this IEA, the State Agency will complete and submit to SSA a program questionnaire for each of the federally funded, state-administered programs checked in **Table 1** above. SSA will not disclose any data under this IEA until it has received and approved the completed program questionnaire for each of the programs identified in **Table 1** above.

D. TRANSFER OF DATA: SSA will transmit the data to the State Agency under this IEA using the data transmission method identified in **Table 2** below:

TABLE 2

TRANSFER OF DATA
☐ Data will be transmitted directly between SSA and the State Agency.
[X] Data will be transmitted directly between SSA and the California Office of Technology (State Transmission/Transfer Component ("STC")) by the File Transfer Management System, a secure mechanism approved by SSA. The STC will serve as the conduit between SSA and the State Agency pursuant to the State STC Agreement.
☐ Data will be transmitted directly between SSA and the Interstate Connection Network ("ICON"). ICON is a wide area telecommunications network connecting state agencies that administer the state unemployment insurance laws. When receiving data through ICON, the State Agency will comply with the "Systems Security Requirements for SSA Web Access to SSA Information Through the ICON," attached as **Attachment 3**.

E. SECURITY PROCEDURES: The State Agency will comply with limitations on use, treatment, and safeguarding of data under the Privacy Act of 1974 (5 U.S.C. 552a), as amended by the Computer Matching and Privacy Protection Act of 1988, related Office of Management and Budget guidelines, the Federal Information Security Management Act of 2002 (44 U.S.C. § 3541, et seq.), and related National Institute of Standards and Technology guidelines. In addition, the State Agency will comply with SSA's "Information System Security Guidelines for Federal, State and Local Agencies Receiving Electronic Information from the Social Security Administration," attached as **Attachment 4**. For any tax return data, the State Agency will also comply with the "Tax Information Security Guidelines for Federal, State and Local Agencies," Publication 1075, published by the Secretary of the Treasury and available at the following Internal Revenue Service (IRS) website: http://www.irs.gov/pub/irs-pdf/p1075.pdf. This IRS Publication 1075 is incorporated by reference into this IEA.

F. CONTRACTOR/AGENT RESPONSIBILITIES: The State Agency will restrict access to the data obtained from SSA to only those authorized State employees, contractors, and agents who need such data to perform their official duties in connection with purposes identified in this IEA. At SSA's request, the State Agency will obtain from each of its contractors and agents a current list of the employees of its contractors and agents who have access to SSA data disclosed under this IEA. The State Agency will require its contractors, agents, and all employees of such contractors or agents with authorized access to the SSA data disclosed under this IEA, to comply with the terms and conditions set forth in this IEA, and not to duplicate, disseminate, or disclose such data without obtaining SSA's prior written approval. In addition, the State Agency will comply with the limitations on use, duplication, and redisclosure of SSA data set forth in Section IX. of the CMPPA Agreement, especially with respect to its contractors and agents.

G. SAFEGUARDING AND REPORTING RESPONSIBILITIES FOR PERSONALLY IDENTIFIABLE INFORMATION ("PII"):

1. The State Agency will ensure that its employees, contractors, and agents:
   a. properly safeguard PII furnished by SSA under this IEA from loss, theft or inadvertent disclosure;
   b. understand that they are responsible for safeguarding this information at all times, regardless of whether or not the State employee, contractor, or agent is at his or her regular duty station;
   c. ensure that laptops and other electronic devices/media containing PII are encrypted and/or password protected;
   d. send emails containing PII only if encrypted or if to and from addresses that are secure; and
   e. limit disclosure of the information and details relating to a PII loss only to those with a need to know.

2. If an employee of the State Agency or an employee of the State Agency's contractor or agent becomes aware of suspected or actual loss of PII, he or she must immediately contact the State Agency official responsible for Systems Security designated below or his or her delegate. That State Agency official or delegate must then notify the SSA Regional Office Contact and the SSA Systems Security Contact identified below. If, for any reason, the responsible State Agency official or delegate is unable to notify the SSA Regional Office or the SSA Systems Security Contact within 1 hour, the responsible State Agency official or delegate must call SSA's Network Customer Service Center ("NCSC") at 410-965-7777 or toll free at 1-888-772-6661 to report the actual or suspected loss. The responsible State Agency official or delegate will use the worksheet, attached as **Attachment 5**, to quickly gather and organize information about the incident. The responsible State Agency official or delegate must provide to SSA timely updates as any additional information about the loss of PII becomes available.

3. SSA will make the necessary contact within SSA to file a formal report in accordance with SSA procedures. SSA will notify the Department of Homeland Security's United States Computer Emergency Readiness Team if loss or potential loss of PII related to a data exchange under this IEA occurs.

4. If the State Agency experiences a loss or breach of data, it will determine whether or not to provide notice to individuals whose data has been lost of breached and bear any costs associated with the notice or any mitigation.

H. POINTS OF CONTACT:

FOR SSA

San Francisco Regional Office:

Ellery Brown
Data Exchange Coordinator
Frank Hagel Federal Building
1221 Nevin Avenue
Richmond CA 94801
Phone: (510) 970-8243
Fax: (510) 970-8101
Email: Ellery.Brown@ssa.gov

Data Exchange Issues:

Guy Fortson
Office of Electronic Information Exchange
GD10 East High Rise
6401 Security Boulevard
Baltimore, MD 21235
Phone: (410) 597-1103
Fax: (410) 597-0841
Email: guy.fortson@ssa.gov

Systems Issues:

Pamela Riley
Office of Earnings, Enumeration & Administrative Systems
DIVES/Data Exchange Branch
6401 Security Boulevard
Baltimore, MD 21235
Phone: (410) 965-7993
Fax: (410) 966-3147
Email: Pamela.Riley@ssa.gov

Systems Security Issues:

Michael G. Johnson
Acting Director
Office of Electronic Information Exchange
Office of Strategic Services
6401 Security Boulevard
Baltimore, MD 21235
Phone: (410) 965-0266
Fax: (410) 966-0527
Email: Michael.G.Johnson@ssa.gov

FOR STATE AGENCY

Agreement Issues:

Manuel Urbina
Chief, Security Unit
Policy Operations Branch
Medi-Cal Eligibility Division
1501 Capitol Avenue, MS 4607
Sacramento, CA 95814
Phone: (916) 650-0160
Email: Manuel.Urbina@dhcs.ca.gov

Technical Issues:

Fei Collier
Chief, Application Support Branch
Information Technology Services Division
1615 Capitol Ave, MS 6100
Sacramento, CA 95814
Phone: (916) 440-7036
Email: Fei.Collier@dhcs.ca.gov

I. DURATION:

The effective date of this IEA is January 1, 2010. This IEA will remain in effect for as long as: (1) a CMPPA Agreement governing this IEA is in effect between SSA and the State or the State Agency; and (2) the State Agency submits a certification in accordance with Section J. below at least 30 days before the expiration and renewal of such CMPPA Agreement.

J. **CERTIFICATION AND PROGRAM CHANGES:** At least 30 days before the expiration and renewal of the State CMPPA Agreement governing this IEA, the State Agency will certify in writing to SSA that: (1) it is in compliance with the terms and conditions of this IEA; (2) the data exchange processes under this IEA have been and will be conducted without change; and (3) it will, upon SSA's request, provide audit reports or other documents that demonstrate review and oversight activities. If there are substantive changes in any of the programs or data exchange processes listed in this IEA, the parties will modify the IEA in accordance with Section K. below and the State Agency will submit for SSA's approval new program questionnaires under Section C. above describing such changes prior to using SSA's data to administer such new or changed program.

K. **MODIFICATION:** Modifications to this IEA must be in writing and agreed to by the parties.

L. **TERMINATION:** The parties may terminate this IEA at any time upon mutual written consent. In addition, either party may unilaterally terminate this IEA upon 90 days advance written notice to the other party. Such unilateral termination will be effective 90 days after the date of the notice, or at a later date specified in the notice.

SSA may immediately and unilaterally suspend the data flow under this IEA, or terminate this IEA, if SSA, in its sole discretion, determines that the State Agency (including its employees, contractors, and agents) has: (1) made an unauthorized use or disclosure of SSA-supplied data; or (2) violated or failed to follow the terms and conditions of this IEA or the CMPPA Agreement.

M. **INTEGRATION:** This IEA, including all attachments, constitutes the entire agreement of the parties with respect to its subject matter. There have been no representations, warranties, or promises made outside of this IEA. This IEA shall take precedence over any other document that may be in conflict with it.

<u>ATTACHMENTS</u>

1 – CMPPA Agreement
2 – SSA Data Exchange Systems
3 – Systems Security Requirements for SSA Web Access to SSA Information Through ICON
4 – Information System Security Guidelines for Federal, State and Local Agencies Receiving Electronic Information from the Social Security Administration
5 – PII Loss Reporting Worksheet

N. **SSA AUTHORIZED SIGNATURE:** The signatory below warrants and represents that he or she has the competent authority on behalf of SSA to enter into the obligations set forth in this IEA.

SOCIAL SECURITY ADMINISTRATION

Mary G Croft for

Michael G. Gallagher
Assistant Deputy Commissioner
for Budget, Finance and Management

5/13/05
Date

O. REGIONAL AND STATE AGENCY SIGNATURES:

SOCIAL SECURITY ADMINISTRATION
REGION IX

Peter D. Spencer
San Francisco Regional Commissioner

10/26/09
Date

THE CALIFORNIA DEPARTMENT OF HEALTH CARE SERVICES

The signatory below warrants and represents that he or she has the competent authority on behalf of the State Agency to enter into the obligations set forth in this IEA.

Toby Douglas
Chief Deputy Director, Health Care Programs

10/11/09
Date

CERTIFICATION OF COMPLIANCE
FOR
THE INFORMATION EXCHANGE AGREEMENT
BETWEEN
THE SOCIAL SECURITY ADMINISTRATION (SSA)
AND
THE CALIFORNIA DEPARTMENT OF HEALTH CARE SERVICES (STATE AGENCY)

(State Agency Level)

In accordance with the terms of the Information Exchange Agreement (IEA/F) between SSA and the State Agency, the State Agency, through its authorized representative, hereby certifies that, as of the date of this certification:

1. The State Agency is in compliance with the terms and conditions of the IEA/F;

2. The State Agency has conducted the data exchange processes under the IEA/F without change, except as modified in accordance with the IEA/F;

3. The State Agency will continue to conduct the data exchange processes under the IEA/F without change, except as may be modified in accordance with the IEA/F;

4. Upon SSA's request, the State Agency will provide audit reports or other documents that demonstrate compliance with the review and oversight activities required under the IEA/F and the governing Computer Matching and Privacy Protection Act Agreement; and

5. In compliance with the requirements of the "Electronic Information Exchange Security Requirements, Guidelines, and Procedures for State and Local Agencies Exchanging Electronic Information with the Social Security Administration," Attachment 4 to the IEA/F, as periodically updated by SSA, the State Agency has not made any changes in the following areas that could potentially affect the security of SSA data:

   - General System Security Design and Operating Environment
   - System Access Control
   - Automated Audit Trail
   - Monitoring and Anomaly Detection
   - Management Oversight
   - Data and Communications Security

   The State Agency will submit an updated Security Design Plan at least 30 days prior to making any changes to the areas listed above.

The signatory below warrants and represents that he or she is a representative of the State Agency duly authorized to make this certification on behalf of the State Agency.

DEPARTMENT OF HEALTH CARE SERVICES OF CALIFORNIA

Toby Douglas
Director

4/12/12
Date

ATTACHMENT 1

COMPUTER MATCHING AND PRIVACY PROTECTION ACT AGRREMENT

COMPUTER MATCHING AND PRIVACY PROTECTION ACT AGREEMENT BETWEEN THE SOCIAL SECURITY ADMINISTRATION AND THE HEALTH AND HUMAN SERVICES AGENCY OF CALIFORNIA

I. Purpose and Legal Authority

A. Purpose

This Computer Matching and Privacy Protection Act (CMPPA) Agreement between the Social Security Administration (SSA) and the California Health and Human Services Agency (State Agency), sets forth the terms and conditions governing disclosures of records, information, or data (collectively referred to herein "data") made by SSA to the State Agency that administers federally funded benefit programs under various provisions of the Social Security Act (Act), such as section 1137 (42 U.S.C. § 1320b-7), including the state-funded state supplementary payment programs under title XVI of the Act. The terms and conditions of this Agreement ensure that SSA makes such disclosures of data, and the State Agency uses such disclosed data, in accordance with the requirements of the Privacy Act of 1974, as amended by the Computer Matching and Privacy Protection Act of 1988, 5 U.S.C. § 552a.

Under section 1137 of the Act, the State Agency is required to use an income and eligibility verification system to administer specified federally funded benefit programs, including the state-funded state supplementary payment programs under title XVI of the Act. To assist the State Agency in determining entitlement to and eligibility for benefits under those programs, as well as other federally funded benefit programs, SSA discloses certain data about applicants for state benefits from SSA Privacy Act Systems of Records (SOR) and verifies the Social Security numbers (SSN) of the applicants.

B. Legal Authority

SSA's authority to disclose data and the State Agency's authority to collect, maintain, and use data protected under SSA SORs for specified purposes is:

- Sections 1137, 453, and 1106(b) of the Act (42 U.S.C. §§ 1320b-7, 653, and 1306(b)) (income and eligibility verification data);
- 26 U.S.C. § 6103(l)(7) and (8) (tax return data);
- Section 202(x)(3)(B)(iv) of the Act (42 U.S.C. § 401(x)(3)(B)(iv)) (prisoner data);
- Section 1611(e)(1)(I)(iii) of the Act (42 U.S.C. § 1382(e)(1)(I)(iii) (SSI);

- Section 205(r)(3) of the Act (42 U.S.C. § 405(r)(3)) and the Intelligence Reform and Terrorism Prevention Act of 2004, Pub. L. 108-458, § 7213(a)(2) (death data);
- Sections 402, 412, 421, and 435 of Pub. L. 104-193 (8 U.S.C. §§ 1612, 1622, 1631, and 1645) (quarters of coverage data);
- Children's Health Insurance Program Reauthorization Act of 2009, Pub. L. 111-3 (citizenship data); and
- Routine use exception to the Privacy Act, 5 U.S.C. § 552a(b)(3) (data necessary to administer other programs compatible with SSA programs).

This Agreement further carries out section 1106(a) of the Act (42 U.S.C. § 1306), the regulations promulgated pursuant to that section (20 C.F.R. Part 401), the Privacy Act of 1974 (5 U.S.C. § 552a), as amended by the CMPPA, related Office of Management and Budget (OMB) guidelines, the Federal Information Security Management Act of 2002 (FISMA) (44 U.S.C. § 3541, et seq.), and related National Institute of Standards and Technology (NIST) guidelines, which provide the requirements that the State Agency must follow with regard to use, treatment, and safeguarding of data.

II. Scope

A. The State Agency will comply with the terms and conditions of this Agreement and the Privacy Act, as amended by the CMPPA.

B. The State Agency will execute one or more Information Exchange Agreements (IEA) with SSA, documenting additional terms and conditions applicable to those specific data exchanges, including the particular benefit programs administered by the State Agency, the data elements that will be disclosed, and the data protection requirements implemented to assist the State Agency in the administration of those programs.

C. The State Agency will use the SSA data governed by this Agreement to determine entitlement and eligibility of individuals for one or more of the following programs:

1. Temporary Assistance to Needy Families (TANF) program under Part A of title IV of the Act;
2. Medicaid provided under an approved State plan or an approved waiver under title XIX of the Act;
3. State Children's Health Insurance Program (CHIP) under title XXI of the Act, as amended by the Children's Health Insurance Program Reauthorization Act of 2009;
4. Supplemental Nutritional Assistance Program (SNAP) under the Food Stamp Act of 1977 (7 U.S.C. § 2011, et seq.);

5. Women, Infants and Children Program (WIC) under the Child Nutrition Act of 1966 (42 U.S.C. § 1771, et seq.);
6. Medicare Savings Programs (MSP) under 42 U.S.C. § 1396a(10)(E);
7. Unemployment Compensation programs provided under a state law described in section 3304 of the Internal Revenue Code of 1954;
8. Low Income Heating and Energy Assistance (LIHEAP or home energy grants) program under 42 U.S.C. § 8621;
9. State-administered supplementary payments of the type described in section 1616(a) of the Act;
10. Programs under a plan approved under titles I, X, XIV or XVI of the Act;
11. Foster Care and Adoption Assistance under title IV of the Act;
12. Child Support Enforcement programs under section 453 of the Act (42 U.S.C. § 653);
13. Other applicable federally funded programs administered by the State Agency under titles I, IV, X, XIV, XVI, XVIII, XIX, XX and XXI of the Act; and
14. Any other federally funded programs administered by the State Agency that are compatible with SSA's programs.

D. The State Agency will ensure that SSA data disclosed for the specific purpose of administering a particular federally funded benefit program is used only to administer that program.

III. Justification and Expected Results

A. Justification

This Agreement and related data exchanges with the State Agency are necessary for SSA to assist the State Agency in its administration of federally funded benefit programs by providing the data required to accurately determine entitlement and eligibility of individuals for benefits provided under these programs. SSA uses computer technology to transfer the data because it is more economical, efficient, and faster than using manual processes.

B. Expected Results

The State Agency will use the data provided by SSA to improve public service and program efficiency and integrity. The use of SSA data expedites the application process and ensures that benefits are awarded only to applicants that satisfy the State Agency's program criteria. A cost-benefit analysis for the exchange made under this Agreement is not required in accordance with the determination by the SSA Data Integrity Board (DIB) to waive such analysis pursuant to 5 U.S.C. § 552a(u)(4)(B).

IV. Record Description

A. Systems of Records

SSA SORs used for purposes of the subject data exchanges include:

- 60-0058 -- Master Files of SSN Holders and SSN Applications (accessible through EVS, SVES, or Quarters of Coverage Query data systems);
- 60-0059 -- Earnings Recording and Self-Employment Income System (accessible through BENDEX, SVES, or Quarters of Coverage Query data systems);
- 60-0090 -- Master Beneficiary Record (accessible through BENDEX or SVES data systems);
- 60-0103 -- Supplemental Security Income Record (SSR) and Special Veterans Benefits (SVB) (accessible through SDX or SVES data systems);
- 60-0269 -- Prisoner Update Processing System (PUPS) (accessible through SVES or Prisoner Query data systems).
- 60-0321 -- Medicare Part D and Part D Subsidy File

The State Agency will only use the tax return data contained in **SOR 60-0059** (Earnings Recording and Self-Employment Income System) in accordance with 26 U.S.C. § 6103.

B. Data Elements

Data elements disclosed in computer matching governed by this Agreement are Personally Identifiable Information (PII) from specified SSA SORs, including names, SSNs, addresses, amounts, and other information related to SSA benefits, and earnings information. Specific listings of data elements are available at:

http://www.ssa.gov/qix/

C. Number of Records Involved

The number of records for each program covered under this Agreement is equal to the number of title II, title XVI, or title XVIII recipients resident in the State as recorded in SSA's Annual Statistical Supplement found on the Internet at:

http://www.ssa.gov/policy/docs/statcomps/

This number will fluctuate during the term of this Agreement, corresponding to the number of title II, title XVI, and title XVIII recipients added to, or deleted from, SSA databases during the term of this Agreement.

V. Notice and Opportunity to Contest Procedures

A. Notice to Applicants

The State Agency will notify all individuals who apply for federally funded, state-administered benefits under the Act that any data they provide are subject to verification through computer matching with SSA. The State Agency and SSA will provide such notice through appropriate language printed on application forms or separate handouts.

B. Notice to Beneficiaries/Recipients/Annuitants

The State Agency will provide notice to beneficiaries, recipients, and annuitants under the programs covered by this Agreement informing them of ongoing computer matching with SSA. SSA will provide such notice through publication in the Federal Register and periodic mailings to all beneficiaries, recipients, and annuitants describing SSA's matching activities.

C. Opportunity to Contest

The State Agency will not terminate, suspend, reduce, deny, or take other adverse action against an applicant for or recipient of federally funded, state-administered benefits based on data disclosed by SSA from its SORs until the individual is notified in writing of the potential adverse action and provided an opportunity to contest the planned action. "Adverse action" means any action that results in a termination, suspension, reduction, or final denial of eligibility, payment, or benefit. Such notices will:

1. Inform the individual of the match findings and the opportunity to contest these findings;

2. Give the individual until the expiration of any time period established for the relevant program by a statute or regulation for the individual to respond to the notice. If no such time period is established by a statute or regulation for the program, a 30-day period will be provided. The time period begins on the date on which notice is mailed or otherwise provided to the individual to respond; and

3. Clearly state that, unless the individual responds to the notice in the required time period, the State Agency will conclude that the SSA data are correct and will effectuate the threatened action or otherwise make the necessary adjustment to the individual's benefit or entitlement.

VI. Records Accuracy Assessment and Verification Procedures

The State Agency may use SSA's benefit data without independent verification. SSA has independently assessed the accuracy of its benefits data to be more than 99 percent accurate when they are created.

Prisoner and death data, some of which is not independently verified by SSA, does not have the same degree of accuracy as SSA's benefit data. Therefore, the State Agency must independently verify these data through applicable State verification procedures and the notice and opportunity to contest procedures specified in Section V of this Agreement before taking any adverse action against any individual.

SSA's citizenship data may be less than 50 percent current. Applicants for SSNs report their citizenship status at the time they apply for their SSNs. There is no obligation for an individual to report to SSA a change in his or her immigration status until he or she files a claim for benefits.

VII. Disposition and Records Retention of Matched Items

A. The State Agency will retain all data received from SSA to administer programs governed by this Agreement only for the required processing times for the applicable federally funded benefit programs and will then destroy all such data.

B. The State Agency may retain SSA data in hardcopy to meet evidentiary requirements, provided that they retire such data in accordance with applicable state laws governing the State Agency's retention of records.

C. The State Agency may use any accretions, deletions, or changes to the SSA data governed by this Agreement to update their master files of federally funded, state-administered benefit program applicants and recipients and retain such master files in accordance with applicable state laws governing the State Agency's retention of records.

D. The State Agency may not create separate files or records comprised solely of the data provided by SSA to administer programs governed by this Agreement.

E. SSA will delete electronic data input files received from the State Agency after it processes the applicable match. SSA will retire its data in accordance with the Federal Records Retention Schedule (44 U.S.C. § 3303a).

VIII. Security Procedures

The State Agency will comply with the security and safeguarding requirements of the Privacy Act, as amended by the CMPPA, related OMB guidelines, FISMA, related

NIST guidelines, and the current revision of IRS Publication 1075, *Tax Information Security Guidelines for Federal, State and Local Agencies and Entities*, available at http://www.irs.gov. In addition, the State Agency will have in place administrative, technical, and physical safeguards for the matched data and results of such matches. Additional administrative, technical, and physical security requirements governing all data SSA provides electronically to the State Agency, including specific guidance on safeguarding and reporting responsibilities for PII, are set forth in the IEAs.

IX. Records Usage, Duplication, and Redisclosure Restrictions

A. The State Agency will use and access SSA data and the records created using that data only for the purpose of verifying eligibility for the specific federally funded benefit programs identified in the IEA.

B. The State Agency will comply with the following limitations on use, duplication, and redisclosure of SSA data:

1. The State Agency will not use or redisclose the data disclosed by SSA for any purpose other than to determine eligibility for, or the amount of, benefits under the state-administered income/health maintenance programs identified in this Agreement.

2. The State Agency will not use the data disclosed by SSA to extract information concerning individuals who are neither applicants for, nor recipients of, benefits under the state-administered income/health maintenance programs identified in this Agreement.

3. The State Agency will use the **Federal tax information (FTI)** disclosed by SSA only to determine individual eligibility for, or the amount of, assistance under a state plan pursuant to section 1137 programs and child support enforcement programs in accordance with 26 U.S.C. § 6103(l)(7) and (8). The State Agency receiving FTI will maintain all FTI from IRS in accordance with 26 U.S.C. § 6103(p)(4) and the IRS Publication 1075. Contractors and agents acting on behalf of the State Agency will only have access to tax return data where specifically authorized by 26 U.S.C. § 6103 and the IRS Publication 1075.

4. The State Agency will use the **citizenship status data** disclosed by SSA under the Children's Health Insurance Program Reauthorization Act of 2009, Pub. L. 111-3, only for the purpose of determining entitlement to Medicaid and CHIP programs for new applicants.

5. The State Agency will restrict access to the data disclosed by SSA to only those authorized State employees, contractors, and agents who need such data

to perform their official duties in connection with the purposes identified in this Agreement.

6. The State Agency will enter into a written agreement with each of its contractors and agents who need SSA data to perform their official duties whereby such contractor or agent agrees to abide by all relevant Federal laws, restrictions on access, use, and disclosure, and security requirements in this Agreement. The State Agency will provide its contractors and agents with copies of this Agreement, related IEAs, and all related attachments before initial disclosure of SSA data to such contractors and agents. Prior to signing this Agreement, and thereafter at SSA's request, the State Agency will obtain from its contractors and agents a current list of the employees of such contractors and agents with access to SSA data and provide such lists to SSA.

7. The State Agency's employees, contractors, and agents who access, use, or disclose SSA data in a manner or purpose not authorized by this Agreement may be subject to civil and criminal sanctions pursuant to applicable Federal statutes.

C. The State Agency will not duplicate in a separate file or disseminate, without prior written permission from SSA, the data governed by this Agreement for any purpose other than to determine entitlement to, or eligibility for, federally funded benefits. The State Agency proposing the redisclosure must specify in writing to SSA what data are being disclosed, to whom, and the reasons that justify the redisclosure. SSA will not give permission for such redisclosure unless the redisclosure is required by law or essential to the conduct of the matching program and authorized under a routine use.

X. Comptroller General Access

The Comptroller General (the Government Accountability Office) may have access to all records of the State Agency that the Comptroller General deems necessary to monitor and verify compliance with this Agreement in accordance with 5 U.S.C. § 552a(o)(l)(K).

XI. Duration, Modification, and Termination of the Agreement

A. Duration

1. This Agreement is effective from July 1, 2012 (Effective Date) through December 31, 2013 (Expiration Date).

2. In accordance with the CMPPA, SSA will: (a) publish a Computer Matching Notice in the Federal Register at least 30 days prior to the

Effective Date; (b) send required notices to the Congressional committees of jurisdiction under 5 U.S.C. § 552a(o)(2)(A)(i) at least 40 days prior to the Effective Date; and (c) send the required report to the OMB at least 40 days prior to the Effective Date.

3. Within 3 months prior the Expiration Date, the SSA DIB may, without additional review, renew this Agreement for a period not to exceed 12 months, pursuant to 5 U.S.C. § 552a(o)(2)(D), if:

   - the applicable data exchange will continue without any change; and
   - SSA and the State Agency certify to the DIB in writing that the applicable data exchange has been conducted in compliance with this Agreement.

4. If either SSA or the State Agency does not wish to renew this Agreement, it must notify the other party of its intent not to renew at least 3 months prior to the Expiration Date.

B. Modification

Any modification to this Agreement must be in writing, signed by both parties, and approved by the SSA DIB.

C. Termination

The parties may terminate this Agreement at any time upon mutual written consent of both parties. Either party may unilaterally terminate this Agreement upon 90 days advance written notice to the other party; such unilateral termination will be effective 90 days after the date of the notice, or at a later date specified in the notice.

SSA may immediately and unilaterally suspend the data flow or terminate this Agreement if SSA determines, in its sole discretion, that the State Agency has violated or failed to comply with this Agreement.

XII. Reimbursement

In accordance with section 1106(b) of the Act, the Commissioner of SSA has determined not to charge the State Agency the costs of furnishing the electronic data from the SSA SORs under this Agreement.

XIII. Disclaimer

SSA is not liable for any damages or loss resulting from errors in the data provided to the State Agency under any IEAs governed by this Agreement. Furthermore, SSA is not liable for any damages or loss resulting from the destruction of any materials or data provided by the State Agency.

XIV. Points of Contact

A. SSA Point of Contact

Regional Office

Martin White, Director
San Francisco Regional Office, Center for Programs Support
1221 Nevin Ave
Richmond CA 94801
Phone: (510) 970-8243/Fax: (510) 970-8101
Martin.White@ssa.gov

B. State Agency Point of Contact

Sonia Herrera
Health and Human Services Agency
1600 Ninth Street, Room 460
Sacramento, CA 95814
Phone: (916) 654-3459/Fax: (916) 44-5001
sherrera@chhs.ca.gov

XV. SSA and Data Integrity Board Approval of Model CMPPA Agreement

The signatories below warrant and represent that they have the competent authority on behalf of SSA to approve the model of this CMPPA Agreement.

SOCIAL SECURITY ADMINISTRATION

Dawn S. Wiggins
Deputy Executive Director
Office of Privacy and Disclosure
Office of the General Counsel

1-17-2012
Date

I certify that the SSA Data Integrity Board approved the model of this CMPPA Agreement.

Daniel F. Callahan
Chair
SSA Data Integrity Board

1-26-2012
Date

XVI. Authorized Signatures

The signatories below warrant and represent that they have the competent authority on behalf of their respective agencies to enter into the obligations set forth in this Agreement.

SOCIAL SECURITY ADMINISTRATION

Patty Robidart

for Bill Zielinski
Regional Commissioner
San Francisco

05/10/2012
Date

HEALTH AND HUMAN SERVICES AGENCY

Diana S. Dooley

Diana S. Dooley
Secretary

April 27, 2012
Date

ATTACHMENT 2

AUTHORIZED DATA EXCHANGE SYSTEM(S)

Attachment 2

Authorized Data Exchange System(s)

BEER (Beneficiary Earnings Exchange Record): Employer data for the last calendar year.

BENDEX (Beneficiary and Earnings Data Exchange): Primary source for Title II eligibility, benefit and demographic data.

LIS (Low-Income Subsidy): Data from the Low-Income Subsidy Application for Medicare Part D beneficiaries -- used for Medicare Savings Programs (MSP).

Medicare 1144 (Outreach): Lists of individuals on SSA roles, who may be eligible for medical assistance for: payment of the cost of Medicare cost-sharing under the Medicaid program pursuant to Sections 1902(a)(10)(E) and 1933 of the Act; transitional assistance under Section 1860D-31(f) of the Act; or premiums and cost-sharing subsidies for low-income individuals under Section 1860D-14 of the Act.

PUPS (Prisoner Update Processing System): Confinement data received from over 2000 state and local institutions (such as jails, prisons, or other penal institutions or correctional facilities) -- PUPS matches the received data with the MBR and SSR benefit data and generates alerts for review/action.

QUARTERS OF COVERAGE (QC): Quarters of Coverage data as assigned and described under Title II of the Act -- The term "quarters of coverage" is also referred to as "credits" or "Social Security credits" in various SSA public information documents, as well as to refer to "qualifying quarters" to determine entitlement to receive Food Stamps.

SDX (SSI State Data Exchange): Primary source of Title XVI eligibility, benefit and demographic data as well as data for Title VIII Special Veterans Benefits (SVB).

SOLQ/SOLQ-I (State On-line Query/State On-line Query-Internet): A real-time online system that provides SSN verification and MBR and SSR benefit data similar to data provided through SVES.

SVES (State Verification and Exchange System): A batch system that provides SSN verification, MBR benefit information, and SSR information through a uniform data response based on authorized user-initiated queries. The SVES types are divided into five different responses as follows:

SVES I:	This batch provides strictly SSN verification.
SVES I/Citizenship*	This batch provides strictly SSN verification and citizenship data.
SVES II:	This batch provides strictly SSN verification and MBR benefit information
SVES III:	This batch provides strictly SSN verification and SSR/SVB.
SVES IV:	This batch provides SSN verification, MBR benefit information, and SSR/SVB information, which represents all available SVES data.

** Citizenship status data disclosed by SSA under the Children's Health Insurance Program Reauthorization Act of 2009, Pub. L. 111-3 is only for the purpose of determining entitlement to Medicaid and CHIP program for new applicants.*

ATTACHMENT 3 OMITTED

ATTACHMENT 4

ELECTRONIC INFORMATION EXCHANGE SECURITY REQUIREMENTS AND PROCEDURES

ELECTRONIC INFORMATION EXCHANGE SECURITY REQUIREMENTS AND PROCEDURES FOR STATE AND LOCAL AGENCIES EXCHANGING ELECTRONIC INFORMATION WITH THE SOCIAL SECURITY ADMINISTRATION

SENSITIVE DOCUMENT

VERSION 5.0
MARCH 9, 2012

ELECTRONIC INFORMATION EXCHANGE
SECURITY REQUIREMENTS AND PROCEDURES
FOR
STATE AND LOCAL AGENCIES
EXCHANGING ELECTRONIC INFORMATION WITH THE
SOCIAL SECURITY ADMINISTRATION

Table of Contents

1. Introduction

2. Electronic Information Exchange (EIE) Definition

3. Roles and Responsibilities

4. General Systems Security Standards

5. Systems Security Requirements
   - 5.1 Overview
   - 5.2 General System Security Design and Operating Environment
   - 5.3 System Access Control
   - 5.4 Automated Audit Trail
   - 5.5 Personally Identifiable Information (PII)
   - 5.6 Monitoring and Anomaly Detection
   - 5.7 Management Oversight and Quality Assurance
   - 5.8 Data and Communications Security
   - 5.9 Incident Reporting
   - 5.10 Security Awareness and Employee Sanctions
   - 5.11 Contractors of Electronic Information Exchange Partners

6. General--Security Certification and Compliance Review Programs
   - 6.1 The Security Certification Program
   - 6.2 Documenting Security Controls in the Security Design Plan (SDP)
     - 6.2.1 When the SDP and RA are Required
   - 6.3 The Certification Process
   - 6.4 The Compliance Review Program and Process
     - 6.5.1 EIEP Compliance Review Participation
     - 6.5.2 Verification of Audit Samples
   - 6.6 Scheduling the Onsite Review

7. Additional Definitions

8. Regulatory References

9. Frequently Asked Questions

10. Diagrams
    - Flow Chart of the OIS Certification Process
    - Flow Chart of the OIS Compliance Review Process
    - Compliance Review Decision Matrix

ELECTRONIC INFORMATION EXCHANGE
SECURITY REQUIREMENTS AND PROCEDURES
FOR
STATE AND LOCAL AGENCIES
RECEIVING ELECTRONIC INFORMATION FROM THE
SOCIAL SECURITY ADMINISTRATION

1. Introduction

The Social Security Administration (SSA) is required by law to maintain oversight and assure the protection of information it has provided to its *'electronic information exchange partners'* (EIEP)s. EIEPs are entities that have established an electronic information sharing agreement with the agency.

The overall aim of this document is twofold. First, to ensure that EIEPs are properly certified as compliant by SSA to SSA security requirements, standards, and procedures expressed in this document, prior to being granted access to SSA information in a production environment; second, to ensure that EIEPs adequately safeguard electronic information provided to them by SSA.

This document (which is considered SENSITIVE by SSA and must be handled accordingly), describes the security requirements which must be met including, SSA's standards and procedures which must be implemented by outside entities (state and local agencies) in order to obtain information from SSA electronically. This document assists outside entities in understanding the criteria that SSA will use when evaluating and certifying the system design, and security features used for electronic access to SSA-provided information. It also provides the framework and general procedures for SSA's security compliance review program intended to ensure, on a periodic basis, conformance to SSA's security requirements by outside entities.

The addition, elimination, and modification of security controls, etc. are predicated upon factors which impact the level of security and due diligence required for mitigating risks, e.g., the emergence of new threats and attack methods, the availability of new security technologies, etc. System security requirements (SSR) are, therefore, periodically reviewed and revised. Accordingly, over time, the SSRs may be subject to change.

The EIEP must comply with SSA's most current SSRs for access to SSA-provided data. However, SSA will work with its partners in the EIEPs' resolution of any deficiencies which occur subsequent to previous approval for access as the result of updated SSRs. Additionally, EIEPs may proactively ensure their ongoing compliance with the SSRs by periodically requesting the most current SSR package from their SSA contact and making such adjustments as may be necessary.

2. Electronic Information Exchange (EIE) Definition

For discussion purposes herein, EIE is any electronic process in which information under SSA control is disclosed to any third party for program or non-program purposes, without the specific consent of the owner of that information. EIE involves individual data transactions and data files that are processed within the programmatic systems of either or all parties to electronic information sharing agreements with SSA. This includes direct terminal access (DTA) to SSA systems, batch processing, and variations thereof (e.g., online query) regardless of the systematic method used to accomplish the activity or to interconnect SSA with the EIEP.

3. Roles and Responsibilities Ω

The SSA ***Office of Information Security (OIS)*** has agency-wide responsibility for interpreting, developing, and implementing security policy; providing security and integrity review requirements for all major SSA systems; managing SSA's fraud monitoring and reporting activities, developing and disseminating security training and awareness materials, and providing consultation and support for a variety of agency initiatives. SSA's security reviews ensure that external systems receiving information from SSA are secure and operate in a manner that is consistent with SSA's Information Technology (IT) security policies and in compliance with the terms of electronic information sharing agreements executed by SSA and the outside entity. Within the context of SSA's security policies and the terms of electronic information sharing agreements with SSA's EIEPs, OIS exclusively conducts and brings to closure initial security certifications and periodic security compliance reviews of EIEPs that process, maintain, transmit, or store SSA-provided data in accordance with pertinent Federal requirements which include the following (refer to ***References***):

a. The Federal Information Security Management Act (FISMA) requires the protection of "Federal information in contractor systems, including those systems operated by state and local governments".

b. Social Security Administration (SSA) policies, standards, procedures, and directives.

Privacy information is information about an individual including, but not limited to, personal identifying information including the social security number (SSN).

The data (last 4 digits of the SSN) provided by SSA to its EIEPs for purposes of the Help America Vote Act (HAVA) does not identify a specific individual and, therefore, is not 'Privacy Information' as defined by the Act.

However, SSA is diligent in discharging its responsibility for establishing *appropriate* administrative, technical, and physical safeguards to ensure the security, confidentiality, and availability of its records and to protect against any anticipated threats or hazards to their security or integrity.

Therefore, although the information provided HAVA is not, by definition, 'Privacy Information' and as such, does not require that SSA conduct compliance reviews of entities to which it provides information for purposes of HAVA; SSA does require that those organizations adhere to the terms of their electronic information sharing agreements with SSA.

SSA regional ***Data Exchange Coordinators*** (DECs) are the bridge between SSA and state EIEPs. As such, in the security arena, DECs will assist OIS in coordinating data exchange security review activities with state and local EIEPs; e.g., providing points of contact with state agencies, assisting in setting up security reviews, etc. DECs are also the first points of contact for states if an employee of a state agency or an employee of a state agency's contractor or agent becomes aware of suspected or actual loss of SSA-provided personally identifiable information (PII).

4. General Systems Security Standards Ω

EIEPs that request and receive information electronically from SSA must comply with the following general systems security standards concerning access to and control of SSA-provided information.

NOTE: EIEPs may not create separate files or records comprised solely of the information provided by SSA.

a. EIEPs must ensure that means, methods, and technology by which SSA-provided information is processed, maintained, transmitted, or stored neither prevent nor impede the EIEP's ability to:

   - safeguard the information in conformance to SSA requirements;
   - efficiently investigate fraud, breach, or security events that involve SSA-provided data, or instances of misuse of SSA-provided data.

   For example, utilization of cloud computing may have the potential to jeopardize an EIEP's compliance with the terms of their agreement or SSA's associated system security requirements and procedures.

b. EIEPs must ensure that SSA-provided data is not processed, maintained, transmitted, or stored in or by means of data communications channels, electronic devices, computers, computer networks, etc. that are located in geographic or virtual areas ***not*** subject to U.S. law.

c. EIEPs must restrict access to the information to authorized users who need it to perform their official duties.

   NOTE: Contractors and agents (hereafter referred to as contractors) of the EIEP who process, maintain, transmit, or store SSA-provided data are held to the same security requirements as are employees of the EIEP. Refer to the section '<u>Contractors of Electronic Information Exchange Partners</u>' in the '<u>Systems Security Requirements</u>' for additional information.

d. Information received from SSA must be stored in a manner that, at all times, is physically and electronically secure from access by unauthorized persons.

e. SSA-provided information must be processed under the immediate supervision and control of authorized personnel.

f. EIEPs must employ both physical and technological safeguards to ensure against unauthorized retrieval of SSA-provided information by means of computer, remote terminal, or other means.

g. EIEPs must have in place formal PII incident response procedures. When faced with a security incident whether caused by malware, unauthorized access, software issues, or acts of nature, etc., EIEP must be able to respond in a manner that protects SSA-provided information affected by the incident.

h. EIEPs must have an active and robust employee security awareness program that is mandatory for all employees who may have access to SSA-provided information.

i. EIEP employees with access to SSA provided information must be advised of the confidentiality of the information, the safeguards required to protect the information, and the civil and criminal sanctions for non-compliance contained in the applicable Federal and state laws.

j. At its discretion, SSA or its designee, must have the option to conduct onsite security reviews or make other provisions, to ensure that EIEPs maintain adequate security controls to safeguard the information we provide.

5. Systems Security Requirements

5.1 Overview

Following is a discussion of SSA's security requirements that must be met by its EIEPs. SSA must certify that controls to meet the requirements have been implemented and working as intended, before it will authorize initiating transactions to and from SSA through batch data exchange processes or online processes such as State Online Query (SOLQ) or Internet SOLQ.

The Systems Security Requirements (SSR)s address management, operational, and technical aspects of security regarding the confidentiality, integrity, and availability of Social Security Administration (SSA) provided information used, maintained, transmitted, or stored by SSA's EIEPs.

SSRs are representative of the current state-of-the-practice security controls, safeguards, and countermeasures required for Federal information systems by Federal regulations and statutes, congressional mandates, etc., including but not limited to the Privacy Act of 1974, the Federal Information Security Management Act (FISMA), etc. and recommended by standards and guidelines established by NIST, etc.

5.2 General System Security Design and Operating Environment

The EIEP must provide descriptions and explanations of their overall system design, configuration, security features, and operational environment and include discussions of how they conform to SSA's requirements. Discussion must also include:

- Description of the operating environment(s) in which SSA-provided data is to be utilized, maintained, and transmitted
- Description of the business process(es) in which SSA-provided information is to be used
- Physical safeguards employed to ensure that unauthorized personnel cannot access SSA-provided data and that audit information pertaining to use of and access to SSA-provided information and the EIEP's associated applications is readily available
- Electronic safeguards, methods, and procedures for protecting the EIEP's network infrastructure and for protecting SSA-provided data while in transit, in use within a process or application, at rest (stored or not in use); preventing unauthorized retrieval of SSA-provided information by computer, remote terminal, or other means; including descriptions of security software other than access control software (e.g., security patch and anti-malware software installation and maintenance, etc.)

5.3 System Access Control

EIEPs must utilize and maintain technological (logical) access controls that limit access to SSA-provided information and associated transactions and functions to only those users, processes acting on behalf of authorized users, or devices (including other information systems) authorized for such access based on their official duties or purpose(s). EIEPs must employ a recognized user access security software package (e.g. RAC-F, ACF-2, TOP SECRET) or a security software design which is *at minimum* equivalent to such products. The access control software must utilize personal identification numbers (PIN) and passwords or

biometric identifiers in combination with the user's system identification code (userID), etc. (e.g., the access control software must employ and enforce (1) *PIN/password*, and/or (2) *PIN/biometric identifier*, and/or (3) *SmartCard/ biometric identifier*, etc., for authentication of users).

Depending upon the computing platform (e.g., client/server (PC), mainframe) and the access software implementation, the terms "PIN" and "user system identification code (userID)" may be, for practical purposes, synonymous. For example, the PIN/password combination may be required for access to an individual's PC after which, the userID/password combination may be required for access to a mainframe application. (A biometric identifier may supplant one element in the pair of those combinations).

Implementation of the control software must be in compliance with recognized industry standards. For example, password policies should enforce sufficient construction strength (length and complexity) to defeat or minimize risk-based identified vulnerabilities, ensure limitations for password repetition; technical controls should enforce periodic password changes based on a risk-based standard (e.g., maximum password age of 30 - 45 days, minimum password age of 3 - 7 days), enforce automatic disabling of user accounts that have been inactive for a specified period of time (e.g., 45 days); etc.

EIEPs must have management control and oversight of the function of authorizing individual user access to SSA-provided information and over the process of issuing and managing access control PINs, passwords, biometric identifiers, etc. for access to the EIEP's system.

The EIEPs' systems access rules must cover such matters as least privilege and individual accountability regarding access to sensitive information and associated transactions and functions, control of transactions by permissions modules, the assignment and limitation of system privileges, disabling accounts of separated employees (e.g., within 24 hours), individual accountability, work at home, dial-up access, and connecting to the Internet.

5.4 Automated Audit Trail

EIEPs that receive information electronically from SSA are required to implement and maintain a fully automated audit trail system (ATS). The system must, at a minimum, be capable of creating, storing, protecting, and efficiently retrieving and collecting records identifying the individual user that initiates a request for information from SSA or accesses SSA-provided data. At a minimum, individual audit trail records must contain the data needed (including date and time stamps) to associate each query transaction or access to SSA-provided information with its initiator, their action, if any, and the relevant business purpose/process (e.g., SSN verification for driver license, etc.). Each entry in the audit file must be stored as a separate record, not overlaid by subsequent records. Transaction files must be created to capture all input from interactive internet applications which access or query SSA-provided data.

EIEPs whose transactions with SSA are mediated AND audited by an STC (e.g., State Transmission Component) are responsible for ensuring that the STC's audit capabilities meet SSA's requirements for an automated audit trail system. The EIEP must also establish a process by which the EIEP is able to efficiently obtain audit information from the STC regarding the EIEP's SSA transactions.

Access to the audit file must be restricted to authorized users with a "need to know" and audit file data must be unalterable (read only) and maintained for a minimum of three (preferably seven) years. Information in the audit file must be retrievable by an automated method and capable of being made available to SSA upon request. Audit trail records must be backed up

on a regular basis to ensure their availability. Backup audit files must have the same level of protection as that applied to the original files.

If SSA-provided information is retained by the EIEP (e.g., Access database, Share Point, etc.), or if certain data elements within the EIEP's system will indicate to users that the information has been verified by SSA, the EIEP's system must also capture an audit trail record of any user who views SSA-provided information stored within the EIEP's system. The audit trail requirements for these inquiry transactions are the same as those outlined above for the EIEP's transactions requesting or accessing information directly from SSA.

5.5 Personally Identifiable Information (PII) Ω

PII is defined as any information which can be used to distinguish or trace an individual's identity, such as their name, social security number, biometric records, etc., alone or when combined with other personal or identifying information which is linked or linkable to a specific individual, such as date and place of birth, mother's maiden name, etc.

PII loss is defined as a circumstance wherein SSA has reason to believe that information on hard copy or in electronic format which contains PII provided by SSA to an EIEP, has left the EIEP's custody or has been disclosed by the EIEP to an unauthorized individual or entity. PII loss is a reportable incident (refer to ***Incident Reporting***).

If a PII loss involving SSA-provided data occurs or is suspected, the EIEP must be able to quantify the extent of the loss and compile a complete list of the individuals potentially affected incident (refer to ***Incident Reporting***).

5.6 Monitoring and Anomaly Detection Ω

The EIEP must establish and/or maintain continuous monitoring of its network infrastructure and assets to ensure that:

- implemented security controls continue to be effective over time
- only authorized individuals, devices, and processes have access to SSA-provided information
- efforts by external and internal entities, devices, or processes to perform unauthorized actions (i.e., data breaches, malicious attacks, access to network assets, software/hardware installations, etc.) are detected as soon as they occur
- the necessary parties are immediately alerted to unauthorized actions performed by external and internal entities, devices, or processes
- upon detection of unauthorized actions, measures are immediately initiated to prevent or mitigate associated risk
- in the event of a data breach or security incident, the necessary remedial actions can be efficiently determined and initiated
- trends, patterns, or anomalous occurrences and behavior in user or network activity that may be indicative of potential security issues are more readily discernable

The EIEP's system must include the capability to prevent employees from browsing SSA records (e.g., utilize a permission module and/or employ a system design which is transaction-driven, whereby employees are unable to initiate transactions). If such a design is used, the EIEP then needs only minimal additional monitoring and anomaly detection (detect and monitor employees' attempts to gain access to SSA-provided data to which they are not authorized and attempts to obtain information from SSA for clients not in the EIEP's client system). However, measures must exist to prevent circumvention of the permission module (e.g., creation of a bogus case and subsequently deleting it in such a way that it goes undetected).

If the EIEP's design does not ***currently*** utilize a permission module ***and*** is not transaction-driven, until at least one of these security features is implemented, the EIEP must develop and implement compensating security controls to deter their employees from browsing SSA records. These controls must include monitoring and anomaly detection features, either systematic, manual, or a combination thereof. Such features must include the capability to detect anomalies in the volume and/or type of transactions or queries requested or initiated by individuals and include systematic or manual procedures for verifying that requests for and queries of SSA-provided information are in compliance with valid official business purposes. The system must also produce reports providing management and/or supervisors with the capability to appropriately monitor user activity, such as:

- User ID Exception Reports:

  This type of report captures information about users who enter incorrect user IDs when attempting to gain access to the system or to the transaction that initiates requests for information from SSA, including failed attempts to enter a password.

- Inquiry Match Exception Reports:

  This type of report captures information about users who may be initiating transactions for SSNs that have no client case association within the EIEP's system **(100 percent of these cases must be reviewed by the EIEP's management).**

- System Error Exception Reports:

  This type of report captures information about users who may not understand or be following proper procedures for access to SSA-provided information.

- Inquiry Activity Statistical Reports:

  This type of report captures information about transaction usage patterns among authorized users and is a tool which would enable the EIEP's management to monitor typical usage patterns in contrast to extraordinary usage.

The EIEP must have a process for distributing these monitoring and exception reports to appropriate local managers/supervisors or to local security officers to ensure that the reports are used by those whose responsibilities include monitoring anomalous activity of users including those who have been granted exceptional system rights and privileges.

5.7 Management Oversight and Quality Assurance Ω

The EIEP must establish and/or maintain ongoing management oversight and quality assurance capabilities to ensure that only authorized employees have access to SSA-provided information and to ensure that there is ongoing compliance with the terms of the EIEP's

electronic information sharing agreement with SSA and the SSPs established by SSA for access to and use of SSA-provided data by EIEPs. The management oversight function must consist of one or more of the EIEP's management officials whose job functions include responsibility for assuring that access to and use of SSA-provided information is appropriate for each employee position type for which access is granted.

The EIEP must assure that employees granted access to SSA-provided information receive adequate training on the sensitivity of the information, associated safeguards, procedures that must be followed and the penalties for misuse.

Although not required, it is recommended that EIEPs establish the following functions and require that they be performed by employees whose job functions are separate from those who request or use information from SSA:

- Performing periodic self-reviews to monitor the EIEP's ongoing usage of SSA-provided information.
- Random sampling of work activity involving SSA-provided information to determine whether the access and usage comply with SSA's requirements.

5.8 Data and Communications Security Ω

EIEPs must encrypt all PII and SSA-provided information when it is transmitted across dedicated communications circuits between its systems, included in intrastate communications among its local office locations, and resident on the EIEP's mobile computers/devices and removable media, etc. The encryption method employed must meet acceptable standards as designated by the National Institute of Standards and Technology (NIST). The recommended encryption method for securing SSA-provided data during transport is the Advanced Encryption Standard (AES) or triple DES (Data Encryption Standard 3) if AES is unavailable. Files encrypted for external users (when using tools such as Microsoft WORD encryption, etc.) require a key length of 9 characters. Although not required, it is recommended that the key (also referred to as a *password*) contain both a number and a special character. However, it is required that the key be delivered in a manner wherein the key does not accompany the media. Also, the key must be secured when unattended or not in use.

It is recommended that the public Internet not be used for transmission of SSA-provided information. If it is, however, Internet and all other electronic communications (e.g., emails and FAXes) containing SSA-provided information must, at minimum, utilize Secure Socket Layer (SSL) and 256-bit encryption protocols or more secure methods such as Virtual Private Network technology. Additionally, the data must be transmitted only to a secure address or device.

EIEPs may retain SSA-provided data for only the business purpose(s) and period of time stipulated in the EIEP's Information Exchange Agreement with SSA. SSA-provided information is to be deleted, purged, destroyed, or returned to SSA when the purpose for which the information was obtained has been completed.

The EIEP may not save or create separate files comprised solely of information provided by SSA. The EIEP may, however, apply specific SSA-provided data to the EIEP's matched record (i.e., specified data obtained from SSA which matches that in the EIEP's preexisting record).

Duplication and redisclosure of SSA-provided information within or outside the EIEP without the written approval of SSA is prohibited.

EIEPs must prevent unauthorized disclosure of SSA-provided data after processing has been completed and also after the data is no longer required by the EIEP. The EIEP's operational processes must ensure that no residual SSA-provided data remains on the hard drives of users' workstations after the user has exited the application(s) in which SSA-provided data was utilized. In cases where a PC, hard drive, or other computing or storage device on which SSA-provided information resided will be sent offsite from the EIEP for repair and its information must be retrievable, the EIEP's repair contract must include a requirement for non-disclosure of SSA-provided data by the servicing vendor. SSA-provided information must be completely removed from, rendered unrecoverable, or destroyed on any electronic device or media (e.g., hard drives, removable storage devices, etc.) prior to the device or media being serviced by an external vendor (when the data need not be recovered), excessed, sold, or placed in the custody of another organization.

To sanitize media, one of the following methods must be used:

- **Overwriting**

  Overwrite utilities can only be used on working devices. The media to be overwritten must be designed for multiple reads and writes. This includes disk drives, magnetic tapes, floppies, USB flash drives, etc. The overwrite utility must completely overwrite the media by the ***purging*** type of media sanitization to make the data irretrievable by a laboratory attack or laboratory forensic procedures (refer to ***Definitions*** for more information regarding ***Media Sanitization***). Reformatting the media does not overwrite the data.

- **Degaussing**

  Degaussing is a sanitization method for magnetic media (e.g., disk drives, tapes, floppies, etc.). Degaussing is not effective for purging non-magnetic media (e.g., optical discs). Degaussing must be performed with a certified tool designed for the media being degaussed. Certification of the tool is required to ensure that the magnetic flux applied to the media is strong enough to render the information irretrievable. The degaussing process must render data on the media irretrievable by a laboratory attack or laboratory forensic procedures (refer to ***Definitions*** for more information regarding ***Media Sanitization***).

- **Physical destruction**

  Physical destruction is the method which must be used when degaussing or over-writing cannot be accomplished (for example, CDs, floppies, DVDs, damaged tapes, hard drives, damaged USB flash drives, etc.). Examples of physical destruction include shredding, pulverizing, and burning.

State agencies may retain SSA-provided data in hardcopy if it is required to fulfill evidentiary requirements, provided the agencies retire such data in accordance with applicable state laws governing state agencies' retention of records. The EIEP must ensure that print media containing SSA-provided data is controlled to restrict its access to only authorized employees who need such access to perform their official duties and must have in place secure processes by which print media containing SSA-provided data is destroyed when it is no longer required. Paper documents containing SSA-provided data must be destroyed by burning, pulping, shredding, macerating, or other similar means that ensures that the information cannot be recovered.

NOTE: Hand tearing or lining through documents to obscure information does not meet SSA's requirements for appropriate destruction of PII).

The EIEP must employ measures to ensure that communications and data furnished to SSA contain no viruses or other malware.

5.9 Incident Reporting

The EIEP must develop and implement policies and procedures for responding to the breach or loss of PII and explain how they conform to SSA's requirements. The procedures must include the following information:

If the EIEP experiences or suspects a breach or loss of PII or a security incident which includes SSA-provided data, they must notify the United States Computer Emergency Readiness Team (US-CERT) ***within one hour*** *of discovering the incident. The EIEP must also notify the SSA Systems Security contact named in the agreement. If within 1 hour the EIEP has been unable to make contact with that person, the EIEP must call SSA's National Network Service Center (NNSC) toll free at 877-697-4889 (select "Security and PII Reporting" from the options list). The EIEP will provide updates as they become available to SSA contact, as appropriate. Refer to the worksheet,* ***Attachment 5,*** *provided in the agreement to facilitate gathering and organizing information about an incident.*

The EIEP must agree that if SSA determines that the risk presented by the breach or security incident requires the notification of the individuals whose information is involved and/or remedial action, the EIEP will perform those actions without cost to SSA.

5.10 Security Awareness and Employee Sanctions

The EIEP must establish and/or maintain an ongoing function that is responsible for providing security awareness training for employees granted access to SSA-provided information. Training must include discussion of:

- The sensitivity of SSA-provided information and address the Privacy Act and other Federal and state laws governing its use and misuse
- Rules of behavior concerning use of and security in systems processing SSA-provided data
- Restrictions on viewing and/or copying SSA-provided information
- The employees' responsibility for proper use and protection of SSA-provided information including its proper disposal
- Security incident reporting procedures
- The possible sanctions and penalties for misuse of SSA-provided information.

The EIEP must provide security awareness training periodically or. as needed, and have in place administrative procedures for sanctioning employees who violate laws governing the use and misuse of SSA-provided data through unauthorized or unlawful use or disclosure of SSA-provided information.

5.11 Contractors of Electronic Information Exchange Partners

As previously stated, in ***The General Systems Security Standards***, contractors of the EIEP are held to the same security requirements as are employees of the EIEP. As such, the EIEP is responsible for oversight and compliance of their contractors with SSA's security requirements. The EIEP must be able to provide proof of the contractual agreement between itself and its contractors (e.g., copy of their contract, etc.) who are authorized by the EIEP to perform on its behalf and who have access to or are involved in the processing, handling, transmission, etc. of information provided to the EIEP by SSA. The EIEP must also explain the role of those contractors within the EIEP's operations.

The EIEP must also require that their contractors who will have access to or be involved in the processing, handling, transmission, etc. of information provided to the EIEP by SSA, sign an agreement with the EIEP that obligates the contractor to follow the terms of the EIEP's data exchange agreement with SSA. The EIEP must provide its contractors a copy of the data exchange agreement between the EIEP and SSA and related attachments before any disclosure by the EIEP of SSA-provided information to the EIEP's contractor/agent.

If the EIEP's contractor will be involved with the processing, handling, transmission, etc. of information provided to the EIEP by SSA offsite from the EIEP, the EIEP must have the contractual option to perform onsite reviews of that offsite facility to ensure that the following meet SSA's requirements:

- safeguards for sensitive information
- computer system safeguards
- security controls and measures to prevent, detect, and resolve unauthorized access to, use of, and redisclosure of SSA-provided information

6. General -- Security Certification and Compliance Review Programs

SSA's security certification and compliance review programs are two distinct programs with the same objective. The certification program is a one-time process associated exclusively with an EIEP's initial request for electronic access to SSA-provided information or an initial change to online access. The certification process entails two rigorous stages intended to ensure that technical, management, and operational security measures implemented by EIEPs fully conform to SSA's security requirements and are working as intended. EIEPs must satisfy both stages of the certification process before SSA will permit online access to its data in a production environment.

The compliance review program, however, is intended to ensure that the suite of security measures implemented by an EIEP to safeguard SSA-provided data remains in full compliance with SSA's security standards and requirements. The compliance review program is applicable to online access to SSA-provided data as well as batch processes. Under the compliance review program, EIEPs are subject to ongoing periodic security reviews by SSA that are regularly scheduled or ad hoc.

6.1 The Security Certification Program

The security certification process applies to EIEPs that seek online electronic access to SSA information and consists of two general phases:

- Phase One: The Security Design Plan (SDP) phase wherein a formal written plan is authored by the EIEP to comprehensively document its technical and non-technical

security controls to safeguard SSA-provided information (refer to ***Documenting Security Controls in the Security Design Plan***).

NOTE: **SSA may have legacy EIEPs (EIEPs not certified under the current process) who have not prepared an SDP. OIS strongly recommends that these EIEPs prepare an SDP.**

The EIEPs' preparation and maintenance of a current SDP will aid them in determining potential compliance issues prior to reviews, assuring continued compliance with SSA's security requirements, and providing for more efficient security reviews.

- Phase 2: SSA Onsite Certification phase wherein a formal onsite review is conducted by SSA to examine the full suite of technical and non-technical security controls implemented by the EIEP to safeguard data obtained from SSA electronically (refer to ***The Certification Process***).

6.2 Documenting Security Controls in the Security Design Plan (SDP) Ω

6.2.1 When the SDP and RA are Required Ω

EIEPs must submit to SSA an SDP and a security risk assessment (RA) for evaluation when one or more of the following circumstances apply. The RA must be in an electronic format and include discussion of the measures planned or implemented to mitigate risks identified by the RA and (as applicable) risks associated with the circumstances below:

- to obtain approval for requested initial access to SSA-provided information for an initial agreement
- to obtain approval to reestablish previously terminated access to SSA-provided data
- when implementing a new operating or security platform in which SSA-provided data will be involved
- significant changes to the EIEP's organizational structure, technical processes, operational environment, data recovery capabilities, or security implementations are planned or have been made since approval of their most recent SDP or of their most recent successfully completed security review
- one or more security breaches or incidents involving SSA-provided data have occurred since approval of the EIEP's most recent SDP or of their most recent successfully completed security review
- to document descriptions and explanations of measures implemented as the result of a data breach or security incident
- to document descriptions and explanations of measures implemented to resolve non-compliancy issue(s)
- when approval of the SDP has been revoked

The RA may also be required if changes (other than those listed above) that may impact the terms of the EIEP's data sharing agreement with SSA have occurred.

The SDP must be approved by SSA prior to the initiation of transactions and/or access to SSA-provided information by the EIEP.

An SDP must satisfactorily document the EIEP's compliance with all of SSA's SSRs in order to provide the minimum level of security acceptable to SSA for its EIEPs' access to SSA-provided information.

Deficiencies identified through the evaluation of the SDP must be corrected by the EIEP and a revised SDP which incorporates descriptions and explanations of the measures implemented to eliminate the deficiencies must be submitted. Until the deficiencies have been corrected and documented in its SDP, and the SDP is approved, the EIEP will not be granted access to SSA-provided information or certified for electronic receipt of the information. The progress of corrective implementation(s) must be communicated to SSA on a regular basis. If, within a reasonable time as determined by SSA, the EIEP is unable to rectify a deficiency determined by SSA to present an untenable risk to SSA-provided information or the agency, approval of the SDP will be withheld.

If, at any time subsequent to approval of its SDP the EIEP is found to be in non-compliance with one or more SSRs, SSA may revoke approval of the EIEP's access to SSA-provided data. A revised SDP which incorporates descriptions and explanations of the measures implemented to resolve the non-compliance issue(s) must be submitted. The progress of corrective implementation(s) must be communicated to SSA on a regular basis. Until resolution of the issue(s) has been accomplished and documented in its SDP, and the SDP is approved, the EIEP will be in non-compliance with SSA's SSRs. If, within a reasonable time as determined by SSA, the EIEP is unable to rectify a deficiency determined by SSA to present an untenable risk to SSA-provided information or to SSA, approval of the SDP will be withheld and the flow of SSA-provided information to the EIEP may be discontinued.

NOTE: **EIEPs that function only as an STC, transferring SSA-provided data to other EIEPs must, per the terms of their agreements with SSA, adhere to SSA's System Security Requirements (SSR) and exercise their responsibilities regarding protection of SSA-provided information.**

6.3 The Certification Process

Once the EIEP has successfully satisfied Phase 1, SSA will conduct an onsite certification review. The objective of the onsite review will be to ensure by SSA's examination and the EIEP's demonstration that the non-technical and technical controls implemented by the EIEP to safeguard Social Security-provided data from misuse and improper disclosure are fully functioning and working as intended.

At its discretion, SSA may request that the EIEP participate in an onsite review and compliance certification of their security infrastructure and implementation of SSA's security requirements.

The onsite review may address any or all of SSA's security requirements and include, where appropriate:

- a demonstration of the EIEP's implementation of each requirement
- random sampling of audit records and transactions submitted to SSA

- a walkthrough of the EIEP's data center to observe and document physical security safeguards
- a demonstration of the EIEP's implementation of electronic exchange of data with SSA
- discussions with managers/supervisors
- examination of management control procedures and reports (e.g., anomaly detection reports, etc.)
- demonstration of technical tools pertaining to user access control and, if appropriate, browsing prevention, specifically:
    - If the design is based on a permission module or similar design, or is transaction driven, the EIEP will demonstrate how the system triggers requests for information from SSA.
    - If the design is based on a permission module, the EIEP will demonstrate the process by which requests for SSA-provided information are prevented for SSNs not present in the EIEP's system (e.g.; by attempting to obtain information from SSA using at least one, randomly created, fictitious number not known to the EIEP's system).

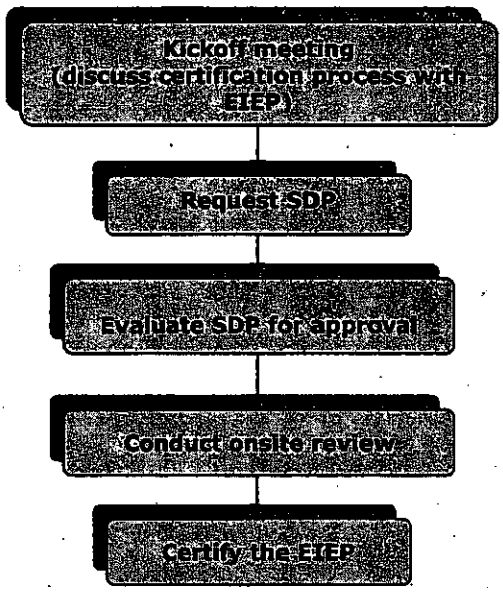
During the certification review, SSA, or a certifier acting on its behalf, may request a demonstration of the system's audit trail and retrieval capability. The certifier may request a demonstration of the system's capability for tracking the activity of employees that are permitted to view SSA-provided information within the EIEP's system. Additionally, the certifier may request those EIEPs whose transactions with SSA are mediated AND audited by an STC to demonstrate the process(es) by which the EIEP obtains audit information from the STC regarding the EIEP's SSA transactions.

EIEPs whose transactions with SSA are mediated AND audited by an STC will be required to demonstrate both their own in-house audit capabilities AND the process(es) by which the EIEP obtains audit information from the STC regarding the EIEP's transactions with SSA.

If the EIEP employs a contractor who will be involved with the processing, handling, transmission, etc. of the EIEP's SSA-provided information offsite from the EIEP, SSA, at its discretion, may include in the onsite certification review an onsite inspection of the contractor's facility. The inspection may occur with or without a representative of the EIEP.

Upon successful completion of the onsite certification exercise, SSA will authorize electronic access to production data by the EIEP. SSA will provide written notification of its certification to the EIEP as well as all appropriate internal components.

The following is a high-level flow chart of the OIS Certification Process: Ω



6.5 The Compliance Review Program and Process Ω

Similar to the certification process, the compliance review program entails a rigorous process intended to ensure that EIEPs currently receiving electronic information from SSA are in full compliance with the Agency's security requirements and standards. As a practice, SSA attempts to conduct compliance reviews following a 3 to 5 year periodic review schedule. However, as circumstances warrant, a review may take place at anytime. Three prominent examples that would trigger an ad hoc review are:

- a significant change in the outside EIEP's computing platform
- a violation of any of SSA's systems security requirements
- an unauthorized disclosure of SSA information by the EIEP

The following is a high-level flow chart of the OIS Compliance Review Process:

SSA may, at its discretion, conduct compliance reviews onsite at the EIEPs' site, including a field office location, if appropriate.

SSA may, also at its discretion, request that the EIEP participate in an onsite compliance review of their security infrastructure and implementation of SSA's security requirements.

The onsite review may address any or all of SSA's security requirements and include, where appropriate:

- a demonstration of the EIEP's implementation of each requirement
- random sampling of audit records and transactions submitted to SSA
- a walkthrough of the EIEP's data center to observe and document physical security safeguards
- a demonstration of the EIEP's implementation of online exchange of data with SSA
- discussions with managers/supervisors
- examination of management control procedures and reports (e.g., anomaly detection reports, etc.)

- demonstration of technical tools pertaining to user access control and, if appropriate, browsing prevention, specifically:

  - If the design is based on a permission module or similar design, or is transaction driven, the EIEP will demonstrate how the system triggers requests for information from SSA.

  - If the design is based on a permission module, the EIEP will demonstrate the process by which requests for SSA-provided information are prevented for SSNs not present in the EIEP's system (e.g.; by attempting to obtain information from SSA using at least one, randomly created, fictitious number not known to the EIEP's system).

SSA may also, at its discretion, perform an ad hoc onsite or remote review for reasons including but not limited to the following:

- the EIEP has experienced a security breach or incident involving SSA-provided data

- the EIEP has unresolved non-compliancy issue(s)

- to review an EIEP's offsite (relative to the EIEP) contractor's facilities involving SSA-provided data

- the EIEP is a legacy organization that has not yet been through SSA's security certification and compliance review programs

- the EIEP has requested that an IV & V (Independent Verification and Validation review) be performed by SSA

During the compliance review, SSA, or a certifier acting on its behalf, may request a demonstration of the system's audit trail and retrieval capability. The certifier may request a demonstration of the system's capability for tracking the activity of employees that are permitted to view SSA-provided information within the EIEP's system. Additionally, the certifier may request those EIEPs whose transactions with SSA are mediated AND audited by an STC to demonstrate the process(es) by which the EIEP obtains audit information from the STC regarding the EIEP's SSA transactions.

EIEPs whose transactions with SSA are mediated AND audited by an STC may be required to demonstrate both their own in-house audit capabilities AND the process(es) by which the EIEP obtains audit information from the STC regarding the EIEP's transactions with SSA.

If the EIEP employs a contractor who will be involved with the processing, handling, transmission, etc. of the EIEP's SSA-provided information offsite from the EIEP, SSA, at its discretion, may include in the onsite compliance review an onsite inspection of the contractor's facility. The inspection may occur with or without a representative of the EIEP. However, manpower limitations or fiscal constraints could drive an alternative approach, such as teleconferencing. In any event, the format of the review in routine circumstances (i.e., the compliance review is not being conducted to address a special circumstance, such as a disclosure violation, etc.) will generally consist of reviewing and updating the EIEP's compliance with the systems security requirements described above in this document. At the conclusion of the review, SSA will issue a formal report to appropriate EIEP personnel. Findings and recommendations from SSA's compliance review, if any, will be discussed in its report and monitored for closure.

NOTE: Documentation provided SSA by the EIEP for compliance reviews is considered sensitive and is, therefore, handled accordingly by SSA. E.g., the information is accessible to only authorized individuals who have a need for the information as it relates to compliance of the EIEP with its electronic information sharing agreement with SSA and SSA's associated system security requirements and procedures. Additionally, the EIEP's documentation is retained for only as long as required and is deleted, purged, or destroyed when the requirement for which the information was obtained has expired.

The following is a high-level example of the analysis that aids in making preliminary decisions as to which review format may be most appropriate. Various additional factors may also be factored in determining whether SSA performs an onsite or remote compliance review.

- High/Medium Risk Criteria
  - undocumented closing of prior review finding(s)
  - implementation of technical/operational controls that impact security of SSA provided data (e.g., implementation of new data access method, etc.)
  - reported PII breach

- Low Risk Criteria
  - no prior review finding(s) or prior finding(s) documented as closed
  - no implementation of technical/operational controls that impact security of SSA provided data (e.g., implementation of new data access method, etc.)
  - no reported PII breach

6.5.1 EIEP Compliance Review Participation Ω

During the compliance review SSA may request to meet with the following:

- a sample of managers and/or supervisors responsible for enforcing and monitoring ongoing compliance to security requirements and procedures to assess their level of training to monitor their employee's use of SSA-provided information, and for reviewing reports and taking necessary action

- the individuals responsible for security awareness and employee sanction functions and request an explanation of how these responsibilities are performed

- a sample of the EIEP's employees to assess their level of training and understanding of the requirements and potential sanctions applicable to the use and misuse of SSA-provided information

- the individual(s) responsible for management oversight and quality assurance functions and request a description of how these responsibilities will be carried out

- additional individuals as deemed appropriate by SSA

6.5.2 Verification of Audit Samples Ω

Prior to or during the compliance review, SSA will present to the EIEP a sampling of transactions previously submitted to SSA for verification. The EIEP is required to verify whether each transaction was, per the terms of their agreement with SSA, legitimately submitted by a user authorized to do so.

The EIEP must provide SSA a written attestation of the results of the EIEP's review of the transactions. The document must provide:

- confirmation for each sample transaction located in the EIEP's audit file(s) and determined to have been submitted by its employee(s) for legitimate and authorized business purposes
- an explanation for each sample transaction located in the EIEP's audit file(s) determined to have been unauthorized
- an explanation for each sample transaction not found in the EIEP's ATS

When the sample transactions are provided to the EIEP, detailed instructions will be included. Only an official responsible for the EIEP is to provide the attestation.

6.6 Scheduling the Onsite Review Ω

The SDP must be approved before its associated onsite review is scheduled. Notification of the approval of a plan will be sent via email. Although there is no prescribed time frame for arranging the subsequent onsite review (***certification review*** for an EIEP requesting initial access to SSA-provided information for an initial agreement or ***compliance review*** for other EIEPs), unless there are compelling circumstances precluding it, the onsite review will follow as soon as reasonably possible.

However, the scheduling of the onsite review may depend on additional factors including:

- the reason for submission of a plan
- the severity of security issues if any
- circumstances of the previous review if any
- SSA workload considerations

Although the scheduling of the review is contingent upon approval of the SDP, in extreme circumstances, SSA may, at its discretion, perform an onsite review prior to approval if determined necessary by SSA for completion of the evaluation of a plan.

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7. Additional Definitions Ω

Back Button:
Refers to a button on a web browser's toolbar, the *backspace button* on a computer keyboard, a programmed keyboard button or mouse button, etc., that returns a user to a previously visited web page or application screen.

Breach:
Refers to actual loss, loss of control, compromise, unauthorized disclosure, unauthorized acquisition, unauthorized access, or any similar term referring to situations where persons other than authorized users and for other than authorized purposes have access or potential access to PII or Covered Information, whether physical, electronic, or in spoken word or recording.

Browsing:
Requests for or queries of SSA-provided data for purposes not related to the performance of official job duties.

Choke Point:
The firewall between a local network and the Internet is considered a choke point in network security, because any attacker would have to come through that channel, which is typically protected and monitored.

Cloud Computing:
The term refers to Internet-based computing and is derived from the cloud drawing representing the Internet in computer network diagrams. Cloud computing providers deliver on-demand online computing resources (e.g., services, software applications, data storage, and information) accessible to their customers by means of a web service or browser.

Cloud Drive:
A cloud drive is a Web-based service that provides storage space on a remote server.

CloudAudit:
CloudAudit is a specification that provides cloud computing service providers a standard way to present and share detailed, automated statistics about performance and security.

Commingling:
The process by which an EIEP adjoins specific SSA-provided data to specific preexisting EIEP information according to a particular data-matching scheme.

Degaussing:
Degaussing is the method of using a degausser (i.e., a device that generates a magnetic field) in order to disrupt magentically recorded information. Degaussing can be effective for purging damaged media and media with exceptionally large storage capacities. Degaussing is not effective for purging non-magnetic media (e.g., optical discs).

Dial-up:
Sometimes used synonymously with *dial-in*, refers to digital data transmission over the wires of a local telephone network.

Function:
One or more persons or organizational components assigned to serve a particular purpose, or perform a particular role. Also, the purpose, activity, or role assigned to one or more persons or organizational components.

Hub:
As it relates to electronic data exchange with SSA, a hub is an organization which performs as an electronic information distribution and/or collection point (and may also be referred to as a State Transmission Component or STC).

ICON:
Interstate Connection Network (various entities use 'Connectivity' rather than 'Connection')

IV & V:
Independent Verification and Validation

Legacy System:
A term usually referring to a corporate or organizational computer system or network that utilizes outmoded programming languages, software, and/or hardware that typically no longer receive support from the original vendors or developers.

Manual Transaction:
An operation (also referred to as a 'user-initiated transaction') which is initiated at the volition of a user rather than system-generated within an automated process.

Example: A user enters a client's information including the client's SSN on an input screen and presses the 'ENTER' key to acknowledge that input of data has been completed. A new screen appears with multiple options which include 'VERIFY SSN' and 'CONTINUE'. The user has the option to verify the client's SSN or perform alternative actions.

Media Sanitization:

- Disposal: Refers to the discarding (e.g., recycling) of media that contains no sensitive or confidential data.

- Clearing: This type of media sanitization is considered to be adequate for protecting information from a robust keyboard attack. Clearing must prevent retrieval of information by data, disk, or file recovery utilities. Clearing must be resistant to keystroke recovery attempts executed from standard input devices and from data scavenging tools. For example, overwriting is an acceptable method for clearing media. Deleting items, however, is not sufficient for clearing.

  This process may include overwriting all addressable locations of the data, as well as its logical storage location (e.g., its file allocation table). The aim of the overwriting process is to replace or obfuscate existing information with random data. Most rewriteable media may be cleared by a single overwrite. This method of sanitization cannot be utilized on unwriteable or damaged media.

- Purging: This type of media sanitization is a process that protects information from a laboratory attack. The terms *clearing* and *purging* are sometimes considered synonymous. However, for some media, clearing is not sufficient for purging (i.e., protecting data from a laboratory attack). Although most rewriteable media may be cleared by a single overwrite, purging may require multiple rewrites using different characters for each write cycle.

  This is because a laboratory attack involves threats with the capability to employ non-standard assets (e.g., specialized hardware) to attempt data recovery on media outside of that media's normal operating environment.

  Degaussing is also an example of an acceptable method for purging magnetic media. If purging media is not a viable method for sanitization, the media should be destroyed.

- Destruction: Physical destruction of media is the most effective form of sanitization. Methods of destruction include burning, pulverizing, and shredding. Any residual medium should be able to withstand a laboratory attack.

Permission module:
A utility or subprogram within an application which automatically enforces the relationship of a request for or query of SSA-provided data to an authorized process or transaction legitimately initiated; e.g., verification of an SSN for issuance of a driver license which can be triggered only automatically from within a state's driver license application, requests for information from SSA by an EIEP's employee which cannot be initiated unless the EIEP's client system has a record containing the SSN of the individual for which information is sought, etc.

Screen Scraping:

Screen scraping is normally associated with the programmatic collection of visual data from a source. Originally, screen scraping referred to the practice of reading text data from a computer display terminal's screen. This was generally done by reading the terminal's memory through its auxiliary port, or by connecting the terminal output port of one computer system to an input port on another. The term screen scraping is also commonly used to refer to the bidirectional exchange of data.

A screen scraper might connect to a legacy system via Telnet, emulate the keystrokes needed to navigate the legacy user interface, process the resulting display output, extract the desired data, and pass it on to a modern system.

More modern screen scraping techniques include capturing the bitmap data from a screen and running it through an optical character reader engine, or in the case of graphical user interface applications, querying the graphical controls by programmatically obtaining references to their underlying programming objects.

Security Breach:

An act from outside an organization that bypasses or contravenes security policies, practices, or procedures.

Security Incident:

A fact or event which signifies the possibility that a breach of security may be taking place, or may have taken place. All threats are security incidents, but not all security incidents are threats.

Security Violation:

An act from within an organization that bypasses or contravenes security policies, practices, or procedures.

Sensitive data:

Information such as PII and information provided by SSA to an EIEP, the loss, misuse, or unauthorized access to or modification of which, could adversely affect the national interest or the conduct of Federal programs, or the privacy to which individuals are entitled under 5 U.S.C. Section 552a (the Privacy Act), but that has not been specifically authorized under criteria established by an Executive Order or an Act of Congress to be kept classified in the interest of national defense or foreign policy but is to be protected in accordance with the requirements of the Computer Security Act of 1987 (P.L.100-235).

SMDS (Switched Multimegabit Data Service (SMDS):
SMDS is a telecommunications service that provides connectionless, high- performance, packet-switched data transport. Although not a protocol, it supports standard protocols and communications interfaces using current technology.

SSA-provided data/information:
Synonymous with 'SSA-supplied data/information', defines information under the control of SSA provided to an external entity under the terms of an information exchange agreement with SSA. The following are examples of SSA-provided data/information information:

- SSA's response to a request from an EIEP for information from SSA (e.g., date of death)
- SSA's response to a query from an EIEP for verification of an SSN

SSA data/information:
This is term, sometimes used interchangeably with 'SSA-provided data/information', denotes information under the control of SSA provided to an external entity under the terms of an information exchange agreement with SSA. However, **'SSA data/information'** also includes information provided to the EIEP by a source other than SSA, but which is attested by the EIEP to have been verified by SSA, or is coupled with data from SSA as to the accuracy of the information. The following are examples of SSA information:

- SSA's response to a request from an EIEP for information from SSA (e.g., date of death)
- SSA's response to a query from an EIEP for verification of an SSN
- Display by the EIEP of SSA's response to a query for verification of an SSN ***and*** the associated SSN provided by SSA
- Display by the EIEP of SSA's response to a query for verification of an SSN ***and*** the associated SSN provided to the EIEP by a source other than SSA
- Electronic records that contain only SSA's response to a query for verification of an SSN ***and*** the associated SSN whether provided to the EIEP by SSA or a source other than SSA

SSN:
Social Security Number

STC:
A State Transmission Component is an organization which performs as an electronic information distribution and/or collection point for one or more other entities (and may also be referred to as a hub).

System-generated transaction:
A transaction automatically triggered by an automated system process.

Example: A user enters a client's information including the client's SSN on an input screen and presses the 'ENTER' key to acknowledge that input of data has been completed. An automated process then matches the SSN against the user's organization's database and when no match is found, automatically sends an electronic request for verification of the SSN to SSA.

Systems process:
Refers to a software program module that runs in the background within an automated batch, online, or other process.

Third Party:
This term pertains to an entity (person or organization) provided access to SSA-provided information by an EIEP or other SSA business partner for which one or more of the following apply:

- is not stipulated access to SSA-provided data by an information-sharing agreement between an EIEP and SSA
- has no information-sharing agreement with SSA
- is not directly authorized by SSA for access to SSA-provided data

Transaction-driven:
This term pertains to an automatically initiated online query of or request for SSA information by an automated transaction process (e.g., driver license issuance, etc.). The query or request will only occur if prescribed conditions are met within the automated process.

Uncontrolled transaction:
This term pertains to a transaction that is not controlled by a permission module (i.e., not subject to a systematically enforced relationship to an authorized process or application or an existing client record).

8. Regulatory References

Federal Information Processing Standards (FIPS) Publications

Federal Information Security Management Act of 2002 (FISMA)

Homeland Security Presidential Directive (HSPD-12)

National Institute of Standards and Technology (NIST) Special Publications

Office of Management and Budget (OMB) Circular A-123, *Management's Responsibility for Internal Control*

Office of Management and Budget (OMB) Circular A-130, Appendix III, *Management of Federal Information Resources*

Office of Management and Budget (OMB) Memo M-06-16, *Protection of Sensitive Agency Information, June 23, 2006*

Office of Management and Budget (OMB) Memo M-07-16, *Memorandum for the Heads of Executive Departments and Agencies, May 22, 2007*

Office of Management and Budget (OMB) Memo M-07-17, *Safeguarding Against and Responding to the Breach of Personally Identifiable Information, May 22, 2007*

Privacy Act of 1974

9. Frequently Asked Questions

(Click links for answers or additional information)

1. Q: What is a breach of data?
   A: Refer also to Security Breach, Security Incident, and Security Violation.

2. Q: What is employee browsing?
   A: Click hyperlink

3. Q: Okay, so the SDP was submitted. Can the Onsite Review be scheduled now?
   A: Refer to Scheduling the Onsite Review.

4. Q: What is a 'Permission Module'?
   A: Click hyperlink

5. Q: What is meant by Screen Scraping?
   A: Click hyperlink

6. Q: When does an SDP have to be submitted?
   A: Refer to When the SDP and RA are Required.

7. Q: Does an SDP have to be submitted when the agreement is renewed?
   A: The SDP does not have to be submitted ***because*** the agreement between the EIEP and SSA was renewed. There are, however, circumstances that require an SDP to be submitted. Refer to When the SDP and RA are Required.

8. Q: Is it acceptable to save SSA data with a verified indicator on a (EIEP) workstation as long as the hard drive is encrypted? If not, what options does the agency have?
   A: There is no problem with an EIEP saving SSA-provided information to the encrypted hard drives of computers processing the data provided the information is retained only as provided for in the EIEP's data-sharing agreement with SSA. Refer to Data and Communications Security.

9. Q: Is caching of SSA-provided data on EIEP workstations allowed?
   A: Caching during processing is not a problem. However, SSA-provided data must be cleared from the cache when the user exits the application in which the data was used or accessed. Refer to Data and Communications Security.

10. Q: What is meant by "interconnections to other systems"?
    A: As used in SSA's system security requirements document, the term "interconnections" is synonymous with "connections".

11. Q: Is it acceptable to submit the SDP as a PDF file?
    A: No, it is not.

12. Q: Should the SDP be written from the standpoint of my agency's SVES access itself, or from the standpoint of access to all data provided to us by SSA?
    A: The SDP is to encompass your agency's electronic access to SSA-provided data as per the electronic data sharing agreement between your agency and SSA. Refer to Developing the SDP.

15. Q: Does having a "transaction-driven" system mean that employees cannot initiate a query to SSA and that a permission module is not needed?
    A: Not necessarily. "Transaction driven" basically means that queries, etc. are submitted automatically (and it might depend on the transaction). Depending on the system

implementation, queries might not be automatic or, if they are, manual transactions might still be permitted (for example, when something needs to be corrected). Also, even if a "transaction-driven" system is implemented in such a way that manual transactions cannot be performed, if the system does ***not*** require the user to be in a particular application and/or the query to be for an existing record in the EIEP's system ***before*** the system will allow a query to go through to SSA, it would still need a permission module.

16. Q: What is an Onsite Compliance Review?
A: The Onsite Compliance Review is the process wherein SSA performs periodic site visits to its Electronic Information Exchange Partners (EIEP) to certify whether the EIEP's technical, managerial, and operational security measures for protecting data obtained electronically from SSA continue to conform to the terms of the EIEPs' data sharing agreements with SSA and SSA's associated system security requirements and procedures. Refer to the Compliance Review Program and Process.

17. Q: What are the criteria for performing an Onsite Compliance Review?
A: The following are criteria for performing the Onsite Compliance Review:

- EIEP initiating new access or new access method for obtaining information from SSA
- EIEP's cyclical review (previous review was performed remotely)
- EIEP has made significant change(s) in its operating or security platform involving SSA-provided data
- EIEP experienced a breach of SSA-provided personally identifying information (PII)
- EIEP has been determined to be high-risk

Refer also to the Review Determination Matrix.

18. Q: What is a Remote Compliance Review?
A: The Remote Compliance Review is the process wherein SSA conducts periodic meetings remotely (e.g., via conference calls) with its EIEPs to determine whether the EIEP's technical, managerial, and operational security measures for protecting data obtained electronically from SSA continue to conform to the terms of the EIEPs' data sharing agreements with SSA and SSA's associated system security requirements and procedures. Refer to the Compliance Review Program and Process.

19. Q: What are the criteria for performing a Remote Compliance Review?
A: Each of the following criteria must be satisfied for performing the Remote Compliance Review:

- EIEP's cyclical review (previous review was performed onsite without findings or issues for which findings were cited have been satisfactorily resolved).
- EIEP has made no significant change(s) in its operating or security platform involving SSA-provided data.
- EIEP has not experienced a breach of SSA-provided personally identifying information (PII) since its previous compliance review.
- EIEP has been determined to be low-risk

Refer also to the Review Determination Matrix

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ATTACHMENT 5

WORKSHEET FOR REPORTING LOSS OR POTENTIAL LOSS OF PERSONALLY IDENTIFABLE INFORMATION

ATTACHMENT 5 **09/27/06**

Worksheet for Reporting Loss or Potential Loss of Personally Identifiable Information

1. Information about the individual making the report to the NCSC:

Name:					
Position:					
Deputy Commissioner Level Organization:					
Phone Numbers:					
Work:		Cell:		Home/Other:	
E-mail Address:					
Check one of the following:					
Management Official		Security Officer		Non-Management	

2. Information about the data that was lost/stolen:

Describe what was lost or stolen (e.g., case file, MBR data):

Which element(s) of PII did the data contain?

Name		Bank Account Info	
SSN		Medical/Health Information	
Date of Birth		Benefit Payment Info	
Place of Birth		Mother's Maiden Name	
Address		Other (describe):	

Estimated volume of records involved:

3. How was the data physically stored, packaged and/or contained?

Paper or Electronic? (circle one):

If Electronic, what type of device?

Laptop		Tablet		Backup Tape		Blackberry	
Workstation		Server		CD/DVD		Blackberry Phone #	
Hard Drive		Floppy Disk		USB Drive			
Other (describe):							

Additional Questions if Electronic:

	Yes	No	Not Sure
a. Was the device encrypted?			
b. Was the device password protected?			
c. If a laptop or tablet, was a VPN SmartCard lost?			
Cardholder's Name:			
Cardholder's SSA logon PIN:			
Hardware Make/Model:			
Hardware Serial Number:			

Additional Questions if Paper:

	Yes	No	Not Sure
a. Was the information in a locked briefcase?			
b. Was the information in a locked cabinet or drawer?			
c. Was the information in a locked vehicle trunk?			
d. Was the information redacted?			
e. Other circumstances:			

4. **If the employee/contractor who was in possession of the data or to whom the data was assigned is not the person making the report to the NCSC (as listed in #1), information about this employee/contractor:**

Name:					
Position:					
Deputy Commissioner Level Organization:					
Phone Numbers:					
Work:		Cell:		Home/Other:	
E-mail Address:					

5. **Circumstances of the loss:**
   a. When was it lost/stolen?

   b. Brief description of how the loss/theft occurred:

   c. When was it reported to SSA management official (date and time)?

6. **Have any other SSA components been contacted? If so, who? (Include deputy commissioner level, agency level, regional/associate level component names)**

7. Which reports have been filed? (include FPS, local police, and SSA reports)

Report Filed	Yes	No	Report Number
Federal Protective Service			
Local Police			

	Yes	No
SSA-3114 (Incident Alert)		
SSA-342 (Report of Survey)		
Other (describe)		

8. Other pertinent information (include actions under way, as well as any contacts with other agencies, law enforcement or the press):

CCC-307

CERTIFICATION

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

Contractor/Bidder Firm Name (Printed)	*Federal ID Number*
By (Authorized Signature)	
Printed Name and Title of Person Signing	
Date Executed	*Executed in the County of*

CONTRACTOR CERTIFICATION CLAUSES

1. STATEMENT OF COMPLIANCE: Contractor has, unless exempted, complied with the nondiscrimination program requirements. (Gov. Code §12990 (a-f) and CCR, Title 2, Section 8103) (Not applicable to public entities.)

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

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

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

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

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

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

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

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

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

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

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

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

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

6. SWEATFREE CODE OF CONDUCT:

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

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

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

7. DOMESTIC PARTNERS: For contracts over $100,000 executed or amended after January 1, 2007, the contractor certifies that contractor is in compliance with Public Contract Code section 10295.3.

DOING BUSINESS WITH THE STATE OF CALIFORNIA

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

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

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

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

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

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

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

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

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

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

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

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

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

5. CORPORATE QUALIFICATIONS TO DO BUSINESS IN CALIFORNIA:

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

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

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

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

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

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

For Clerk's Use Only:
AGENDA NUMBER

12

AGENDA REQUEST FORM

BOARD OF SUPERVISORS
COUNTY OF INYO

X Consent ☐ Departmental ☐ Correspondence Action ☐ Public Hearing

☐ Scheduled Time for ☐ Closed Session ☐ Informational

FROM: Health & Human Services - ESAAA

FOR THE BOARD MEETING OF: May 7, 2013

SUBJECT: Amendment Number 2 of the Standard Agreement for Contract Number AP-1213-16 between California Department of Aging and County of Inyo

DEPARTMENTAL RECOMMENDATION:

Request Board approve Amendment Number 2 to Standard Agreement for Contract Number AP-1213-16, between the County of Inyo and the California Department of Aging (CDA), decreasing the overall allocation by $4,945, for a total contract amount of $757,387, and authorize the Chairperson to sign the Standard Agreement Amendment.

CAO RECOMMENDATION:

SUMMARY DISCUSSION:

This contract amendment decreases the federal portion of Inyo's allocation by $4,945. CDA has received estimated reductions for Federal Fiscal Year (FFY) 2013 (October 2012-September 2013) due to federal sequestration. Because of the federal application of national minimum funding requirements and hold harmless requirements, cuts for the State of California ranged from 4.3 percent to 8.1 percent for federal Older Americans Act Title III, VII, and Nutrition Services Incentive Programs from FFY 2012 levels.

Due to the late federal implementation of these reductions, all FFY 2013 savings must be achieved by September 2013. To calculate the amount of the reductions which applies to this State Fiscal Year (SFY 2012/13, CDA has assumed a May 2013 implementation date and spread the reduction evenly across the remaining five months of FFY 2013 (May 2013-September 2013). This amendment covers the first two months of the reduction, leaving the remaining three months to be dealt with in next year's agreement.

The decrease of $4,945 is as follows: $783 for IIIB Supportive Services, $225 for IIIB Ombudsman services, $261 for VIIB Ombudsman services, $1,562 for IIIC1 Congregate Nutrition services, $328 for NSIP C1 for congregate meals, $414 for IIIC2 Home Delivered services, $665 for NSIP C2 for home delivered meals, $56 for IIID Disease Prevention services, $294 for IIIE Family Caregiver services and $17 Title VII Elder Abuse Prevention services. Additionally the following cuts were made to the Administration allocation: $87 for IIIB Administration, $174 for IIIC1 Administration, $46 for IIIC2 Administration and $33 for Title IIIE Administration. The IIIB Supportive Services, Congregate Nutrition, Home Delivered, and NSIP funds will result in an amendment with the Mono County contract in order for the decrease of funding to be allocated appropriately between the two counties.

ALTERNATIVES:

There will be no ability to receive the remaining funds if this amendment is not approved.

OTHER AGENCY INVOLVEMENT:

California Department of Aging, County of Mono, Legal Services

FINANCING:

State and Federal dollars. Total amount of this contract is $757,387, and is budgeted as revenue in the ESAAA budget (683000) in the State and Federal revenue object codes. Total federal dollars = $490,278, and total State dollars = $267,109.

APPROVALS	
COUNTY COUNSEL:	AGREEMENTS, CONTRACTS AND ORDINANCES AND CLOSED SESSION AND RELATED ITEMS *(Must be reviewed and approved by county counsel prior to submission to the board clerk.)* Approved: yes Date 4/16/2013
AUDITOR/CONTROLLER:	ACCOUNTING/FINANCE AND RELATED ITEMS (*Must be reviewed and approved by the auditor-controller prior to submission to the board clerk.)* Approved: yes Date 4/19/13
PERSONNEL DIRECTOR:	PERSONNEL AND RELATED ITEMS (Must be reviewed and approved by the director of personnel services prior to submission to the board clerk.) Approved: ✓ Date 4/24/13

DEPARTMENT HEAD SIGNATURE:
(Not to be signed until all approvals are received) Jean Turner Date: 4-26-13

STATE OF CALIFORNIA - HEALTH AND HUMAN SERVICES AGENCY

EDMUND G. BROWN JR. *Governor*

CALIFORNIA DEPARTMENT OF AGING
1300 National Drive, Suite 200
SACRAMENTO, CA 95834
Internet Home Page: www.aging.ca.gov
TDD Only 1-800-735-2929
FAX Only (916) 928-2500
(916) 419-7531

April 4, 2013

To: County of Inyo

Enclosed are four Standard Agreements for Contract Number AP-1213-16, Amendment 2, in the amount of $ 757,387.00 which decreases the contract amount by $ - 4,945. Any additional documents that need to be submitted with this contract are checked below:

☐ Insurance Certificate or letter of self-insurance for: ☐ General Liability (7/1/2013)
☐ Auto (7/1/2013)
☐ Professional (7/1/2013)

☑ Resolution (True) ☐ No Resolution (False)

☐ No Documents Required

Please sign and return all four copies of the Contract and any additional documents required to:

California Department of Aging
1300 National Drive, Suite 200
Sacramento, CA 95834

If you have any questions, please contact me at (916) 419-7157. Thank you.

Don Fingado
Contract Analyst
California Department of Aging

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Do Your Part to Help California Save Energy
To learn more about saving energy, visit the CDA web site at **www.aging.ca.gov**

RECEIVED APR - 9 2013

STATE OF CALIFORNIA

STANDARD AGREEMENT AMENDMENT

STD. 213 A (Rev 6/03)

☐ CHECK HERE IF ADDITIONAL PAGES ARE ATTACHED _____ Pages

AGREEMENT NUMBER	AMENDMENT NUMBER
AP-1213-16	2
REGISTRATION NUMBER	

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

   STATE AGENCY'S NAME
   California Department of Aging

   CONTRACTOR'S NAME
   County of Inyo

2. The term of this Agreement is July 1, 2012 through June 30, 2013

3. The maximum amount of this Agreement after this amendment is: **$ 757,387.00**
   Seven hundred fifty-seven thousand three hundred eighty-seven and 00/100

4. The parties mutually agree to this amendment as follows. All actions noted below are by this reference made a part of the Agreement and incorporated herein:

   This contract amendment decreases funds provided to the contractor by $ - 4,945. This decrease is needed due to a reduction in federal funding.

   Exhibit B, pages 11 and 12, titled Budget Display, amendment 2, is attached and replaces Exhibit B, pages 11 and 12, Budget Display amendment 1

   .

   The Budget, amendment 2, is hereby incorporated by reference and replaces the Budget, Amendment 1.

All other terms and conditions shall remain the same.

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

CONTRACTOR		CALIFORNIA Department of General Services Use Only
CONTRACTOR'S NAME *(If other than an individual, state whether a corporation, partnership, etc.)* County of Inyo		
BY *(Authorized Signature)*	DATE SIGNED *(Do not type)*	
PRINTED NAME AND TITLE OF PERSON SIGNING		
ADDRESS 163 May Street BISHOP CA 93514		
STATE OF CALIFORNIA		
AGENCY NAME California Department of Aging		
BY *(Authorized Signature)*	DATE SIGNED *(Do not type)*	
PRINTED NAME AND TITLE OF PERSON SIGNING Addy Macias, Manager, Contracts and Business Services Section		☒ Exempt per: Older Californians Act and AG OP 80-111
ADDRESS 1300 National Drive, Suite 200, Sacramento, CA 95834		

AGENDA REQUEST FORM

BOARD OF SUPERVISORS
COUNTY OF INYO

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

For Clerk's Use Only:
AGENDA NUMBER
13

FROM: Public Works Department

FOR THE BOARD MEETING OF: May 7, 2013

SUBJECT: Approve Amendment No. 3 to the Contract for engineering services with Eastern Sierra Engineering of Reno, Nevada (ESE).

DEPARTMENTAL RECOMMENDATIONS:

1. Request your board approve Amendment No. 3 to the Contract between the County of Inyo Standard Contract No. 156 between the County of Inyo and ESE for engineering services in an amount not to exceed $28,465.00 for the Independence Town Roads Rehabilitation Project, increasing the total Contract amount from $66,965.00 to $95,421.00;

2. Authorize the chairperson to execute Amendment No. 3, contingent upon obtaining appropriate signatures, and upon adoption of future budgets.

CAO RECOMMENDATION:

SUMMARY DISCUSSION: On March 26, 2013, the Board awarded the construction contract for the Independence Town Roads Rehabilitation Project to William Kanayan Construction, Inc. of Rimforest, California, for $991,598.22. This project will reconstruct approximately 2.2 miles of roadway in Independence, including Market Street, Park Street, Rosedale Street, Clay Street, Jackson Street, and portions of Washington Street and Center Street. The center 24-foot width of the roadway will be pulverized and reused as base, and a 2- to 3-inch thick section of hot-mix asphalt will be installed over the center 24-foot width. A chip seal and a fog seal will then be applied over the entire roadway width. Portland concrete sidewalks ramps that are Americans with Disabilities Act compliant will be installed at intersections where there is existing sidewalk. Construction is anticipated to begin in mid-to-late-May 2013.

ESE is currently under contract (Standard Contract No. 156) with the County to provide various engineering services on an as-needed basis, including pavement investigation and materials testing. ESE conducted a pavement investigation for the Independence Town Roads Rehabilitation Project during the engineering phase of the project. The pavement investigation was needed to determine thickness of the existing pavement, the nature of the underlying base and subbase material, and determine the optimal pavement section to be installed during construction of the project.

As with all state and federally funded highway projects, materials acceptance testing is required to control the quality of the materials incorporated into the work and ensure compliance with the project specifications. The Public Works Department does not have the certified equipment, laboratory facilities, or staff needed to perform materials testing. Therefore, the Public Works Department recently requested that ESE also provide materials testing services during construction of the project. The cost of ESE's services is estimated at $28,465.00.

This project is funded by the State Transportation Improvement Program (STIP). The project is also eligible for Toll Credits to fund the 11.47 percent match, so 100 percent of the project costs are reimbursable. Therefore, the Public Works Department is requesting that the board approve Amendment No. 3.

ALTERNATIVES: The board could choose not to approve the Amendment No. 3 for materials testing for this project. This is not recommended because the Public Works Department does not have the certified equipment, laboratory, or personnel needed to perform these services. If the board elected not to approve Amendment No. 3, the Public Works

and adverse impacts to the project. Any delays the county causes to the contractor's progress may potentially result in additional costs for right-of-way delay. If materials testing is not performed, there is no way to ensure that the materials incorporated into the work comply with the specifications. Additionally, if testing is not performed, the costs for construction of the project and for materials testing may not be eligible for STIP reimbursement.

OTHER AGENCY INVOLVEMENT:
The auditor's office to make payments to the consultant;
County counsel to review and approve Amendment No. 3;
Caltrans to reimburse the county for project costs as described below.

FINANCING: The project is funded by the STIP, which will reimburse the county for 88.53 percent of the engineering and construction costs of the project. The project is also eligible for Toll Credits, which will fund the 11.47 percent match for the project. Therefore, 100 percent of the project costs, including Public Works staff time and consultant costs, will be reimbursed.

The cost of for materials testing services will be paid through budget unit 034601, State Funded Roads, object code 5733, Independence Town Rehabilitation. STIP procedures require reimbursement to local agencies upon submittal of progress invoices for expenditures actually made. Therefore, these funds will be loaned from the road fund and be reimbursed with STIP and Toll Credits funds. The cost for materials testing services has been included in the 2012/2013 County Budget.

APPROVALS

COUNTY COUNSEL:	AGREEMENTS, CONTRACTS AND ORDINANCES AND CLOSED SESSION AND RELATED ITEMS (Must be reviewed and approved by County Counsel prior to submission to the board clerk.)	Approved: yes Date 4/22/13
AUDITOR/CONTROLLER	ACCOUNTING/FINANCE AND RELATED ITEMS (Must be reviewed and approved by the auditor/controller prior to submission to the board clerk.)	Approved: yes Date 4/24/13
PERSONNEL DIRECTOR	PERSONNEL AND RELATED ITEMS (Must be reviewed and approved by the director of personnel services prior to submission to the board clerk.)	Approved: N/A Date

DEPARTMENT HEAD SIGNATURE:
(Not to be signed until all approvals are received) _____ Date: 4/25/13

AMENDMENT NUMBER 3 TO
AGREEMENT BETWEEN THE COUNTY OF INYO AND
Eastern Sierra Engineering
FOR THE PROVISION OF ENGINEERING SERVICES

WHEREAS, the County of Inyo (hereinafter referred to as "County") and Eastern Sierra Engineering of Reno, Nevada (hereinafter referred to as "Consultant"), have entered into an Agreement for the Provision of engineering services dated June 26, 2012, on County of Inyo Standard Contract No. 156, for the term from June 15, 2012 to June 15, 2015.

WHEREAS, County and Consultant do desire and consent to amend such Agreement as set forth below;

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

County and Consultant hereby amend such Agreement as follows:

2. Section 3D, Limit upon amount payable under Agreement. The first sentence is revised as follows:

   "The total sum of all payments made by the County to Consultant for services and work performed under this Agreement shall not exceed Ninety-Five Thousand, Four Hundred Twenty-One Dollars and No Cents ($95,421.00) (hereinafter referred to as "Contract limit").

3. Attachment A to the Contract, *Scope of Work*, shall be revised to include the additional tasks required for materials testing services for the Independence Town Roads Rehabilitation Project as described in Eastern Sierra Engineering's proposal entitled *Materials Testing Services, Independence Roads Rehabilitation Project* which is included in Attachment A3 to the Contract.

4. Eastern Sierra Engineering's fees for the scope of work described in Attachment A3 to the Contract shall be the fees described in Eastern Sierra Engineering's proposal entitled *Materials Testing Services, Independence Roads Rehabilitation Project,* dated April 4, 2013, which is included as Attachment B3 to the Contract.

The effective date of this amendment to the Agreement is May 7, 2013.

All other terms and conditions of the Agreement are unchanged and shall remain the same.

AMENDMENT NUMBER _3_ TO
AGREEMENT BETWEEN THE COUNTY OF INYO AND
Eastern Sierra Engineering

IN WITNESS THEREOF, THE PARTIES HERETO HAVE SET THEIR HANDS AND SEALS THIS _____ DAY OF _____, 2013.

COUNTY OF INYO

By: _____

Dated: _____

APPROVED AS TO FORM AND LEGALITY:

_____
County Counsel

APPROVED AS TO ACCOUNTING FORM:

_____
County Auditor

APPROVED AS TO PERSONNEL REQUIREMENTS:

_____
Director of Personnel Services

APPROVED AS TO RISK ASSESSMENT:

_____
County Risk Manager

CONSULTANT

By: _____

Dated: _____

Taxpayer's Identification Number:

20-0986439

ATTACHMENT A3
AGREEMENT BETWEEN COUNTY OF INYO
Eastern Sierra Engineering
FOR THE PROVISION OF ENGINEERING SERVICES

TERM:

FROM: June 15, 2012 **TO:** June 15, 2015

SCOPE OF WORK:

The scope of work described in the original Contract, dated June 26, 2012, is revised to include additional tasks required for materials testing services during construction of the Independence Town Roads Rehabilitation Project. The scope of services and estimated fee for these services shall be in general accordance with Eastern Sierra Engineering's proposal entitled *Materials Testing Services, Independence Roads Rehabilitation Project,* dated April 4, 2013, which is included in Attachment A3 to this amendment.

AGENDA REQUEST FORM

BOARD OF SUPERVISORS
COUNTY OF INYO

For Clerk's Use Only:
AGENDA NUMBER
14

☒ Consent ☐ Departmental ☐ Correspondence Action ☐ Public Hearing

☐ Scheduled Time for ☐ Closed Session ☐ Informational

FROM: Public Works

FOR THE BOARD MEETING OF: May 7, 2013

SUBJECT: HVAC Upgrade Project at Inyo County Water Department Building

DEPARTMENTAL RECOMMENDATION:

1. Recommend the Board approve the plans and specifications for the HVAC Upgrade Project at Inyo County Water Department Building; and,
2. Authorize the Interim Public Works Director to advertise and bid the Project.

CAO RECOMMENDATION:

SUMMARY DISCUSSION:

The FY 2012/2013 approved Public Works / Deferred Maintenance Budget included an amount of $90,000 for upgrading the existing heating and cooling system at the Water Department Building in Independence. On April 2, 2013 your Board approved an additional amount of $80,000 for the project after it was determined that the original project budget was insufficient for the recommended HVAC system installation for this building. This project will improve the building's comfort level, energy efficiency, and allow for greater flexibility of future office space modifications.

ALTERNATIVES:

Not approve the plans, specifications, and advertisement of the project. This is not recommended because the project funds need to be encumbered by June 30, 2013.

OTHER AGENCY INVOLVEMENT:

The Public Works Department for the development of the plans, specifications and bid package.

FINANCING:

The funds for this project will be provided through the Deferred Maintenance Budget 011501, Object Code 5640, Structures and Improvements.

APPROVALS	
COUNTY COUNSEL:	AGREEMENTS, CONTRACTS AND ORDINANCES AND CLOSED SESSION AND RELATED ITEMS *(Must be reviewed and approved by county counsel prior to submission to the board clerk.)* Approved: yes Date 5/1/13
AUDITOR/CONTROLLER:	ACCOUNTING/FINANCE AND RELATED ITEMS (*Must be reviewed and approved by the auditor-controller prior to submission to the board clerk.)* Approved: yes Date 5/1/13
PERSONNEL DIRECTOR:	PERSONNEL AND RELATED ITEMS (Must be reviewed and approved by the director of personnel services prior to submission to the board clerk.) Approved:_____ Date_____

DEPARTMENT HEAD SIGNATURE:
(Not to be signed until all approvals are received) Date: 5-1-13

AGENDA REQUEST FORM

BOARD OF SUPERVISORS
COUNTY OF INYO

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

For Clerk's Use Only:
AGENDA NUMBER
15

FROM: Public Works/Planning Departments

FOR THE BOARD MEETING OF: May 7, 2013

SUBJECT: Renewal of Right of right of way for Chicago Valley Roads

DEPARTMENTAL RECOMMENDATIONS:

1. Recommend that the Board authorize the submittal of a right of way application to the BLM for rights of way for various Chicago Valley Roads and:
2. Authorize the Board Chairperson to sign the application.

SUMMARY DISCUSSION:

In approximately 1980 residents of Chicago Valley properties east of Shoshone approached the County in an effort to secure right of way across BLM lands so their properties could have legal access and the properties could be subdivided. In October of 1982 the BLM approved a 30 year right of way for these roads and routes. The original grant has expired and we are requesting that your Board authorize the submittal of a renewal application for these same roads to provide legal access to the private parcels. There are approximately 13 tax parcels and more than twenty residents in this area.

ALTERNATIVES:

The Board could choose not to approve the submittal of the application. This is not recommended because it would limit the options of the property owners and potentially restrict the ability of property owners to subdivide and develop their land.

OTHER AGENCY INVOLVEMENT:

(1) US BLM, Barstow Field Office
(2) County Counsel for review of documents

FINANCING:

Staff time for application preparation and research, Road Department (Budget Unit 034600), salaries and employees (Object Code 5001).

APPROVALS

COUNTY COUNSEL:	AGREEMENTS, CONTRACTS AND ORDINANCES AND CLOSED SESSION AND RELATED ITEMS (Must be reviewed and approved by County Counsel prior to submission to the board clerk.) Approved: _____ Date 4/23/13
AUDITOR/CONTROLLER	ACCOUNTING/FINANCE AND RELATED ITEMS (Must be reviewed and approved by the auditor/controller prior to submission to the board clerk.) Approved: NA Date _____
PERSONNEL DIRECTOR	PERSONNEL AND RELATED ITEMS (Must be reviewed and approved by the director of personnel services prior to submission to the board clerk.) Approved: NA Date _____

DEPARTMENT HEAD SIGNATURE:
(Not to be signed until all approvals are received) _____ Date: 4-30-13

DRAFT

STANDARD FORM 299 (2/2003)
Prescribed by DOI/USDA/DOT
P.L. 96-487 and Federal
Register Notice 5-22-95

APPLICATION FOR TRANSPORTATION AND UTILITY SYSTEMS AND FACILITIES ON FEDERAL LANDS

FORM APPROVED
OMB NO. 1004-0189
Expires: October 31, 2005

FOR AGENCY USE ONLY

Application Number CACA-11407

Date filed

NOTE: Before completing and filing the application, the applicant should completely review this package and schedule a preapplication meeting with representatives of the agency responsible for processing the application. Each agency may have specific and unique requirements to be met in preparing and processing the application. Many times, with the help of the agency representative, the application can be completed at the preapplication meeting.

1. Name and address of applicant *(include zip code)*

Inyo County Road Department
PO Drawer Q - 168 N. Edwards Street
Independence, CA 93526

2. Name, title, and address of authorized agent if different from Item 1 *(include zip code)*

Doug Wilson,Interim Public Works Director
Inyo County, California

3. TELEPHONE *(area code)*

Applicant 760-878-0201

Authorized Agent 760-878-0201

4. As applicant are you? *(check one)*

a. ☐ Individual
b. ☐ Corporation*
c. ☐ Partnership/Association*
d. ☑ State Government/State Agency
e. ☐ Local Government
f. ☐ Federal Agency

* *If checked, complete supplemental page*

5. Specify what application is for: *(check one)*

a. ☐ New authorization
b. ☑ Renewing existing authorization No. CACA 11407, Chicago Valley Roads
c. ☐ Amend existing authorization No.
d. ☐ Assign existing authorization No.
e. ☐ Existing use for which no authorization has been received*
f. ☐ Other*

* *If checked, provide details under Item 7*

6. If an individual, or partnership are you a citizen(s) of the United States? ☐ Yes ☐ No

7. Project description *(describe in detail):* (a) Type of system or facility, *(e.g., canal, pipeline, road);* (b) related structures and facilities; (c) physical specifications *(length, width, grading, etc.);* (d) term of years needed; (e) time of year of use or operation; (f) Volume or amount of product to be transported; (g) duration and timing of construction; and (h) temporary work areas needed for construction *(Attach additional sheets, if additional space is needed.)*

Renew right of way for public access to existing Chicago Valley Roads as described in the attached maps.

8. Attach a map covering area and show location of project proposal See attachment 1

9. State or local government approval: ☐ Attached ☐ Applied for ☑ Not required

10. Nonreturnable application fee: ☐ Attached ☐ Not required

11. Does project cross international boundary or affect international waterways? ☐ Yes ☑ No *(If "yes," indicate on map)*

12. Give statement of your technical and financial capability to construct, operate, maintain, and terminate system for which authorization is being requested.

The roads are low maintenance roads and are maintained under agreement by adjacent property owners.

(Continued on page 2)

This form is authorized for local reproduction.

DRAFT

13a. Describe other reasonable alternative routes and modes considered.

None

b. Why were these alternatives not selected?

Because there would be new disturbance in previously undisturbed areas.

c. Give explanation as to why it is necessary to cross Federal Lands.

The Inyo County previously received right of way for the roads described in the application.

14. List authorizations and pending applications filed for similar projects which may provide information to the authorizing agency. *(Specify number, date, code, or name)*

None.

15. Provide statement of need for project, including the economic feasibility and items such as: (a) cost of proposal *(construction, operation, and maintenance)*; (b) estimated cost of next best alternative; and (c) expected public benefits.

The project is needed to provide public access to private parcel in-holdings adjacent to BLM lands

16. Describe probable effects on the population in the area, including the social and economic aspects, and the rural lifestyles.

Minor impacts due to dust and vehicle noise. Positive effects include road access to private parcels.

17. Describe likely environmental effects that the proposed project will have on: (a) air quality; (b) visual impact; (c) surface and ground water quality and quantity; (d) the control or structural change on any stream or other body of water; (e) existing noise levels; and (f) the surface of the land, including vegetation, permafrost, soil, and soil stability.

Air Quality, (minor). Visual Impact, (minor) the road might be considered a visual impact, but the road has been in existance for many years. Surface & ground water quality, (minor). Changes on streams or other bodies of water, (none). Existing noise level, (minor). Land surface and vegetation disturbance, (minor) a continuation of existing conditions and impacts

18. Describe the probable effects that the proposed project will have on (a) populations of fish, plantlife, wildlife, and marine life, including threatened and endangered species; and (b) marine mammals, including hunting, capturing, collecting, or killing these animals.

None.

19. State whether any hazardous material, as defined in this paragraph, will be used, produced, transported or stored on or within the right-of-way or any of the right-of-way facilities, or used in the construction, operation, maintenance or termination of the right-of-way or any of its facilities. "Hazardous material" means any substance, pollutant or contaminant that is listed as hazardous under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended, 42 U.S.C. 9601 et seq., and its regulations. The definition of hazardous substances under CERCLA includes any "hazardous waste" as defined in the Resource Conservation and Recovery Act of 1976 (RCRA), as amended, 42 U.S.C. 9601 et seq., and its regulations. The term hazardous materials also includes any nuclear or byproduct material as defined by the Atomic Energy Act of 1954, as amended, 42 U.S.C. 2011 et seq. The term does **not** include petroleum, including crude oil or any fraction thereof that is not otherwise specifically listed or designated as a hazardous substance under CERCLA Section 101(14), 42 U.S.C. 9601(14), nor does the term include natural gas.

Motor vehicle fuels and lubricants will be transported across these roads and potentially LP gas for delivery to residential parcels.

20. Name all the Department(s)/Agency(ies) where this application is being filed.

US BLM, Barstow Field Office

I HEREBY CERTIFY, That I am of legal age and authorized to do business in the State and that I have personally examined the information contained in the application and believe that the information submitted is correct to the best of my knowledge.

Signature of Applicant	Date

Title 18, U.S.C. Section 1001 and Title 43 U.S.C. Section 1212, make it a crime for any person knowingly and willfully to make to any department or agency of the United States any false, fictitious, or fraudulent statements or representations as to any matter within its jurisdiction.

(Continued on page 3)

JAMES GOOCH
County Surveyor

PHONE: 878-2411
AREA CODE: 714

COUNTY OF INYO

COUNTY SURVEYOR'S OFFICE
POST OFFICE DRAWER Q
INDEPENDENCE, CALIF. 93526

August 25, 1981

TO: Honorable Board of Supervisors

RE: Chicago Valley Easements

Pursuant to direction by the Board of Supervisors, the Public Works Department met with the Chicago Valley residents to discuss the road easements for Chicago Valley. It was agreed at this meeting that the residents would furnish a survey of the proposed easements and the Public Works Department would prepare the map and applications for submission to the B.L.M. The residents also agreed that after the easements are obtained they would construct the roads as needed.

The survey for these roads has been submitted to the County and the Public Works Department has prepared a map for submission to B.L.M. The Public Works Department is now requesting permission of the Board of Supervisors to submit the appropriate applications to B.L.M. for obtaining Public Road Easements.

James Gooch
County Surveyor

JG/jp

Public Works

In the Rooms of the Board of Supervisors

County of Inyo, State of California

AUDITOR'S PAGE NO.

I HEREBY CERTIFY, That at a meeting of the Board of Supervisors of the County of Inyo, State of California, held in their rooms at the Court House in Independence on the 1st day of September, 1981, an order was duly made and entered as follows:

CHICAGO VALLEY -- Easements

Moved by Supervisor Bremmer, seconded by Supervisor Cook to authorize the Public Works Department to submit the appropriate applications to the Bureau of Land Management for obtaining public road easements within the Chicago Valley.

Motion carried unanimously.

WITNESS my hand and the seal of said Board this 1st day of September, 1981

as the same appears of record in my office.

MARGARET BROMLEY
County Clerk and ex-Officio Clerk of said Board.

By Jan Atwood
Deputy

APPROVED FOR ENTRY

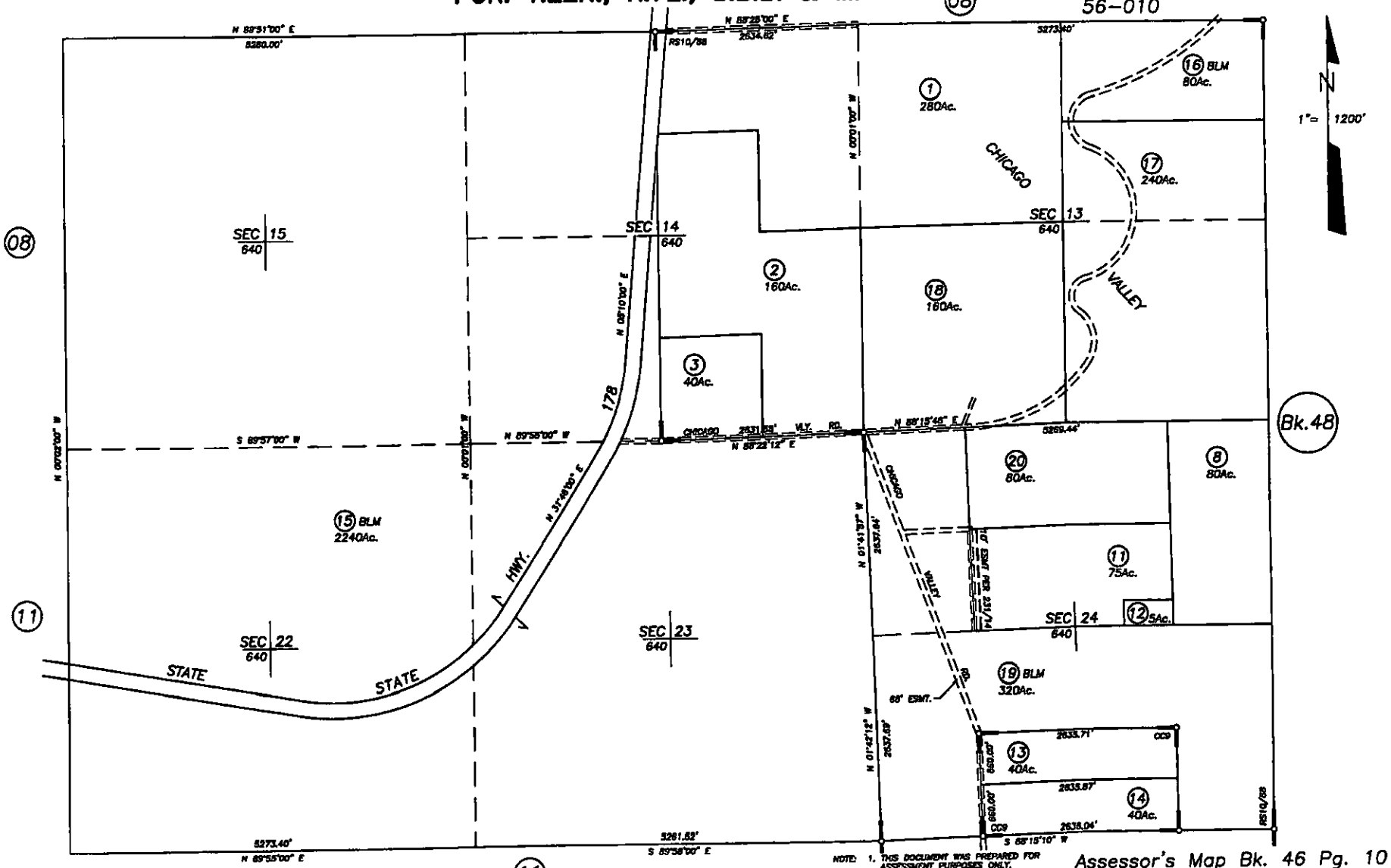
Auditor.

BOARD OF SUPERVISORS
Referred Copies
CAO X
DA
Other Aud., PW
Date 9/4/81

POR. T.22N., R.7E., S.B.B. & M.

TAX RATE AREA
56-010

46-10



R.S. Bk. 10 Pg. 88 – FOR 66' ESMTS.
C.C. 9 – 215/58

NOTE:
1. THIS DOCUMENT WAS PREPARED FOR ASSESSMENT PURPOSES ONLY.
2. NO LIABILITY IS ASSUMED FOR THE ACCURACY OF THE DATA SHOWN.
3. ASSESSOR'S PARCELS MAY NOT COMPLY WITH LOCAL LOT-SPLIT OR BUILDING SITE ORDINANCES.

Assessor's Map Bk. 46 Pg. 10
County of Inyo, Calif.
1950

12-31-01
08-07-98

AGENDA REQUEST FORM

BOARD OF SUPERVISORS
COUNTY OF INYO

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

For Clerk's Use Only:
AGENDA NUMBER
16

FROM: Public Works Department

FOR THE BOARD MEETING OF: May 7, 2013

SUBJECT: Resolution regarding detours for specific annual events on the State Highway system in Lone Pine, Independence, Big Pine, and Bishop

DEPARTMENTAL RECOMMENDATIONS:

Request Board approve a resolution entitled "A Resolution of the Inyo County Board of Supervisors designating standardized detours for annual special events through Lone Pine, Independence, Big Pine, and Bishop; and authorizing the Road Commissioner or his designee to execute documents related to these closures."

CAO RECOMMENDATION:

SUMMARY DISCUSSION:

The community organizations that hold the annual parades are required to apply to 1) the California Department of Transportation (Caltrans) to temporarily close a State Highway and 2) the County for a Special Event permit. In addition, Caltrans requires the County to formally accept traffic that is detoured off of the State Highway system for special events.

The attached resolution accepts traffic that is detoured onto County streets and roads for the following annual events:

- Lone Pine Film Festival Parade held on the Sunday of Columbus Day weekend in October, and
- Lone Pine Christmas Parade held in late November or December, and
- Independence 4th of July Parade held on July 4th, and
- Big Pine Homecoming Parade held on the last Saturday of October, and
- Bishop Mule Days Celebration Parade held on the Saturday of Memorial Day weekend, and
- Bishop Christmas Parade held on the first Saturday in December.

In past years, the County has required the organizers' of the parades in Lone Pine, Independence, and Big Pine to obtain a Special Event Permit from the County Road Department. The two parades in the City of Bishop have not been required to obtain a County Special Event Permit though they both detour traffic onto County streets and roads. Since the County is being requested by Caltrans to formerly accept the detoured traffic, it would be

more consistent to make all parties meet the same requirements. Inyo County Special Event Permits do not currently cost anything. They do require the event organizer to carry liability insurance for the event. Since the Mule Days and Bishop Christmas Parade organizers are required to obtain similar insurance to detour traffic onto City roads, this should not cost them additional monies.

The community organizations that hold these events are still required to apply to the State and the County and/or City. The attached Resolution simply accepts traffic on the County road system as a result of these annual events. This resolution will ensure that these events can continue assuming the community organizations are able to meet other State and County requirements. An exhibit map for each parade is included as an attachment to this resolution.

As the Lone Pine Film Festival and Christmas parades use the same detour, they are both combined in one exhibit map. The Lone Pine Film Festival Parade is held on the Sunday of Columbus Day weekend. The Lone Pine Christmas Parade is held on a weekend in late November or December so that it does not conflict with the Bishop Christmas Parade. The Mule Days Celebration Parade is held on the Saturday of Memorial Day Weekend and the Bishop Christmas Parade is held on the first Saturday in December.

This requirement for the County to accept the detours via resolution has been in place for a time. However, it was not strictly enforced. Caltrans does not have a resolution in place that serves these events. The attached resolution is written so that it will apply to future versions of the parades. Caltrans staff has indicated that this resolution can apply to multiple years.

Emergency detours do not require Board action and are based on specific circumstances.

ALTERNATIVES:

1) The Board could choose to submit a separate Resolution for each parade. This is not recommended as it will create additional staff work.

2) The Board could give specific direction to staff to bring this matter back at a future date.

OTHER AGENCY INVOLVEMENT:

1. Community organizations (the organizations that conduct the Lone Pine Film Festival, Lone Pine Christmas Parade, Independence 4th of July Parade, and the Big Pine Homecoming Parade) that apply to Caltrans and the County to hold the special events

2. Caltrans (approval of State Highway temporary road closure)

3. Inyo County Road Department (processes the encroachment permit for detours onto the County road system).

FINANCING:

Public Works Department staff completed this agenda request.

APPROVALS	
COUNTY COUNSEL:	AGREEMENTS, CONTRACTS AND ORDINANCES AND CLOSED SESSION AND RELATED ITEMS (Must be reviewed and approved by County Counsel prior to submission to the board clerk.) Approved: _____ Date 4/24/13
AUDITOR/CONTROLLER	ACCOUNTING/FINANCE AND RELATED ITEMS (Must be reviewed and approved by the auditor/controller prior to submission to the board clerk.) Approved: _____ Date _____
PERSONNEL DIRECTOR	PERSONNEL AND RELATED ITEMS (Must be reviewed and approved by the director of personnel services prior to submission to the board clerk.) Approved: _____ Date _____

DEPARTMENT HEAD SIGNATURE:
(Not to be signed until all approvals are received) _____ Date: 4-29-13

attachments:

- Draft Resolution
- Attachment A – Lone Pine Film Festival and Christmas Parade Detour Routes
- Attachment B – Independence 4th of July Parade Detour Route
- Attachment C - Big Pine Homecoming Days Parade Route
- Attachment D – Bishop Christmas Parade
- Attachment E – Bishop Mule Days Celebration Parade

RESOLUTION NO. 2013-_____

A RESOLUTION OF THE INYO COUNTY BOARD OF SUPERVISORS DESIGNATING STANDARDIZED DETOURS FOR ANNUAL SPECIAL EVENTS THROUGH LONE PINE, INDEPENDENCE, BIG PINE, AND BISHOP; AND AUTHORIZING THE ROAD COMMISSIONER OR HIS DESIGNEE TO EXECUTE DOCUMENTS RELATED TO THESE CLOSURES

WHEREAS the organizers of special events in Lone Pine, Independence, Big Pine, and Bishop annually apply to Inyo County and the State of California to conduct special events on State property; and

WHEREAS Inyo County notes that special events are held annually in the communities of Lone Pine, Independence, Big Pine, and Bishop in the following times and locations:

1. In the community of Lone Pine:

    a. The Film Festival Parade that is customarily held on the Sunday of Columbus Day weekend in October from 12:30 p.m. to 2:30 p.m. and

2. In the community of Lone Pine:

    a. The Christmas Parade that is customarily held on a Saturday in late November or December from 1:00 p.m. to 2:00 p.m.

3. In the community of Independence:

    a. The July 4th Parade that is customarily held on July 4th starting at 9:30 a.m. and finishing at 11:30 a.m.

4. In the community of Big Pine:

    a. The Homecoming Parade that is customarily held on the last Saturday of October from 9:00 a.m. to 10:00 a.m.

5. In the community of Bishop:

    a. The Christmas Parade that is customarily held on the first Saturday in December from 9:30 a.m. to 11:30 p.m.

6. In the community of Bishop:

    a. The Mule Days Celebration Parade that is customarily held on the Saturday of Memorial Day weekend in May from 9:00 a.m. to 3:00 p.m.

WHEREAS Inyo County requests the following list of standardized detours through the communities of Lone Pine, Independence, Big Pine, and Bishop that will require the temporary closure of the US Highway 395 annually for special events on the following sections of US Highway 395:

1. For the Lone Pine Film Festival and Lone Pine Christmas Parades, between

   The Northbound traffic detour will start at the intersection of US 395 and Inyo Street and direct traffic eastward on county streets and roads and return traffic to the State Highway at the intersection of US 395 and Locust Street.

   The Southbound traffic detour will start at the intersection of US 395 and Statham Way and direct traffic westward on county streets and roads and return traffic to the State Highway at the intersection of US 395 and Gene Autry Lane.

2. For the Independence 4th of July Parade between Pavilion Street and Inyo Street.

3. For the Big Pine Homecoming Parade, between Blake Road and County Road.

4. For the Bishop Christmas Parade, between two locations inside of the City of Bishop

5. For the Bishop Mule Days Celebration Parade, between two locations inside of the City of Bishop

WHEREAS said temporary closure will cause the re-routing of traffic onto and over the following County streets and roads in the communities of Lone Pine, Independence, Big Pine, and Bishop:

1. For the Lone Pine Film Festival Parade and Christmas Parades:

   The Northbound traffic detour will start at the intersection of US 395 and Inyo Street directing traffic easterly on Inyo Street to Lakeview Street, north on Lakeview Street to Locust Street, west on Locust Street to US 395.

   The Southbound traffic detour will start at the intersection of US 395 and Statham Way directing traffic westerly on Statham Way to Washington Street, south on Washington Street to Gene Autry Lane, and east on Gene Autry Lane to US 395.

2. For the Independence 4th of July Parade both Northbound and Southbound traffic will use the same detour route through the community:

   The Northbound traffic detour will start at the intersection of US 395 and Pavilion Street directing traffic easterly on Pavilion Street to Clay Street, north on Clay Street to Inyo Street, west on Inyo Street to US 395.

The Southbound traffic detour will start at the intersection of US 395 and Inyo Street directing traffic easterly on Inyo Street to Clay Street, south on Clay Street to Pavilion Street, and west on Pavilion Street to US 395.

3. For the Big Pine Homecoming Parade both Northbound and Southbound traffic will use the same detour route through the community:

   The Northbound traffic detour will start at the intersection of US 395 and Blake Road directing traffic westerly on Blake Road to School Street, north on School Street to County Road, and east on County Road to US 395.

   The Southbound traffic detour will start at the intersection of US 395 and County Road directing traffic westerly on County Road to School Street, south on School Street to Blake Road, and east on Blake Road to US 395.

4. For the Bishop Christmas Parade:

   The Northbound traffic detour will start inside the City of Bishop at the intersection of Main Street (US 395) and Mandich Street directing traffic westerly on Mandich Street, north on Sunland Drive, and west onto West Line Street (SR 168) back into the incorporated City of Bishop. The remainder of the detour is within the City of Bishop.

   The Southbound traffic detour will start inside of the City of Bishop directing traffic southerly on Sunland Drive to Sunland Indian Reservation Road, and east on Sunland Indian Reservation Road back to US 395.

5. For the Bishop Mule Days Celebration:

   The Northbound traffic detour will start inside the City of Bishop at the intersection of Main Street (US 395) and Mandich Street directing traffic westerly on Mandich Street, north on Sunland Drive, east on West Line Street (SR 168), and north on See Vee Lane back to North Sierra Highway (US 395).

   The Southbound traffic detour will start at the intersection of North Sierra Highway (US 395) and Barlow Lane directing traffic southerly on Barlow Lane, east on West Line Street (SR 168), south on Sunland Drive, and east on Sunland Indian Reservation Road back to US 395.

WHEREAS said temporary closures and detour routes are shown in the following exhibit maps:

1. Attachment A applies to both the Lone Pine Film Festival and the Lone Pine Christmas Parade.

2. Attachment B applies to the Independence 4th of July Parade.

3. Attachment C applies to the Big Pine Homecoming Days Parade.

4. Attachment D applies to the Bishop Christmas Parade.

5. Attachment E applies to the Bishop Mule Days Celebration Parade

WHEREAS the organizers of the special events described above shall obtain a Special Event Permit annually from Inyo County prior to that event.

NOW THEREFORE BE IT RESOLVED that the County of Inyo approves and consents to the proposed standardized detours for special events held annually in the communities of Lone Pine, Independence, Big Pine, and Bishop for planned Special Events, and consents to the proposed re-routing of traffic onto and over the described County streets and roads upon terms and conditions deemed appropriate and necessary by the State of California, Department of Transportation.

BE IT FURTHER RESOLVED that any changes to the standard detour routes described herein shall require and amendment or rescission of this resolution.

PASSED AND ADOPTED by the Board of Supervisors of the County of Inyo, State of California, this 7th day of May 2013, by the following vote:

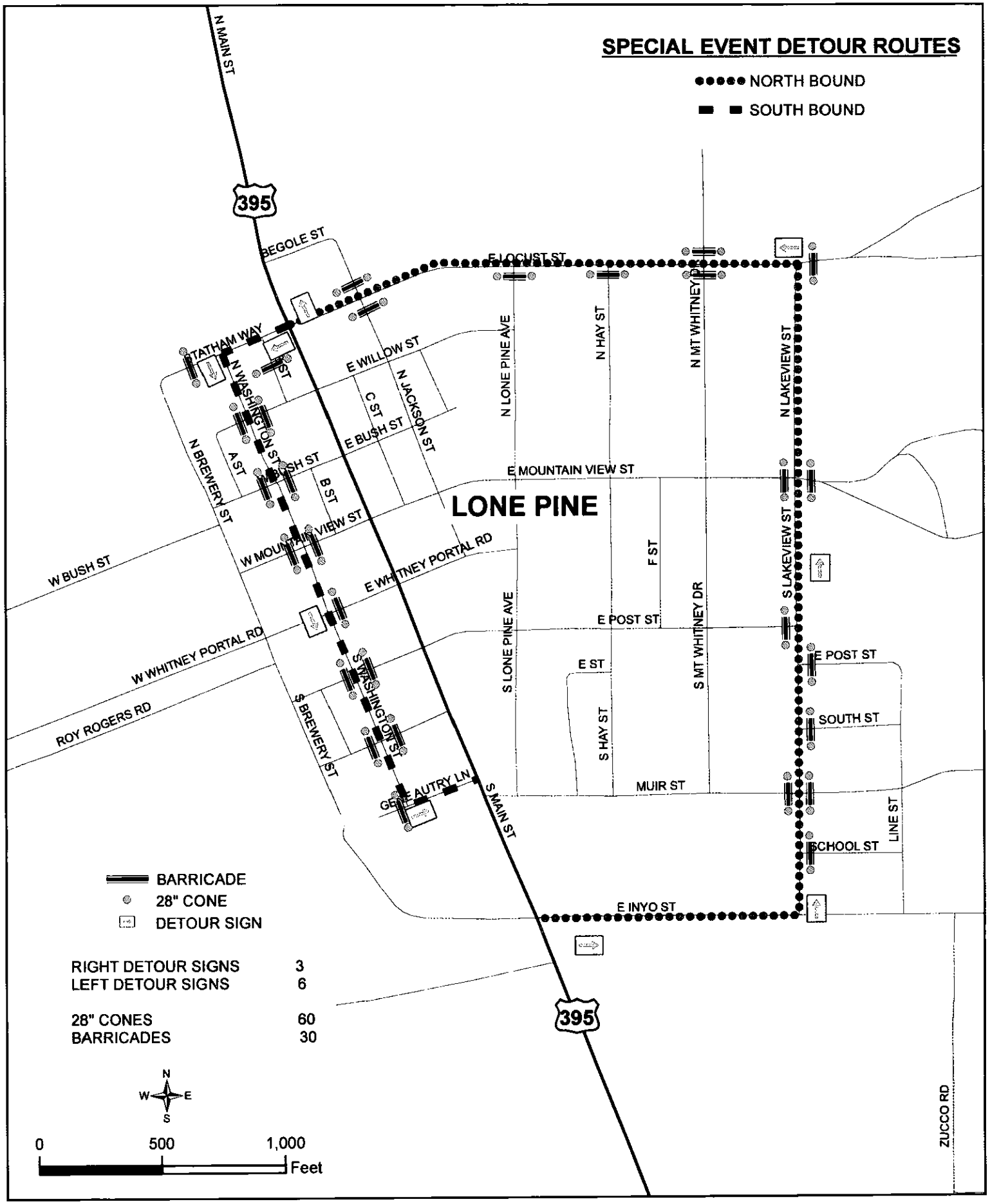
AYES:
NOES:
ABSTAIN:
ABSENT:

_____
Chairperson
Inyo County Board of Supervisors

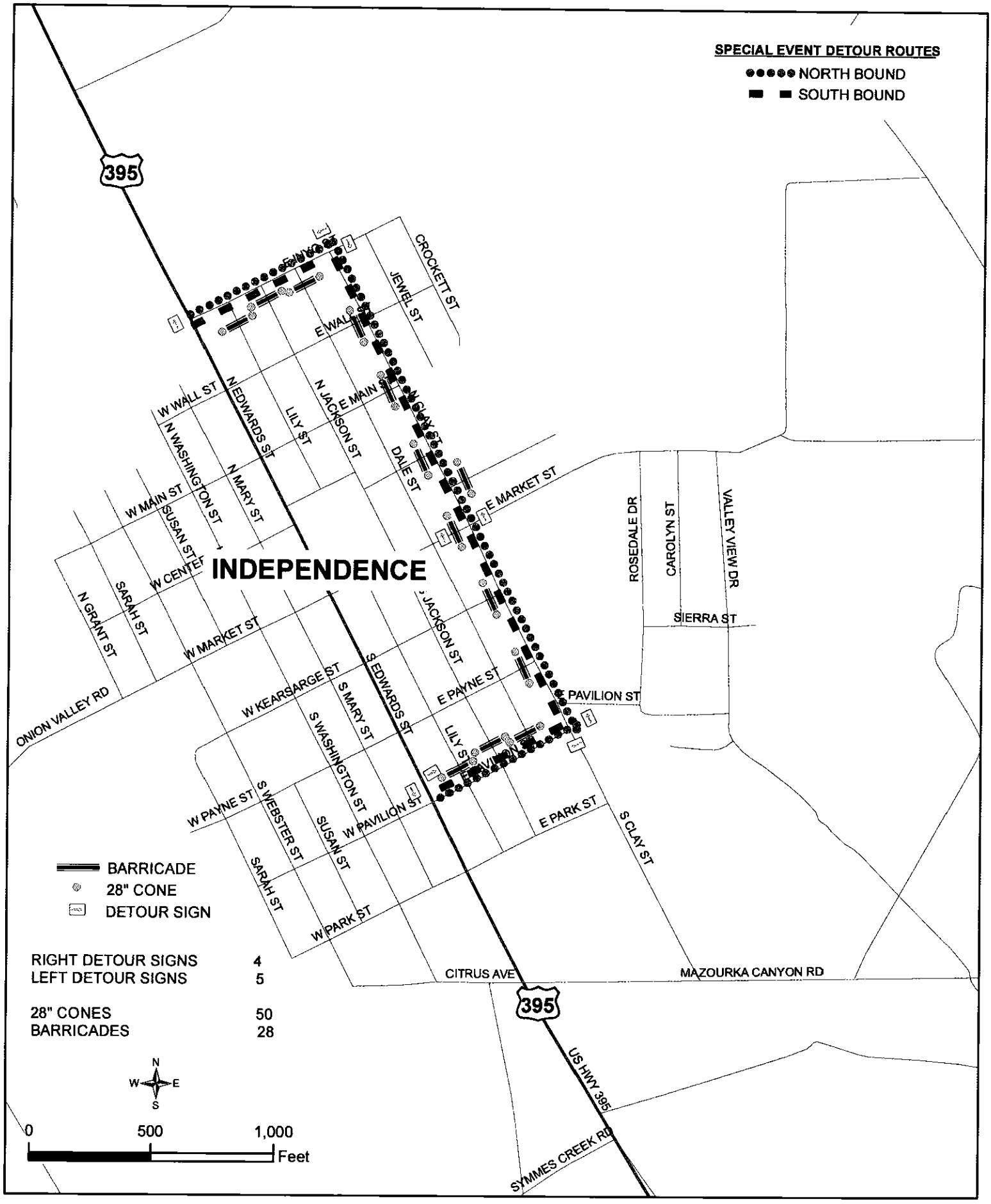
ATTEST: Kevin D. Carunchio
Clerk of the Board

By: _____
Patricia Gunsolley, Assistant

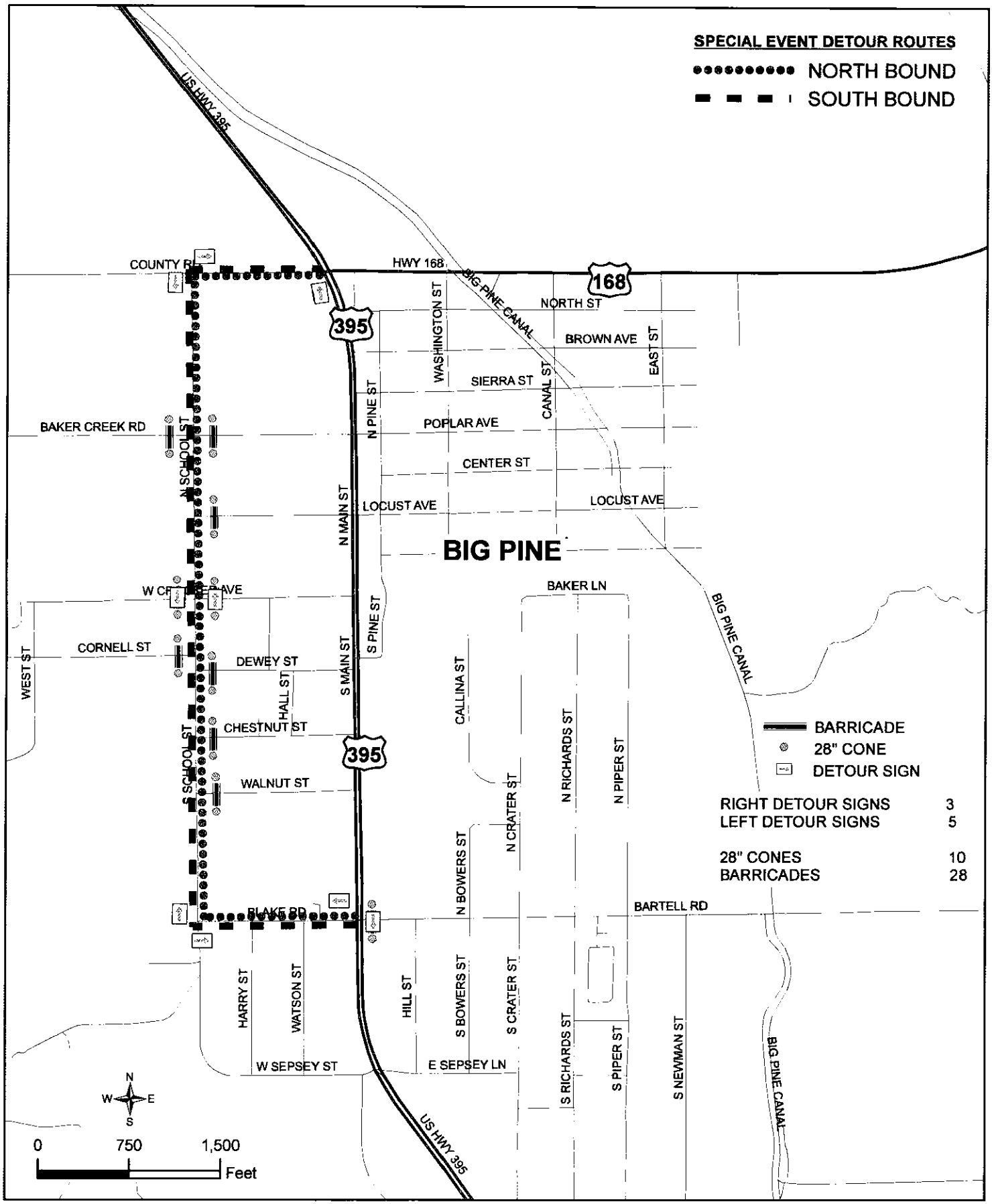
ATTACHMENT "A"
LONE PINE FILM FESTIVAL AND LONE PINE CHRISTMAS PARADE DETOUR ROUTE



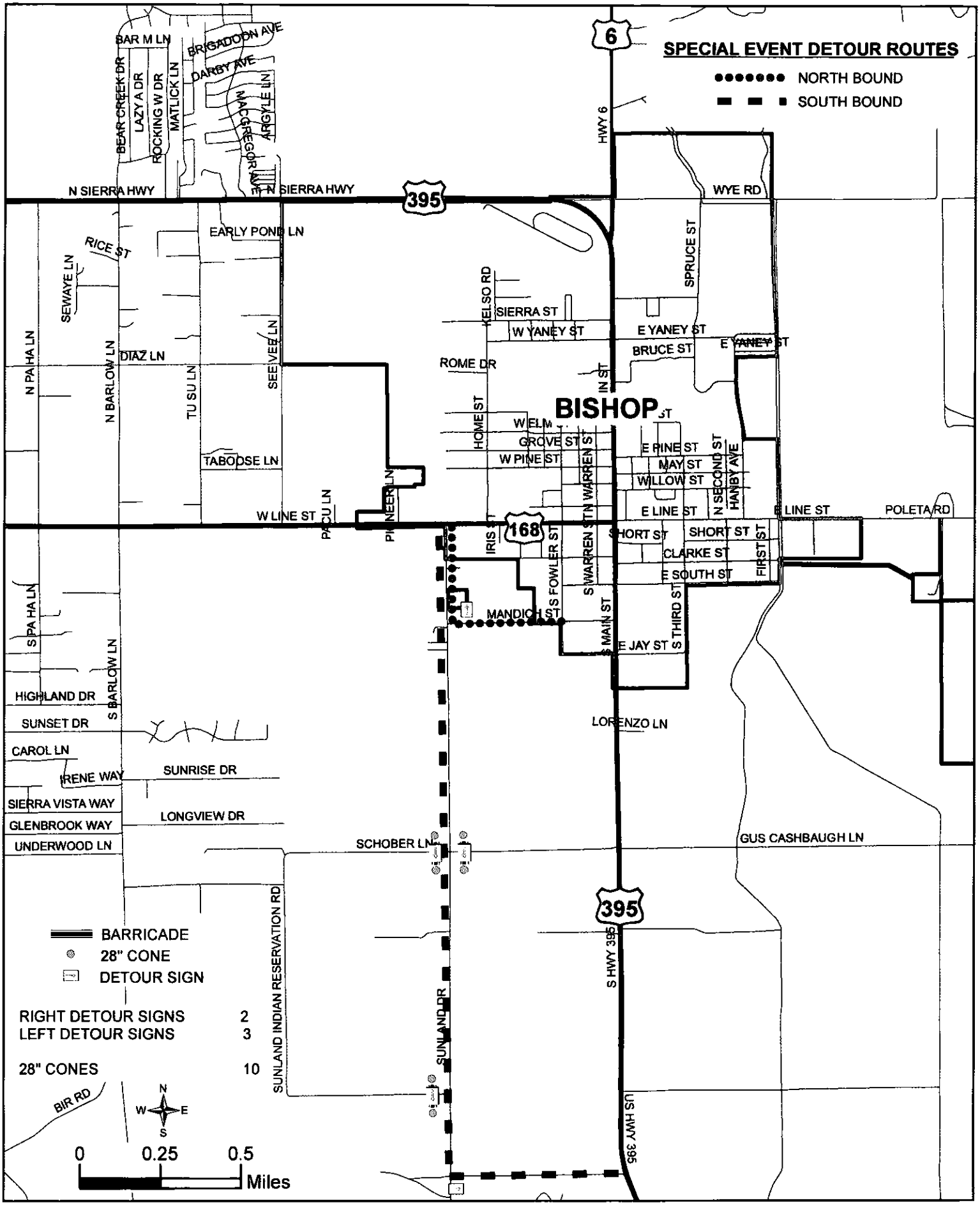
ATTACHMENT "B"
INDEPENDENCE 4TH OF JULY PARADE
DETOUR ROUTE



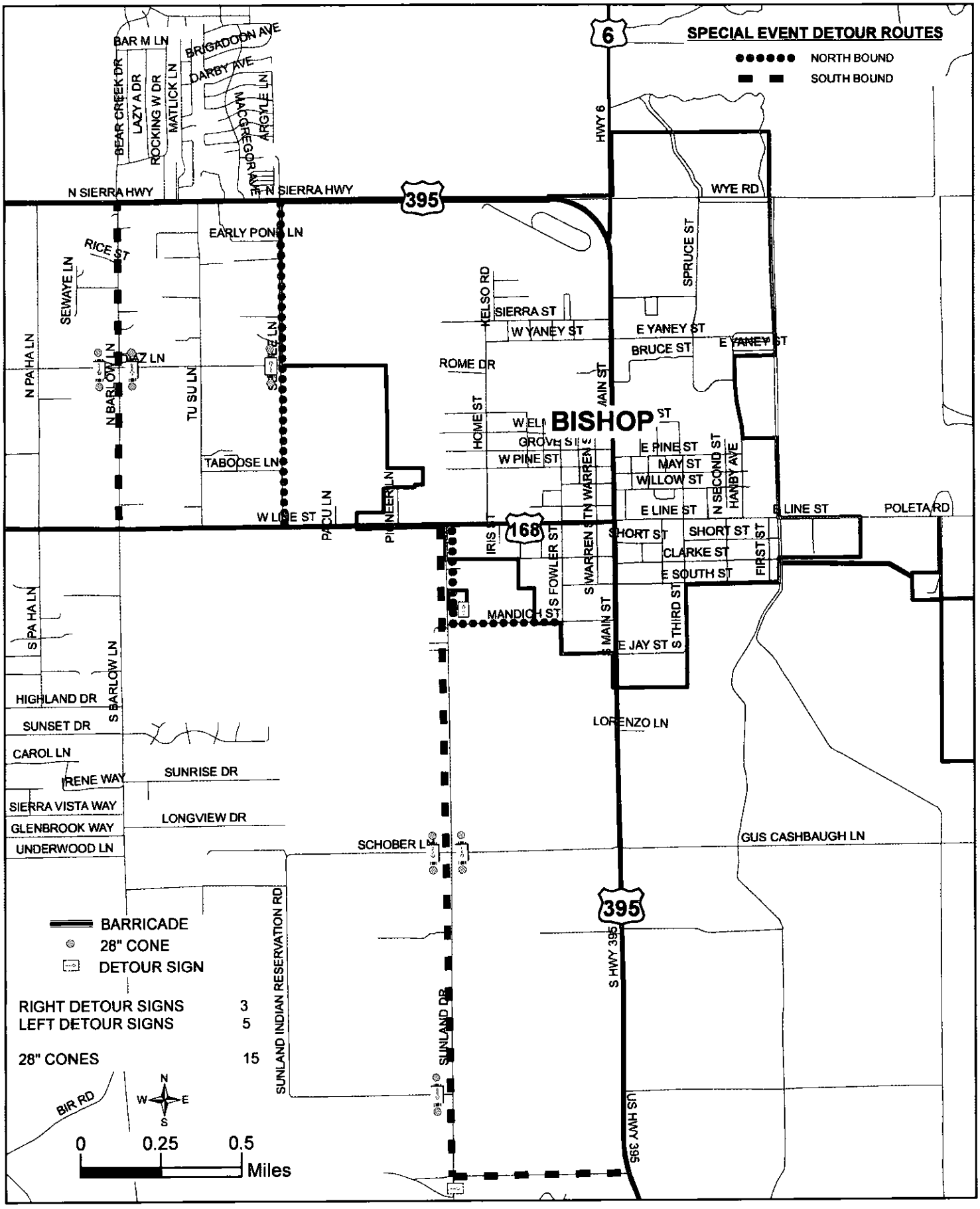
ATTACHMENT "C"
BIG PINE HOMECOMING DAYS PARADE
DETOUR ROUTE



ATTACHMENT "D"
CHRISTMAS PARADE DETOUR ROUTE



ATTACHMENT "E"
MULE DAYS PARADE DETOUR ROUTE



For Clerk's Use Only:
AGENDA NUMBER

17

AGENDA REQUEST FORM

BOARD OF SUPERVISORS
COUNTY OF INYO

☒ Consent ☐ Departmental ☐ Correspondence Action ☐ Public Hearing

☐ Scheduled Time for ☐ Closed Session ☐ Informational

FROM: Public Works

FOR THE BOARD MEETING OF: May 7, 2013

SUBJECT: Inyo County Jail Building – Replacement of Dryvit System Expansion Joints Project: Rejection of all bids received; authorize re-advertisement and bidding of the project.

DEPARTMENTAL RECOMMENDATION:

1. Recommend the Board reject all bids received for the Independence Jail - Replacement of Dryvit System Expansion Joints Project; and,
2. Authorize the Interim Public Works Director to re-advertise and re-bid the Project;

CAO RECOMMENDATION:

SUMMARY DISCUSSION:

On April 17, 2013, the Assistant Board Clerk opened bids for the Inyo County Jail Building – Replacement of Dryvit System Expansion Joints Project. The bid tabulation is included in your Board package for reference. The two (2) bids received were both above the engineers estimate for the project as well as the amount budgeted for the project. Additionally, the low bid received was not responsive due to the Bid Bond failing to comply with the bid requirements. Public Works is therefore recommending that your Board reject the bids received for the proposed work and authorize the Interim Public Works Director to re-advertise and re-bid the Project.

ALTERNATIVES:

To not reject these bids and award the contract to the sole responsive bidder. This is not recommended as this bid amount significantly exceeds the engineers estimate for the project.

OTHER AGENCY INVOLVEMENT:

The Public Works Department for the development of the plans, specifications and bid package.
County Counsel for review of the bids.

FINANCING:

The funds for this project will be provided through the Deferred Maintenance Budget 011501, Object Codes 5191 "Maintenance of Structures," and 5124 "External Charges."

APPROVALS	
COUNTY COUNSEL:	AGREEMENTS, CONTRACTS AND ORDINANCES AND CLOSED SESSION AND RELATED ITEMS *(Must be reviewed and approved by county counsel prior to submission to the board clerk.)* Approved: yes Date 4/23/13
AUDITOR/CONTROLLER:	ACCOUNTING/FINANCE AND RELATED ITEMS (*Must be reviewed and approved by the auditor-controller prior to submission to the board clerk.)* Approved: yes Date 4/24/13
PERSONNEL DIRECTOR:	PERSONNEL AND RELATED ITEMS (Must be reviewed and approved by the director of personnel services prior to submission to the board clerk.) Approved: N/A Date

DEPARTMENT HEAD SIGNATURE:
(Not to be signed until all approvals are received) Date: 4/25/13

COUNTY OF INYO BID TABULATION

Project Title & Bid No. Replacement of Drijit System Expansion Joints

Bid Opening Date: April 17, 2013 Location: Asst. Board Clerk Office

	BIDDER NAME	Bid Amount A	Bid Amount B	Bid Amount C	Bond
1.	Troy Cauldwell Paint & Stucco	$28,270.00			
2.	Ashron Constr. & Restoration Inc	$71,375.00			
3.					
4.					
5.					
6.					
7.					
8.					
9.					
10.					

Opened By: Patricia Gunsally

Present: Jeff Ahlstrom

AGENDA REQUEST FORM

BOARD OF SUPERVISORS
COUNTY OF INYO

☒ Consent ☐ Departmental ☐ Correspondence Action ☐ Public He
☐ Schedule time for ☐ Closed Session ☐ Informational

For Clerk's Use Only:
AGENDA NUMBER
18

FROM: Road Department

FOR THE BOARD MEETING OF: May 7, 2013

SUBJECT: Award of Contract for the Provision of Liquid Asphalt Products

DEPARTMENTAL RECOMMENDATIONS:

(1) Request Board award the contract for the Provision of Liquid Asphalt Products, to Environmental Concepts, of Tehachapi, CA in an amount not to exceed $159,299.00, for the period from May 10, 2013 to June 30, 2013, and authorize the Board Chairperson to sign, contingent upon obtaining appropriate signatures.

CAO RECOMMENDATION:

SUMMARY DISCUSSION:

When funding allows, the Road Department obtains bids from suppliers of liquid asphalt products to be used for road maintenance and repairs. Typically, these materials are used for pavement surface treatments such as chip seals, sand seals and crack sealing. The bids were opened on April 19, 2013, and only one bid was received:

Environmental Concepts $159,299.00

The Road Department and County Counsel have reviewed the bid and found it to be responsive.

The bid total that was submitted by Environmental Concepts is consistent with the Road Department's estimate. For bidding purposes, the Road Department estimated that as much as 130 tons of liquid asphalt materials may be needed. To be used for routine maintenance and Prop 1B projects such as crack sealing. Since the 2012/2013 Road Department Budget includes $1,250,787 for road maintenance materials, the Road Department recommends that a contract for provision of liquid asphalt products be awarded to Environmental Concepts in the amount of $159,299.00

Because of the price volatility in oil and oil related products, the Road Department has choosen to limit the duration of this contract.

ALTERNATIVES:

(1) The Board could choose not to award the contract. This is not recommended, since the materials are needed to perform necessary road maintenance and Prop 1B projects that were approved by the Board of Supervisors. If the contract is not awarded, the Road Department would need to readvertise the Bid Package which would delay maintenance work and could result in less favorable bids, as well as a delay in getting projects completed.

OTHER AGENCY INVOLVEMENT:

County Counsel for review of the bids and approval of the Contract.
Auditor's Office for approval of the Contract and payment of invoices.
Risk Manager for approval of the Contract.

FINANCING:

The material will be paid for from the Road Department Budget 034600, Object Code 5309 Road Material. The Road Department will bill State Funded Road Budget 034601, Object Code 4824 for reimbursement for the cost of material that is used for Prop 1B chip seal projects. This currently is an eligible expenditure of Prop 1B funds, which are located in the fund balance in State Funded Road. Material used for routine maintance, such as crack sealing, will be paid from the Road Department Budget 034600, Object Code 5309 Road Material.

APPROVALS		
COUNTY COUNSEL:	AGREEMENTS, CONTRACTS AND ORDINANCES AND CLOSED SESSION AND RELATED ITEMS (Must be reviewed and approved by County Counsel prior to submission to the board clerk.)	Approved: yes Date 4/25/13
AUDITOR/CONTROLLER	ACCOUNTING/FINANCE AND RELATED ITEMS (Must be reviewed and approved by the auditor/controller prior to submission to the board clerk.)	Approved: yes Date 4/30/13
PERSONNEL DIRECTOR	PERSONNEL AND RELATED ITEMS (Must be reviewed and approved by the director of personnel services prior to submission to the board clerk.)	Approved: _____ Date _____

DEPARTMENT HEAD SIGNATURE:

(Not to be signed until all approvals are received) _____ Date: 4/30/13

BID PROPOSAL FORM

TO: COUNTY OF INYO
Department of Public Works / Road Department
168 N. Edwards St., P.O. Drawer Q
Independence, CA 93526
(Herein called "County")

FROM: ENVIRONMENTAL CONCEPTS
27801 HALE CT.
TEHACHAPI, CA 93561
(Herein called "Bidder")

FOR: LIQUID ASPHALT PRODUCTS

In submitting this Bid, it is understood that:

1. BID DEADLINE:

   Bids must be received no later than 3:30 p.m., Wednesday, April 10, 2013 by the Clerk of the Board of Supervisors, 224 N. Edwards St., P.O. Drawer N, Independence, California, 93526, at which time they will be publicly opened and read.

2. INCLUSION OF ALL COSTS:

   This Bid includes all costs for the labor, materials, tools, taxes, insurance, transportation and other related supplies and services to perform all services and provide all materials as required by, and in accordance with, the Contract Documents for the Provision of Liquid Asphalt Products, including Exhibits A and B hereto.

3. CONTRACT DOCUMENTS:

The Notice Inviting Bids, this Bid Proposal Form and the Agreement for the Provision of Liquid Asphalt Products, County of Inyo Standard Contract No. 116, and any documents incorporated therein, including Exhibits A and B, hereto, are referred to collectively as the Contract Documents and shall constitute the Contract between the parties which will come into full force and effect upon acceptance, approval and execution by the Inyo County Board of Supervisors. The contract documents are incorporated herein by reference and made a part hereof with like force and effect as if all said documents were set forth in full herein.

4. ACCEPTANCE:

The County reserves the right to reject any and all Bids. However, this Bid shall remain open and shall not be withdrawn for a period of at least sixty (60) days after the date set for its opening and shall remain open and valid thereafter until it is withdrawn by Bidder. The Bidder will execute and deliver the Agreement for the Provision of Liquid Asphalt Products, County of Inyo Standard Contract No. 116, any certificates or other proof of required insurance, and any other required documents, to the County no later than fifteen (15) days after receipt of notification to Bidder of the award of that Contract.

Failure to bid all items on the Schedule of Fees, Attachment B, will render the Bid insufficient and subject the same to being rejected. Any alternate or substitute product will also render the bid insufficient and subject the same to being rejected.

No Bid will be accepted wherein the price quoted is specified as a posted price with an escalator "UP" clause, whether or not such clause has a "TOP" or maximum limit to which the price may advance.

The Contractor will be allowed no claim for anticipated profits, loss of profits, or for any damages of any sort because of any differences between the estimated amounts set forth in this bid package and actual amount of material ordered and delivered during the course of the contract.

ROAD DEPARTMENT
P.O. DRAWER Q
INDEPENDENCE, CALIFORNIA 93526
(760) 878-0201
(760) 878-2001 FAX

County of INYO

DOUG WILSON, Interim Public Works Director
ROBERT BROWN – Road Superintendent

April 10, 2013

Addendum No 1.

Project: Standard Contract No **116**
Bid for Provision of Liquid Asphalt Products

To: ALL BIDDERS:

Please include Addendum No. 1 as part of the Standard Contract **116**, Liquid Asphalt Bid 2012 and acknowledge this Addendum by signing and including as part of your bid: Failure to submit this addendum with your bid will disqualify you from the Stand Contract No. 116.

1. Inyo County Road Department has found an error as it pertains to the Bid Opening date. The Bid Opening date in the contract is April 10, 2013. The correct Bid Opening date and the one that will be used is April 19, 2013 at 3:00 p.m. at the Clerk of the Board of Supervisor's Office, 224 N. Edwards Street, P.O. Drawer N, Independence, California 93526.

   We here Acknowledge Addendum No. 1 and have considered the shorter tem in our bid proposal.

   Nancy Davis 4/11/2013
   Signature of Bidder and Date

Sincerely,

Bob Brown, Road Superintendent

5. BID PRICE AND TOTAL:

The specific prices for the materials and services to be rendered pursuant to the Agreement for which this Bid is made are set forth in Attachment B hereto, entitled "Schedule of Fees"; for purpose of making this Bid the amount of this Bid is the "Bid Total" amount set forth in Attachment B, which is as follows:

BID TOTAL *(Liquid Asphalt Products)* IN NUMBERS $ 159,299.00
BID TOTAL *(Liquid Asphalt Products)* IN WORDS $ ONE HUNDRED FIFTY NINE THOUSAND TWO HUNDRED NINETY-NINE; NO/100

6. ADDENDA:

The Bidder acknowledges receipt of the following Addenda and has provided for all Addenda changes in this Bid.

(Fill in Addendum numbers and dates Addenda have been received. If none have been received enter "None".)

WARNING: IF AN ADDENDUM OR ADDENDA HAVE BEEN ISSUED BY THE COUNTY AND NOT NOTED ABOVE AS BEING RECEIVED BY THE BIDDER, THIS PROPOSAL MAY BE REJECTED.

This Bid was received on 4-4, 2013 at 1:35 p.m.
ATTEST: Kevin D. Carunchio
County Administrative Officer and Clerk of the Board
Inyo County, California

By P. Lundeen
Assistant

7. BIDDER'S BUSINESS INFORMATION.

IMPORTANT NOTICE: If Bidder or other interested person is a corporation, state the legal name of corporation, and also the names of the president, secretary, treasurer, and chief executive officer/manager thereof. If Bidder is a partnership, joint venture or other business entity, state the true name of the firm, and also the names of the partners, joint ventures, or other entities or parties having authority to act on behalf of the entity, such as officers, owners or directors. If Bidder or other interested person is an individual, state your first, middle and last names in full.

Bidder provides the following information concerning Bidder's business:

7.1 Bidder's Name: ENVIRONMENTAL CONCEPTS

7.2 Address: 27801 HALE CT.

TEHACHAPI, CA 93561 Zip

(The above address will be used to send notice of acceptance or request for additional information.)

7.3 Telephone: (661) 821 5402

7.4 Federal Identification No. 59443038 n

7.5 Type of Business (Check one):

Individual (X), Partnership ( ), Joint Venture ( ), Corporation ( ), Other
Specify: _____

7.6 Owners, Officers, Partners and/or other Authorized Representatives:

THE UNDERSIGNED HEREBY DECLARES UNDER PENALTY OF PERJURY ACCORDING TO THE LAWS OF THE STATE OF CALIFORNIA, THAT THEY ARE THE INDIVIDUAL, MANAGING PARTNER, CORPORATE OFFICER, OR OTHER REPRESENTATIVE, DULY AUTHORIZED BY LAW TO MAKE THIS BID ON BEHALF OF BIDDER, AND BY SIGNING BELOW DO MAKE THIS BID ON BEHALF OF BIDDER ACCORDING TO ALL OF THE TERMS AND CONDITIONS SET FORTH OR REFERENCED HEREIN.

Nancy Davis Owner
(Signature of Authorized Person) *(Title)*

NANCY DAVIS 4/1/2013
(Printed Name) *(Date)*

The undersigned Bidder hereby declares and agrees that:

(a.) NANCY DAVIS (Name of Bidder or Bidder's Representative) has carefully examined the Specifications, Contract and other portions of this Bid package and submits this Bid in accordance therewith.

(b.) That if this Bid is accepted, the Bidder will enter into a written Contract with the County of Inyo, State of California.

(c.) That if Contract is awarded to Bidder, Bidder will accept in full, as payment for the materials and services to be furnished pursuant to said Agreement, the amounts shown on Attachment B, Schedule of Fees, of this Bid Package. It is understood and agreed that the quantities set forth are but estimates and the unit price will apply to the actual quantities ordered and delivered whatever they may be.

(d) It is understood that no later than fifteen (15) days after award of the Contract to Bidder the Bidder shall return the signed Contract to the County.

ENVIRONMENTAL CONCEPTS
(Company Name)

By: Nancy Davis
(Signature)

PRINT NAME NANCY DAVIS

PRINT TITLE OWNER

ATTACHMENT A

SCOPE OF WORK / SPECIFICATIONS
TERM
From: April 29, 2013 To: June 30, 2013

The successful bidder shall furnish to the County of Inyo the materials, equipment, labor and related services, as set forth in Attachment B, Schedule of Fees, in accordance with the specifications set forth below.

1. MATERIAL

The requirements and specifications for Asphalt Emulsion shall conform to Section 94 of the Standard Specifications, State of California, Department of Transportation ("Caltrans Specifications"), and/or the latest issue.

On delivery, the Contractor shall furnish a certified analysis test report, in duplicate, showing that the material in each shipment conforms to all specification requirements. If the material, when sampled and tested, fails to meet any specification requirements, the Contractor shall immediately replace any of such material remaining unused with material that meets the specifications. No payment will be made by the County for any portion of material already used that is found to fail to meet specification requirements by those tests.

2. DELIVERY

2.1 Tank trucks and tank trailers shall be insulated against heat loss when used to transport asphalt emulsion. The temperature of the asphalt emulsion when delivered on the work site shall be above the minimum specified in the Caltrans Specifications or as required to secure accurate and uniform application and penetration.

2.2 The distributor truck shall be equipped with an accurate thermometer suitable for determining the temperature of the bituminous binder being applied.

2.3 When requested, material will be supplied on a one-person distributor truck that shall be equipped with tachometer and pressure gauges. Spray bars shall be of the full circulating type and a quick-shutoff valve shall control each spray nozzle. The spray bar valves may be quickly opened or closed in one operation. Spray bars shall be capable of providing a uniform application of material over a width of twelve feet (12'). The distributor truck shall be capable of accurately and uniformly applying material at the rate specified between the limits of 1/20 to 1 gallon per square yard. Trucks with leaky valves or connections or faulty sprays will not be permitted on the work.

The use of gravity distributor trucks will not be permitted.
In order to secure uniform distribution of material at the junction of two applications, the truck shall be promptly stopped when the uniform flow decreases. In the application, if any spots are missed, bituminous binder shall be applied to those spots by some means that will insure the application being made at the specified rates.

2.4 A certificate of Load Weight will be required for each delivery.

2.5 Time of delivery is to be agreed upon when orders are placed. Contractor shall accept telephone orders. Telephone orders will be binding on Contractor, however, written purchase orders will be issued confirming the order. When delay in delivery is caused by failure of Contractor's equipment or operations, the County may recover damages or costs from the Contractor at the rate of thirty dollars ($30.00) per hour for the first hour and sixty dollars ($60.00) per hour for each succeeding hour, until Contractor notifies the County of the amount of delay and/or the new delivery time.

ATTACHMENT B

SCHEDULE OF FEES / LIQUID ASPHALT PRODUCTS BID

The amounts set forth below in this Schedule of Fees are prices for the listed products to be provided to the County of Inyo in accordance with the specifications of Attachment A and other Contract Documents:

This Schedule of Fees shall be:

a) For furnishing, supplying and delivering to the County of Inyo, a total of approximately 130 tons of liquid asphalt for chip seals and 25 tons of liquid asphalt for tack coat as necessary and required by the County of Inyo in full conformance with the Notice Inviting Bids and the Specifications attached hereto and made a part thereof.

b) For delivery in truck and trailer quantities to any of the specified points given below.

GRADE	PRICE PER TON	SALES TAX 8.00%	TOTAL
PMPS (Pass) or Styraflex CS Or Equivalant	$ 885 +	70.80 =	955.80

Free spreading time: Ø hours.

Minimum Spreading Charge: $ 195 per hour.

Free unloading time: 1 hours.

Standby time charge: $ 125 per hour.

Overnight Charge: $ 200 per night.

Above Prices are FOB Refinery

SEPARATE FROM PRICE PER TON

FREIGHT CHARGES PER TON TO EACH OF THE FOLLOWING LOCATIONS:

Bishop, CA:	$ 70
Independence, CA:	$ 55
Lone Pine, CA:	$ 52

BID TOTAL COMPUTATION

LIQUID ASPHALT PRODUCTS

Delivered to:	Amount in Tons	Price per Ton Including Freight	Subtotal
PMPS (Pass) or Styraflex CS Or Equivalant			
Bishop	130	$ 1025.80	$ 133,354.00
Big Pine	0	$ _____	$ _____
Independence	0	$ _____	$ _____
Lone Pine	0	$ _____	$ _____
Styraflex FB			
Bishop	25	$ 1025.80	$ 25,645.00
		Bid Total	**$** 159,299.00

This "Bid Total" amount is the amount to be placed in Paragraph 5 of the Bid Proposal Form and constitutes the amount bid by the Bidder. The sole purpose of the "Bid Total" is to serve as a measure pursuant to which the County evaluates Contractor's bid in relation to other bids received. The "Bid Total", is not intended and shall not be construed as the minimum or maximum amount payable by County, or as a representation of the grade, quantity or any other limitation on material the County may order, pursuant to the Agreement.

ATTACHMENT A
SCOPE OF WORK
AGREEMENT BETWEEN COUNTY OF INYO
AND

FOR THE PROVISION OF LIQUID ASPHALT PRODUCTS

TERM:

April 29, 2013 To June 30, 2013

SCOPE OF WORK:

As set forth in Attachment A to the County of Inyo Road Department Bid for Provision of Liquid Asphalt Products Entitled "Scope of Work / Specifications", and incorporated herein by reference.

ATTACHMENT B

AGREEMENT BETWEEN COUNTY OF INYO AND

FOR THE PROVISION OF LIQUID ASPHALT PRODUCTS

TERM:

April 29, 2013 To June 30, 2013

SCHEDULE OF FEES:

As set forth in Attachment B to County of Inyo Road Department Bid for Provision of Liquid Asphalt Products 2010 entitled "Schedule of Fees" and incorporated herein by reference.

ATTACHMENT C

AGREEMENT BETWEEN COUNTY OF INYO AND

FOR THE PROVISION OF LIQUID ASPHALT PRODUCTS

TERM:

April 29, 2013 To June 30, 2013

Form W-9
Request for Taxpayer Identification Number
and Certification (attached)

For Clerk's Use Only:
AGENDA NUMBER

19

AGENDA REQUEST FORM
BOARD OF SUPERVISORS
COUNTY OF INYO

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

FROM: HEALTH & HUMAN SERVICES – Fiscal Division

FOR THE BOARD MEETING OF: May 7, 2013

SUBJECT: Request to hire an Administrative Analyst I/II in Health and Human Services Fiscal Division

DEPARTMENTAL RECOMMENDATION:

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

A. the availability of funding for the position of Administrative Analyst I/II exists in the Health, Health Grants, ESAAA and IC Gold budgets, as certified by the Health and Human Services Director and concurred with by the County Administrator, and the Auditor-Controller; and
B. where if the County was facing layoffs, the positions could be filled by internal candidates meeting the qualifications for the positions, but since no layoffs are pending, an open recruitment would be appropriate to ensure qualified applicants apply: and
C. approve the hiring of one Administrative Analyst I, Range 66 ($3,757-$4,574) or Administrative Analyst II, Range 68 ($3,946 - $4,794) contingent upon qualifications; and
D. if an internal candidate is hired into the Administrative Analyst position, authorize HHS to backfill the resulting vacancy.

CAO RECOMMENDATION:

SUMMARY DISCUSSION:

The Administrative Analyst position in the Fiscal division of Health and Human Services was recently vacated when the employee resigned to accept a Bishop-based private sector position. This Administrative Analyst position is in charge of the following:

- Health: County Budget processes – State Immunization Budget and quarterly claiming; and the State AIDS Surveillance Budget and quarterly claiming, which are included in the Health Budget
- Health Grants: State and County Budgets for the following: CCS Admin, CCS Treatment, CHDP, CHDP Foster Care, CARES, MCAH and WIC. Additionally quarterly claims are completed for each of these grants for reimbursement from the State
- ESAAA: Monthly fiscal reporting and request for funds from the State
- IC Gold: Monthly tracking and reporting to Fiscal Director
- First 5: Monthly tracking and reporting to the Fiscal Director and the First 5 Program Director

In addition to the above duties the Administrative Analyst also provides supervision to the Account Technician that ensures that all of the Account Payables/Receivables for the Health fiscal division occur accurately and timely. The Administrative Analyst also provides oversight for all of the billings to reimburse for services provided at the Health clinic, which generates much needed revenue for the programs that are being provided.

This position also works closely with the Fiscal Director to insure that all funding sources are kept up to date and that all key issues are immediately brought to attention. Additionally, all Administrative Analysts and the Fiscal Director in the Fiscal division continue to work closely together to insure that we continue to pursue all funding sources and find ways to maximize all of the funds that are realized.

ALTERNATIVES:

The Board could choose not to allow the Fiscal division to hire an Administrative Analyst, which could negatively impact State revenues and State reporting requirements.

OTHER AGENCY INVOLVEMENT:

None

FINANCING:

State and Federal funding, Health Realignment and County General Fund. This position is budgeted as follows: 15% ESAAA (683000); 5% IC Gold (056100); 57% Health (045100); 5% CHDP (045102); 5% CCS Admin (045501); 3% CARES (641212); 5% MCAH (641612) and 5% WIC (641912) in the Salaries and Benefits object codes.

APPROVALS	
COUNTY COUNSEL:	**AGREEMENTS, CONTRACTS AND ORDINANCES AND CLOSED SESSION AND RELATED ITEMS** *(Must be reviewed and approved by County Counsel prior to submission to the Board Clerk.)* Approved: _____ Date:
AUDITOR/CONTROLLER:	**ACCOUNTING/FINANCE AND RELATED ITEMS** *(Must be reviewed and approved by the Auditor/Controller prior to submission to the Board Clerk.)* Approved: 4/26/13 Date:
PERSONNEL DIRECTOR:	**PERSONNEL AND RELATED ITEMS** *(Must be reviewed and approved by the Director of Personnel Services prior to submission to the Board Clerk.)* Approved: 4/22/13 Date:

DEPARTMENT HEAD SIGNATURE:
(Not to be signed until all approvals are received) Date: 4-30-13

For Clerk's Use Only:
AGENDA NUMBER

20

AGENDA REQUEST FORM
BOARD OF SUPERVISORS
COUNTY OF INYO

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

FROM: HEALTH & HUMAN SERVICES – ESAAA

FOR THE BOARD MEETING OF: May 7, 2013

SUBJECT: Ratification of Contract with California Indian Legal Services

DEPARTMENTAL RECOMMENDATION:
Recommend Board ratify the contract with California Indian Legal Services (CILS) for the provision of legal services to older adults eligible for services through the Eastern Sierra Area Agency on Aging (ESAAA), in an amount not to exceed $64,896 for the period April 8, 2013 through June 30, 2016, contingent upon the adoption of future budgets.

CAO RECOMMENDATION:

SUMMARY DISCUSSION:
During the first quarter of fiscal year 2012-2013, ESAAA received two responses to a Request for Qualifications (RFQ) to provide ESAAA legal services. After a Board of Supervisors' finding of a conflict of interest with CILS, the contract was awarded to the second bidder, an independent attorney. That attorney provided legal services through the end of March 2013, at which time the contract was terminated.

On April 3, 2013, at a convening of the ESAAA Advisory Council, a review of previously determined minimum funding percentages was conducted. The Advisory Council took action to confirm those minimum funding percentages, thereby eliminating the previous conflict of interest with CILS. Therefore, ESAAA now is able to offer the legal service contract to the only other respondent to the previous RFQ who is CILS.

ESAAA staff began negotiating with CILS in March in hopes they could provide services in April to avoid a gap in legal services for our senior citizens. Therefore, this contract now comes before you for ratification.

ALTERNATIVES:
Board could choose not to ratify the contract, thus requiring ESAAA to release a new RFQ or bring forward a request to hire a County attorney to provide these services.

OTHER AGENCY INVOLVEMENT:
California Department of Aging (CDA)

FINANCING:
This funding is 100% Federal IIIB funds from CDA. This expense is currently budgeted in ESAAA (683000) in Professional Services (5265) and will be budgeted in ESAAA in future years. No County General Funds.

APPROVALS	
COUNTY COUNSEL:	**AGREEMENTS, CONTRACTS AND ORDINANCES AND CLOSED SESSION AND RELATED ITEMS** *(Must be reviewed and approved by County Counsel prior to submission to the Board Clerk.)* Approved: yes Date: 4/24/2013
AUDITOR/CONTROLLER:	**ACCOUNTING/FINANCE AND RELATED ITEMS** *(Must be reviewed and approved by the Auditor/Controller prior to submission to the Board Clerk.)* Approved: yes Date: 4/26/13
PERSONNEL DIRECTOR:	**PERSONNEL AND RELATED ITEMS** *(Must be reviewed and approved by the Director of Personnel Services prior to submission to the Board Clerk.)* Approved: ✓ Date: 4/30/13
BUDGET OFFICER:	**BUDGET AND RELATED ITEMS** *(Must be reviewed and approved by the Budget Officer prior to submission to the Board Clerk.)* Approved: _____ Date: _____

DEPARTMENT HEAD SIGNATURE:
(Not to be signed until all approvals are received) Jean Turner DE Date: 4/30/13

AGREEMENT BETWEEN COUNTY OF INYO
AND California Indian Legal Services
FOR THE PROVISION OF Legal Assistance **SERVICES**

INTRODUCTION

WHEREAS, the County of Inyo (hereinafter referred to as "County") has the need for the Legal Assistance services of California Indian Legal Services of Escondido, 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 Jean Turner, whose title is: Director. 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 April 8, 2013 to June 30, 2016 unless sooner terminated as provided below.

3. CONSIDERATION.

A. Compensation. County shall pay 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. County shall reimburse Contractor for the travel expenses and per diem which Contractor incurs in providing services and work requested by County under this Agreement. Contractor shall request approval by the County prior to incurring any travel or per diem expenses. Requests by Contractor for approval to incur travel and per diem expenses shall be submitted to Jean Turner, whose title is: Director. Travel and

Per diem expenses will be reimbursed in accordance with the rates set forth in the Schedule of Travel and Per Diem Payment (Attachment C). County reserves the right to deny reimbursement to Contractor for travel or per diem expenses which are either in excess of the amounts that may be paid under the rates set forth in Attachment C, or which are incurred by the Contractor without the prior approval of the County.

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, including travel and per diem expenses, if any, shall not exceed $64,896 Dollars (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, including travel or per diem, 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 hours spent by Contractor in performing 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 hours were worked and describe the nature of the work which was performed on each day. Contractor's statement to the County will also include an itemization of any travel or per diem expenses, which have been approved in advance by County, incurred by Contractor during that period. The itemized statement for travel expenses and per diem will include receipts for lodging, meals, and other incidental expenses in accordance with the County's accounting procedures and rules. 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, attached hereto as Attachment **D**, 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 insure 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, or 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. 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.epls.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. WORKERS' COMPENSATION.

Contractor shall provide Statutory California Worker's Compensation coverage and Employer's Liability coverage for not less than $1,000,000 per occurrence for all employees engaged in services or operations under this Agreement. The County of Inyo, its agents, officers and employees shall be named as additional insured or a waiver of subrogation shall be provided.

9. INSURANCE.

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

10. 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 County is to be considered an employee of Contractor. 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.

11. DEFENSE AND INDEMNIFICATION.

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

Contractor's obligation to defend, indemnify, and hold the County, its agents, officers, and employees harmless under the provisions of this paragraph is not limited to, or restricted by, any requirement in this Agreement for Contractor to procure and maintain a policy of insurance.

To the extent permitted by law, County shall defend, indemnify, and hold harmless Contractor, its agents, officers, and employees from and against all claims, damages, losses, judgments, liabilities, expenses, and other costs, including litigation costs and attorney's fees, arising out of, or resulting from, the active negligence, or wrongful acts of County, its officers, or employees.

12. RECORDS AND AUDIT.

A. Records. Contractor shall prepare and maintain all records required by the various provisions of this Agreement, federal, state, and municipal law, 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.

13. 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.

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 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-four (24) below.

18. CONFIDENTIALITY.

Contractor 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.

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-four (24) (Amendment).

23. ATTORNEY'S FEES.

If either of the parties hereto brings an action or proceeding against the other, including, but not limited to, an action to enforce or declare the cancellation, termination, or revision of the Agreement, the prevailing party in such action or proceeding shall be entitled to receive from the other party all reasonable attorney's fees and costs incurred in connection therewith.

24. 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.

25. 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:

Health & Human Services	Name
163 May Street	Street
Bishop, CA 93514	City and State

Contractor:

California Indian Legal Services	Name
609 South Escondido Blvd.	Street
Escondido, CA 92025	City and State

26. ENTIRE AGREEMENT.

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

/// ////

AGREEMENT BETWEEN COUNTY OF INYO
AND California Indian Legal Services
FOR THE PROVISION OF Legal Assistance **SERVICES**

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

COUNTY OF INYO

By:_____

Dated:_____

CONTRACTOR

By: Dorothy Alther
Print or Type Name

Dorothy Alther
Signature

Dated: 4-16-13

APPROVED AS TO FORM AND LEGALITY:

_____
County Counsel

APPROVED AS TO ACCOUNTING FORM:

_____
County Auditor

APPROVED AS TO PERSONNEL REQUIREMENTS:

Sue DC
_____
Personnel Services

APPROVED AS TO INSURANCE REQUIREMENTS:

M Bakum
_____
County Risk Manager

ATTACHMENT A

AGREEMENT BETWEEN COUNTY OF INYO
AND California Indian Legal Services
FOR THE PROVISION OF Legal Assistance **SERVICES**

TERM:

FROM: April 8, 2013 **TO:** June 30, 2016

SCOPE OF WORK:

Contractor will provide access, at no cost, to legal assistance by a California licensed attorney in good standing, for the benefit of Inyo and Mono County's residents, aged 60 and over, in compliance with the Older American Act, Older Californian's Act, and County of Inyo requirements. Such assistance may be provided by law students, paralegals, paralegal interns, attorneys not licensed in California, and lay advocates under the direct supervision of a California licensed attorney. As required by the California Statewide Guidelines for Legal Assistance prepared by the California Department of Aging (CDA), Contractor shall:

General Terms

1. target services to those in greatest social or economic need, disadvantaged or vulnerable older adults. Examples of such groups to be considered to receive priority for legal assistance services include older adults who are:
   a. Homebound
   b. Long-term care residents
   c. Without access to transportation
   d. Living alone with no support
   e. Experiencing chronic health problems
   f. Abused
   g. Deaf/hearing impaired
   h. Immigrants
   i. Limited English proficiency
   j. People with mental or physical disabilities
   k. Grandparents caring for grandchildren

2. recognize that the Legal Assistance program is part of a continuum of care and will coordinate with the Eastern Sierra Area Agency on Aging (ESAAA) and other aging programs to economize costs and develop systems for greatest impact.

3. address all ESAAA legal services, as necessary, (e.g., Ombudsman, caregiver, etc.)
4. empower older adults to secure their own rights.
5. protect against threat/loss of basic and essential civil rights (e.g., shelter, health care, income, personal and economic security).
6. consider outcomes and target resources to achieve outcomes that make a difference in the lives and well-being of disadvantaged or vulnerable older persons.
7. balance coordination with local needs and situations.
8. address locally prioritized substantive legal issues as identified through the planning process for the current Four-Year Plan, including but not limited to:
   a. Wills, trusts and estate planning
   b. Powers of attorney
   c. Advance Directives
   d. Individual/Privacy Rights vis-à-vis Adult Children

9. Seek to reach concurrence with ESAAA annually on the local legal services needs, issue area priorities and identification of target populations.
10. In partnership with ESAAA, solicit and consider the views of older people to determine priority legal areas.
11. When necessary, provide or refer clients to effective, high quality administrative and judicial representation. Contractor shall maintain a written Referral Plan which specifies how referrals, including fee-generating cases, will be distributed to the private bar including groups within the private bar furnishing services to older individuals on a pro bono or reduced fee basis.
12. Utilize funds received from ESAAA to maintain or increase, to the extent practicable, the level of legal assistance furnished to eligible individuals. Funds will not be used to supplant funds from other federal or non-federal sources.
13. As required by the Older Americans Act, not condition access to the provision of services solely on the older individual's level of income or resources. However, Contractor may question the client about financial circumstances as part of the process of providing legal advice, counsel and representation, and also for the purpose of identifying additional financial resources to which the client may be entitled, and to assist in targeting Contractor's resources as required by the Agreement in #1 above.
14. Have ready access for Contractor's staff: relevant U.S. Code and Code of Federal Regulations, local laws and regulations; relevant California laws, regulations and rules and other relevant information. California Department of Aging (CDA) Program Memo PM 08-10 (P) is attached and, by reference, is included in this Agreement.
15. Have written procedures for case intake, acceptance and rejection.
16. Maintain confidentiality in accordance with relevant law and professional codes.
17. Inform clients or prospective clients of the mechanism for filing complaints or grievances about the operation of the Legal Assistance program.
18. Develop and follow a protocol and a program policy for referral of fee generating cases consistent with the Older Americans Act.
19. Ensure that neither Contractor's staff nor volunteers take on, as private cases for a fee, clients who seek assistance from Contractor for that same matter.
20. Ensure legal assistance staff attend at least one training per year relevant to the subject areas of legal assistance provided.
21. Ensure compliance with ethical guidelines as outlined in CDA's California Statewide Guidelines for Legal Assistance.

22. Comply with all CDA and ESAAA reporting requirements, as outlined in attached CDA Program Memo PM 08-10(P), and in coordination with the ESAAA Director or her designee.

Terms for Coordination with Long-Term Care Ombudsman

The California Department of Aging (CDA) requires an agreement for coordination between the Contractor for legal services and the local Long-Term Care Ombudsman Program. This section shall serve as that agreement with the ESAAA Long-Term Care Ombudsman Program.

Conflict of Interest:

Contractor shall be free from conflicts of interest, as outlined in Section 19 of this Agreement, and as outline in all relevant State law. Further, pursuant to the By-laws of the ESAAA Advisory Council, Contractor may not be a member of that Advisory Council for the duration of this contract period.

Provision of Legal Advice:

Contractor shall not provide legal advice to the Long-Term Care Ombudsman Program staff who shall be provided legal services by the Office of Inyo County Counsel.

Procedures for Referral:

Contractor may provide direct legal assistance to residents of long-term care (LTC) facilities where the clients are otherwise eligible and services are appropriate.

For such LTC clients in need of more extensive legal assistance, referral procedures shall be included in Contractor's written Referral Plan required for all legal assistance referrals, in General Terms,#11 above.

Certification Regarding Lobbying

Contractor certifies to the best of his/her knowledge and belief that:

No federal appropriated funds have been paid or will be paid, by or on behalf of the Contractor, or to any person for influencing or attempting to influence an officer or employee of any agency, a member, their employee, office or employee of Congress in connection with the awarding of any federal contract, the making of any federal loan or grant, the entering into or extension of any cooperative agreement, or modification of any federal contract, grant, loan, or cooperative agreement.

If any funds other than federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of Congress or an employee of a Member of Congress in connection with this federal contract, grant, loan or cooperative agreement,, the Contractor shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying", in accordance with instructions.

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

Annual Re-Negotiation of Contract Terms

No later than May of each year, County and Contractor shall review and re-negotiate renewal terms of this Agreement for each subsequent year of the 2013-2016 period identified in the original Request for Qualifications.

ATTACHMENT B

AGREEMENT BETWEEN COUNTY OF INYO AND California Indian Legal Services FOR THE PROVISION OF Legal Assistance SERVICES

TERM:

FROM: April 8, 2013 TO: JUNE 30, 2016

SCHEDULE OF FEES:

FY 2012-2013 = $ 6,000
FY 2013-2014 = $19,632
FY 2014-2015 = $19,632
FY 2015-2016 = $19,632

Total Contract amount for April 8, 2013 – June 30, 2016 not to exceed $64,896. Contractor will submit an invoice for the actual monthly expenditures and ESAAA will reimburse based on the actual expenditures up to the maximum monthly amount (1/7 of the total annual contract amount for FY 12/13 and 1/12 of the total annual contract amount for future fiscal years). If Contractor's expenses are either less than or over the monthly maximum, those differences may be reconciled with future months' funds, within the same fiscal year, so long as the Contractor is continuing to provide services pursuant to this contract within those same future months. Notwithstanding paragraph 3.E., the monthly invoice shall be submitted by Contractor to the ESAAA administrative services contractor (Inyo County) by the tenth (10th) of the month following the end of the month for services delivered in the previous month, and shall be paid by ESAAA by the end of the month after the monthly invoice is received. Appropriate backup showing the actual expenditures must also be attached to the invoice.

ESAAA will pay Contractor as follows:

Contractor will submit monthly statements, which indicate the hours worked by staff pursuant to the work in Attachment A. Said monthly statements shall include a summary of hours of attorney.

Hourly rates includes:

- Attorney hourly rate: $120.00
- Paralegal/law clerk hourly rate $65.00

Contractor will provide 10% cash and/or in-kind match to total contract amount annually.

Contractor may accept voluntary contributions from clients served, but such contributions may not be required, nor requested in any manner that could be perceived as coercive.

Upon receipt of statement ESAAA will issue check to Contractor.

1. Contractor will provide a budget to ESAAA that includes funding for the entire Legal Services program, not just the portion funded with California Department of Aging (CDA) funds. The budget must identify all Federal, State, Match, Non-Match, Program Income, Direct and Indirect Costs, for the entire program.

2. By July 30, 2013, Contractor shall submit a year-end closeout, which identifies ESAAA funds received, and the disposition of those funds. The closeout report must identify all Federal, State,

Match, Non-Match, Program Income, Direct and Indirect Costs, for the entire program, not only the CDA funds that were received. The maximum reimbursement amount allowable for indirect costs is 8% of Contractor's direct costs, excluding in-kind contributions and nonexpendable equipment. Indirect costs exceeding the 8% maximum may be budgeted as in-kind and used to meet the minimum matching requirements. Contractors requesting reimbursement for indirect costs shall retain on file an approved indirect cost rate or an allocation plan documenting the methodology used to determine the indirect costs. The amount of the contract shall be specifically identified in Contractor's audit report, a copy of which shall be furnished to ESAAA annually after the audit has been completed.

3. Contractor must be able to document that funds granted under this agreement were spent in accordance with applicable laws, regulations and conditions cited in ESAAA contract AP 1213-16 with the California Department of Aging, and future contracts, which are incorporated herein by reference. Documentation should verify revenue expenditure, project income and matching amounts reported on monthly and year-end financial reports submitted to ESAAA.

4. Program materials (such as purchase of elder law publications, brochure printing, etc.) directly related to senior services may be charged to ESAAA; total not to exceed $250 in the contract.

Contingent upon continued funding from CDA.

Definitions:

Matching Contributions mean 10% local cash and/or in-kind contributions by the Contractor, or other local resources that qualify as match for the contractor funding.

1. Cash and/or in-kind contributions may count as match, if such contributions are used to meet program requirements.
2. Any matching contributions (cash or in-kind) must be verifiable from the records of the Contractor.
3. Matching contributions must be used for allowable costs in accordance with the Office of Management and Budget (OMB) circulars.

In-kind Contributions mean the value of non-cash contributions donated to support the project or program (e.g., property, service, etc.)

Non-Matching Contributions mean local funding that does not qualify as matching contributions and/or is not being budgeted as matching contributions. (e.g., federal funds, overmatch, etc.)

Program Income means revenue generated by the Contractor from contract-supported activities. Program income is:

1. Voluntary contributions received from a participant or responsible party as a result of services.
2. Income from usage or rental fees of real or personal property acquired with grant funds or funds provided under this Agreement.
3. Royalties received on patents and copyrights from contract-supported activities.
4. Proceeds from sale of items fabricated under a contract agreement.

Indirect Costs means costs incurred for a common or joint purpose benefiting more than one cost objective and readily assignable to the cost objective specifically benefited, without effort disproportionate to the results achieved.

Eligible Service Population for Title III (except for Title III E) means individuals 60 years of age or older, with emphasis on those in economic and social needs with particular attention to low income minority individuals, older individuals with Limited English Proficiency, and older individuals residing in rural areas. [OAA, Section 305 (a)(2)(E)] [Title 22, CCR, Sections 7125, 7127, 7130, and 7135].

ATTACHMENT C

AGREEMENT BETWEEN COUNTY OF INYO AND California Indian Legal Services FOR THE PROVISION OF Legal Assistance SERVICES

TERM:

FROM: April 8, 2013 TO: JUNE 30, 2016

SCHEDULE OF TRAVEL AND PER DIEM PAYMENT:

Any reimbursement for authorized travel and per diem shall be at rates not to exceed those amounts paid by the State in accordance with Department of Personnel Administration's rules and regulations.

- Mileage
  http://www.dpa.ca.gov/personnel-policies/travel/personal-vehicle-mileage-reimbursement.htm
- Per Diem (meals and incidentals) –
  http://www.dpa.ca.gov/personnel-policies/travel/meals-and-incidentals.htm
- Lodging
  http://www.dpa.ca.gov/personnel-policies/travel/short-term-travel.htm

This is not to be construed as limiting the Contractor from paying any differences in costs, from funds other than those provided by CDA, between the Department of Personnel Administration rates and any rates the Contractor is obligated to pay under other contractual agreements. No travel outside the State of California shall be reimbursed unless prior written authorization is obtained from the State.

ATTACHMENT D

AGREEMENT BETWEEN COUNTY OF INYO
AND California Indian Legal Services
FOR THE PROVISION OF Legal Assistance **SERVICES**

TERM:

FROM: April 8, 2013 **TO:** June 30, 2016

FORM W-9

Request for Taxpayer
Identification Number and Certification
(Please submit W-9 form with Contract, available on-line or by County)

ATTACHMENT E

AGREEMENT BETWEEN COUNTY OF INYO
AND California Indian Legal Services
FOR THE PROVISION OF Legal Assistance **SERVICES**

TERM:

FROM: April 8, 2013 **TO:** June 30, 2016

SEE ATTACHED INSURANCE PROVISIONS

Specifications 2
Insurance Requirements for Professional Services

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:

1. **Commercial General Liability** (CGL): Insurance Services Office Form CG 00 01 covering CGL on an "occurrence" basis for bodily injury and property damage, including products-completed operations, personal injury and 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 separately to this project/location 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 Consultant has no owned autos, Code 8 (hired) and 9 (non-owned), with limit no less than **$500,000** per accident for bodily injury and property damage.
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.

(Not required if consultant provides written verification it has no employees)

1. **Professional Liability** (Errors and Omissions) Insurance appropriates to the Consultant's profession, with limit no less than **$1,000,000** per occurrence or claim, $2,000,000 aggregate. 500,000

If the Consultant maintains higher limits than the minimums shown above, the Entity requires and shall be entitled to coverage for the higher limits maintained by the contractor.

Other Insurance Provisions

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

Additional Insured Status

The Entity, its officers, officials, employees, and volunteers are to be covered as additional insureds on the auto policy with respect to liability arising out of automobiles owned, leased, hired or borrowed by or on behalf of the Consultant; and 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 and CG 23 37 forms if later revisions used).

Primary Coverage
For any claims related to this contract, the **Consultant's insurance coverage shall be primary** insurance as respects the Entity, its officers, officials, employees, and volunteers. Any insurance or self-insurance maintained by the Entity, 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 the Entity.**

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

Deductibles and Self-Insured Retentions
Any deductibles or self-insured retentions must be declared to and approved by the Entity. The Entity may require the Consultant to provide proof of ability to pay losses and related investigations, claim administration, and defense expenses within the retention.

Acceptability of Insurers
Insurance is to be placed with insurers with a current A.M. Best's rating of no less than A:VII, unless otherwise acceptable to the Entity.

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 the Entity with original certificates and amendatory endorsements or copies of the applicable policy language effecting coverage required by this clause. All certificates and endorsements are to be received and approved by the Entity before work commences. However, failure to obtain the required documents prior to the work beginning shall not waive the Consultant's obligation to provide them. The Entity 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.

Special Risks or Circumstances

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

For Clerk's Use Only:
AGENDA NUMBER

21

AGENDA REQUEST FORM
BOARD OF SUPERVISORS
COUNTY OF INYO

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

FROM: County Administrator and Health & Human Services

FOR THE BOARD MEETING OF: May 7, 2013

SUBJECT: Presentation regarding County Workplace Health & Wellness Program and **Proclamation Designating the Month of May 2013 as Global Employee Health & Fitness Month.**

DEPARTMENTAL RECOMMENDATION:

That your Board receive a presentation regarding the new County Workplace Health & Wellness Program initiative, and designate the month of May 2013 as Global Employee Health & Fitness Month.

CAO RECOMMENDATION:

Concur.

SUMMARY DISCUSSION:

Global Employee Health and Fitness Month was created by the National Association for Health & Fitness with the goal of promoting the benefits of a healthy lifestyle to employers and their employees through worksite health promotion activities and environments. The County is in the early stages of implementing a Workplace Health and Wellness Program and the Global Employee Health and Fitness Month coincided with the launch of the County's Wellness Program.

The first meeting of the Employee Wellness Committee was held on May 2, 2013. The broad goals of the Committee are to increase awareness of health and wellness issues and to encourage employees to make positive changes in their lifestyle choices that result in lowering levels of stress and improving physical fitness and wellbeing. Addressing employee wellness, in turn, benefits the public by enhancing employee productivity, decreasing rates of illness and injuries, reducing employee absenteeism, and will result in improved health care cost management.

The Committee recognizes that there are several components to wellness, and is planning several activities for the coming year. Currently, there are arrangements being made for Wellness Works Training, which provides training to equip managers and supervisors with the skills and tools required to have effective conversations with employees who are struggling with mental health issues. This training is tentatively scheduled in June, 2013. The Committee is also considering such activities as becoming a "Blue Zone Project" Community (a community well-being improvement initiative designed to make healthy choices easier through changes in policy and environment), implementing a brown bag "Lunch and Learn" program around a variety of topics, holding a health fair to provide health screening for employees, encouraging healthy potlucks, and providing email tips to employees that offer tangible

examples of steps they can take to improve their health and wellness (exercise, eating, cooking, mindfulness). The Committee will seek input from employees and will encourage each person to take a "small step" from wherever they currently are in their wellness to move forward. It is our intention to offer a variety of strategies to assist in this endeavor.

In addition, since 1956, May has been recognized as National Bike Month. The third week in May is designated, "Bike to Work Week" and the third Friday of May is "Bike to Work" day. Bicycle commuting is a great way to squeeze regular exercise into a hectic schedule. More than half of the US population lives within five miles of their workplace, and that is certainly the case in Inyo County, making bicycling a feasible and fun way to get to the office. With increased interest in healthy, sustainable and economic transportation options, it's not surprising that, from 2000 to 2011, the numbers of bicycle commuters in the US grew by more than 47%!

Inyo County will participate with CalTrans, NIH, US Forest Service, during the week of May 13-17 for the 'Bike to Work' Week Challenge. Agencies throughout Inyo County will be competing to see which organization has the highest percentage of participation and the most total miles ridden (or walked/scootered/any form of non-motorized transport).

ALTERNATIVES:

Not approve the Proclamation.

OTHER AGENCY INVOLVEMENT:

FINANCING:

N/A

APPROVALS	
COUNTY COUNSEL:	**AGREEMENTS, CONTRACTS AND ORDINANCES AND CLOSED SESSION AND RELATED ITEMS** *(Must be reviewed and approved by County Counsel prior to submission to the Board Clerk.)* Approved: _____ Date: 5/1/13
AUDITOR/CONTROLLER:	**ACCOUNTING/FINANCE AND RELATED ITEMS** *(Must be reviewed and approved by the Auditor/Controller prior to submission to the Board Clerk.)* Approved: _____ Date: _____
PERSONNEL DIRECTOR:	**PERSONNEL AND RELATED ITEMS** *(Must be reviewed and approved by the Director of Personnel Services prior to submission to the Board Clerk.)* Approved: _____ Date: 5/1/13
BUDGET OFFICER:	**BUDGET AND RELATED ITEMS** *(Must be reviewed and approved by the Budget Officer prior to submission to the Board Clerk.)* Approved: _____ Date: _____

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

PROCLAMATION BY THE INYO COUNTY BOARD OF SUPERVISORS DESIGNATING THE MONTH OF MAY 2013 AS GLOBAL EMPLOYEE HEALTH & FITNESS MONTH

WHEREAS, the health and wellness of our children, families, and communities are important to our Nation; and

WHEREAS, Inyo County cares deeply about all of its residents and the future health and wellness of its communities; and

WHEREAS, the health and wellness of our workforce is important to the County of Inyo; and

WHEREAS, the County of Inyo joins organizations across the nation encouraging business, county, and city leaders to make employee health and wellness a priority; and

WHEREAS, chronic disease accounts for more than 70% of healthcare spending and four factors (tobacco, food choice and portion size, physical inactivity and stress) cause 70% of the chronic disease; and

WHEREAS, instituting a strong employee health and wellness program can make a positive difference in the overall health of an organization and its workforce, by increasing productivity, reducing absenteeism, decreasing rates of illness and injuries, and improving employee health, thereby positively impacting the provision of public service; and

WHEREAS, by taking steps to promote wellness and prevent disease and illness, we can encourage employees to address their physical, mental, social, and spiritual health; and

WHEREAS, we commit ourselves to educating, engaging, and empowering Inyo County employees to live healthier lifestyles, by introducing an Inyo County Workplace Health and Wellness Program.

***NOW THEREFORE,* BE IT PROCLAIMED** this 7th day of May, 2013 that the Inyo County Board of Supervisors designate the month of May, 2013 as Global Employee Health & Fitness Month and calls upon all citizens, community agencies, and businesses to observe this month with programs and activities to encourage health and wellness in the workplace and community.

_____

Chairperson, Inyo County Board of Supervisor

Attest: *KEVIN D. CARUNCHIO*
Clerk of the Board

by: _____
Patricia Gunsolley, Assistant

Bike to work week is an annual program designed to promote non-motorized transportation.

Agencies throughout Bishop will be competing to see which organization has the highest percentage of participation and the most total miles ridden (or walked/scootered/any form of non-motorized transport). Help your agency win! Bike to work...1 day or all 5...1 mile or 100!

To participate, fill out the information below and return it to Karen at kkong@inyocounty.us by Friday, May 17th at 10:00 so you and your agency can get credit for your effort. (There will also be individual awards!)

Please join us in the **Bishop City Park on May 17th at 12:00 noon** for a brown bag lunch (BYO) and prizes. If you have questions, call Karen at 872-0900. Also there will be a station located at Caltrans on **May 10th** to inspect your bicycles and do minor tune-ups. (ie... tighten screws etc..)

My signature below indicates that I understand that participation in the above activity is in no manner required or expected as a condition of employment, and that participation is a voluntary off duty recreational, social or athletic activity, not constituting part of my work-related duties and not covered by workers' compensation. I understand and acknowledge that participating in this activity is completely elective and voluntary and is not required by the County of Inyo or any officer, supervisor or employee as a condition of employment.

Name (Print & sign):_____

What agency are you with?_____

Is this the first time you have ridden a bike to work?_____

How many days did you bike to work this week?_____

How many total miles did you ride this week?_____

Bike To Work WEEK

CHALLENGE

May 13-17 2013

Join the Challenge! Get involved!

Contact: Rick Franz (Caltrans) 760-872-5203
Erin Noesser (INFS) 760-873-2545 or
Cheryl Underhill (No Inyo Hospital) 760-920-0106

Caltrans

Northern Inyo Hospital
People you know, caring for people you love.

VALUESPORTS

AEROHEAD CYCLES

BISHOP CALIFORNIA

FOREST SERVICE U S DEPARTMENT OF AGRICULTURE

For Clerk's Use Only:
AGENDA NUMBER

22

AGENDA REQUEST FORM

BOARD OF SUPERVISORS
COUNTY OF INYO

☐ Consent ☐ Departmental ☐ Correspondence Action ☐ Public Hearing

☐ Scheduled Time for ☐ Closed Session ☐ Informational

FROM: Public Works Department

FOR THE BOARD MEETING OF: May 7, 2013

SUBJECT: Contract Amendment Number 1 with SolarCity and Annex parking lot paving

DEPARTMENTAL RECOMMENDATION:

1. Request the Board amend the Fiscal Year 2012- 2013 Deferred Maintenance Budget (Budget Unit 011501) as follows; increase estimated revenues in Contributions from LADWP (Object Code 4563) by $169,280 and increase appropriations in the Construction in progress (Object Code 5700) by $169,280;($123,155 system modifications,$21,125 extended warranties and $25,000 estimated paving costs).
2. Request the Board approve Contract Amendment Number 1 with Solar City. Increasing the amount of the contract by $144,279.91 for a total contract amount of $2,005,127.91
3. Authorize the Board chairperson to sign the contract amendment, contingent upon the appropriate signatures being obtained and contingent on the adoption of future budgets; and
4. Authorize the Public Works Director to sign all other contract documents, including change orders, to the extent permitted pursuant to Section 20142 of the Public Contract Code and other applicable law; and
5. Authorize paving of the area under the Annex shade structure.

CAO RECOMMENDATION:

SUMMARY DISCUSSION:

The County recently entered into an agreement with SolarCity for the installation of photovoltaic generating systems at the Courthouse Annex, Jail and Juvenile Detention facility. During the project development process it became apparent that a number of changes would be needed in the original design due to specific site concerns. These issues were addressed in the Board meeting of April 16th. The contract amendment requested reflects the Board's direction to complete the installation of the solar systems, including the purchase of extended warranties for each of the three system inverters. The requested contract amendment and paving will result in residual funding of approximately $235,000 (to be accrued to the ACO Fund for future capital projects).

Additionally, prior to the installation of the solar system shade structures at the Courthouse Annex parking lot, the Public Works Department is recommending the parking lot be reconstructed and repaved at an estimated cost of $25,000. Repaving the parking lot after the shade structure is installed will be very difficult and substantially more expensive; therefore it is recommended the area be paved prior to construction.

ALTERNATIVES:

Not approve Contract amendment with SolarCity for the solar systems. This is not recommended because funding is available for the work and original plans were not workable due to specific site concerns.

Not approve the paving of the Annex parking lot. This is not recommended because paving the parking lot will enhance the project and it is anticipated to be more efficient to pave it prior to the construction of the shade structure.

OTHER AGENCY INVOLVEMENT:

(1) County Counsel has reviewed this Agenda Request and contract amendment.
(2) The Auditor's Office will provide financial review and make payments to the contractor
(3) The California CEC for provision of low interest loan and payments to the County.
(4) LADWP will provide interconnection to the installed solar facilities and will also provide utility rebates for the offset electrical usage.

FINANCING:

Funding for the Independence Campus Solar Installation Project is provided by the California Energy Commission in the form of low interest loans and the LADWP through a rebate program. Net proceeds available to accrue to the ACO Fund for future capital projects are estimated at $235,000. The affected Budget Unit is No. 011501 Deferred Maintenance, Independence Campus Solar Project, (Object Code 5700, Construction in Progress).

APPROVALS	
COUNTY COUNSEL:	AGREEMENTS, CONTRACTS AND ORDINANCES AND CLOSED SESSION AND RELATED ITEMS *(Must be reviewed and approved by county counsel prior to submission to the board clerk.)* Approved: ✓ Date 5.1.13
AUDITOR/CONTROLLER:	ACCOUNTING/FINANCE AND RELATED ITEMS (*Must be reviewed and approved by the auditor-controller prior to submission to the board clerk.)* Approved: yes Date 5/1/13
PERSONNEL DIRECTOR: N/A	PERSONNEL AND RELATED ITEMS (Must be reviewed and approved by the director of personnel services prior to submission to the board clerk.) Approved:_____ Date_____

CAO Signature
(Not to be signed until all approvals are received) Date: 05-01-2013

DEPARTMENT HEAD SIGNATURE:
(Not to be signed until all approvals are received) Date: 5/1/13

AMENDMENT NUMBER 1 TO
CONTRACT BETWEEN THE COUNTY OF INYO AND
SolarCity Corporation
FOR THE PROVISION OF CONTRACTOR SERVICES

WHEREAS, the County of Inyo (hereinafter referred to as "County") and SolarCity Corporation of San Mateo, CA (hereinafter referred to as "Contractor"), have entered into a contract for the installation of solar photovoltaic systems and appurtenant components dated March 13, 2013, a standard SolarCity contract.

WHEREAS, County and Contractor do desire and consent to amend such Contract as set forth below.

WHEREAS, such Contract provides that it may be modified, amended, changed, added to, or subtracted from, by the mutual consent of the parties thereto, if such amendment or change is in written form, and executed with the same formalities as such Contract, and attached to the original Contract to maintain continuity.

County and Contractor hereby amend such Contract as follows:

1. Increase the amount of the contract by $144,279.91 for a total contract value of $2,005,127.51
2. Modify the scope of work for the project to include:
   A. Installation of shade structures included in Exhibit A, attached hereto and;
   B. 20 year extended inverter warranties.

The effective date of this amendment to the Contract is May 7, 2013.

All other terms and conditions of the Contract are unchanged and shall remain the same.

AMENDMENT NUMBER _1_ TO
CONTRACT BETWEEN THE COUNTY OF INYO AND
SolarCity Corporation
FOR THE PROVISION OF CONTRACTOR SERVICES

IN WITNESS THEREOF, THE PARTIES HERETO HAVE SET THEIR HANDS AND SEALS THIS _____ DAY OF _____, 2013.

COUNTY OF INYO

By: _____

Dated: _____

APPROVED AS TO FORM AND LEGALITY:

_____
County Counsel

APPROVED AS TO ACCOUNTING FORM:

_____
County Auditor

APPROVED AS TO PERSONNEL REQUIREMENTS:

_____NA_____
Director of Personnel Services

APPROVED AS TO RISK ASSESSMENT:

_____
County Risk Manager

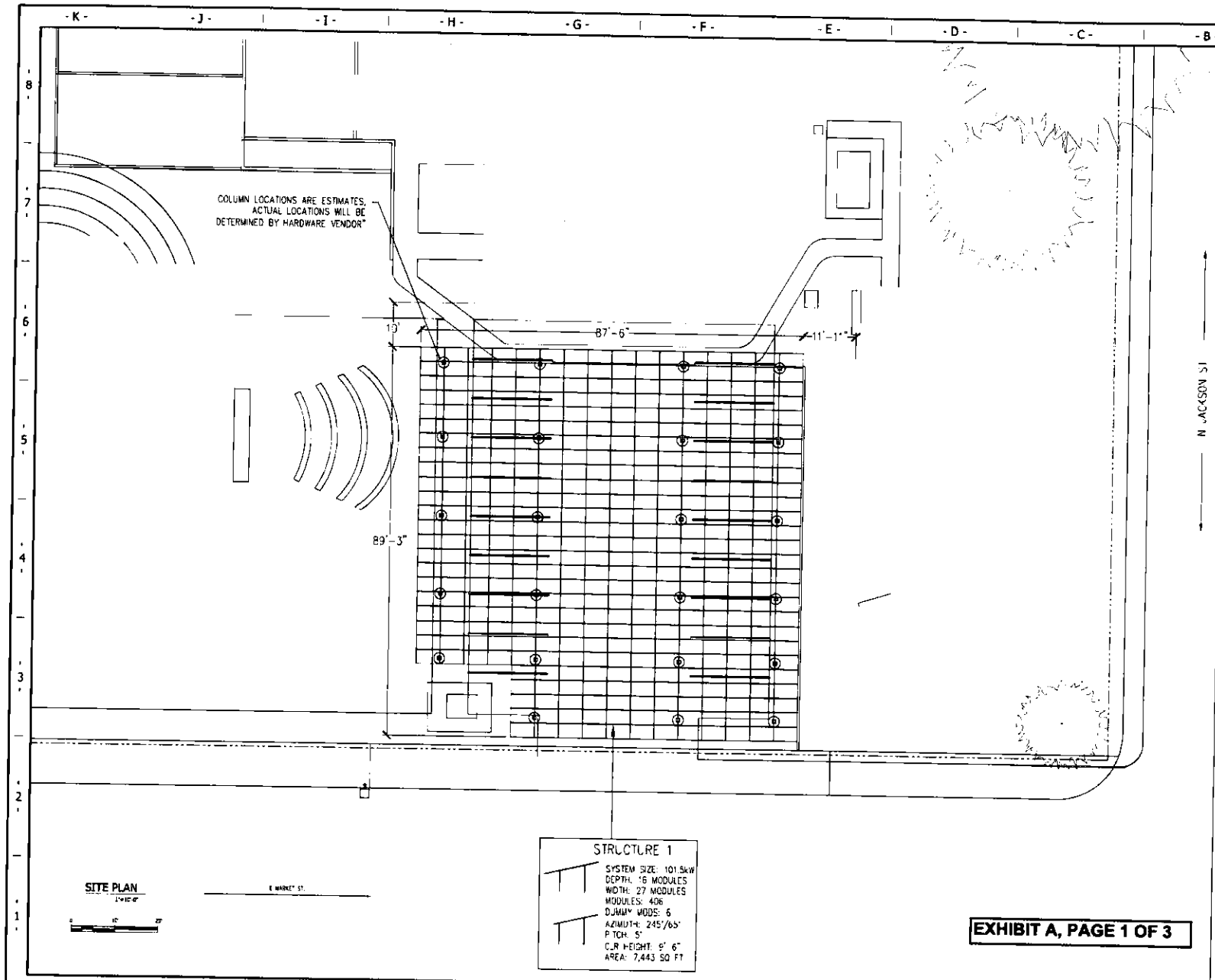
CONTRACTOR

By: _____

Dated: _____

Taxpayer's Identification Number:

_____



SHEET NOTES

A. SEE PAGE PVX FOR WARNING LABEL DETAILS.

B.

KEYED NOTES

1. (E) MAIN SWITCHGEAR AND (N) POINT OF AC INTERCONNECTION. WARNING LABEL DETAIL 1/PVX.
2. (E) UTILITY LOAD METER.
3. (N) PV SYSTEM UTILITY AC DISCONNECT. WARNING LABEL DETAIL 2/PVX.
4. (N) UTILITY OWNED DEDICATED PV PRODUCTION kWh METER.
5. (N) PV INVERTER. WARNING LABEL DETAIL 8/PVX.
6. (N) DC DISCONNECT SWITCH(ES) LOCATED AT INVERTER. WARNING LABEL DETAIL 3/PVX.
7. (N) PV SOURCE CIRCUIT DC COMBINER BOXES WITH INTEGRATED LOAD-BREAK DISCONNECT SWITCH. WARNING LABEL DETAIL 4/PVX.
8. (N) CONDUIT IN TRENCH. SEE DETAIL X/PVX.
9. (N) CONDUIT ON WALL. SEE DETAIL X/PVX.
10. (N) CONDUIT ON ROOF. SEE DETAIL X/PVX.
11. (N) DC CONDUIT IN INTERIOR, WARNING LABEL EVERY 10'. WARNING LABEL DETAIL 8/PVX.
12. (N) MONITORING EQUIPMENT, SOLARGUARD GATEWAY.
13. (N) MONITORING EQUIPMENT, SOLARGUARD PV PRODUCTION kWh METER.
14. (N) MONITORING EQUIPMENT, POWERGUIDE LOAD kWh METER.

EXHIBIT A, PAGE 1 OF 3

SolarCity

CONFIDENTIAL – THE INFORMATION HEREIN CONTAINED SHALL NOT BE USED FOR THE BENEFIT OF ANYONE EXCEPT SOLARCITY INC., NOR SHALL IT BE DISCLOSED IN WHOLE OR IN PART TO OTHERS OUTSIDE THE RECIPIENT'S ORGANIZATION, EXCEPT IN CONNECTION WITH THE SALE AND USE OF THE RESPECTIVE SOLARCITY EQUIPMENT, WITHOUT THE WRITTEN PERMISSION OF SOLARCITY INC.

COUNTY OF INYO - COURTHOUSE ANNEX
101.5kW SOLAR SUPPORT STRUCTURE

COUNTY OF INYO - COURTHOUSE ANNEX
168 N EDWARDS ST
INDEPENDENCE, CA 93526
7608780292

REVISIONS

REV	BY	DATE	COMMENTS
REV A	[illegible]	[illegible]	

JOB DETAILS

Inyo County

(406) TRINA SOLAR # TSM-250PA05.10

(1) SOLECTRIA # PVI 95KW-480VAC

COVT

3/22/2013

SITE PLAN

JB-9351078-00

PV

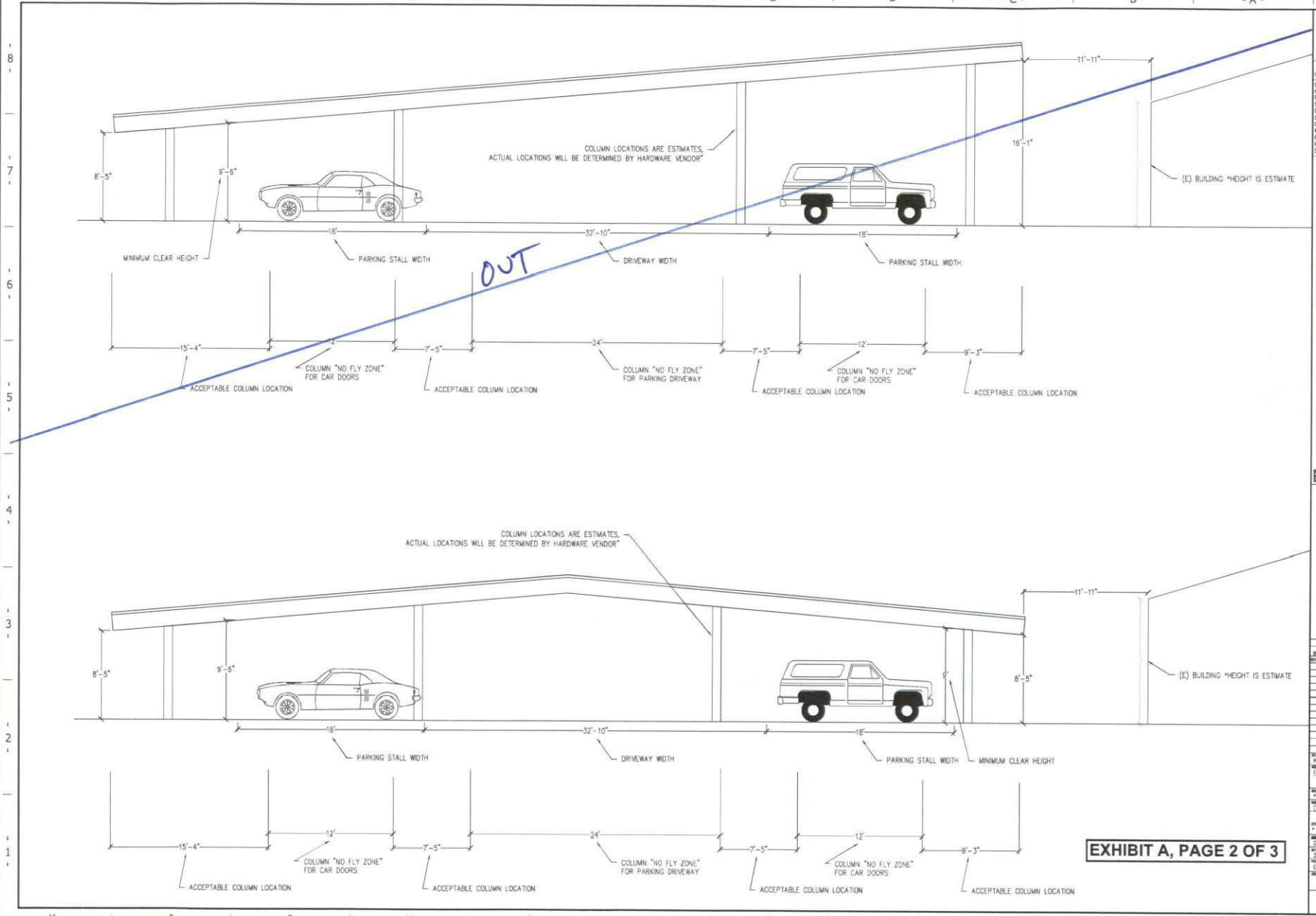


EXHIBIT A, PAGE 2 OF 3

SolarCity

3055 Clearview Way, San Mateo, CA 94402
T:(650) 638-1028 | F:(650) 638-1029
(888)-SOL-CITY (765-2489) | www.solarcity.com

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COUNTY OF INYO- COURTHOUSE ANNEX
101.5kW SOLAR SUPPORT STRUCTURE

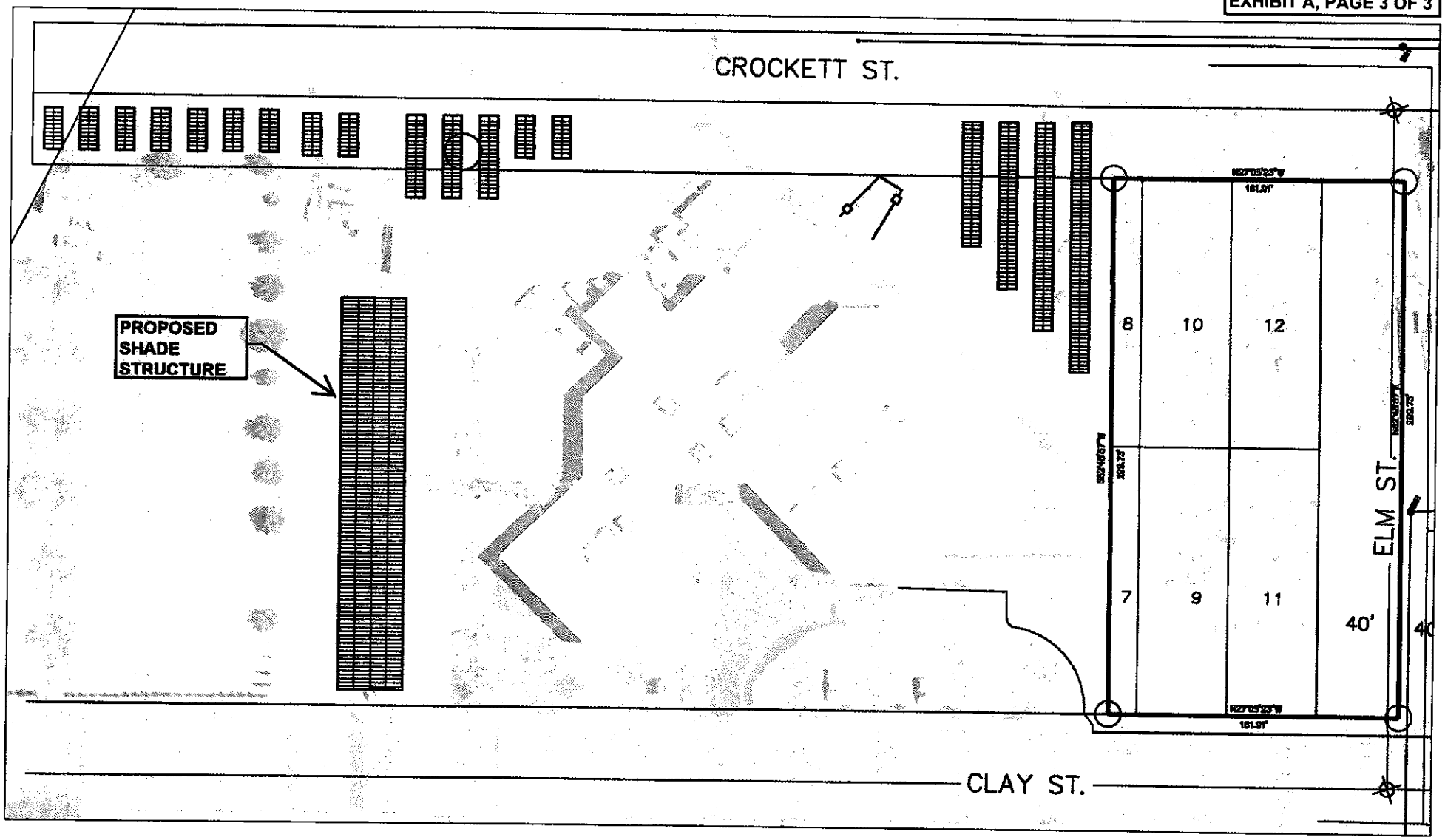
COUNTY OF INYO- COURTHOUSE ANNEX
168 N EDWARDS ST
INDEPENDENCE, CA 93526
7608780292

REVISIONS

REV	BY	DATE	COMMENTS
REV A	BY		

JOB DETAILS

JOB: Inyo County
MODULES: (406) TRINA SOLAR # TSM-250PA05.10
MOUNTING SYSTEM: *
INVERTER: (1) SOLECTRIA # PVI 95KW-480VAC
DESIGN: *
CHECKED BY: *
SUBJECT: COVT
PROJECT MANAGER: *
DATE: 3/27/2013
PERMIT TYPE: *
PAGE NAME: Elevation
JOB NUMBER: JB-9351078-00
PAGE: SC 2
REV:



OPTION A SOLAR PANEL LAYOUT FOR THE INYO COUNTY JAIL

+/- 238 KW

AGENDA REQUEST FORM

BOARD OF SUPERVISORS
COUNTY OF INYO

For Clerk's Use Only:
AGENDA NUMBER
23

☐ Consent X Departmental ☐ Correspondence Action ☐ Public Hearing

☐ Scheduled Time for ☐ Closed Session ☐ Informational

FROM: Alisha McMurtrie, Treasurer-Tax Collector

FOR THE BOARD MEETING OF: May 7, 2013

SUBJECT: Request Board approval of amendment to the Inyo County Treasury Investment Policy (Policy).

DEPARTMENTAL RECOMMENDATION: Approve the Policy (copy attached) as submitted.

CAO RECOMMENDATION:

SUMMARY DISCUSSION: Section 53646(a)(1) of the Government Code requires your Board to annually approve the Policy at a public meeting. The Policy, as written by the County Treasurer, remains in compliance with the legal parameters for the deposit and investment of public funds, as those parameters are set forth in the California Government Code. While your Board has previously approved a Policy for the year 2013, this version includes several amendments for your consideration.

In December 2012, at the annual Treasury Oversight Committee Meeting, I presented the idea of creating a low interest loan program that would operate under Government Code Section 53601(e). Similar programs are in operation in other California Counties and managed as investments, carried in the portfolios. The loans are set at low interest rates to assist the local agencies in obtaining short term financing in otherwise difficult borrowing times. These types of loans would also assist agencies with bridge loans for situations where they do not access grant funds or other sources of revenues other than in arrears. The Treasury Oversight committee was in full support of my pursuing this idea and requested that, after I have completed my due diligence and consulted with County Counsel that I return to the Committee with a request for a recommendation.

After reviewing the Statement of Investment Policy, there are some changes that need to be made in order to proceed with the creation of this program. The Policy amendment required to allow the creation of this program is located on page 6 of the Policy. I am requesting the removal of Section 1in the table of notes for the Investment Criteria. While Government Code Sections 53601(e) refers to debt of local agencies, the table notes specifically limit this Section to what is referred to as Interim Loans which are covered by Article 16, Section 6 of the California Constitution. This amendment would clean up the Policy by defining the process and recipients of both an Interim Loan, defined by the State Constitution, and 53601(e) eligible participants as defined by Government Code.

The modifications proposed in the preceding paragraph will allow the Treasury to invest in bonds, notes, warrants or other evidences of indebtedness of any local agency in California, thereby loaning these agencies treasury funds. These loans or investments would be subject to the Treasurer's obligation to prudently invest Treasury funds in accordance with the Inyo County Investment Policy. By further amending the Investment Policy, your Board could impose further restrictions on the investment of such funds to local agencies, to include one or more of the following: requiring approval by the Treasury Oversight Committee (or Board of Supervisors) of any loan; lending only to Inyo County Pool Participants or local agencies formed within the County; limiting the length of the loans; limiting local agencies' eligibility for loans based on their

investment rating; limiting the amount of the loans by the income of the local agency; etc. None of these further restrictions are required by statute.

The other changes that are highlighted in red are additional guidelines and additional glossary terms that are specific to a loan program. These changes have no additional legal impact to the current approved Policy.

This program will be an investment of the treasury pool. All loans will be subject to all due diligence procedures and oversight that is currently in practice. All loans will be carried in the portfolio. There will be a maximum allowance of 10% of the portfolio for this program. I will be requesting that the Treasury Oversight Committee take on the responsibility of reviewing and making recommendations on all loan applications. Final acceptance and approval of all loans lie with the Treasurer in their capacity as authorized investor of public funds.

The current economic times dictate that the local government agencies need to find ways to work together and assist one another to overcome the financial roadblocks that are in place that continue to place unnecessary financial hardships on the taxpayers. We need to use our local funds to support our local services in every way that we can.

ALTERNATIVES: Your Board may choose not to approve the amended Policy as presented. There is currently a Board approved Statement of Investment Policy in effect for the year 2013 so there will be no impact to current investment practices.

OTHER AGENCY INVOLVEMENT: Inyo County Statement of Investment Policy Section 12(e) also requires that copies of the Policy be provided to members of the Inyo County Treasury Oversight Committee and the California Debt and Investment Advisory Committee.

APPROVALS	
COUNTY COUNSEL:	AGREEMENTS, CONTRACTS AND ORDINANCES AND CLOSED SESSION AND RELATED ITEMS *(Must be reviewed and approved by county counsel prior to submission to the board clerk.)* R. Hille Approved: - Date 4.10.13
AUDITOR/CONTROLLER:	ACCOUNTING/FINANCE AND RELATED ITEMS (*Must be reviewed and approved by the auditor-controller prior to submission to the board clerk.)* N/A Approved: _____ Date_____
PERSONNEL DIRECTOR:	PERSONNEL AND RELATED ITEMS (Must be reviewed and approved by the director of personnel services prior to submission to the board clerk.) N/A Approved:_____ Date_____

DEPARTMENT HEAD SIGNATURE: Alisha McMurtrie Date: 4-30-2013
Alisha McMurtrie, Treasurer-Tax Collector

COUNTY OF INYO

STATEMENT OF INVESTMENT POLICY

~~March 2013 2.0~~ May 2013 2.1

INVESTMENT POLICY
of the
INYO COUNTY TREASURY

(Note: All legal notations to "Sections" made herein are in reference to the California Government Code.)

Scope:

This investment policy applies to all public funds held for safekeeping in the Inyo County Treasury. This policy has been reviewed and approved by the Board of Supervisors pursuant to Government Code Section 53646. The Board of Supervisors will review and approve a new policy, or amendments to the policy, or affirm the current policy, at least annually. This policy is effective as of the date of adoption of the Board of Supervisors.

Policy Statement:

The purpose of this Policy (Policy) is to establish cash management and investment guidelines for the County Treasurer, who is responsible for the stewardship of the Inyo County Pooled Investment Fund. Each transaction and the entire portfolio must comply with California Government Code Section 53601. et seq., and this policy.

Prudent Investor Rule:

The standard of prudence to be applied by the investment officer shall be the "Prudent Investor Rule", which states, "Investments shall be made with judgment and care, under circumstances then prevailing, which persons of prudence, discretion and intelligence exercise in the management of their own affairs, not for speculation, but for investment, considering the probable safety of their capital as well as the probable income to be derived." The Prudent Investor Rule shall be applied in the context of managing the investment portfolio.

Investment Objectives:

~~The specific objectives for the Pooled Investment fund are ranked in order of importance:~~
Safety, Liquidity, and Rate of Return:

- Safety of Principal: The primary objective of the County Treasurer/Investment Officer is to safeguard, preserve and protect capital/principal in the portfolio.

- Liquidity: As a second objective, investments shall be made in a manner that will provide for the daily cash flow demands of the Treasury and its participants.

- Yield: As the third objective, investments shall be made in a manner so as to attain a market rate of return throughout budgetary and economic cycles while providing for the first two Objectives as stated above, consistent with the risk limitations, prudent investment principals and cash flow characteristics identified herein.

Legal and Regulatory Compliance:

All investing and investment decisions shall be made with full compliance with California State and Federal Laws and Regulations, and any forthcoming amendments or additions to the California State Statutes or Federal Regulations in relation to the investment and administration of local agency money on deposit in the Treasury. The Treasurer or the Board of Supervisors may provide further restrictions and guidelines for the investment of money on deposit in the Treasury through this Statement of Investment Policy.

Participants:

- **STATUTORY PARTICIPANTS**- General Participants are those government agencies within the County of Inyo for which the Inyo County Treasurer is statutorily designated as the Custodian of funds.

- **VOLUNTARY PARTICIPANTS**-Other local agencies, such as Special Districts, for which the Treasurer is not the statutory designated Custodian of Funds, may participate in the Pooled Investment Fund. Such participation is subject to the consent of the County Treasurer and must be in accordance with the California Government Code Section 53684, et seq. The agency must provide the County Treasurer with a resolution adopted by the agency's governing board approving the Inyo County Pooled Investment Fund as an authorized investment and accept the Inyo County Investment Policy.

- The County Treasurer does not solicit any agency's voluntary entry into the Treasury pool.

Delegation of Authority:

Pursuant to Section 53607, the Inyo County Board of Supervisors may delegate the authority to invest or to reinvest public funds in the Inyo County Treasury to the County Treasurer for a one-year period. Thereafter, the County Treasurer shall assume full responsibility for those transactions until the delegation of authority is revoked or expires. Subject to review, the County Board of Supervisors may renew the delegation of investment authority each year.

If the County Board of Supervisors delegates the investment authority to the County Treasurer as referenced above, the County Treasurer may authorize the Assistant County Treasurer to purchase investments in the absence of the County Treasurer pursuant to the law and to the restrictions as herein stated.

Authorized Investments:

Authorized investments: shall match the general categories established by the California Government Code Sections 53601, et seq. and 53635, et seq., and shall be listed herein. Authorized investments shall also include, in accordance with California Government Code Section 16429.1, investments into the State Local Agency Investment Fund (LAIF).

- Maturity Restrictions: No investment shall exceed one (1) year as calculated from settlement dates, except that no more than thirty-five percent (35%) of the total amount of the portfolio may consist of securities with maximum maturities of five (5) years as estimated on trade dates.

- Operating funds shall be invested so as to ensure that maturity dates will coincide with projected cash flow needs, taking into account anticipated revenue and expenditures of significant dollar size.

Prohibited Investments:

All investments not specifically listed within are hereby prohibited.

Investment Criteria:

(Table of Notes for figures on next page for footnotes related to this figure))

Investment Type	Maximum Maturity	Maximum % of Pool	Rating
U.S. Treasury and Agency Securities (§53601(b&f))	5 years	100	N/A
Bonds and Notes issued by local agencies (see section 1) (§53601(e))	5 years	~~100~~ 10	N/A
Registered State Warrants (see section 2) (§53601(c))	5 years	5 % of agency/district deposits	N/A
Bankers' Acceptances (see section 3) (§53601(g))	180 days	40	N/A
Commercial Paper (see section 4) (§53601(h) and §53635(a))	270 days	15	A-1/P-1
Negotiable Certificates of Deposit (§53601(i))	5 years	30	N/A
Repurchase Agreements (see section 5) (§53601(j))	1 year	25	N/A
Reverse Repurchase Agreements (see section 5) (§53601(j))	92 days	25	N/A
Medium-Term Corporate Notes (§53601(k))	5 years	30	A
Mutual Funds & Money Market Mutual Funds (§53601(l))	N/A	20	AAA
Local Agency Investment Fund (LAIF) (§16429.1)	N/A	As limited by LAIF ~~($40MM per Agency~~	N/A
Mutual Funds & Money Market Mutual Funds (6509.7 & 53601(p))	N/A	20	AAA

Section	Information
1	~~The County Treasurer may only purchase the indebtedness of local agencies that receive an increment of Inyo County secured property tax revenue. The maximum amount of said indebtedness purchased from any individual agency in any fiscal year is restricted to 85% of that agency's anticipated current fiscal year uncollected Inyo County secured property tax revenue, and only that portion of those taxes that is secured by an assessee's fee ownership of land as estimated by the Inyo County Auditor-Controller.~~ ~~The maturity of such indebtedness is limited to fifteen (15) months from the date of issue.~~ The County Treasury may purchase the bonds, notes, warrants or other evidences of indebtedness of any local agency in formed within the County of Inyo. Such investments may not exceed 5 years. No more than 10% of the assets of the portfolio may be invested.
2	Registered Warrants are restricted only to cash substitutes issued by the State during periods of declared fiscal emergency.
3	No more than 30 percent of the agency's surplus funds may be invested in the Bankers' Acceptances of any one commercial bank pursuant to this section.
4	All commercial paper issuers must maintain an "A-1" rating by Standard & Poor's Corporation or a "P-1" rating by Moody's Investor Service. No more than 15% of the agency's funds may be invested in commercial paper with no more than 10% of the assets be invested in any one issuer's commercial paper.

5

1. Reverse Repurchase Agreements may be utilized pursuant to the provisions of Section 53601(j) only for the purposes of supplementing the yield on previously purchased securities or to provide funds for the immediate payment of local agency obligations.

The maximum maturity of repurchase agreements shall be one year. The maximum maturity of a reverse repurchase agreement shall be 92 days.

Criteria for the Selection of Broker/Dealers and Financial Institutions:

The County Treasurer shall select only primary government securities dealers that report daily to the New York Federal Reserve Bank, unless a comprehensive credit and capitalization analysis reveals that other firms are adequately financed to conduct public business. All broker/dealers and financial institutions must have a strong industry reputation and open lines of credit with other dealers. Further, these firms must have an investment grade rating from at least one national rating service, if applicable.

Any broker, brokerage, dealer or securities firm shall be prohibited from conducting business with the County Treasurer if the individual or firm has, within any consecutive 48-month period following January 1, 1996, made a political contribution in an amount exceeding the limitation contained in Rule G-37 of the Municipal Securities Rulemaking Board, to the Inyo County Treasurer, any member of the Inyo County Board of Supervisors, or any candidate for those offices.

Each broker/dealer or financial institution will be sent a copy of this Policy and a list of those persons authorized to execute investment transactions.

Each broker/dealer and financial institution authorized to do business with Inyo County shall, at least annually, supply the County Treasurer with financial statements.

Criteria for the Management of Extraordinary Withdrawals:

Extraordinary Withdrawals are those withdrawals from the County Treasury that: are not predictable by the County Treasurer from an analysis of historic and current Treasury cash flow records; and, as a result of the dollar amount of such withdrawals, have a significant impact on the ability of the County Treasurer to satisfy the cash flow requirement of the participants in the County Treasury pool. Such Extraordinary Withdrawals from the County Treasury can create liquidity problems and negatively impact the earnings of the remaining County Treasury pool participants in the event the County Treasurer is forced to liquidate securities prior to their scheduled maturity dates in order to cover such withdrawals. A pool participant, who wishes to

withdraw from the pool or make an Extraordinary Withdrawal, will be encouraged to work with the County Treasurer to arrange a withdrawal schedule that would prevent losses to the withdrawing agency or the remaining pool participants.

Pursuant to Government Code Section 27133(h), upon receipt of any request to withdraw funds from the County Treasury, the County Treasurer shall assess the effect of the proposed withdrawal on the stability and predictability of the investments in the County Treasury. The County Treasurer will approve a withdrawal only if he/she determines that said withdrawal would not adversely affect the interests of the other participants in the County Treasury pool. If the County Treasurer determines that an Extraordinary Withdrawal will cause the County Treasury pool to realize a loss, the County Treasurer in his/her discretion may disapprove the withdrawal, or delay the withdrawal, or approve the withdrawal on the condition that any such loss be borne by the agency requesting the withdrawal, and on any other condition necessary to prevent an adverse effect on the interests of the other pool participants. The County Treasurer reserves the right to choose which securities to liquidate to provide for the Extraordinary Withdrawal and could choose to sell the securities that have the lowest earnings.

Safekeeping:

Pursuant to Section 53608 the Inyo County Board of Supervisors has, by its Resolution No. 95-97 dated September 26, 1995, delegated to the County Treasurer the authority to enter into safekeeping agreements with specified institutions. Investment securities purchased by the County Treasury shall be held in customer-segregated safekeeping accounts that qualify as "Category 1 Custody" as defined by the Governmental Accounting Standards Board. Each institution where securities are held shall be required to provide a monthly safekeeping statement to the County Treasurer.

Apportionment of Interest and Costs & Calculation of the Treasurer's Administrative Fee:

The relationship of a participant's average daily fund balance to the total average daily balance of the entire Treasury pool determines the percentage of interest paid to that participant from a single apportionment. The proportionate amount of the Treasurer's Administration Fee paid by any participant in any quarter may be calculated in the same manner.

The County Treasurer's Administrative Fee, as authorized by Section 27013 and as calculated by the County Treasurer, shall not exceed the actual administrative costs incurred by the County for the operation of the County Treasury. In addition, pursuant to Section 27135 the cost of the County Treasury Oversight Committee's annual compliance audit shall be deemed as an administrative cost pursuant to Section 27013.

The Treasurer's Administrative Fee shall be imposed quarterly and deducted from interest earnings prior to the apportionment of those earnings to the participants in the County Treasury pool.

Audit, Supervision, Approval and Monitoring of the Investment Policy and Portfolio, including Reporting Requirements:

- Pursuant to Section 25250 the County Board of Supervisors (Board) shall, at least biennially, cause to be audited in accordance with generally accepted auditing standards the financial accounts and records of all officers, including the County Treasurer, having responsibility for the care, management, collection, or disbursement of public funds.

- Pursuant to Section 25303 the Board will supervise the official conduct of the Inyo County Treasurer.

- Pursuant to Section 26920 et seq. the County Auditor shall, at least once each quarter, perform a review of the treasurer's statement of assets.

- Pursuant to Section 27100 the books, accounts and vouchers of the County Treasury are at all times subject to the inspection and examination by the Board and the County Grand Jury, or by any officers or agents designated by the Board or Grand Jury to make the inspection and examination. The County Treasurer shall permit the examination of the books and assets of the County Treasury.

- The County Treasurer shall annually render to the Board at a public meeting the Treasury Investment Policy (Policy) for the Board's review and approval. Any changes to the Policy shall also be reviewed and approved by the Board at a public meeting. In addition, the Treasurer shall annually provide copies of the Policy to the County Treasury Oversight Committee (Committee) and the California Debt and Investment Advisory Committee.

- The County Treasurer shall render a quarterly report to the Board, County Auditor-Controller and Committee. In addition, copies of the reports for the second and fourth quarters shall be forwarded to the California Debt and Investment Advisory Commission. The report shall reflect, pursuant to the law, the detailed status of investments held by the County Treasury including the following information: (Refer to Section 53646)

  1- The type of investment, name of the issuer, date of maturity, par and dollar amount invested on all securities, investments and moneys held.

  2- A description of the funds, investments, or programs that are under the management of contracted parties, including lending programs.

  3- The market values of all funds, investments or programs under the management of contracted parties, and the source of the valuation for any security within the treasury.

4- A description of the compliance or the manner in which the portfolio is not in compliance with the County Treasury Investment Policy.

- A statement of the County Treasury's ability to meet the projected liquidity requirements of participants in the treasury pool for the next six (6) months, or an explanation as to why sufficient money may not be available.

Upon request, the County Treasurer shall deliver to the County Auditor-Controller a detailed record of investment activity for the current or preceding fiscal year.

The County Treasurer shall routinely monitor the investment portfolio in relationship to limitations and restrictions imposed by the California statues and as herein stated, and will adjust the portfolio accordingly.

Internal Controls:

The County Treasurer shall establish a system of written internal controls, which shall be reviewed annually by all authorized persons. The internal controls shall be designed to prevent, or at least minimize, the loss of public funds due to fraud, error, misrepresentation, unanticipated market changes or imprudent actions. Where possible, investments shall be placed, confirmed, held, accounted for and audited by different persons.

Prohibitions on the Acceptance of Gifts & Honoraria:

The County Treasurer, Assistant County Treasurer and the members of the Treasury Oversight Committee shall comply with the provisions of the Political Reform Act (Section 87200 et ~~es~~q.) as those rules may be amended from time to time by the Fair Political Practices Commission.

The provisions of the Political Reform Act shall also govern the conduct of the above referenced individuals, particularly with regard to restriction placed on the acceptance by members of honoraria, gifts and gratuities from financial and security advisors, brokers, dealers, bankers or other persons with whom the County Treasury conducts business.

Provisions for the Separate Investment Management of the General Obligation Bond Proceeds of Local Governmental Agencies that are Treasury Pool Participants:

This section sets forth an alternative investment procedure for the separate investment management of certain general obligation bond proceeds belonging to local governmental agencies that are participants in the Treasury pool. The goal of this procedure is to maximize interest earnings on general obligation bond proceeds that are not immediately required by the issuing agency, thereby reducing the agency's bond interest costs.

Prior to the separate investment of general obligation bond proceeds as outlined below, the governing board of the local governmental agency that issued the bonds shall adopt a resolution authorizing the County Treasurer to make such investments on behalf of the agency. The agency whose bond proceeds will be invested as herein stated will have the option to restrict the type of such investment instruments purchased by the County Treasurer, provided such restrictions fall within the parameters of this Investment Policy, and are reflected in the agency's authorizing resolution.

General obligation bond proceeds (proceeds) of $100,000.00 or more belonging to a local governmental agency that is a Treasury pool participant and that are not immediately required by the agency, may, at the sole discretion of the County Treasurer, be separately invested for the financial benefit of said agency. The bond proceeds shall at all times remain in, and be considered part of, the County Treasury. The bond proceeds that have been separately invested may not be withdrawn from the Treasury. Once authorized by a resolution of the agency issuing the bonds as above stated, the County Treasurer may use the bond proceeds to purchase specific investments that will thereafter be considered investments of said agency.

The agency that issued the bonds will deliver to the County Treasurer its most current schedule of calendar dates on which the agency anticipates withdrawing the bond proceeds from the Treasurer. The Treasurer will utilize the agency's most current withdrawal schedule to provide the necessary liquidity, while at the same time endeavoring to maximize interest earnings on the said proceeds. In the event the agency requires its bond proceeds prior to the maturity dates of the separate investments, and has no other source of funds to pay the financial obligation that should have been paid from those bond proceeds, the County Treasurer may purchase one or more of the agency's separate bond investments for the Treasury investment portfolio that is shared by the other pool participants with assets of the Treasury, thereby making the necessary amount of the agency's bond proceeds available to the agency for withdrawal, provided, however, that no purchase may be made by the Treasurer of the separate bond investments of the agency if that purchase will result in a financial loss to the County Treasury or otherwise injure the Treasury pool participants.

For accounting purposes, such separate investments shall be segregated from those investments of the Treasury pool that are owned proportionately by all Treasury pool participants. The interest earned on the investments purchased with the agency's bond proceeds will be deposited, net of any Treasury Administrative Fees, in the issuing agency's bond proceeds fund within the Treasury, and will not be distributed to any other pool participant or Treasury fund. Said bond proceeds, when separately invested as herein stated, will not earn any interest earned on those Treasury investments that are owned proportionately by the Treasury pool participants and not separately invested.

DISCLOSURE OF SIGNIFICANT ACTIVITY:

The Treasurer's Office will inform the Office of the Inyo County Administrator by means of a written memorandum or email, prior to the close of business on the next business day, whenever the daily activity of the County Treasury includes one or more of the following transactions in an aggregate amount of $5,000,000.00 or more:

- Sale of a security prior to the stated maturity or call date of said security.
- Withdrawal or transfer of cash assets from a depository, including but not limited to a bank, investment pool or money market fund.
- Payment of an Extraordinary Withdrawal, as such Withdrawal is herein defined.

GLOSSARY OF TERMS

ACCRUED INTEREST
Interest that has accumulated but has not yet been paid from the most recent interest payment date or issue date to a certain date.

AMORTIZATION
The reduction of debt through regular payment of principal scheduled to complete repayment by maturity. Usually, the payment of interest is incorporated to compensate the lender over the life of the debt.

AMORTIZATION SCHEDULE
A Schedule which shows exactly how debt will be repaid. It contains the repayment dates and amounts of payments, including a breakdown of principal and interest that comprises the total payment.

BANKERS' ACCEPTANCE
A time bill of exchange drawn on and accepted by a commercial bank to finance the exchange of goods. When a bank "accepts" such a bill, the time draft becomes, in effect, a predated, certified check payable to the bearer at some future specified date. Little risk is involved for the investor because the commercial bank assumes primary liability once the draft is accepted.

BASIS POINT
One basis point is equal to 1/100 of one percent. For example, if interest rates increase from 4.25% to 4.50%, the difference is referred to as a 25-basis-point increase.

BOOK VALUE
The value of a security as carried in the records of an investor. May differ from current market value of the security.

BOND
A long-term debt instrument in which the investor lends money to the bond issuer, who agrees to pay a stated rate of interest over a specified period of time. Simply, a bond is a promissory note which is traded in the financial markets. The investor's position is that of lendor.

BROKER/DEALER
Any person engaged in the business of effecting transactions in securities in this state for the account of others or for his/her own account. Broker/dealer also includes a person engaged in the regular business of issuing or guaranteeing options with regard to securities not of his/her own issue.

COLLATERAL
Assets which are used to secure a loan. In the event of default, the lender assumes ownership of the asset.

COMMERCIAL PAPER
Short-term, unsecured promissory note issued in either registered or bearer form and usually backed by a line of credit with a bank. Maturities do not exceed 270 days and generally average 30-45 days.

COUNTERPARTY
Used to describe the entity(s) or individual(s) with whom an agreement is entered.

COUPON RATE
The annual rate of interest payable on a security expressed as a percentage of the principal amount.

CREDIT RISK
The risk to an investor that an issuer will default in the payment of interest and/or principal on a security.

CURRENT YIELD
The annual income from an investment divided by the current market yield. Since the mathematical calculation relies on the current market value rather than the investor's cost, current yield is unrelated to the actual return the investor will earn if the security is held to maturity.

CUSIP NUMBERS
CUSIP is an acronym for Committee on Uniform Security Identification Procedures. CUSIP numbers are identification numbers assigned to each maturity of a security issue and usually printed on the face of each individual security in the issue. The CUSIP numbers are intended to facilitate identification and clearance of securities.

DEBT INSTRUMENT
An instrument or promissory note which evidences and documents the terms of the loaning of funds from one party to another. Typically, the instrument contains the loan date, the maturity date, the repayment provisions, and the interest rate of the borrowing.

DEFAULT
The failure to pay debt obligations as agreed in the terms of the debt.

DISCOUNT
The amount by which the par value of a security exceeds the price paid for a security.

EARNINGS APPORTIONMENT
The quarterly interest distribution to the Pool Participants where the actual investment costs incurred by the Treasurer are deducted from the interest earnings of the Pool.

FAIR VALUE
The amount at which an investment could be exchanged in a current transaction between willing parties, other than a forced or liquidation sale.

FANNIEMAE
FNMA, Federal National Mortgage Association. Debt issued by FNMA, a federally sponsored agency, to facilitate real estate lending. FNMA issues short-term debt backed by its own full faith and credit. FNMA issues long-term debt backed by mortgages with repayment guarantees by FNMA.

FEDERAL GOVERNMENT AGENCY
Debt issued by government sponsored entities to facilitate various types of lending. For example the Federal Farm Credit Bank, to provide funds to farmers, the FNMA to provide funds to the real estate mortgage markets.

FLOATING RATE NOTE
A debt security whose interest rate is reset periodically (monthly, quarterly, annually) and is based on a market index (e.g. Treasury bills, LIBOR etc.).

FREDDIEMAC
FHLMC, Federal Home Loan Mortgage Corporation. Debt issued by FHLMC, a federally sponsored agency to facilitate real estate lending.

INTEREST
The amount earned while owning a debt security, generally calculated as a percentage of the principal amount.

INVESTMENT
The foregoing of immediate value for (possibly uncertain) longer-range value. Also used to indicate the security that evidences such act.

INVERTED OR NEGATIVE YIELD CURVE
A yield curve where short-term securities yield at a higher rate that long-term securities.

LOCAL AGENCY INVESTMENT FUND (LAIF)
The State of California investment pool in which money of local agencies is pooled as a method for managing and investing local funds.

MARKET VALUE
The price at which a security is trading and could presumably be purchased or sold.

MATURITY
The date upon which the principal of a security becomes due and payable to the holder.

MONEY MARKET MUTUAL FUND
A mutual fund with investments directed in short-term money market instruments only, which can be withdrawn daily without penalty.

NOTE
Typically an investment with a term of one to ten years paying interest on a periodic basis.

PAR
The stated maturity value, or face value, of a security.

PAR VALUE
The stated or face value of a security expressed as a specific dollar amount

POSITIVE OR NORMAL YIELD CURVE
A yield curve where the short-term interest rates are lower than long-term interest rates.

PREMIUM
The amount by which the price paid for a security exceeds the security's par value.

PRINCIPAL

The face amount of a security not taking into account discounts or premiums. The unpaid amount remaining on amortized debt. Interest is paid on the principal amount.

REPURCHASE AGREEEMENT OR RP OR REPO

An agreement consisting of two simultaneous transactions whereby the investor purchases securities from a bank or dealer and the bank or dealer agrees to repurchase the securities at the same price on a certain future date. The interest rate on a RP is that which the dealer pays the investor for the use of his/her funds. Reverse repurchase agreements are the mirror image of the RPs when the bank or dealer purchases securities from the investor under an agreement to sell them back to the investor.

REGISTERED WARRANTS

A registered warrant is a "promise to pay," with interest, that is issued by the State when there is not enough cash to meet all of the State's payment obligations.

SETTLEMENT DATE

The date on which the purchase or sale of securities is executed. For example, in a purchase transaction, the day the securities are physically delivered or wired to the buyer in exchange for cash is the settlement date.

TRADE DATE

The date and time corresponding to an investor's commitment to buy or sell a security.

WEIGHTED AVERAGE MATURITY

The remaining average maturity of all securities held in a portfolio.

For Clerk's Use Only:
AGENDA NUMBER

24

AGENDA REQUEST FORM

BOARD OF SUPERVISORS
COUNTY OF INYO

☐ Consent ☒ Departmental ☐ Correspondence Action ☐ Public Hearing

☐ Scheduled Time for ☐ Closed Session ☐ Informational

FROM: Inyo County Planning Department

FOR THE BOARD MEETING OF: May 7, 2013

SUBJECT: Owens Lake Master Plan

DEPARTMENTAL RECOMMENDATION: Receive a presentation regarding the Owens Lake Master Plan and provide direction.

SUMMARY DISCUSSION: In early 2010, the Los Angeles Department of Water and Power (DWP) initiated a Master Plan for the Owens Lake following many years of dust mitigation efforts. The Plan is intended to provide a framework for the future of the Lakebed, including potential solar energy development, water conservation, habitat enhancement, and further dust mitigation.[1] After discussions about whether or not to participate, the Board appointed Supervisor Arcularius, former Supervisor Cervantes, and the Planning Director to participate on the project Planning Committee.[2] The Water Director also has participated in the planning process extensively. The Board has received numerous presentations over the years about the Plan from staff and DWP representatives, and has approved correspondence on several occasions in regards thereto (attached).

Planning Framework

DWP has been guiding the planning effort with the assistance of the Center for Collaborative Policy (CCP). The primary planning forum has been the Planning Committee, which is composed of numerous agencies, organizations, and interested individuals, including DWP, the County, Great Basin Unified Air Pollution Control District (GBUAPCD), State Lands Commission (SLC), California Department of Fish and Wildlife[3] (CDFW), Audubon Society, Sierra Club, Owens Valley Committee, tribes, and local businesspeople, ranchers, and citizens. The Planning Committee was meeting about once per month in 2010 and 2011, but has met less frequently lately. The Planning Committee is scheduled to meet on May 15, 2013.

The Planning Committee primarily works through issues and provides input for DWP, CCP, and the Plan authors (Newfields). Several working groups have been formed, including for habitat, governance, implementation, water conservation, and dust control. A Coordinating Committee composed of DWP, SLC, CDFW, GBUAPCD, the County, and an Audubon representative also meets periodically to facilitate the Planning Committee discussions.

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1 Refer to https://owenslakebed.pubspsvr.com/default.aspx for more information regarding the Master Plan.

2 Refer to http://inyoplanning.org/projects.htm regarding the County's previous input regarding the Master Plan process.

3 Formerly known as the California Department of Fish and Game.

To provide executive direction, an Agency Forum was convened that meets in Sacramento as needed. The Agency Forum includes representatives from DWP, SLC, CDFW, Department of Water Resources, Water Quality Control Board, and Inyo County, as well as observers from the Planning Committee.

Issues

Amongst many other goals, the Plan is primarily intended to result in water efficient dust control. Since its inception, the County has participated in development of the Plan and has focused on the following topic areas:

Water Conservation: The County has expressed its strong hope that some water conserved through the Plan be left in the Owens Valley. Many areas of the Valley used to receive water that has been diverted to the Lake.

County Property: The County owns property on the south side of the Lake. Discussions about including this property within the Master Plan were ongoing, and eventually the County agreed to consider including it.

Infrastructure, Utilities, Public Services, and Financing: The County has repeatedly requested that the Plan address infrastructure, utilities, and public services due to the increased demands that the Plan might place on these assets and the resulting costs to the County. The County also has requested that a financing plan be included to ensure that infrastructure, utilities, and public services be developed commensurate with the Plan's development.

County Planning: The County's planning goals, policies, and regulations relevant to the Master Plan should be addressed, which the County has conveyed to the Planning Committee on several occasions.

Vectors and Invasive Species: The Agricultural Commissioner has been concerned about the potential for the Plan to result in additional resources for vector control and invasive species management.

Economic Development: The County has expressed a desire for sustainable development of the lakebed that promotes local economic vitality. Ideas discussed include overlooks, trails, and a scenic roadway circling the lake.

Plan Boundary: A great deal of discussion arose early in the planning process about the Plan boundary, including private property, and whether to include the seeps and springs around the lake. Private lands are included in the Plan boundary, and the County has periodically reached out to those property owners to apprise them of the Plan's progress.

Long Term Water Agreement: DWP has proposed to pump groundwater to partially replace Aqueduct water utilized for dust suppression. The County has indicated that the Long-term Water Agreement (LTWA) applies to this proposed groundwater pumping, and DWP disagrees. Rather than enter into a dispute over the applicability of the LTWA to groundwater development at Owens Lake, the County and DWP agreed to cooperate with other agencies having jurisdiction at the Lake in studying groundwater availability in order to move forward. DWP has invited the

County, GBUAPCD, CDFW, and the SLC to participate in a program to develop, monitor, and manage groundwater at the Lake.

Implementation Mechanism: In order to implement the Plan, two options were considered (1) a Memorandum of Understanding (MOU) or Memorandum of Agreement (MOA) and (2) a Natural Communities Conservation Plan (NCCP). An MOU/MOA would entail a basic agreement between the parties regarding the topics deemed appropriate. An NCCP would be guided by relevant State law and common practice. The current draft Master Plan contemplates several MOAs.

Habitat Suitability Index: The subject of much effort in the Plan's development was the Habitat Suitability Index (HSI). This tool rates habitat values for waterfowl, shorebirds, meadow, and open water guilds and projects a HSI value ranging from "0" (Low or non-suitable habitat) to "1" (highly suitable habitat).

Draft Master Plan

A partial draft Master Plan was released in December 2011. The goals address dust control, public trust, habitat, public access, cultural resources, viewsheds, economic development, and stakeholder involvement. The Board authorized correspondence (attached) regarding the draft Master Plan, primarily related to the County's previous input regarding the LTWA, the County's planning and zoning for the project, vector control and invasive species, public utilities, services, and infrastructure, and financing.

One consistent point of input regarding the draft Master Plan was that a physical plan for the Lake should be developed. In response, DWP has developed a map to illustrate dust control and habitat areas to be developed through the future dust control phases.

Groundwater Study

With the assistance of MWH, DWP prepared a groundwater study for Owens Lake. According to the study, groundwater modeling at Owens Lake has shown that approximately 9,000 to 15,000 acre feet per year (AF/yr) of groundwater development at Owens Lake can be environmentally sustainable, depending on what criteria for springflow is used. Water Department staff do not agree that the study justifies this conclusion. The study recommends that nine new monitoring wells be installed on the margins of the lake to serve to monitor flow to the springs surrounding the lake. Two new test wells are recommended to evaluate the hydrologic characteristics of the Owens Valley Fault. A phased implementation and adaptive management approach is recommended that develops new hydrogeologic information and modifies groundwater development plans accordingly, as information becomes available. The recommended initial phase of the implementation plan involves groundwater development at a rate of approximately 7,000 AF/yr, and three years of monitoring, before implementing additional groundwater development.

DWP Requirements

Work on the Master Plan has slowed since early last year. Recently, DWP published a number of requirements it deems necessary to create a balanced plan that warrants a renewed investment of resources, including the following:

- Acceptance of Master Plan elements that protect or improve the habitat and public benefit goals within the areas where DWP dust controls currently exist.
- Reduction in the amount of Aqueduct water applied to Owens Lake for dust mitigation by at least 50 percent to lessen water use from other resources.
- Legally establish a limit of 45 square miles of dust controls that DWP is responsible to construct and maintain.
- Approve new waterless dust control methods.
- Allowance to transition sufficient areas of the Lakebed without penalties.
- Easement or other indisputable, permanent right to execute and maintain the Lakebed according to the Plan provisions.
- Allowance to utilize groundwater under the Lakebed to achieve full habitat goals.

CCP staff is currently working with stakeholders to solicit opinions about if the Master Plan should proceed, and if so, how. It appears that most stakeholders support proceeding in some manner. Options being considered include short-term advances, such as memorializing the HSI or other Plan components via memoranda, to working through the groundwater issues for a comprehensive Master Plan, to a mixture thereof.

Master Project

Mr. Adams with DWP recently addressed the Board and presented a document entitled "Owens Lake Master Project". The document is available on the DWP website and includes the following goals:

1. Control dust to obtain good air quality and reduce dust related risk to public health
2. Protect, create, and enhance habitat
3. Protect cultural resources, including Native American heritage sites
4. Promote area-wide economic development, including tourism and public use of Owens Lake
5. Explore opportunities for renewable energy development
6. Create a viewshed that is in harmony with the surrounding rural environment
7. Create a flexible adaptive management plan that allows future alterations in response to changing conditions in the Owens Valley and statewide
8. Reduce total lake-wide water use by at least 50%, through the stategic use of waterless or water efficient control measures and groundwater under Owens Lake for dust control

OTHER AGENCY INVOLVEMENT: Owens Lakebed Planning Committee and interested organization and individuals – DWP; GBUAPCD; SLC; CDFW; Inyo County Water Department, Inyo and Mono County Agriculture Department, and other County Departments; numerous tribes, business, community, agricultural, conservation, and other groups.

FINANCING: Resources from the County's general fund and Water Department budget are utilized to monitor DWP's activities and participate in related planning efforts.

APPROVALS	
COUNTY COUNSEL:	AGREEMENTS, CONTRACTS AND ORDINANCES AND CLOSED SESSION AND RELATED ITEMS *(Must be reviewed and approved by county counsel prior to submission to the board clerk.)*
AUDITOR/CONTROLLER:	ACCOUNTING/FINANCE AND RELATED ITEMS (M*ust be reviewed and approved by the auditor-controller prior to submission to the board clerk.)*
PERSONNEL DIRECTOR:	PERSONNEL AND RELATED ITEMS (Must be reviewed and approved by the director of personnel services prior to submission to the board clerk.)

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

Date: 4/29/13

Attachments: Previous County Correspondence

BOARD OF SUPERVISORS
COUNTY OF INYO

P. O. BOX N • INDEPENDENCE, CALIFORNIA 93526
TELEPHONE (760) 878-0373 • FAX (760) 878-2241
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KEVIN D. CARUNCHIO
Clerk of the Board

PATRICIA GUNSOLLEY
Assistant Clerk of the Board

May 11, 2010

Owens Lake Planning Committee
City of Los Angeles Department of Water and Power
111 North Hope Street
Los Angeles, CA 90012

RE: Owens Lake Planning Effort

Members of the Owens Lake Planning Committee:

On behalf of the Inyo County Board of Supervisors, I wish to relay to you, the Department of Water and Power (DWP), and the City of Los Angeles our continued support for dust mitigation efforts on Owens Lake. In addition, the Inyo County Board of Supervisors encourages productive planning for the Lakebed, and is actively participating in this most recent planning initiative. While our participation will represent a significant outlay of our resources, we believe it is necessary to achieve successful outcomes.

The County's participation in the planning process and its ability to consider supporting the final Plan is guided by the following parameters:

1. Water management and groundwater development by DWP on the Lakebed are intrinsically related to and regulated by the Inyo/Los Angeles Long-Term Water Agreement. We look forward to continuing our work to implement this important Agreement within the context of Owens Lake planning.

2. Dust and other particulate mitigation efforts are paramount to reduce the risk incurred by County residents to the adverse health effects of chronic exposure to Lakebed sediments, many of which are toxic. Particulate control is the primary purpose of DWP's activities on the Lakebed, and the County supports reasonable alternatives to achieve this goal.

3. The County supports efforts to reduce water utilized on the Lake that still achieve particulate mitigation.

4. Potential fiscal impacts from any Plan that results from this effort must be analyzed as part of the Plan. Any Plan that is not fiscally sound will most assuredly be ineffective. A thoroughly vetted cost estimate to implement the Plan, including costs incurred by the County (e.g., police, fire, roads, schools, etc.), must be prepared, and permanent funding sources to offset these costs must be identified.

5. We have designated Supervisors Cervantes and Arcularius and the County's Planning Director to serve on the Planning Committee being formed to guide this effort. Other staff will be available on an as-needed basis, schedules permitting. We requested that DWP staff provide regular updates to the full Board of Supervisors, and we hope you will support and participate in these briefings.

6. Development on the Lakebed may result in potential impacts to the environment, culture, and/or economy of the County. We expect that DWP will fully analyze such effects, as required by law, and offer our assistance in this endeavor.

7. The County and its citizens should experience net positive benefits from development here.

In addition to the parameters identified above, the Board wishes to remind the Committee that the Inyo County Board of Supervisors represents all of the interest groups and stakeholders on the Planning Committee and, as such, reserves the right as the Board of Supervisors to accept or reject any aspect of the Plan on behalf of our constituents.

Thank you. We look forward to working with you as we move forward with this important planning effort for Owens Lake. Please contact the County Administrative Officer, Kevin Carunchio, at (760) 878-0292 if you have any questions.

Sincerely,

Richard Cervantes

Supervisor Richard Cervantes, Chairperson
Inyo County Board of Supervisors

cc: Board of Supervisors
Kevin Carunchio, CAO
Randy Keller, County Counsel
Honorable Mayor of Los Angeles, Antonio Villaraigosa
Austin Beutner, Interim DWP General Manager
City of Los Angeles Board of Water and Power Commissioners
James B. McDaniel, DWP
Marin L. Adams, PE, DWP
Gina Bartlett, Center for Collaborative Policy
Ted Schade, Great Basin Unified Air Pollution Control District
Board of the Great Basin Unified Air Pollution Control District
State Lands Commission
Paul Thayer, State Lands Commission
John McCamman, Department of Fish and Game
Curt Taucher, Department of Fish and Game

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Clerk of the Board

PATRICIA GUNSOLLEY
Assistant Clerk of the Board

January 18, 2011

Owens Lakebed Planning Committee
City of Los Angeles Department of Water and Power
111 North Hope Street
Los Angeles, CA 90012

RE: Owens Lakebed Master Plan

Members of the Owens Lakebed Planning Committee:

On behalf of the Inyo County Board of Supervisors, I wish to relay to you, the Department of Water and Power (DWP), and the City of Los Angeles our continued support for dust mitigation efforts on Owens Lake. If you may recall, the Inyo County Board of Supervisors authorized the attached correspondence to the Planning Committee describing the parameters of the County's support of any final Plan. Based on recent discussion at the Planning Committee, I wish to clarify the County's position regarding several important issues.

First, we remind the Committee that the primary purpose of DWP's activities on the Lakebed is to minimize particulate emissions and protect the public health and safety. A tremendous amount of fresh water is being utilized towards this end, resulting in greater demand to extract water from elsewhere in Inyo County. We emphatically support minimizing the use of fresh water on the Lakebed, and we expect that some portion of any water saved on the Lakebed will be made available for other uses in the Owens Valley.

Second, we understand that the following two options are being considered to implement the Master Plan: (1) a Memorandum of Understanding (MOU) and (2) a Natural Communities Conservation Plan (NCCP). The Board supports selection of an MOU due to its greater flexibility. The Board is concerned about the adequacy of the NCCP's assurances, as well as legal implications related to the NCCP's authority over public and private lands within the County's jurisdiction.

Third, the potential fiscal implications of the Plan must be analyzed. We had understood that financial feasibility would be considered in developing the Plan, and we are concerned that decisions are being made regarding the Plan without adequate financial analysis. We remind the Committee that in order for the Plan to be successful, it must be financially feasible. To be effective, the financial impacts of the Plan should be considered in the planning process prior to beginning the environmental analysis.

Finally, the County adamantly opposes including any portion of the Lower Owens River Project (LORP), such as the Owens River Delta, within the Master Plan. Along with DWP, the County is responsible for the operation and success of the LORP. This responsibility is separate from DWP's dust mitigation obligations on the lakebed. The County is not prepared to manage the LORP as an adjunct to those lakebed mitigation obligations under an MOU or NCCP. Additionally, and as you may know, the County is responsible for 50 percent of the LORP's implementation cost. If any potion of the LORP is included within the Master Plan, the expense to the County to implement the LORP could increase in unpredictable and unsustainable amounts. The County will not undertake this obligation and will not participate in an agreement that includes the LORP. Minimally, to gain the County's participation would require a renegotiation by the County and DWP, and approval by the Superior Court, of the County's obligations regarding the LORP, and assurances that the objectives of the LORP will be attained.

Thank you. We look forward to continue working with you as we move forward with this important planning effort for the Owens Lakebed, and commend your diligence and hard work. Please contact the County Administrative Officer, Kevin Carunchio, at (760) 878-0292 if you have any questions.

Sincerely,

Susan Cash

Susan Cash
Chairperson, Inyo County Board of Supervisors

Attachment

cc: Board of Supervisors
Kevin Carunchio, CAO
Randy Keller, County Counsel
Honorable Mayor of Los Angeles, Antonio Villaraigosa
Ron Nichols, DWP General Manager
City of Los Angeles Board of Water and Power Commissioners
James B. McDaniel, DWP
Martin L. Adams, PE, DWP
Gina Bartlett, Center for Collaborative Policy
Ted Schade, Great Basin Unified Air Pollution Control District
Board of the Great Basin Unified Air Pollution Control District
State Lands Commission
Curtis Fossum, State Lands Commission
John McCamman, Department of Fish and Game
Kimberly Nicol, Department of Fish and Game

BOARD OF SUPERVISORS
COUNTY OF INYO

P. O. BOX N • INDEPENDENCE, CALIFORNIA 93526
TELEPHONE (760) 878-0373 • FAX (760) 878-2241
e-mail: pgunsolley@inyocounty.us

MEMBERS OF THE BOARD
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Clerk of the Board

PATRICIA GUNSOLLEY
Assistant Clerk of the Board

January 17, 2012

Owens Lakebed Planning Committee
City of Los Angeles Department of Water and Power
111 North Hope Street
Los Angeles, CA 90012

RE: Draft Owens Lakebed Master Plan

Members of the Owens Lakebed Planning Committee:

On behalf of the Inyo County Board of Supervisors, I wish to relay to you, the Department of Water and Power (DWP), and the City of Los Angeles our continued support for dust mitigation efforts on Owens Lake. Based upon our review of the draft Master Plan and our previous input, we offer the following comments:

1. The Master Plan should include a goal to work to provide water for areas of the Owens Valley that historically received water that has been diverted to the Lake. The ecosystem of the Owens Valley as a whole should not be compromised for the Lake micro-ecosystem. We suggest that this goal be included with priority on page 1-8 and 1-9 (Section 1.4.2), as well as discussed in more detail in pages 2-1 through 2-3 (Section 2.1) and Chapter 5 (pages 5-1 through 5-8, and particularly Section 5-2 on page 5-6).

2. The Master Plan should acknowledge the County's General Plan, Zoning Ordinance, Renewable Energy Ordinance, and other relevant planning policies and regulations within and adjacent to the Plan boundary. We suggest a new section or chapter to address relevant plans, regulations, and policies more broadly. Possible locations include a new section in Chapter 1 (pages 1-1 through 1-9) or a new chapter describing the regulatory background between existing draft Chapters 2 and 3. Reference to the Renewable Energy Ordinance should be included in Section 7.4 (pages 7-24 through 7-26). (Please see attachment).

3. The Master Plan should provide additional background regarding the Long-term Water Agreement (LTWA) between the County and the City of Los Angeles. We suggest that this issue be elaborated in Chapter 5 (particularly in Section 5.3 on page 5-7) and/or in a new section or chapter regarding the regulatory background described above (Please see attachment). The Master Plan should not conflict with the Long-term Water Agreement.

4. The Master Plan should address public services, utilities, and infrastructure to provide for development of master plan components. We suggest a new section or chapter to discuss these and other relevant issues, such as within Chapter 7 (pages 7-1 through 7-28) or in a new chapter between existing Chapters 7 and 8. (Please see attachment).

5. The Master Plan should provide for vector control, such as for mosquito control, for communities bordering the planning area. These issues have been kept under control by extensive monitoring and control programs of the Inyo/Mono Agriculture Commissioner, and require continuing attention to avoid public health and ecological harm. The Plan should address these potentially negative impacts resulting from it. We suggest discussing these topics in Chapter 6 in a new section or integrated into Sections 6.5.2 and 6.6 (pages 6-35 through 6-40). Additionally, section 8.6 should include a section specific to the potential of unforeseen mosquito and biting insect problems arising from management actions. These issues may present undue strain on local jurisdictions and present significant health-related issues to surrounding populations. Some mention of the potential of these species to diminish public trust resources, such as recreation, access to recreation, and agricultural use, should exist. We suggest including this in sections 7.1 and 7.5.

6. The Master Plan should contain further specifics with regard to invasive species, including:
   a. The Master Plan should note in section 3.4 that invasive plant species have been discovered within the planning area previously, and continue to pose a threat within the planning area. Indeed, a recent presentation by a scientist during an Owens Lake Committee gathering emphasized the potential for invasive plant colonization. The scientist expressed surprise that invasive plant species were not already a problem.
   b. The Master Plan should provide for invasive species management within the planning area. Funding for invasive species management and eradication is being reduced, and the Plan may result in impacts from invasive species to nearby lands that will increase costs to the County and/or other entities, such as within the Lower Owens River Plan area. We suggest discussing these topics in Chapter 6 in a new section or integrated into sections 6.5.3 or 6.6 (pages 6-36 through 6-40). Table 6-9, Vegetation Structure and Vegetation Richness row, Potential Management column, should be rephrased "Add *native* plant species to increase structural diversity w/in current compliance criteria".
   c. Some mention of the potential of these species to diminish public trust resources, such as recreation, access to recreation, wildlife habitat, agricultural use, and scenic amenities should exist. We suggest including this in sections 3.4, 7.1, 7.2, and 7.5.

7. The Master Plan should include financial feasibility analyses and identify funding opportunities. We suggest a new section in Chapter 8 to address financial feasibility and/or expanding Section 8.5 (pages 8-8 and 8-9).

8. Lands within the Lower Owens River Project (LORP) should continue to be excluded from the plan. They should, however, be recognized and any existing plans and/or regulations pertaining to them, such as the Inyo County, City of Los Angeles, Long Term Water Agreement, should be followed. We suggest clarifying these points on pages 1-5 and 1-6 (Sections 1.3.1- 1.3.2 and Figure 1-3).

9. While we previously indicated that the County's property should not be included within the plan, we now believe that the inclusion of this property may be appropriate and wish to analyze the issue further. We are concerned that the Plan may impact biological and/or other resources on our property, and believe that these issues need to be clarified.

10. The plan should encourage economic vitality on the Lakebed, including for current and future uses. We suggest expanding the fourth bullet on page 1-9 (lines 6 and 7, Section 1.4.2) as well as the discussion in Sections 7.5 and 7.6 (pages 7-26 through 7-28). (Please see attachment).

Thank you. We look forward to continue working with you as we move forward with this important planning effort for the Owens Lake, and commend your diligence and hard work. Please contact the County Administrative Officer, Kevin Carunchio, at (760) 878-0292 if you have any questions.

Sincerely,

Marty Fortney

Supervisor Marty Fortney, Chairperson
Inyo County Board of Supervisors

Attachment

cc: Board of Supervisors
Kevin Carunchio, CAO
Randy Keller, County Counsel
Honorable Mayor of Los Angeles, Antonio Villaraigosa
Ron Nichols, DWP General Manager
City of Los Angeles Board of Water and Power Commissioners
James B. McDaniel, DWP
Martin L. Adams, PE, DWP
Gina Bartlett, Center for Collaborative Policy
Board of the Great Basin Unified Air Pollution Control District
State Lands Commission
Curtis Fossum, State Lands Commission

Attachment
(Numbers correspond to numbering in letter)

2. Inyo County has several relevant plans, accompanying policies and regulations that are geographically within or adjacent to the Owen's Lake Master Plan (OLMP) Area. These include the County's General Plan and Zoning and Renewable Energy Ordinances, the Lower Owens River Plan, the Inyo County City of Los Angeles, Long Term Water Agreement, as well as, programs relating to agriculture and pest control. The OLMP efforts should not conflict or compete with these already established plans, regulations and programs.

- Inyo County General Plan. The OLMP area includes General Plan designations of: State and Federal Lands (SFL); Rural Protection (RP); Natural Resources (NR); Agriculture (A) and Residential Rural High Density (RRH). General Plan land use designations are the roadmap to the County's vision of how it wants to develop and they were vetted through a full public process. Major deviations from this vision, by promoting activities that do not agree with the general plan designations, could change the character of the County envisioned by its citizens.

  The County's General Plan also contains policies related to Economic Development, Conservation/Open Space, Biological Resources and Public Safety that relate to activities recommended in the OLMP.

  - Economic Development: the General Plan goals for economic development emphasize the County's many opportunities for tourism. The OLMP goals should help to promote the Lake and surrounding area as a visitor destination. Dust mitigation activities should be conducted in a way that does not make the lake, or areas surrounding the lake, undesirable to visitors.

  - Conservation/Open Space (Agriculture): the General Plan establishes goals to encourage and protect agricultural activities in the County. The OLMP should not include program elements that might prohibit current, or limit future, agriculture practices.

  - Conservation/Open Space (Water): the General Plan establishes goals for sustainable ground water withdrawal and maintaining water resolutions. Water that is used to implement the goals of the OLMP must follow the intent and specific regulations pertaining to water use in Inyo County.

  - Biological Resources: the General Plan has a specific goal to work to restore the Owen's River channel. Dust mitigation programs for the lake, identified in the OLMP, need to work in conjunction with current and future river restoration programs.

- Public Safety (Air Quality): the general plan establishes goals to reduce emissions from the lake. The County supports the efforts of the OLMP in dust mitigation programs and encourages the OLMP to incorporate the activities listed on Table 9-1 in the General Plan.

- Inyo County Zoning Ordinance. The OLMP area includes Zoning Designations of: Open Space, with a minimum 40-acres (OS-40) and Rural Residential (RR). The County's zoning designations are the tools to implement the vision established by the General Plan. Deviating from the land uses designated by the zoning ordinance could change the character of the County envisioned by its citizens.

- Inyo County's Renewable Energy Ordinance. The OLMP includes the use of renewable energy facilities as a possible dust mitigation measure. At the end of chapter 7.4, the County's Renewable Energy Ordinance - Title 21 should be introduced. Language in the OLMP that encourages renewable energy development as a means to dust mitigation should follow Title 21.

3. Recognition of the Long Term Water Agreement between Inyo County and the City of Los Angeles is necessary for any water used for mitigation suggested in the OLMP. Some recommended language for additional information pertaining to the Long Term Water Agreement follows:

The extensive water resources of the Eastern Sierra attracted engineers from the City of Los Angeles to Inyo County in the early 1900's. Shortly thereafter, Los Angeles began land purchases to acquire water rights, and in 1913 the Los Angeles Aqueduct was completed to export water from the Owens Valley. This led to the long standing dispute between L.A. and local residents over the impacts of exporting surface and groundwater on the valley's environment and economy. In 1970, L.A. completed a second aqueduct to increase water export primarily by increasing surface water diversion in Owens River and Mono Lake watersheds, increasing groundwater pumping in the Owens Valley, and reducing the amount of agricultural land supplied with water for irrigation. Concern about the detrimental effects of the project prompted Inyo County to sue L.A. for failing to comply with CEQA. In 1991, Inyo County and Los Angeles attempted to settle the litigation by developing a long term groundwater management plan for the Owens Valley referred to as the Inyo/Los Angeles Long Term Water Agreement. The Water Agreement includes provisions to jointly manage groundwater pumping, to maintain irrigated agriculture, and to implement numerous mitigation projects. The goal for pumping management was to prevent adverse changes to groundwater-dependent vegetation in the Owens Valley while providing a reliable water supply for use in the County and for export to Los Angeles. The Water Agreement also includes provisions for financial assistance to the County, mechanisms for dispute resolution, and restrictions on the future expansion of the Los Angeles Aqueduct capacity. The Water Agreement was finalized by the courts in 1997.

4. The OLMP needs to include language that addresses public services and infrastructure needs to implement the plan components. An analysis of how much additional service obligations Inyo County will have has a result of the OLMP activities needs to be included. For example: will the use of County roads to implement plan elements lead to their degradation, and if so, will there be opportunities for compensation to the County? Will the increase of activities on the lake create a need for more emergency responders, and if so, will there be opportunities for compensation to the County? The OLMP calls for an increase of visitors to the lake: will any part of the cost for amenities for visitors, such as parking, trails, restroom facilities and etc. be expected to be shared by the County?

9. Promote economic development in the area that includes, but is not limited to tourism, public access and educational opportunities. Traditional economic drivers that have historically existed on the lake, such as mining and agriculture practices, primarily grazing, should also be encouraged.

For Clerk's Use Only:
AGENDA NUMBER

25

AGENDA REQUEST FORM

BOARD OF SUPERVISORS
COUNTY OF INYO

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

FROM: AUDITOR-CONTROLLER/COUNTY COUNSEL

FOR THE BOARD MEETING OF: May 7, 2013

SUBJECT: Approve agreements with Jones Hall and Brandis Tallman

DEPARTMENTAL RECOMMENDATION:

A) Request your Board accept the terms of engagement for bond counsel from Jones Hall to provide legal services to the County of Inyo during the CalPERS Refunding Loan process in a not to exceed amount of $30,000 and authorize the County Administrator to sign the engagement letter; and

B) Request your Board approve an agreement between the County of Inyo and Brandis Tallman LLC for placement agent service during the CalPERS Refunding Loan process in a not to exceed amount of $35,000 and authorize the County Administrator to sign the agreement.

SUMMARY DISCUSSION:

On March 19, 2013, the Board was presented with a workshop regarding the refunding of the CalPERS side fund debt through private placement. During this workshop, the Board expressed an interest in seeing this process move forward and authorized staff to engage the services of Brandis Tallman LLC to select a lender and form a financing team. The finance team, which consists of the County Administrator, Acting Auditor-Controller, Treasurer/Tax-Collector, and County Counsel, has moved forward to engage the services of Brandis Tallman for placement agent services and Jones Hall for Bond Counsel.

Jones Hall will assist the County with any legal matter related to the refunding process and prepare all resolutions, agreements and other legal documents necessary to deliver the loan agreement. Bond counsel will also be assisting the County with the Superior Court validation process, which is a requirement of all debt limit entities (cities, counties, and school districts). Once the validation process is complete, the judgment rendered is forever binding and conclusive. The fees for services provided by Jones Hall are contingent upon the successful sale and delivery of the loan agreement.

Similar to Jones Hall, Brandis Tallman will provide consulting services to the County as the placement agent to assist in the refunding process. Their expertise in this area will help the County and the finance team develop a financing schedule, monitor the overall process, compute and structure the debt issuance, and maximize the County's financing flexibility and capital market access. The fees for services provided by Brandis Tallman are contingent upon the closing of the transaction.

ALTERNATIVES:

Your Board could choose not to approve the service agreements. However, that is not recommended since they are necessary to complete the refunding process and the County would continue to pay CalPERS at 7.75% interest rate.

FINANCING:

The funding for both of these agreements would be included in the amount of the total refunding and would be paid directly from the loan proceeds. These fees are also contingent upon the closing of the financial transaction.

APPROVALS	
COUNTY COUNSEL:	**AGREEMENTS, CONTRACTS AND ORDINANCES AND CLOSED SESSION AND RELATED ITEMS** *(Must be reviewed and approved by County Counsel prior to submission to the Board Clerk.)* Approved: 5-1-13 Date:
AUDITOR/CONTROLLER:	**ACCOUNTING/FINANCE AND RELATED ITEMS** *(Must be reviewed and approved by the Auditor/Controller prior to submission to the Board Clerk.)* Approved: 5/1/13 Date:
PERSONNEL DIRECTOR:	**PERSONNEL AND RELATED ITEMS** *(Must be reviewed and approved by the Director of Personnel Services prior to submission to the Board Clerk.)* Approved: _____ Date:

DEPARTMENT HEAD SIGNATURE:
(Not to be signed until all approvals are received) _____ Date: 5-1-13

DEPARTMENT HEAD SIGNATURE:
(Not to be signed until all approvals are received) Amy Shepherd Date: 5-1-13

AGREEMENT FOR
PLACEMENT AGENT SERVICES

COUNTY OF INYO

This Agreement, made and entered into as of May 7 2013, by and between the County of Inyo (the "County") and Brandis Tallman LLC ("BTLLC") is for the purpose of establishing BTLLC as Placement Agent for the 2013 Refunding of the County's CalPERS Side Fund (the "Refunding"). Our fee for services for this financing will not exceed $35,000 and is contingent upon closing of the transaction. The County reserves the right to terminate this Agreement or reject the proposed financing at any time.

SCOPE OF SERVICES

BTLLC shall perform all the duties and services specifically set forth herein and shall provide such other services as it deems necessary or advisable, or are reasonable and necessary to accomplish the intent of the County in a manner consistent with the standards and practices of placement agents prevailing at the time such services are rendered to the County.

The County may, with the concurrence of BTLLC, expand this Scope of Services to include any additional services not specifically identified within the terms herein.

DEBT ISSUANCE SERVICES

Insofar as BTLLC is providing services which are rendered only to the County, the overall coordination of the financing shall be such as to minimize the costs of the transaction coincident with maximizing the County's financing flexibility and capital market access. BTLLC's proposed services may include, but shall not be limited to, the following:

- Develop Financing Schedule
- Monitor the Transaction Process
- Compute Sizing and Design Structure of the Debt Issue
- Compilation/Drafting of Disclosure Reports for Private Placement Distribution
- Conduct Marketing and Distribution
- Structure Financing Terms
- Provide Financial Advice to the County Relating to Financing Documents
- Provide Pre-Closing and Closing Assistance

Specifically, BTLLC will:

1. <u>Develop the Financing Schedule.</u>

BTLLC shall take the lead role in preparing a schedule and detailed description of the interconnected responsibilities of each team member and update this schedule, with refinements, as necessary, as the work progresses.

2. **Monitor the Transaction Process.**

BTLLC shall have primary responsibility for the successful implementation of the financing strategy and timetable that is adopted. BTLLC shall coordinate (and assist, where appropriate) in the preparation of the legal and disclosure documents and shall monitor the progress of all activities leading to the sale of the Refunding. BTLLC shall prepare the timetables and work schedules necessary to achieve this end in a timely, efficient and cost-effective manner and will coordinate and monitor the activities of all parties engaged in the financing for the Refunding.

3. **Compute Sizing and Design Structure of Debt Issue.**

BTLLC shall work with the County's staff to design a financing that is consistent with the County's objectives and that reflects current conditions in the capital markets. BTLLC will perform numerical iterations to provide examples of financing scenarios, prepare sources and uses of funds, debt service schedules and cash flow projections, as needed. BTLLC will also prepare pro formas and structure debt consistent with existing covenants and requirements.

4. **Compilation/Drafting of Disclosure Reports (as necessary and appropriate) for Distribution to Sophisticated Investors.**

BTLLC will be responsible, as deemed appropriate by bond counsel and the County, to compile and draft disclosure information relating to the security of the Refunding for distribution to sophisticated investors.

5. **Conduct Marketing and Distribution.**

BTLLC shall provide regular summaries of current market conditions, trends in the market and how these may favorably or unfavorably affect the County's proposed financing. We will provide feedback from investors and analyze proposed rates and terms.

6. **Structure Financing Terms.**

Our goal is to achieve the best possible financing terms (which usually translates into the lowest cost of borrowing). These terms will be weighed and considered against what the investor will accept (and at what price) and what works best for the County. Financing terms can include final maturity, call provisions, interest rate reset structure and additional bonds consideration.

7. **Provide Financial Advice to the County Relating to Financing Documents.**

BTLLC shall assist the consultants, bond counsel and/or other legal advisors in the drafting of the respective financing resolutions, notices and other legal documents. In this regard, BTLLC shall monitor document preparation for a consistent and accurate presentation of the recommended business terms and financing structure, it being specifically understood however that BTLLC's services shall in no manner be construed as engaging in the practice of law.

8. **Provide Pre-Closing and Closing Activities.**

BTLLC shall assist in arranging for the closing. BTLLC shall assist bond counsel in assuming responsibility for such arrangements as they are required, including arranging for or monitoring the progress of final delivery of the securities and settlement of the costs of issuance.

Confirming discussions with the County regarding risk, BTLLC represents the following:

a. we have no conflict of interest with the County, such as a third party payment or profit-sharing with investors in connection with this financing;
b. we have made every effort to have a reasonable basis for all information provided and to present it in a clear, accurate and not misleading presentation;
c. it must be noted that as a broker/dealer, our relationship with an issuer is basically an arm's-length commercial transaction and we may have financial and other interests that differ from the County.
d. we are not acting as a municipal advisor, financial advisor or fiduciary to the County or any other person or entity and have not assumed any advisory or fiduciary responsibility to the County with respect to the transaction contemplated hereby and the discussions, undertakings and proceedings leading thereto.
e. the only obligations we have to the County with respect to the transaction contemplated hereby expressly are set forth in this Agreement, except as otherwise provided by applicable rules and regulations of the SEC or the rules of the MSRB.
f. the County has consulted its own legal, accounting, tax, financial and other advisors, as applicable, to the extent it has deemed appropriate in connection with the transaction.

The County and BTLLC have each caused this Agreement to be executed by their duly authorized officers as of the date first above written.

BRANDIS TALLMAN LLC	COUNTY OF INYO
By_____	By_____

JONES HALL

650 California Street
18th Floor
San Francisco, CA 94108
t. 415.391.5780
f. 415.391.5784

April 23, 2013

Mr. Kevin Carunchio
County Administrative Officer
PO Drawer O
Independence, California 93526

RE: Proposed 2013 CalPERS Refunding Loan Agreement
Terms of Engagement of Bond Counsel

Dear Kevin:

The County of Inyo (the "County") proposes to enter into the 2013 CalPERS Refunding Loan Agreement (the "Loan Agreement") to refinance the County's CalPERS side fund obligations with respect to its retired safety employees. As a condition precedent to the execution and delivery of the Loan Agreement, the validity of the Loan Agreement must be confirmed by a judicial validation action pursuant to the provisions of Sections 860 *et seq.* of the California Code of Civil Procedure. The County desires that we assist the County, as bond counsel, in the preparation and conducting of the proceedings for the judicial validation and the execution and delivery of the Loan Agreement.

Our engagement as bond counsel will require us to provide to the County all services customarily provided by bond counsel, including the following:

(a) Confer and consult with the County staff and the other members of the financing team as to any legal matters relating to the proceedings for the execution and delivery of the Loan Agreement.

(b) Attend such meetings of the County and any staff or administrative meetings at which any financing proceedings are to be discussed deemed necessary for the proper planning of the proceedings, as requested by the County.

(c) Prepare all resolutions, agreements and other legal documents necessary to properly authorize the execution and delivery of the Loan Agreement.

(d) Prepare and provide all closing documents required to accompany the delivery of the Loan Agreement.

(e) Assemble and provide a complete transcript of the conduct of the legal proceedings in sufficient quantity to provide each significant participant with a copy.

(f) Prepare validation pleadings to secure an uncontested Superior Court judgment as to the validity of the Loan Agreement and related proceedings.

(g) Subject to completion of proceedings to our satisfaction, provide our legal opinion approving in all regards the legality of all proceedings for the authorization, execution, and delivery of the Loan Agreement.

(h) Confer and consult with County officials with regard to procedural questions which may arise during the period of payment of the Loan Agreement.

(i) Provide any other services reasonably requested of bond counsel and not set forth above

Our fee as bond counsel, including expenses, shall be the amount of $30,000 the payment of which shall be contingent upon the successful sale and delivery of the Loan Agreement. Our fee for assisting in obtaining the judicial validation of the Loan Agreement shall be the additional amount of $7,500, the payment of which shall be contingent only upon the entry of the validation judgment by the Inyo County Superior Court. In addition, we shall be reimbursed for the cost of legal publications relating to the judicial validation proceedings.

It should be noted that our fee of $7,500 applies only in the event of an uncontested judicial validation proceedings. In the event that a third party shall file an answer or other responsive pleading in the proceedings, it will be necessary for the County to determine, at that time, whether or not to continue the proceedings and, if the determination is to proceed, to engage attorneys experienced in conducting contested litigation.

Needless to say, if you have any questions or would like to discuss any of the foregoing, please give me a call – Andy Hall (415) 391-5780. Upon approval by the County, would you please, at your convenience, fax or mail a copy of this letter to us showing your approval. Our fax number is (415) 391-5784.

We certainly look forward to working with you and the others at the County on this refinancing.

Very truly yours,

Andy Hall

Andrew C. Hall, Jr.

Approved:

COUNTY OF INYO

By _____
Kevin Carunchio

For Clerk's Use Only:
AGENDA NUMBER
26

AGENDA REQUEST FORM
BOARD OF SUPERVISORS
COUNTY OF INYO

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

FROM: AUDITOR-CONTROLLER

FOR THE BOARD MEETING OF: May 07, 2013

SUBJECT: Request to extend temporary employment of an Account Clerk III.

DEPARTMENTAL RECOMMENDATION:
Request that your Board authorize the Auditor-Controller to extend the temporary employment of one Account Clerk III at Range 051PT step A ($14.21/hr.), for a period not to exceed two months starting June 3, 2013.

CAO RECOMMENDATION:

SUMMARY DISCUSSION:
In November 2012, the Auditor's office received a resignation for their full time Account Clerk. This position is an essential part of the Auditor's office daily functions. Not only does this position perform all of the general clerical work, such as distributing mail, tracking agenda requests, preforming entry level accounting, and disbursing over a hundred checks a day, they are the central hub of the office.

The Auditor's office choice to postpone filling the position with a permanent employee right away so we could explore re-organization options. In the interim, a temporary position was filled in the beginning of December 2012 to keep operations moving along. On June 2nd 2013, the approved six month temporary position will expire leaving the Auditor's office with a third vacancy. Given the recent resignation of the Auditor-Controller and the pending status of a replacement, it may be premature to fill the position permanently. Approving a two month extension to the current temporary position would allow more time to evaluate the current structure of the office and would prevent an additional vacancy in the office.

ALTERNATIVES:
Your Board could choose not to extend the temporary Account Clerk III position. However, denying this request would result in a significant shortage of staff in our office and a continued workload increase to the remaining Auditor's staff.

OTHER AGENCY INVOLVEMENT:
Personnel

FINANCING:
There is sufficient salary savings in the Auditor's budget (010400) in the salaries and benefits object codes to fund this temporary position.

APPROVALS	
COUNTY COUNSEL:	**AGREEMENTS, CONTRACTS AND ORDINANCES AND CLOSED SESSION AND RELATED ITEMS** *(Must be reviewed and approved by County Counsel prior to submission to the Board Clerk.)* N/A Approved: _____ Date: _____
AUDITOR/CONTROLLER:	**ACCOUNTING/FINANCE AND RELATED ITEMS** *(Must be reviewed and approved by the Auditor/Controller prior to submission to the Board Clerk.)* Amy Shepherd Approved: ✓ Date: 5/1/13
PERSONNEL DIRECTOR:	**PERSONNEL AND RELATED ITEMS** *(Must be reviewed and approved by the Director of Personnel Services prior to submission to the Board Clerk.)* Sue B Approved: ✓ Date: 4/30/13
BUDGET OFFICER:	**BUDGET AND RELATED ITEMS** *(Must be reviewed and approved by the Budget Officer prior to submission to the Board Clerk.)* N/A Approved: _____ Date: _____

DEPARTMENT HEAD SIGNATURE: Amy Shepherd Date: 5/1/13

(Not to be signed until all approvals are received)

For Clerk's Use Only:
AGENDA NUMBER

27

AGENDA REQUEST FORM

BOARD OF SUPERVISORS
COUNTY OF INYO

☐ Consent X Departmental ☐ Correspondence Action ☐ Public Hearing

☐ Scheduled Time for ☐ Closed Session ☐ Informational

FROM: County Administrator

FOR THE BOARD MEETING OF: May 7, 2013

SUBJECT: Filling Unexpired Term for Office of Auditor-Controller

DEPARTMENTAL RECOMMENDATION:

Request your Board provide direction to staff regarding how to proceed with filling the unexpired term for the Office of Auditor-Controller.

SUMMARY DISCUSSION:

On April 16, 2013, your Board considered options for filling the vacancy created by the, at-the-time, anticipated resignation of the Auditor-Controller, Leslie Chapman. Your board directed that the matter be brought back at today's meeting. Those options presented to your Board were, and are again presented in the attached PowerPoint presentation.

Ms. Chapman submitted her resignation effective April 24, 2013, and since that time, Assistant Auditor-Controller, Amy Shepherd is serving as the Acting Auditor-Controller. Preparation of the FY 2013-2014 County Budget, as well as financial reports due to the State Controller's Office, top the many reason's that appointing an individual to fill the remainder of Ms. Chapman's term is somewhat urgent.

If your Board decides to 'recruit' for the position, it is recommended that the recruitment be locally focused and only last a couple weeks, so that your Board can, in public, interview candidates and make an appointment no later than May 28th. The recruitment process could be as simple as soliciting letters of interest from qualified individuals and/or requiring the submittal of a County employment application and resume.

Staff awaits your Board's direction.

ALTERNATIVES:

Your Board could choose not to provide direction. This is not recommended due to the need to provide stability and structure in the office until a new Auditor-Controller is elected and takes office. Delaying taking action to fill the position will place undue hardship on the County's upcoming FY 2013-2014 Budget process, as well as compliance with State reporting requirements for which the Auditor-Controller is responsible.

OTHER AGENCY INVOLVEMENT:

N/A

FINANCING:

There is sufficient funding in the approved County Budget to pay the Auditor-Controller's current salary as established by your Board. Your Board may wish to change the salary for the office while it is vacant, or before propsetive candidates pull their papers.

APPROVALS	
COUNTY COUNSEL:	AGREEMENTS, CONTRACTS AND ORDINANCES AND CLOSED SESSION AND RELATED ITEMS *(Must be reviewed and approved by county counsel prior to submission to the board clerk.)* Approved: ✓ Date 5-1-13
AUDITOR/CONTROLLER: N/A	ACCOUNTING/FINANCE AND RELATED ITEMS (M*ust be reviewed and approved by the auditor-controller prior to submission to the board clerk.)* Approved:_____ Date_____
PERSONNEL DIRECTOR:	PERSONNEL AND RELATED ITEMS (Must be reviewed and approved by the director of personnel services prior to submission to the board clerk.) Approved: ✓ Date 05-01-2013

DEPARTMENT HEAD SIGNATURE:
(Not to be signed until all approvals are received) Date: 05-01-2013
(The Original plus 20 copies of this document are required)

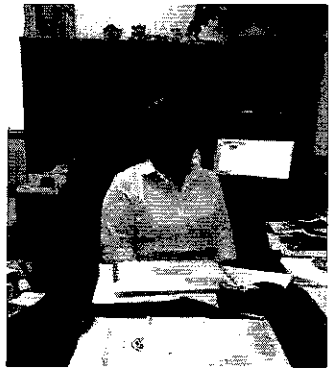
County Auditor-Controller

Consideration of appointment and other options

Status

- March 19, 2013: Auditor-Controller notified Board that she was in contract negotiations with Mono County for its Director of Finance job.
- **Resignation pending . . .**
- Mono Board acting on contract today?
- **Anticipated effective date of resignation: Wednesday, April 24, 2013.**

Thank You, Leslie!



Stay if it pleases you, go if you must!

You're Awesome!

What now?

- Assistant Auditor-Controller becomes Acting Auditor-Controller by virtue of position
- Assistant remains Acting Auditor until Board of Supervisors appoints an individual to complete the current Auditor's term, or until next regularly scheduled election of County officers (June, 3, 2014)

Options to Consider

Do nothing?

- Government Code Section 25304: *"The Board of Supervisors shall fill by appointment all vacancies that occur in any office filled by the appointment of the board and elective county officers ..."*
- Taxpayer Writs requiring Boards to make appointments.

Decline to appoint (like Ventura)?

- Assistant Auditor Controller would remain Acting Auditor-Controller until first Monday in January after next election
- Will need to consider filling vacant Management Analyst position
- Future budgets might not sustain all three positions if someone other than Assistant elected to office

Options to Consider

Make appointment

- To fulfill remainder unexpired term; until January 2015
- Appointment must be made in Open Session
  - If Board chooses to interview prospective appointees, interviews must be conducted in public, too.
- Irrevocable
- If Assistant appointed, will need to backfill position

Fill a Finance Director position instead?

- Must be created by Ordinance of Board of Supervisors
- Ordinance must be submitted to, and approved by a vote of the people (Nov. 2013)
  - Elective or Appointed
  - Effective on expiration of elected terms
- **Not a short-term option**

Other options?

Special Election?

- Does not appear to be allowed.

Can Board adjust Auditor's salary?

- Cannot change salary (reduce, or alter terms of compensation)after person has filed to run for office.
- Can change the amount or terms of compensation when vacant or before filing period

Appointment Options

- Appoint
  - Simply discuss candidates; make public appointment
- Recruit
  - Seek applications or letters of interest
  - Publicly interview applicants, or top applicants
  - Make appointment in Open Session

- County Requirements: A baccalaureate degree with major in accounting or its equivalent
- State Requirements (not adopted by County)
  - CPA; or,
  - B.A. in Accounting with 3-years senior fiscal management position (county, city, non-profit, firm); or,
  - Certified Professional Internal Auditor; or,
  - 3-years as County Auditor's Chief Deputy or Chief Assistant

Next Election: June 3, 2014

Candidate Filing	
Signature in Lieu of Filing Fee Period	Dec 27, 2013-Feb 20, 2014
Declaration of Candidacy Period	Feb 10-Mar 7, 2014
Nomination Paper Period	Feb 10-Mar 7, 2014
Declaration of Candidacy Extension Period if Incumbent Does Not File	Mar 8-Mar 12, 2014
Primary Election Day	June 3, 2014
General Election Day if no candidate received 50%+1 in the Primary	November 4, 2014
Swearing In Date	January 5, 2015

Summary

Short-Term

1. Do nothing
   - May not be option
   - Fill Mngt Analyst?
2. Make Appointment
   - May need to backfill Assistant
3. Recruit / Interview / Appoint
   - May need to backfill Assistant

Longer-Term

1. Regular Election.
2. Ordinance and vote to create Finance Director position (Nov. 2013)?
3. Adjust salaries, or computation of compensation?

For Clerk's Use Only:
AGENDA NUMBER
28

AGENDA REQUEST FORM
BOARD OF SUPERVISORS
COUNTY OF INYO

☐ Consent ☒ Departmental ☐ Correspondence Action ☐ Public Hearing

☐ Scheduled Time for ☐ Closed Session ☐ Informational

FROM: Parks and Recreation
By: Teresa Elliott

FOR THE BOARD MEETING OF: May 7, 2013

SUBJECT: Request to Hire One Seasonal Part Time Maintenance Helper for the Parks and Recreation Dept.

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

A) The availability of funding for the requested position comes from the General Fund, concurred with by the Deputy County Administrator and Auditor Controller; and

B) Where if the County was facing layoffs, the position could be filled by internal candidates meeting the qualifications for the position, but since no layoffs are pending, an open recruitment would be appropriate to ensure qualified applicants apply, and

C) Approve the hiring of one (1) seasonal Park and Campground Maintenance Helper, Range PT842 ($11.55-$14.05), which will begin June 1 and work through October 30.

D) Contingent upon Board approval of future budgets.

SUMMARY DISCUSSION:
Staff recommends filling the seasonal park and campground maintenance helper position from an established applicant list developed through an open recruitment.

ALTERNATIVES: Your Board could choose not to authorize filling the vacant position; however, this is not recommended, as the functionality of the Parks and Recreation programs will suffer. When a seasonal maintenance helper position is vacant the park rangers require increased overtime and are required to work their scheduled days off to maintain the general operating of the parks and campgrounds which are very busy at that time of year.

OTHER AGENCY INVOLVEMENT: Personnel

FINANCING: Funding for this position is included in the FY 2012-2013 Parks and Recreation Budget 076998 object code 5012.

APPROVALS

COUNTY COUNSEL:	AGREEMENTS, CONTRACTS AND ORDINANCES AND CLOSED SESSION AND RELATED ITEMS *(Must be reviewed and approved by county counsel prior to submission to the board clerk.)* Approved: _____ Date _____
AUDITOR/CONTROLLER:	ACCOUNTING/FINANCE AND RELATED ITEMS (*Must be reviewed and approved by the auditor-controller prior to submission to the board clerk.)* Approved: YES Date 4/26/13
PERSONNEL DIRECTOR:	PERSONNEL AND RELATED ITEMS (Must be reviewed and approved by the director of personnel services prior to submission to the board clerk.) Approved: ✓ Date 4/25/13

DEPARTMENT HEAD SIGNATURE: Pam Glennaty Date: 4/30/13
(Not to be signed until all approvals are received)
(The Original plus 20 copies of this document are required)

For Clerk's Use Only:
AGENDA NUMBER

29

AGENDA REQUEST FORM

BOARD OF SUPERVISORS
COUNTY OF INYO

☐ Consent ☒ Departmental ☐ Correspondence Action ☐ Public Hearing

☐ Scheduled Time for ☐ Closed Session ☐ Informational

FROM: Integrated Waste Management

FOR THE BOARD MEETING OF: May 7, 2013

SUBJECT:
Solid Waste Collection and Hauling Rate Increase Request for Residential and Commercial Service from Bishop Waste and Preferred Septic for Permit Areas A & B of Inyo County.

DEPARTMENTAL RECOMMENDATION:
Requests the Board consider separate requests from Bishop Waste and Preferred Septic and provide direction to staff including considering authorization for the Integrated Waste Management Program to perform an independent financial audit of Bishop Waste and Preferred Septic to verify and document the appropriateness of current fees in order to evaluate the requests from waste hauler operators for a potential increase in hauling floor rate.

SUMMARY DISCUSSION:
Attached you will find written requests from both Preferred Septic and Disposal, and Bishop Waste requesting an increase in the waste service floor rate. Preferred Septic is requesting a floor rate increase of 35% for Residential, 30% for Commercial and 20% for Roll-Off service, Bishop Waste is requesting a flat 6% increase in the floor rate for all commercial and residential solid waste collection and hauling. Both of these companies provide waste hauling services in Areas A & B. If approved the rate for a weekly pickup of a standard waste cart would go up from $18.79 to $25.37 as requested by Preferred Septic or the cost asked for by Bishop Waste would increase to $19.92. The rate schedule and potential changes are shown in Exhibits B, C and D.

As set forth in the Inyo County Code Section 7.08.150 "Charges", see Exhibit A, the Board of Supervisors shall approve a fair and equitable rate schedule for waste hauler charges. County Code also states that "Change in rates may be authorized by the board after an investigation and recommendation of the director." It would be necessary for Integrated Waste Management to hire an outside auditor to perform an investigation of this scope in order to provide a recommendation to the director about the need for a rate increase.

By performing an audit of the waste haulers, Integrated Waste Management would determine if the current rate schedule is effective in providing the conditions set forth in Inyo County Code Section 7.08.150 "Charges" part D.

ALTERNATIVES:
Your board could choose to grant a rate increase without the audit in accordance with either waste hauler request, or as your Board deems appropriate. The Board may also take no action thereby leaving the floor rates in place which allows the waste haulers to charge a higher rate if floor rate is too low to provide current services.

OTHER AGENCY INVOLVEMENT:
County Counsel

FINANCING:
The costs associated to perform an independent financial audit of the waste haulers would be in the fiscal year 2013/14 Integrated Waste Management Program Budget or the Board could require that the waste haulers pay for the financial auditing.

APPROVALS	
COUNTY COUNSEL:	AGREEMENTS, CONTRACTS AND ORDINANCES AND CLOSED SESSION AND RELATED ITEMS *(Must be reviewed and approved by county counsel prior to submission to the board clerk.)* Approved: ✓ Date 5·1·13
AUDITOR/CONTROLLER:	ACCOUNTING/FINANCE AND RELATED ITEMS (*Must be reviewed and approved by the auditor-controller prior to submission to the board clerk.)* Approved:_____ Date_____
PERSONNEL DIRECTOR:	PERSONNEL AND RELATED ITEMS (Must be reviewed and approved by the director of personnel services prior to submission to the board clerk.) Approved:_____ Date_____

DEPARTMENT HEAD SIGNATURE:
(Not to be signed until all approvals are received) Pam Mennaty Date: 5/1/13
ARF Waste Hauler Rate Increase 2013.doc

EXHIBIT A
WASTE HAULER CHARGES
COUNTY OF INYO CODE

7.08.150 Charges.

A. The board shall approve fair and equitable rate schedules as required for the different areas. These charges shall be based on the type of container, number of separate pick-up points at the place of collection, location, geographical terrain and the type of collection (commercial, industrial, or residential). A proposed inclusive rate schedule shall be filed with the department by each permit holder as a condition of application for a permit or a renewal thereof.

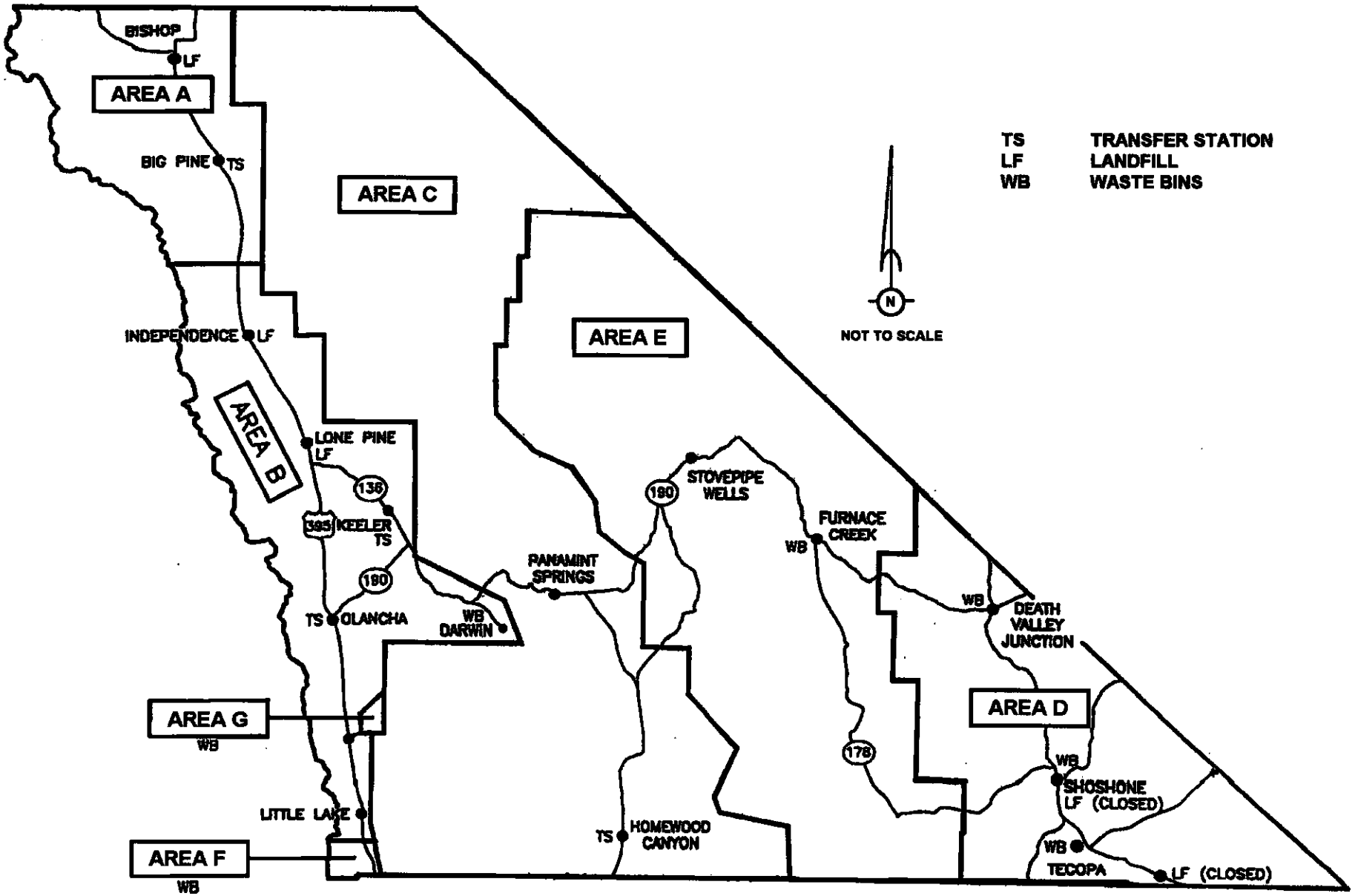
B. The director may, if deemed necessary, require a permit holder or applicant for a permit to provide a verified current operating expense report to ascertain if fees charged subscribers are reasonable, nondiscriminating and uniform for equal service as a condition of application for a permit or a renewal thereof.

C. Application for rate changes shall be made in writing to the director. Change in rates may be authorized by the board after an investigation and recommendation of the director.

D. The board may establish rate schedules for areas if, after an investigation, it finds that the rates or rate changes requested by an applicant or permittee are unreasonable or substantially higher than those charged generally under similar service requirements and for the same or similar quality of service. In determining whether rates are reasonable, the board shall give due consideration to:

1. The investment in equipment and facilities;
2. The services of management;
3. Local wage scales;
4. The concentration of customers in the area serviced;
5. Methods of storage, collection and transportation;
6. Length of haul to disposal site;
7. A reasonable return to the owner of the business; and
8. The future service demands of the area which must be anticipated in equipment, facilities and personnel.

E. Complaints of discrimination and/or overcharging by a customer shall be submitted in writing to the department, and the director will conduct an investigation. The results of the investigation will be communicated in writing to the complainant and the involved permittee. (Ord. 1163 § 7, 2011; Ord. 276 § 1, 1975; Ord. 236 § VIII, 1973.)



INYO COUNTY
INTEGRATED WASTE MANAGEMENT
WASTE COLLECTION AREAS

BISHOP DISPOSAL INC.

March 21, 2013

Inyo County Solid Waste Board
C/O Kevin Carunchio, County Administrator
785 N Main St Suite G
Bishop, Ca. 93514

Re: Request for Rate Increase

Dear Mr. Carunchio and Board Members:

For the past two years we have held our rates despite large increases in fuel (we did not request a surcharge during the fuel hikes), health insurance (increases approximately 5-20% per year), wage increases for our employees, insurance and truck maintenance. We also spent over $100,000 in capital to purchase a recycling baler and the associated infrastructure to support the recycling operation at the Inyo County Landfill. We are the only waste hauler with a viable recycling operation that meets State and County standards. The Board of Supervisors has approved the business relationship between Bishop Waste and Sierra Conservation Project. We have done all of this on our own to help Inyo County achieve higher recycling rates and improve current diversion efforts.

Since the Board approved floor rates a few years back another issue has complicated the transparency efforts on waste rates. The other hauler in Town has been charging fuel surcharge rates on top of the floor rates. This charge has been offset by the appearance of a waiver on taxes for waste services. There is no tax on waste. This smoke and mirrors approach tends to cloud the floor rate which should be clear to all. We would ask your consideration to eliminate selective fuel surcharge rates throughout the County. The only rate in play should be the waste rates approved by the Board of Supervisors. If this is not done you may soon see Environmental Service Charges added as well.

The last rate increases were targeted for retrofitting equipment to meet California Air Resource Board requirements. I am proud to say all of our equipment has met all standards since 2011.

We can no longer absorb the cost increases to sustain the recycling operation in Inyo County and the high fuel costs and we are now requesting a 6% increase on all solid waste services including residential, commercial, and roll off services. It should be noted since the last increase there have been (2) 21/2% CPI adjustments in the last two years totaling 5% which we have not sought.

Thank you in advance for your assistance.

Patrick J. Fenton, District Manager
Waste Connections, Inc
Bishop Waste and Sierra Disposal

Preferred Septic and Disposal, Inc.

1280 N. Main St. Suite I
Bishop, Ca. 93514
(760) 873-5699

6/7/12

Jeff Ahlstrom
Inyo County Integrated Waste
163 May St.
Bishop, ca. 93514

Jeff,

As you are aware the Board of Supervisors approved a disposal rate increase to the Waste Haulers effective July 1, 2011. The Waste Haulers along with Chuck Hamilton worked together to comprise a new rate schedule to cover the increase of disposal and franchise fees. However, the increase in cost of operation, State mandated emission requirements and the newly State mandated recycling program, etc. in the last year, are not part of that increase. We are requesting an increase in rates to cover the cost beyond our control and would like to have this submitted to the board for approval. Soon, as we would like the new increase to go into effect 8/1/12 and need time to notify customers of such. We are requesting a 35% rate increase in residential and 30% in commercial and 20% in Roll-Off rates.
Please advise me of the date that is scheduled for board approval as I will attend and have information available to provide to the Board upon request of such increase cost of operation.

Thank you,
Dale Comontofski

Current Rates
EXHIBIT B
MINIMUM CHARGES FOR WASTE HAULING SERVICES
AREA A AND B, INYO COUNTY

COMMERCIAL BIN SERVICE – AREA A & B (food waste containers serviced weekly)

Size	1/xWeek	2/xWeek	3/xWeek	4/xWeek	5/xWeek	6/xWeek	Ex PU & Overfill	Delivery
2-yard	$ 58.69	$ 97.46	$138.34	$182.09	$224.53	$268.29	$29.34	$29.34
3-yard	$ 87.76	$146.07	$207.64	$273.27	$336.80	$402.43	$35.10	$29.34
4-yard	$110.17	$182.61	$253.09	$326.19	$399.29	$470.16	$39.30	$29.34
6-yard	$165.32	$273.92	$379.77	$489.29	$598.93	$705.17	$58.69	$29.34

(A discount of 5% may be offered for 3 or more bins per address)

RESIDENTIAL CURBSIDE CART SERVICE – AREAS A & B

Size 60-100 Gallon	Monthly Rate	Extra Pick Up	Each Extra Cart
1 Cart	$18.79	$ 4.64	$9.40

NOTE: A $50.00 deposit per cart may apply.

RESIDENTIAL CURBSIDE SERVICE (CUSTOMER OWNED CONTAINER) – AREA B
Cartago, Alabama Hills, Olancha, Darwin, Keeler
(Per month billed bi-monthly)
30-40 Gallon Cans

1 &/or 2 cans	3-cans	4-cans	5-cans	6-cans
$31.20	$45.24	$62.16	$77.64	$93.12

Roll-Off Bin Service

Size	Area	Full Rate Per Bin*	Compactor Roll-Off
20 yard	Bishop	$214.00	$267.50
	Big Pine	$267.50	$321.00
	Independence	$331.70	$385.20
	Lone Pine	$385.20	$438.70
	Olancha	$470.80	$524.30
	Round Valley	$267.50	$321.00
	Starlite	$267.50	$321.00
30 yard	Bishop	$342.40.	$395.90
	Big Pine	$395.90	$449.40
	Independence	$460.10	$513.60
	Lone Pine	$513.60	$567.10
	Olancha	$599.20	$652.70
	Round Valley	$342.40	$395.90
	Starlite	$342.40	$395.90

*For first 14-day use period. Service includes: delivery, rental & service (landfill fees additional). Additional Full Rate applies after first 14-day period.

NOTE: Special collection services and commercial services not specified above shall be negotiated between the customers and the permitted waste hauler. Waste hauler may offer discounts up to 5% to all annually billed customers that make payment in advance, or a 5% discount may be offered to commercial contracted customers that make payment within 30-days of invoice. A fuel surcharge may apply. These are the minimum allowable rates charged.

Potential New Rate Due To Request by Preferred Septic
EXHIBIT C
MINIMUM CHARGES FOR WASTE HAULING SERVICES
AREA A AND B, INYO COUNTY

COMMERCIAL BIN SERVICE – AREA A & B (food waste containers serviced weekly)

Size	1/xWeek	2/xWeek	3/xWeek	4/xWeek	5/xWeek	6/xWeek	Ex PU & Overfill	Delivery
2-yard	$76.30	$126.70	$179.84	$236.72	$291.89	$348.78	$38.14	$38.14
3-yard	$114.09	$189.89	$269.93	$355.25	$437.84	$523.16	$45.63	$38.14
4-yard	$143.22	$237.39	$329.02	$424.05	$519.08	$611.21	$51.09	$38.14
6-yard	$214.92	$356.10	$493.70	$636.08	$778.61	$916.72	$76.30	$38.14

(A discount of 5% may be offered for 3 or more bins per address)

RESIDENTIAL CURBSIDE CART SERVICE – AREAS A & B

Size 60-100 Gallon	Monthly Rate	Extra Pick Up	Each Extra Cart
1 Cart	$25.37	$6.26	$12.69

NOTE: A $50.00 deposit per cart may apply.

RESIDENTIAL CURBSIDE SERVICE (CUSTOMER OWNED CONTAINER) – AREA B
Cartago, Alabama Hills, Olancha, Darwin, Keeler
(Per month billed bi-monthly)
30-40 Gallon Cans

1 &/or 2 cans	3-cans	4-cans	5-cans	6-cans
$42.12	$61.07	$83.92	$104.81	$125.71

Roll-Off Bin Service

Size	Area	Full Rate Per Bin*	Compactor Roll-Off
20 yard	Bishop	$256.80	$321.00
	Big Pine	$321.00	$385.20
	Independence	$398.04	$462.24
	Lone Pine	$462.24	$526.44
	Olancha	$564.96	$629.16
	Round Valley	$321.00	$385.20
	Starlite	$321.00	$385.20
30 yard	Bishop	$410.88	$475.08
	Big Pine	$475.08	$539.28
	Independence	$552.12	$616.32
	Lone Pine	$616.32	$680.52
	Olancha	$719.04	$783.24
	Round Valley	$410.88	$475.08
	Starlite	$410.88	$475.08

*For first 14-day use period. Service includes: delivery, rental & service (landfill fees additional). Additional Full Rate applies after first 14-day period.

NOTE: Special collection services and commercial services not specified above shall be negotiated between the customers and the permitted waste hauler. Waste hauler may offer discounts up to 5% to all annually billed customers that make payment in advance, or a 5% discount may be offered to commercial contracted customers that make payment within 30-days of invoice. A fuel surcharge may apply. These are the minimum allowable rates charged.

Potential New Rate Requested by Bishop Waste
EXHIBIT D
MINIMUM CHARGES FOR WASTE HAULING SERVICES
AREA A AND B, INYO COUNTY

COMMERCIAL BIN SERVICE – AREA A & B (food waste containers serviced weekly)

Size	1/xWeek	2/xWeek	3/xWeek	4/xWeek	5/xWeek	6/xWeek	Ex PU & Overfill	Delivery
2-yard	$62.21	$103.31	$146.64	$193.02	$238.00	$284.39	$31.10	$31.10
3-yard	$93.03	$154.83	$220.10	$289.67	$357.01	$426.58	$37.21	$31.10
4-yard	$116.78	$193.57	$268.28	$345.76	$423.25	$498.37	$41.66	$31.10
6-yard	$175.24	$290.36	$402.56	$518.65	$634.87	$747.48	$62.21	$31.10

(A discount of 5% may be offered for 3 or more bins per address)

RESIDENTIAL CURBSIDE CART SERVICE – AREAS A & B

Size 60-100 Gallon	Monthly Rate	Extra Pick Up	Each Extra Cart
1 Cart	$19.92	$4.92	$9.96

NOTE: A $50.00 deposit per cart may apply.

RESIDENTIAL CURBSIDE SERVICE (CUSTOMER OWNED CONTAINER) – AREA B
Cartago, Alabama Hills, Olancha, Darwin, Keeler
(Per month billed bi-monthly)
30-40 Gallon Cans

1 &/or 2 cans	3-cans	4-cans	5-cans	6-cans
$33.07	$47.95	$65.89	$82.30	$98.71

Roll-Off Bin Service

Size	Area	Full Rate Per Bin*	Compactor Roll-Off
20 yard	Bishop	$226.84	$283.55
	Big Pine	$283.55	$340.26
	Independence	$351.60	$408.31
	Lone Pine	$408.31	$465.02
	Olancha	$499.05	$555.76
	Round Valley	$283.55	$340.26
	Starlite	$283.55	$340.26
30 yard	Bishop	$362.94	$419.65
	Big Pine	$419.65	$476.36
	Independence	$487.71	$544.42
	Lone Pine	$544.42	$601.13
	Olancha	$635.15	$691.86
	Round Valley	$362.94	$419.65
	Starlite	$362.94	$419.65

*For first 14-day use period. Service includes: delivery, rental & service (landfill fees additional). Additional Full Rate applies after first 14-day period.

NOTE: Special collection services and commercial services not specified above shall be negotiated between the customers and the permitted waste hauler. Waste hauler may offer discounts up to 5% to all annually billed customers that make payment in advance, or a 5% discount may be offered to commercial contracted customers that make payment within 30-days of invoice. A fuel surcharge may apply. These are the minimum allowable rates charged.

For Clerk's Use Only:
AGENDA NUMBER

30

AGENDA REQUEST FORM

BOARD OF SUPERVISORS
COUNTY OF INYO

☐ Consent ☒ Departmental ☐ Correspondence Action ☐ Public Hearing

☐ Scheduled Time for ☐ Closed Session ☐ Informational

FROM: CLERK OF THE BOARD
By: Patricia Gunsolley, Assistant Clerk of the Board

FOR THE BOARD MEETING OF: May 7, 2013

SUBJECT: Approval of Minutes

DEPARTMENTAL RECOMMENDATION: - Request approval the minutes of the April 29, 2013 Special Meeting of the Board of Supervisors.

SUMMARY DISCUSSION: - 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 web page at www.inyocounty.us.

ALTERNATIVES: - Staff awaits your Board's changes and/or corrections.

OTHER AGENCY INVOLVEMENT: - n/a

FINANCING: n/a

APPROVALS	
BUDGET OFFICER:	BUDGET AMENDMENTS *(Must be reviewed and approved by Budget Officer prior to being approved by others, as needed, and submission to the Assistant Clerk of the Board.)*
COUNTY COUNSEL:	AGREEMENTS, CONTRACTS AND ORDINANCES AND CLOSED SESSION AND RELATED ITEMS *(Must be reviewed and approved by county counsel prior to submission to the Assistant Clerk of the Board.)* Approved: _____ Date_____
AUDITOR/CONTROLLER:	ACCOUNTING/FINANCE AND RELATED ITEMS (*Must be reviewed and approved by the auditor-controller prior to submission to the Assistant Clerk of the Board.)* Approved:_____ Date_____
PERSONNEL DIRECTOR:	PERSONNEL AND RELATED ITEMS *(Must be reviewed and approved by the director of personnel services prior to submission to the Assistant Clerk of the Board.)* Approved:_____ Date_____

DEPARTMENT HEAD SIGNATURE:
(Not to be signed until all approvals are received)_____ Date:_____
(The Original plus 20 copies of this document are required)

For Clerk's Use Only:
AGENDA NUMBER

31

AGENDA REQUEST FORM

BOARD OF SUPERVISORS
COUNTY OF INYO

☐ Consent ☐ Departmental ☐ Correspondence Action ☒ Public Hearing

☒ Scheduled Time for 11:30 a.m. ☐ Closed Session ☐ Informational

FROM: Inyo County Planning Department/Commission

FOR THE BOARD MEETING OF: May 7, 2013

SUBJECT: Road Abandonment No. 2012-01/Mull

DEPARTMENTAL RECOMMENDATION: Requests the Board of Supervisors:

1) Conduct a Public Hearing on a proposed resolution entitled "A Resolution of the Board of Supervisors of the County of Inyo, State of California, Declaring the Vacation and Abandonment of That Portion of McKenzie Street in Darwin Townsite; and

2) Adopt the attached Resolution.

SUMMARY DISCUSSION: The applicant David Mull has requested a road abandonment for a 60-foot wide undeveloped portion of McKenzie Street lying between Main Street and First Avenue N.W. in the Townsite of Darwin. The portion to be abandoned has never been developed (i.e.: "paper street") as a roadway and the Inyo County Road Department has no intentions to develop it. Attached is Exhibit A to the proposed Resolution, indicating Mr. Mull's proposal.

At the April 16, 2013 meeting of the Board of Supervisors, the Board adopted a Resolution entitled "A Resolution of the Board of Supervisors of the County of Inyo, State of California, Declaring its Intent to Vacate That Portion of McKenzie Street in Darwin Townsite and Setting and Providing Notice of a Public Hearing on Said Vacation." This Notice of Intent was posted and published in accordance with California Streets and Highways Code Sections 8321, 8322, and 8323.

The proposed Resolution declares the vacation and abandonment of the aforementioned County right-of-way. Should your Board adopt the proposed Resolution, the Vacation shall be complete upon closure of the required 15-day appeal period.

ALTERNATIVES:

- Do NOT adopt the attached Resolution vacating said portion of McKenzie Street within the community of Darwin. This alternative is not recommended, as the road is unneccessary and only exists on paper.

OTHER AGENCY INVOLVEMENT: Inyo County Road Department

FINANCING: No direct impact.

APPROVALS	
COUNTY COUNSEL:	AGREEMENTS, CONTRACTS AND ORDINANCES AND CLOSED SESSION AND RELATED ITEMS *(Must be reviewed and approved by county counsel prior to submission to the board clerk.)* 4/25/13
AUDITOR/CONTROLLER:	ACCOUNTING/FINANCE AND RELATED ITEMS (M*ust be reviewed and approved by the auditor-controller prior to submission to the board clerk.)*
PERSONNEL DIRECTOR:	PERSONNEL AND RELATED ITEMS (Must be reviewed and approved by the director of personnel services prior to submission to the board clerk.)

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

Date: 4-26-13

Attachments:

(1) Proposed Board Resolution
(2) Exhibit A: Vicinity Map, Exhibit Map, and Legal Description
(3) Board of Supervisors Resolution No. 2013-19
(4) Planning Commission Resolution No. 2013-01
(5) Planning Commission Staff Report

RESOLUTION NO. 2013 - ___

A RESOLUTION OF THE BOARD OF SUPERVISORS OF THE COUNTY OF INYO, STATE OF CALIFORNIA, DECLARING THE VACATION AND ABANDONMENT OF THAT PORTION OF McKENZIE STREET IN DARWIN TOWNSITE

WHEREAS, it appears to be in the best interest of the County of Inyo to abandon certain public roadways or portions thereof, hereinafter described; and

WHEREAS, on April 16, 2013 this Board adopted Resolution No. 2013-19 and thereby declared its intent to vacate that portion of McKenzie Street in Darwin Townsite, and set a date of May 7, 2013, and a time of 11:30 a.m., for a public hearing before this Board on the issue of said vacation; and

WHEREAS, this Board finds that notice of the hearing set by Resolution No. 2013-19 was duly given by the publication and posting of that Resolution, in accordance with its terms; and

WHEREAS, on May 7, 2013 this Board conducted the hearing set by Resolution No. 2013-19 and thereat heard testimony and considered written evidence as to the need and reasons for vacating that portion of McKenzie Street; and

WHEREAS, the Board of Supervisors of Inyo County, California, has found and determined it is desirable and in the public interest to vacate that portion of McKenzie Street; and

WHEREAS, the vacation of said roadway will not eliminate required access to contiguous properties.

NOW, THEREFORE, BE IT RESOLVED this Board finds from all of the evidence submitted that: a) the 60-foot wide undeveloped portion of McKenzie St. as shown on the map entitled "Townsite of Darwin" and recorded in Book 3 of Subdivision Maps at Pages 59-70, in the County of Inyo, State of California, and said portion also being more particularly described as said portion of McKenzie St., sixty (60.00) feet wide, lying between Blocks 23 and 24 as shown on said map, and being further described as also lying northwesterly of the northwesterly right-of-way of Main St., eighty (80.00) feet wide, and southeasterly of the southeasterly right-of-way of First Ave. N.W., seventy (70.00) feet wide; b) the vacation of said roadway will not cut off access to any contiguous parcels; c) the portion of said roadway and the underlying right-of-way are not useful as a non-motorized transportation facility; and, d) this portion of McKenzie Street is therefore unnecessary for present or prospective public use.

BE IT FURTHER RESOLVED AND ORDERED, by the Board of Supervisors, County of Inyo, State of California, that it adopts and incorporates herein the recitals and findings set forth above and below and for the reasons stated herein, hereby vacates that portion of McKenzie Street described in Exhibit A attached to this Resolution.

BE IT FURTHER RESOLVED, that this Board of Supervisors adopts the following findings and conditions of approval for Road Abandonment #2012-01:

REQUIRED FINDINGS

1. Find that the project does not conflict with nor is it contrary to the Inyo County General Plan's goals and policies.

[Evidence: This project does not conflict with the Inyo County General Plan. On March 27, 2013 the Inyo County Planning Commission adopted Resolution No.2013-01 in which the Commission found the proposed abandonment to be in conformance with the General Plan.]

CONDITIONS OF APPROVAL FOR ROAD ABANDONMENT #2012-01/MULL

1. **Hold Harmless:**

As a condition of approval of Road Abandonment #2012-01/Mull, the applicant, landowner, and/or operator shall defend, indemnify and hold harmless Inyo County (County), its agents, officers and employees from any claim, action or proceeding against the County, its advisory agencies, appeal boards, or its legislative body concerning Road Abandonment #2012-01/Mull.

BE IT FURTHER that the Clerk of this Board shall cause a certified copy of this Resolution of Vacation, attested by the Clerk under seal, to be recorded in accordance with Streets and Highways Code section 8325.

PASSED AND ADOPTED ON THIS 7th DAY OF MAY, 2013, BY THE FOLLOWING VOTE:

AYES:

NOES:

ABSTAIN:

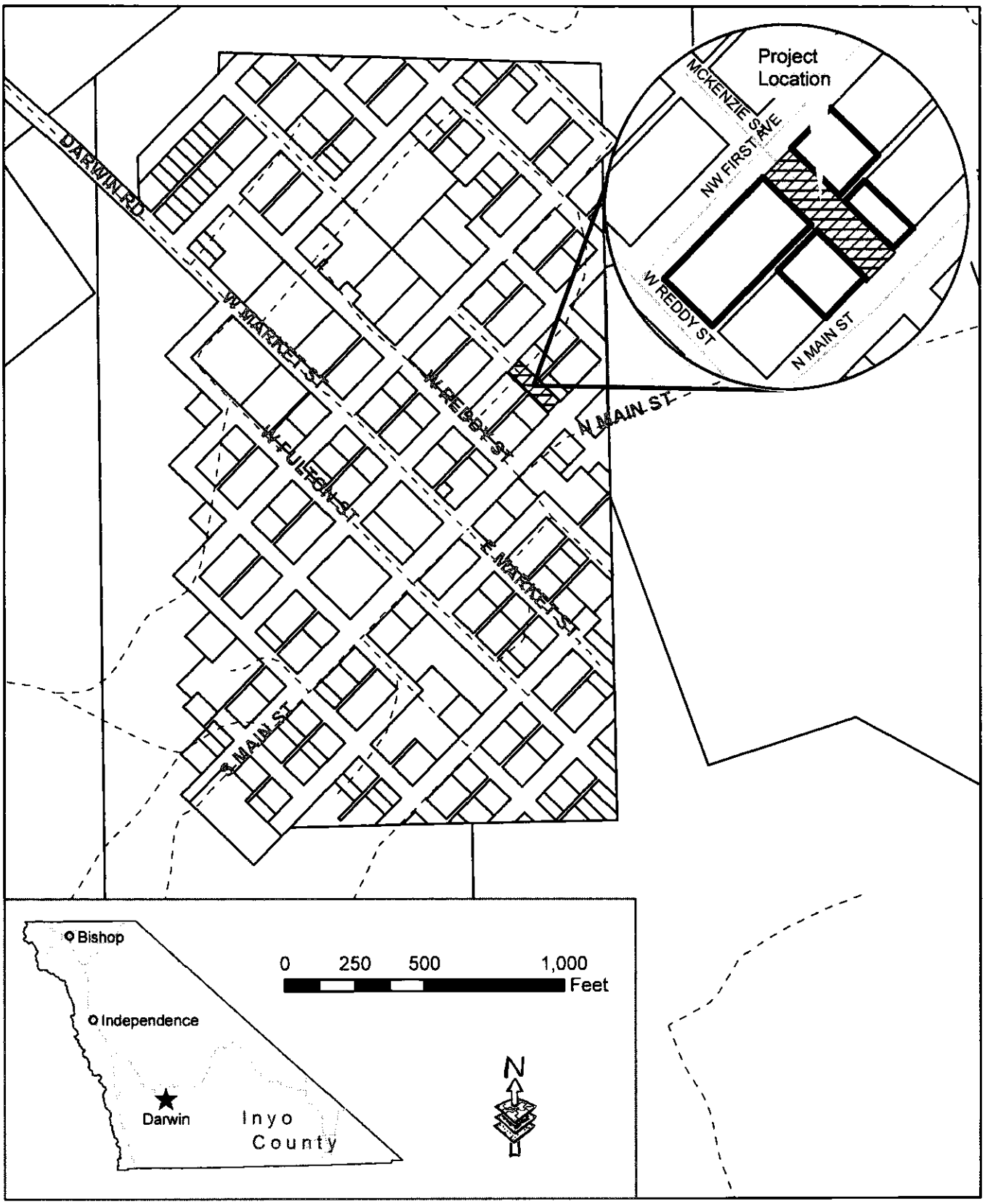
ABSENT:

Linda Arcularius, Chair
Inyo County Board of Supervisors

ATTEST:
KEVEIN CARUNCHIO
CLERK OF THE BOARD

By: _____
Pat Gunsolley, Assistant

Vicinity Map



Road Abandonment No. 2012-01/Mull

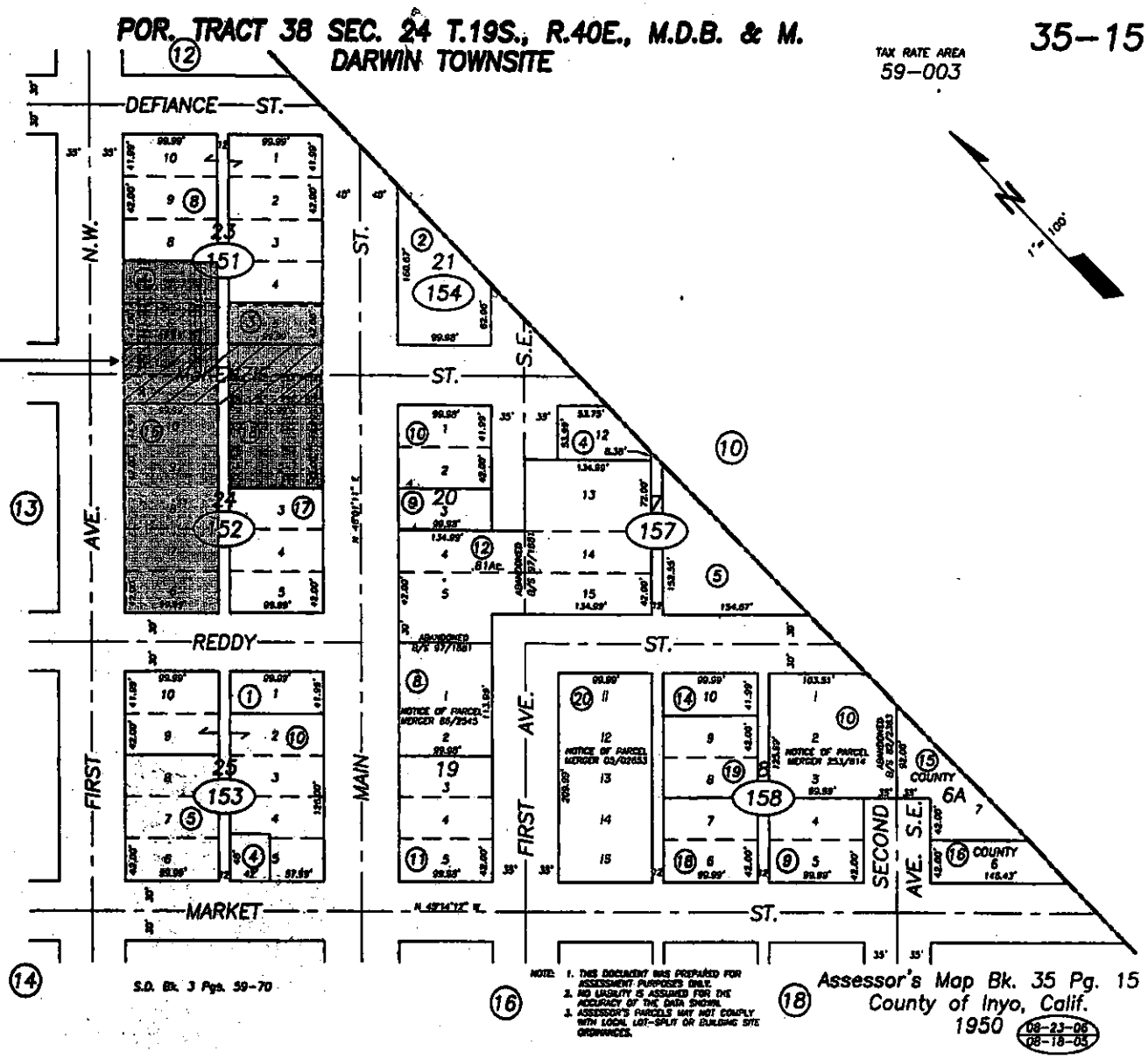
Attachment 2

EXHIBIT MAP

ROAD ABANDONMENT #2012-01

Portion of McKenzie Street

to be abandoned



INYO COUNTY ROAD ABANDONMENT 2012-01

LEGAL DESCRIPTION

BEING a portion of McKenzie St. as shown on the map entitled "Townsite of Darwin" and recorded in Book 3 of Subdivision Maps at Pages 59-70, in the County of Inyo, State of California, and said portion also being more particularly described as follows:

All said portion of McKenzie St., sixty (60.00) feet wide, lying between Blocks 23 and 24 as shown on said map, and being further described as also lying northwesterly of the northwesterly right-of-way line of Main St., eighty (80.00) feet wide, and southeasterly of the southeasterly right-of-way of First Ave. N.W., seventy (70.00) feet wide.

Legal Description Prepared
Under the Supervision of:

Andrew K. Holmes

Andrew K. Holmes, L.S. 4428
Lic. Expires 09/30/13

RESOLUTION NO. 2013 - 19

A RESOLUTION OF THE BOARD OF SUPERVISORS OF THE COUNTY OF INYO, STATE OF CALIFORNIA, DECLARING ITS INTENT TO VACATE THAT PORTION OF MCKENZIE STREET IN DARWIN TOWNSITE AND SETTING AND PROVIDING NOTICE OF A PUBLIC HEARING ON SAID VACATION

WHEREAS, on February 7, 2013, an application to vacate that portion of McKenzie Street in Darwin Townsite was submitted to the County by David Mull; and

WHEREAS, on March 27, 2013 the Planning Commission found that the road vacations proposed by the application are consistent with the Inyo County General Plan, pursuant to Government Code Section 65402, and adopted a Resolution recommending that the Board of Supervisors approve said abandonment and that the applicant indemnify and hold the County harmless for and from any action associated with said approval; and

WHEREAS, an abandonment shall be conducted pursuant to Chapter 3, Part 3, Division 9 of the California Streets and Highways Code, which permits the Board of Supervisors to initiate proceedings to vacate a County right-of-way by declaring its intent to vacate said right-of-way and setting a hearing on the proposed vacation, by order.

NOW, THEREFORE, BE IT RESOLVED that this Board of Supervisors hereby declares its intent to vacate portions of County right-of-ways described as follows:

> A portion of McKenzie Street as shown on the map entitled "Townsite of Darwin" and recorded in book 3 of Subdivision Maps at Pages 59-70, in the County of Inyo, State of California, and said portion also being more particularly described as follows:
>
> All said portion of McKenzie Street, sixty (60.00) feet wide, lying between Blocks 23 and 24 as shown on said map, and being further described as also lying northwesterly of the northwesterly right-of-way line of Main Street, eighty (80.00) feet wide, and southeasterly of the southeasterly right-of-way line of First Avenue N.W., seventy (70.00) feet wide; and

BE IT FURTHER RESOLVED, that in accordance with Chapter 3, Part 3, Division 9 of the California Streets and Highways Code, this Board of Supervisors hereby sets a hearing on the aforementioned proposed roadway vacation to be conducted before it on the 7th day of May, 2013, at 11:30 a.m., in the Board of Supervisors Room, County Administrative Center, Independence, California; and

BE IT FURTHER RESOLVED that this Notice of Intent shall be posted and published in accordance with California Streets and Highways Code Sections 8321, 8322, and 8323.

PASSED AND ADOPTED ON THIS 16 DAY OF APRIL, 2013 BY THE FOLLOWING VOTE:

AYES: Supervisors Arcularius, Griffiths, Pucci, Tillemans and Kingsley

NOES: -0-

ABSTAIN: -0-

ABSENT: -0-

Linda Arcularius

Linda Arcularius, Chair
Inyo County Board of Supervisors

ATTEST:
KEVIN CARUNCHIO
Clerk of the Board

By: Patricia Gunsolley
Pat Gunsolley, Assistant

RESOLUTION NO. 2013-01

A RESOLUTION OF THE PLANNING COMMISSION OF THE COUNTY OF INYO, STATE OF CALIFORNIA, FINDING THAT PROPOSED ROAD ABANDONMENT, #2012-01/MULL IS IN CONFORMANCE WITH THE INYO COUNTY GENERAL PLAN AND RECOMMENDING THAT THE INYO COUNTY BOARD OF SUPERVISORS APPROVE THAT ROAD ABANDONMENT, SUBJECT TO CERTAIN CONDITIONS

WHEREAS, the County of Inyo has received an application to abandon a County right-of-way described as a portion of McKenzie Street as shown on the map entitled "Townsite of Darwin" and recorded in book 3 of Subdivision Maps at Pages 59-70, in the County of Inyo, State of California, and said portion also being more particularly described as follows:

All said portion of McKenzie Street, sixty (60.00) feet wide, lying between Blocks 23 and 24 as shown on said map, and being further described as also lying northwesterly of the northwesterly right-of-way line of Main Street, eighty (80.00) feet wide, and southeasterly of the southeasterly right-of-way line of First Avenue N.W., seventy (70.00) feet wide; and

WHEREAS, such an abandonment may be conducted pursuant to Chapter 3 of Part 3 of Division 9, commencing with Section 8320, of the Streets and Highways Code and

WHEREAS, Government Code Section 65402 requires a proposed street abandonment to first be reviewed by the Planning Commission for a determination as to the proposal's conformance with the County General Plan; and

WHEREAS, the Planning Commission has found that the proposed road abandonment is consistent and in conformance with the Inyo County General Plan, including the *"Residential Rural High"* landuse designation and circulation element; and

WHEREAS, in accordance with the conditions necessary to identify viable candidates for street abandonment, the Planning Commission has determined the subject streets are not the sole route of access for any property in the vicinity and that the abandonment of said roadways will not cut off required access to contiguous properties; and

WHEREAS, the Planning Commission has found that the road abandonment is exempt from the California Environmental Quality Act (CEQA) pursuant to Section 15061 (b) (3) of the CEQA Guidelines (General Rule) as the streets are "paper streets" and this action could not have a significant effect on the environment; and

NOW, THEREFORE, BE IT RESOLVED that this Planning Commission finds proposed Road Abandonment No. 2012-01/Mull to be in conformance with the Inyo County General Plan; and

BE IT FURTHER RESOLVED, that the Planning Commission makes, and recommends that the Board of Supervisors adopt, the following Conditions of Approval for the proposed project:

RECOMMNEDED CONDITIONS OF APPROVAL:

1. Hold Harmless: the applicant, landowner, and/or operator shall defend, indemnify and hold harmless Inyo County, its agents, officers and employees from any claim, action, or proceeding against the County, its advisory agencies, appeal boards, or its legislative body concerning Road Abandonment #2012-01/Mull.

Passed and adopted this 27th day of March, 2013.

AYES: Stoll, Wasson, Payne, Corner, Wahrenbrock

NOES:

ABSTAIN:

ABSENT:

Sam Wasson

Sam Wasson, Chair
Inyo County Planning Commission

ATTEST: Joshua Hart, AICP
Planning Director

By: _____
Nolan Bobroff
Secretary of the Commission

Planning Department
168 North Edwards Street
Post Office Drawer L
Independence, California 93526

Phone: (760) 878-0263
FAX: (760) 878-0382
E-Mail: inyoplanning@inyocounty.us

AGENDA ITEM NO.: 7 (Action Item – Public Hearing)

PLANNING COMMISSION MEETING DATE: March 27, 2013

SUBJECT: Road Abandonment No. 2012-01 (Mull)

EXECUTIVE SUMMARY

The applicant, David Mull, is requesting a road abandonment for a 60-foot wide undeveloped portion of McKenzie Street located between Main Street and First Avenue N.W. in the Townsite of Darwin. The portion to be abandoned has never been developed (i.e.: "paper street") as a roadway and the Inyo County Road Department has no intentions to develop it. The Exhibit Map and Legal Description are included in Attachment "1" as well as a vicinity map.

The Public Streets, Highways, and Service Easements Vacation Law, set forth in Section 8300 et seq. of the California Street and Highway Code, allows a County Board of Supervisors to abandon a road under its jurisdiction upon making certain findings following a public hearing. Section 8313 of the Abandonment Law, states that before the Board of Supervisors may order such an abandonment, the County Planning Commission must review the proposed abandonment and find it is in conformance with the County's General Plan and adopt a resolution of their findings.

PROJECT INFORMATION

Supervisory District: Fifth

Applicants: David Mull

Landowners: David Mull / Judyth Greenburgh & Pierre Valeille

Address: Section of McKenzie Street located between Main Street and First Avenue N.W. in Darwin, CA

Community: Darwin

A.P.N.s: 035-151-04; 035-151-03; 035-152-16; & 035-152-18

General Plan: Residential Rural High Density (RRH), one dwelling unit/acre

Zoning: Rural Residential with Mobile Home (RR-1.0-MH)

Size of Parcel(s): Section of road to be abandoned is approximately 220-feet long by 60-feet wide. (.29 acres)

Surrounding Land Use:

Location	Use	General Plan Designation	Zoning
Site	Undeveloped roadway	Residential Rural High Density (RRH), 1 du/acre	Rural Residential with Mobilehome (RR-1.0-MH)
North (Across First Avenue)	Residential	Residential Rural High Density (RRH), 1 du/acre	Rural Residential with Mobilehome (RR-1.0-MH)
East (Across Main Street)	Vacant	Rural Protection (RP)	Open Space (OS-40
South (Across Main Street)	Vacant	Residential Rural High Density (RRH), 1 du/acre	Rural Residential with Mobilehome (RR-1.0-MH)
West (Across First Avenue)	Residential	Residential Rural High Density (RRH), 1 du/acre	Rural Residential with Mobilehome (RR-1.0-MH)

Recommended Action: **Find that the proposed road abandonment is consistent with the Inyo County General Plan and recommend approval of the proposed abandonment to the Board of Supervisors.**

Alternatives:

1) Find the proposed road abandonment to be inconsistent with the Inyo County General Plan, thereby effectively recommending denial of the proposed road abandonment to the Board of Supervisors.

2) Continue the public hearing to a future date, and provide specific direction to staff regarding additional information and analysis needed.

Project Planner: Nolan Bobroff, Planning Coordinator

PROJECT DESCRIPTION

The applicant has requested that an undeveloped portion of McKenzie Street (60-feet wide) lying northwesterly of the northwesterly right-of-way line of Main Street and southeasterly of the southeasterly right-of-way of First Avenue N.W. be abandoned. All involved property owners gave written consent to Mr. Mull's proposed road abandonment (Attachment "2").

Once abandoned, the section of road will be divided down the center line and becomes part of the property of APN(s) 035-151-04, 035-151-03, 035-152-16, and 035-152-18 as shown on the Exhibit Map. Applicant, David Mull owns the parcels to the east and south of the proposed road abandonment and Judyth Greenburg & Pierre Valleille owns the parcels to the north and west of the proposed road abandonment.

STAFF ANALYSIS

The townsite of Darwin was established in the early 1900's and was composed of approximately 519 parcels laid out in a grid design comprised of blocks of 10 parcels (two rows of five parcels each separated by an alley) with streets and avenues separating the blocks. Many of the originally designed streets and parcels were never developed and the property boundaries were unknown. Because of this, there are many structures in Darwin located within the road right-of-way as is the case with a garage located within the McKenzie right-of-way that was pre-existing when Mr. Mull purchased the property. Once the road is abandoned, the land that the garage is located on will become part of the existing parcel with the main residence on it.

Although the current Inyo County General Plan does not specifically address road abandonments, it does encompass the 1978 Darwin Specific Plan (DSP) which established policies encouraging abandonment of unnecessary right-of-ways and mergers of contiguous parcels to create larger lot sizes. These policies are consistent with the goals of the RRH ("Residential Rural High Density") General Plan designation and the RR ("Rural Residential") zoning designation which encourage larger lot sizes and lower densities. Specifically within the DSP, there is a policy which reads:

> *"The abandonment of unnecessary right-of-ways in favor of the adjoining private properties shall be encouraged as a means to add more private land to the community, reducing the potential development density, and eliminating unnecessary right-of-ways."*

The proposed abandonment is consistent with the current General Plan policies and the prior Specific Plan. The abandonment of road will not restrict access to any parcels and the portion of McKenzie Street to be abandoned is a "paper street" meaning it does not physically exist. Furthermore, the Inyo County Road Department has no plans to develop this as a roadway and none of the local utility providers have easements along the said portion of McKenzie Street and therefore have no concerns over the proposed abandonment.

Since the project involves the abandonment of County right-of-ways, the Board of Supervisors must act upon this proposal based upon findings by the Planning Commission that the road abandonment does not conflict with the Inyo County General Plan.

General Plan Consistency

General Plan ***Policy LU-2.6 – Residential Rural High (RRH) Density Designation*** calls for a maximum of 1 dwelling unit per acre, with a minimum parcel size of 1.0 acres. This land use designation is intended for areas on the fringe of urban communities where larger parcel sizes are preferred and for communities that lack individual sewer and water systems. The proposed abandonment is consistent with the RRH designation because it allows for the existing lots to gain additional square footage and become closer to satisfying the 1.0-acre minimum parcel size. The project is also consistent with the implementation of General Plan ***Policy RH-1.5 – Proper Access*** that states: "Provide proper access to residential, commercial, and industrial areas." Currently the portion to be abandoned only exists on paper and access for the adjacent parcels will remain the same as it is now.

Zoning Ordinance Consistency

The project site is zoned Rural Residential with a one-acre minimum and mobile home combined (RR-1.0-MH). The portion of road will become part of the adjacent parcels and remain consistent with the RR zoning designation.

Lot Size and Land Uses

	Lot Size	**Land Use**
Eastern Lot APN 035-151-03	4,202 sf (.10 acres)	Vacant with some outbuildings
Southern Lot APN 035-152-18	8,403 sf (.19 acres)	Residential
Western Lot APN 035-152-16	21,010 sf (.48 acres)	Residential
Northern Lot APN 035-151-04	8,404 sf (.19 acres)	Vacant with some outbuildings

The road abandonment will add approximately 3,000 sf to each lot.

Access/Traffic

The portion to be abandoned only exists on paper and has never been developed as a roadway. Access to the parcels will remain as it is now with access being from Main Street for the parcels to the southeast and from First Avenue for the parcels to the northwest.

Public Services

Sewer:	Individual Septic System
Water:	Darwin Community Service District
Electric:	Los Angeles Department of Water and Power (LADWP)
Telephone:	Verizon
Schools:	Lone Pine Unified School District
Fire:	No formal fire protection
Law Enforcement:	Inyo County Sheriff

ENVIRONMENTAL REVIEW

This application is exempt under Section 15061(b)(3) of the CEQA guidelines since there is no possibility that the activity in question would have a significant effect on the environment since the roadway does not exist.

RECOMMENDATIONS

Staff recommends the Planning Commission adopt the attached resolution, to be transmitted to the Board of Supervisors, with the following findings and conditions of approval:

Recommended Findings:

1. Finds Road Abandonment No. 2012-01 to be exempt from the California Environmental Quality Act pursuant to Section 15061(b)(3) of the CEQA Guidelines.

2. Finds Road Abandonment No. 2012-01 to be in conformance with the Inyo County General Plan

Recommended Conditions of Approval:

1. Hold Harmless: the applicant, landowner, and/or operator shall defend, indemnify and hold harmless Inyo County, its agents, officers and employees from any claim, action, or proceeding against the County, its advisory agencies, appeal boards, or its legislative body concerning Road Abandonment #2012-01/Mull.

For Clerk's Use Only:
AGENDA NUMBER
34-35-36
37-38-39
40-41-42
43

AGENDA REQUEST FORM

BOARD OF SUPERVISORS
COUNTY OF INYO

☐ Consent ☐ Departmental ☐ Correspondence Action ☐ Public Hearing

☐ Scheduled Time for X Closed Session ☐ Informational

FROM: COUNTY COUNSEL

TO THE BOARD MEETING OF: MAY 7, 2013

SUBJECT: ISSUES TO BE DISCUSSED IN CLOSED SESSION

DEPARTMENTAL RECOMMENDATION:

CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION [Pursuant to Government Code § 54956.9(d)(1)] - *VERIZON CALIFORNIA INC., a California corporation v. CALIFORNIA STATE BOARD OF EQUALIZATION; COUNTY OF INYO, et al.,* Sacramento County Superior Court Case No. 34-2013-00138191

CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION [Pursuant to Government Code§ 54956.9(d)(1)] - City of Los Angeles, Department of Water and Power of the City of Los Angeles v. Inyo County Board of Supervisors, et al. Inyo County Superior Court Case No. 12908; Blackrock 94 Dispute Resolution

CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION [Pursuant to Government Code § 54956.9(a)] - *Jesse Edwin Jason v. County of Inyo,* Unfair Practice Charge No. SA-CE-814-M

PERSONNEL [Pursuant to Government Code § 54957]. Public Employee Appointment - Title: Director Public Works.

PERSONNEL [Pursuant to Government Code § 54957]. Public Employee Appointment - Title: County Counsel.

CONFERENCE WITH LABOR NEGOTIATOR [Pursuant to Government Code § 54957.6]. Instructions to Negotiators re: wages, salaries and benefits - Employee Organization: Elected Officials Assistant Association (EOAA) - Negotiators: Information Services Director Brandon Shults, and Labor Relations Administrator Sue Dishion.

CONFERENCE WITH LABOR NEGOTIATOR [Pursuant to Government Code § 54957.6]. - Instructions to Negotiators re: wages, salaries and benefits - Employee Organization: Inyo County Correctional Officers Association (ICCOA) - Negotiators:Information Services Director Brandon Shults, and Labor Relations Administrator Sue Dishion.

CONFERENCE WITH LABOR NEGOTIATOR [Pursuant to Government Code §54957.6]. - Instructions to Negotiators re: wages, salaries and benefits - Employee Organization: (ICEA) - Negotiators: Information Services Director Brandon Shults, and Labor Relations Administrator Sue Dishion.

CONFERENCE WITH LABOR NEGOTIATOR [Pursuant to Government Code § 54957.6]. - Instructions to Negotiators re: wages, salaries and benefits - Employee Organization: Inyo County Probation Peace Officers Association (ICPPOA) - Negotiators: Information Services Director Brandon Shults, Chief Probation Officer Jeff Thomson, and Labor Relations Administrator Sue Dishion.

CONFERENCE WITH LABOR NEGOTIATOR [Pursuant to Government Code § 54957.6]. - Instructions to Negotiators re: wages, salaries and benefits - Employee Organization: Law Enforcement Administrators' Association (LEAA) - Negotiators: Information Services Director Brandon Shults, and Labor Relations Administrator Sue Dishion.

APPROVALS	
COUNTY COUNSEL:	AGREEMENTS, CONTRACTS AND ORDINANCES AND CLOSED SESSION AND RELATED ITEMS *(Must be reviewed and approved by county counsel prior to submission to the board clerk.)* Approved: ✓ Date 5-1-13

DEPARTMENT HEAD SIGNATURE:
(Not to be signed until all approvals are received) Date: 5-1-13

For Clerk's Use Only:
AGENDA NUMBER

44

AGENDA REQUEST FORM

BOARD OF SUPERVISORS
COUNTY OF INYO

☐ Consent ☐ Departmental ☐ Correspondence ☐ Public Hearing

☐ Scheduled Time for ☐ Closed Session ☒ Informational

FROM: Alisha McMurtrie, Treasurer-Tax Collector

FOR THE BOARD MEETING OF: May 7, 2013

SUBJECT: Treasury Status Report for the Quarter Ending March 31, 2013

DEPARTMENTAL RECOMMENDATION: Review Report and direct questions to the County Treasurer.

CAO RECOMMENDATION:

SUMMARY DISCUSSION: The Report is provided pursuant to the provisions of Sections 16481.2 and 53646(b) of the Government Code. The primary purposes of the Report are to disclose the following: the investments and deposits of the treasury; the cost basis and market values of investments; compliance to the County Treasury Investment Policy; The weighted average maturity of the investments; and, the projected ability of the Treasury to meet the expected expenditure requirements of the Treasury's pooled participants for the next six months.

ALTERNATIVES: N/A

OTHER AGENCY INVOLVEMENT: Pursuant to Section 16481.2(a) of the Government Code, which is optional, copies of quarterly reports are sent to members of the County Treasury Oversight Committee. Copies of all quarterly Treasury reports are available to Treasury participants.

FINANCING: N/A

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

DEPARTMENT HEAD SIGNATURE: Alisha McMurtrie Date: April 19, 2013
Alisha McMurtrie, Treasurer-Tax Collector

COUNTY OF INYO
TREASURER-TAX COLLECTOR
168 NORTH EDWARDS STREET
POST OFFICE DRAWER O
INDEPENDENCE, CA 93526-0614
(760) 878-0312 • (760) 878-0311 FAX

ALISHA McMURTRIE
TREASURER-TAX COLLECTOR

TO: Honorable Members of the Inyo County Board of Supervisors
FROM: Alisha McMurtrie, Treasurer-Tax Collector
SUBJECT: Report of the Status of the Inyo County Treasury as of: March 31, 2013
DATE: April 19, 2013

The following status report of the County Treasury as of March 31, 2013 is provided pursuant to the provisions of Sections 16481.2 and 53646(b) of the Government Code.

The attached copy of the "Treasurer's Daily Reconciliation" provides a breakdown of the dollar amount of the Treasury assets by depository for monetary assets and by issuer for securities.

The attached copy of the custody statement from Union Bank reflects, among other things, the following information regarding each security held: issuer, maturity date; CUSIP number; face amount; cost basis; and market value (calculated by Merrill Lynch).

The weighted average maturity of the investments of the Treasury was 1173 days.

It is anticipated that the County Treasury will be able to meet the liquidity requirements of its pooled participants for the next six months.

The investment portfolio is in compliance with the Inyo County Treasury Investment Policy.

NOTES: Regarding Inyo County's monetary assets held outside the County Treasury:

- Various Inyo County Departments and treasury pool participants maintain and administer bank checking accounts outside the County Treasury.
- Inyo County's OPEB investment with PARS balance as of 2/28/2013 was $4,383,927.32. (Principal: $3,650,00.00 + Interest: $753,872.96 - Fees: $19,945.64)

C: Ms. Leslie L. Chapman, Inyo County Auditor-Controller
Mr. Art Maillet, Inyo County District Attorney
Mr. Bill Lutz, Inyo County Sheriff
Members of the Inyo County Treasury Oversight Committee

TREASURER'S DAILY RECONCILIATION
DATE: 3-29-13

AUDITOR'S BALANCES

Balance Forward - Cash in Treasury		**$100,573,743.65**
Plus: Auditor Adjustments Payroll		
Deposit Authorizations		**$202,292.55**
Less: Co. Checks Pd **03/28/13**		(215,596.54)
Auditor JE# to adjust		
Outgoing Electronic Wires	(57,329.21)	CO Pers Wires
	(175,747.34)	CO Pers Wires
	(1,977.58)	CO Pers Wires
	(747.68)	Pioneer Pers Wires
	(85,000.00)	ESTA Wire
Ending "Claim on Cash in Treasury"		**$100,239,637.85**

****

TREASURER'S BALANCE:

Cash on Hand:	Vault	**$100.00**
	Drawer	**$294.60**
Bank Deposits on Hand:		

BANK ACCOUNTS:

Union Bank - General Account.	**$3,757,182.27**
El Dorado - General Account	**$22,009.17**

INVESTMENTS;		**% Invested**	
Local Agency Investment Fund	**$40,000,000.00**	*Agency*	*Limit*
AIM Money Market	**$1,000,000.00**	*1.00%*	of 10.00%
UBS Money Market	**$1,000,000.00**	*1.00%*	of 10.00%
Federal Agencies	**$ 40,994,500.00**	*40.90%*	of 100.00%
Treasury Bill	**$0.00**	*0.00%*	of 100.00%
Commercial Paper	**$ 13,465,551.81**	*13.43%*	of 15.00%

TOTAL TREASURY BALANCE:	**$100,239,637.85**
Difference: (Treasury SHORT or OVER)	$0.00

Explanation of Difference:

NOTES

Investments Maturing Over 1 Year	**$ 31,994,500.00**	*31.92%*	of 35.00%

Prepared By:_____

Inyo County Treasurer's Report
Weighted Average Maturity

Maturity Date	# of Days to Maturity	$ Amount of Security
4/1/2013	1X4.5	$ 4,492,765.00
7/30/2013	121X4	$ 3,986,946.67
9/6/2013	159X3	$ 2,991,593.75
9/9/2013	162X5	$ 5,000,000.00
9/13/2013	166X2	$ 1,994,246.39
11/19/2013	233X4	$ 4,000,000.00
5/29/2015	789X6	$ 5,997,000.00
4/1/2016	1097X4	$ 4,000,000.00
10/24/2016	1303X4	$ 4,000,000.00
11/21/2016	1331X3	$ 3,000,000.00
4/25/2017	1486X3	$ 3,000,000.00
11/21/2017	1696X4	$ 4,000,000.00
12/13/2017	1718X3	$ 3,000,000.00
12/26/2017	1731X5	$ 4,997,500.00
TOTALS:	46417	**$ 54,460,051.81**

Total = 1173 Days Weighted Average Maturity
As of: March 31, 2013

Please note that this does not include checking account at UBOC, El Dorado, LAIF or UBS account.

*Days are determined at a per million rate.

UnionBank

Holdings - Reporting as of Trade Date
Account: 6736305280 - COUNTY OF INYO

As of: 29-Mar-2013

Pending Transactions Included

Asset Type	Asset Name	Maturity Date	CUSIP	Shares / Units	Cost Basis	Market Value	S&P Rating	Moody's Rating	Net Unrealized Gain/Loss	Annual Yield	Estimated Annual Income
Cash & Cash Equivalents	GENERAL ELEC CAPTL DC/P 4/01/13	01-Apr-2013	36959HR17	4,500,000.0000	$4,492,765.00 USD	$4,500,000.00 USD			$7,235.00 USD	0.264%	$11,862.50 USD
Cash & Cash Equivalents	UBS FINANCE DC/P 7/30/13	30-Jul-2013	90262CUW5	4,000,000.0000	$3,986,946.67 USD	$3,996,680.00 USD			$9,733.33 USD	0.442%	$17,646.17 USD
Cash & Cash Equivalents	UBS FINANCE (DELW) DC/P 9/06/13	06-Sep-2013	90262CW60	3,000,000.0000	$2,991,593.75 USD	$2,995,260.00 USD			$3,666.25 USD	0.381%	$11,406.25 USD
Government Obligations	FNMA NTS 1.050% 9/09/13	09-Sep-2013	3136FPEL7	5,000,000.0000	$5,000,000.00 USD	$5,016,750.00 USD	AA+	AAA	$16,750.00 USD	1.046%	$52,500.00 USD
Cash & Cash Equivalents	UBS FINANCE (DELW) DC/P 9/13/13	13-Sep-2013	90262CWD5	2,000,000.0000	$1,994,246.39 USD	$1,996,700.00 USD			$2,453.61 USD	0.391%	$7,806.94 USD
Government Obligations	FNMA NTS 0.800% 11/19/13	19-Nov-2013	31398A5Z1	4,000,000.0000	$4,000,000.00 USD	$4,013,080.00 USD	AA+	AAA	$13,080.00 USD	0.797%	$32,000.00 USD
Government Obligations	FNMA NTS 0.600% 5/29/15	29-May-2015	3135G0KZ5	6,000,000.0000	$5,997,000.00 USD	$6,003,480.00 USD	AA+	AAA	$6,480.00 USD	0.600%	$36,000.00 USD
Government Obligations	FHLMC NTS 0.600% 4/04/16	04-Apr-2016	3134G3L40	4,000,000.0000	$4,000,000.00 USD	$4,005,240.00 USD	AA+	AAA	$5,240.00 USD	0.599%	$24,000.00 USD
Government Obligations	FFCB BDS 0.620% 10/24/16	24-Oct-2016	3133EA5V6	4,000,000.0000	$4,000,000.00 USD	$4,008,400.00 USD			$8,400.00 USD	0.619%	$24,800.00 USD
Government Obligations	FHLMC MTN 0.700% 11/21/16	21-Nov-2016	3134G3V98	3,000,000.0000	$3,000,000.00 USD	$3,002,910.00 USD	AA+	AAA	$2,910.00 USD	0.699%	$21,000.00 USD
Government Obligations	FNMA NTS S/U 1.000% 4/25/17	25-Apr-2017	3136G0DE8	3,000,000.0000	$3,000,000.00 USD	$3,001,860.00 USD	AA+	N/A	$1,860.00 USD	0.999%	$30,000.00 USD
Government Obligations	FHLMC NTS 1.020% 11/21/17	21-Nov-2017	3134G3T91	4,000,000.0000	$4,000,000.00 USD	$4,005,320.00 USD	AA+	AAA	$5,320.00 USD	1.019%	$40,800.00 USD
Government Obligations	FNMA NTS S/U 0.700% 12/13/17	13-Dec-2017	3136G07A3	3,000,000.0000	$3,000,000.00 USD	$2,997,120.00 USD	AA+	AAA	($2,880.00) USD	0.701%	$21,000.00 USD
Government Obligations	FFCB BDS 0.900% 12/26/17	26-Dec-2017	3133ECB45	5,000,000.0000	$4,997,500.00 USD	$4,989,850.00 USD			($7,650.00) USD	0.902%	$45,000.00 USD
Subtotals											
Cash & Cash Equivalents					$13,465,551.81 USD	$13,488,640.00 USD			$23,088.19 USD		$48,721.86 USD
Government Obligations					$40,994,500.00 USD	$41,044,010.00 USD			$49,510.00 USD		$327,100.00 USD
Totals					$54,460,051.81 USD	$54,532,650.00 USD			$72,598.19 USD		$375,821.86 USD

PUBLIC AGENCY RETIREMENT SERVICES | PARS

COUNTY OF INYO
PARS GASB 45 Program

Monthly Account Report for the Period
2/1/2013 to 2/28/2013

Kevin Carunchio
County Administrative Officer
County of Inyo
P.O. Drawer N
Independence, CA 93526

Account Summary

Source	Beginning Balance as of 2/1/2013	Contributions	Earnings	Expenses	Distributions	Transfers	Ending Balance as of 2/28/2013
Employer Contribution	$4,354,811.02	$0.00	$30,054.26	$937.96	$0.00	$0.00	$4,383,927.32
Totals	**$4,354,811.02**	**$0.00**	**$30,054.26**	**$937.96**	**$0.00**	**$0.00**	**$4,383,927.32**

Investment Selection

HighMark PLUS Moderate

Investment Objective

The dual goals of the Moderate Strategy are growth of principal and income. It is expected that dividend and interest income will comprise a significant portion of total return, although growth through capital appreciation is equally important. The portfolio will be allocated between equity and fixed income investments.

Investment Return

			Annualized Return			
1-Month	3-Months	1-Year	3-Years	5-Years	10-Years	Inception Date
0.69%	4.36%	9.04%	N/A	N/A	N/A	6/16/2010

Information as provided by US Bank, Trustee for PARS; Not FDIC Insured; No Bank Guarantee; May Lose Value

Past Performance does not guarantee future results. Performance returns may not reflect the deduction of applicable fees, which could reduce returns. Information is deemed reliable but may be subject to change.

Investment Return: Annualized rate of return is the return on an investment over a period other than one year multiplied or divided to give a comparable one-year return.
Inception Date: Plans inception date