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.

June 25, 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)*
3. ***INTRODUCTIONS*** – Ms. Michelle Landi, Public Health Nurse, Ms. Paulette Erwin, Office Manager, and Ms. Tanya Liscio, Registered Nurse, in the Health and Human Services Department, and Ms. Pam Hennarty, Senior Deputy County Administrator in the County Administrator's Department, will be introduced to the Board.

CONSENT AGENDA **(Approval recommended by the County Administrator)**

COUNTY ADMINISTRATOR

4. ***Advertising County Resources*** – Request approval of Amendment No. 1 to the Community Project Sponsorship Grant Contract between the County of Inyo and the Bishop Chamber of Commerce and Visitors Bureau, extending the ending date of the Contract for the Treasure Map Project from June 30, 2013 to August 31, 2013; and authorize the Chairperson to sign, contingent upon the appropriate signatures being obtained.
5. ***Advertising County Resources*** – Request approval to pay the Lone Pine Chamber of Commerce $4,500 for the completion of the sixth edition of the Inyo County Visitor Guide which is a 2012-13 Community Project Sponsorship Grant Project.
6. ***General*** - Request approval of Amendment No. 7 to the Contract between the County of Inyo and Gruen Gruen + Associates revising the scope of work to include additional analysis work, and extending the ending date of the Contract to June 30, 2014, contingent upon the Board's adoption of a FY 2013-14 budget; and authorize the Chairperson to sign, contingent upon, contingent upon the appropriate signatures being obtained.

AUDITOR-CONTROLLER – COUNTY ADMINISTRATOR

7. Request Board approve the County's Anti-Fraud, Waste and Abuse Policy.

CLERK-RECORDER

8. ***Elections*** – Request Board authorize payment of $10,080 to AtPact for the annual CRiis™ Software License Maintenance and Support Fee, contingent upon the Board's adoption of a FY 2013-14 budget.

HEALTH AND HUMAN SERVICES

9. ***Behavioral Health Services*** – Request approval of the FY 2012-13 Amended Negotiated Net Amount Contract between the Station of California Alcohol and Drug Programs and Dept. of Health Care Services, extending the ending date of the Contract to June 30, 2014 for a new multi-year amount of $1,701,570, contingent upon the Board's adoption of future budgets; and authorize the Chairperson to sign.

10. ***Behavioral Health Services*** – Request approval of the Contract between the County of Inyo and Jeanette Sprague, MFT for the provision of mental health services as part of the Mental Health Service Act Community Services and Supports Plan for the period of July 1, 2013 through June 30, 2014 in an amount not to exceed $25,000, contingent upon the Board's adoption of a FY 2013-14 budget; and authorize the Chairperson to sign.

11. ***Behavioral Health Services*** – Request approval of the Contract between the County of Inyo and Villa Merced Behavioral Health Center for residential placement for adults in a locked facility in an amount not to exceed $35,000 for the period of July 1, 2013 through June 30, 2014, contingent upon the Board's adoption of a FY 2013-14 budget; and authorize the Chairperson to sign.

12. ***Behavioral Health Services*** – Request approval of the Contract between the County of Inyo and the Echo Group for Echo Share Care products support, software updates and hosting services, in an amount not to exceed $119,628.72 for the period of July 1, 2013 through June 30, 2014, contingent upon the Board's adoption of a FY 2013-14 budget; and authorize the Chairperson to sign the contract and the HIPPA Business Association Agreement.

13. ***Social Services*** – Request approval of the Contract between the County of Inyo and the County Superintendent of Schools for the provision of Stage I Child Care Services for the period of July 1, 2013 through June 30, 2014, in an amount not to exceed $125,000, contingent upon the Board's adoption of a FY 2013-14 budget; and authorize the Chairperson to sign.

14. ***Emergency Services*** – Request approval of the Contracts between the County of Inyo and the following in the amounts designated to be paid from the Emergency Medical Services Trust Fund #505107, in the total amount of $49,106.28, for the period of July 1, 2013 through December 31, 2014; and authorize the Chairperson to sign: A) Independence Volunteer Fire Department, $5,667 for purchase of emergency response and training equipment; B) Olancha Cartago Fire Department, $11,025 for the purchase of emergency response equipment; C) to Lone Pine Fire Department, $11,026.80 for the purchase of emergency response and training equipment; D) Big Pine Volunteer Fire Department, $9,999.48 for the purchase of emergency response and training equipment; and E) Southern Inyo Fire Protection District $11,388 for training and equipment.

15. ***Inyo First Five*** – Request approval of the Contract between the County of Inyo and Toiyabe Indian Health Project, Inc., for the provision of Child Health Services for the period of July 1, 2013 through June 30, 2014, in an amount not to exceed $45,000 contingent upon the Board's adoption of a FY 2013-14 budget; and authorize the Chairperson to sign.

16. ***Inyo First Five*** – Request approval of the Contract between the County of Inyo and the Inyo County Superintendent of Schools Child Development Division for the provision of Child Development Services in an amount not to exceed $25,200 for the period of July 1, 2013 through June 30, 2014, contingent upon the Board's adoption of a FY 2013-14 budget; and authorize the Chairperson to sign.

17. ***Health Services*** – Request approval of the Contract and Business Associate Agreement between the County of Inyo and Southern Inyo Healthcare District for jail and juvenile medical provider services and on-call nursing and nurse practitioner services in an amount not to exceed $90,900 per year, in an amount not to exceed $454,500 for the period of July 1, 2013 through June 20, 2018, contingent upon the Board's adoption of future budgets; and authorize the Chairperson to sign the Contract and HIPPA Business Associate Agreement.

18. ***WATER DEPARTMENT***

Request Board A) select Paul N. Bruce as the mediator representing Inyo County in its dispute with the City of Los Angeles Department of Water and Power for the period of June 1, 2013 through May 31, 2014; and B) approve the Contract between the County of Inyo and Paul N. Bruce for mediator services for the period of June 1, 2013 through May 31, 2014 in an amount not to exceed $20,000, contingent upon the Board's adoption of future budgets; 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 – Behavioral Health Services*** – Request Board find that consistent with the adopted Authorized Position Review Policy: A) the availability of funding for the position of Residential Care Giver at Progress House exists in the Mental Health Budget as certified by the Director of Health and Human Services and concurred with by the County Administrator and Auditor-Controller; 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; C) approve the hiring of one full-time Residential Caregiver at Range 53 ($2,779 - $3,308); and D) should an internal applicant be the successful candidate for the position authorize the Department to fill any resulting vacancy.

20. ***COUNTY ADMINISTRATOR – Personnel – COUNTY COUNSEL*** – Request approval of the Contract between the County of Inyo and Atkinson, Andelson, Loya, Ruud and Romo for the provision of legal services in the area of general labor and employment advice and representation for the period of July 1, 2013 through June 30, 2014, at the hour rate from $115 to $265, with travel billed at $125, for a total amount not to exceed $100,000, contingent upon the Board's adoption of a FY 2013-14 budget; and authorize the Chairperson to sign. *(4/5's vote required.)*

21. ***COUNTY ADMINISTRATOR – Personnel – COUNTY COUNSEL*** – Request approval of the Contract between the County of Inyo and Liebert Cassidy Whitmore for the provision of legal services in the area of general labor and employment advice and representation for the period of July 1, 2013 through June 30, 2014, at the hour rate from $140 to $300, with travel billed at $125, for a total amount not to exceed $20,000, contingent upon the Board's adoption of a FY 2013-14 budget; and authorize the Chairperson to sign. *(4/5's vote required.)*

22. ***WATER DEPARTMENT – COUNTY COUNSEL*** – Request approval of the Contract between the County of Inyo and Gregory L. James for the provision of water/environmental attorney services to the Water Department for the period of July 1, 2013 through June 30, 2014, at the rate of $155 per hour, with travel to be paid at $50 per hour, for a total amount not to exceed $60,000, contingent upon the Board's adoption of a FY 2013-14 budget; and authorize the Chairperson to sign. *(4/5's vote required.)*

23. ***COUNTY COUNSEL – PLANNING DEPARTMENT*** - Request approval of the Contract between the County of Inyo and Gregory L. James for the provision of legal services related to the Yucca Mountain Repository Licensing proceedings before the Nuclear Regulatory Commission, and related Court actions, for the period of July 1, 2013 through June 30, 2014, at the base rate of $185 per hour as set forth in Attachment B to the Contract, with travel to be paid at $50 per hour, for a total amount not to exceed $25,000, contingent upon the Board's adoption of a FY 2013-14 budget; and authorize the Chairperson to sign. *(4/5's vote required.)*

24. ***COUNTY ADMINISTRATOR- COUNTY COUNSEL*** - Request approval of the Contract between the County of Inyo and Gregory L. James for the provision of environmental attorney services to the County Administrator for the period of July 1, 2013 through June 30, 2014, at the rate of $155 per hour, with travel to be paid at $50 per hour, for a total amount not to exceed $30,000, contingent upon the Board's adoption of a FY 2013-14 budget; and authorize the Chairperson to sign. *(4/5's vote required.)*

25. ***PUBLIC WORKS*** – Request approval of Amendment No. 8 to the Contract between the County of Inyo and Owenyo Services for the operation and maintenance of the Independence, Laws, and Lone Pine town water systems, extending the term through August 31, 2013 unless terminated earlier, for a total Contract amount not to exceed $1,996,952.52, contingent upon the Board's adoption of future budgets; and authorize the Chairperson to sign, contingent upon the appropriate signatures being obtained.

26. ***PLANNING*** – Review the U.S. Forest Service's Environmental Assessment to Implement Restoration of 58 Unauthorized routes in the White Mountains and John Muir Wilderness and authorize the Chairperson to sign the correspondence in regards thereto.

27. ***CLERK OF THE BOARD*** – Request approval of the minutes of the June 11, 2013 Board of Supervisors Meeting.

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

11:30 p.m. 28. ***COUNTY ADMINISTRATOR – Personnel*** – Request Board enact an ordinance titled "An Ordinance of the County of Inyo, State of California, Amending Section 2.80.140 of the Inyo County Code to Authorize Pay to Employees on a Biweekly Basis," which will authorize the County to pay employees on a bi-weekly pay scheduled.

29. ***COUNTY COUNSEL*** – Request Board enact an ordinance titled "An Ordinance of the County of Inyo, State of California, Deleting Chapter 1.16 of the Inyo County Code which Established the Inyo County Judicial District," which deletes Chapter 1.16 of the Inyo County Code.

CORRESPONDENCE - ACTION

30. ***FISH AND WILDLIFE COMMISSION*** – Request Board approve a $1,000 expenditure from the Inyo Fine Fund to the Bishop Lions Club to purchase fish to stock Buckley Ponds.

BOARD MEMBERS AND STAFF REPORTS

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

31. ***PUBLIC COMMENT***

CLOSED SESSION

32. ***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.

33. ***CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION [Pursuant to Government Code §54956.9(d)(1)]*** - *Owens Valley Committee v. County of Inyo; Inyo County Board of Supervisors, et al.; CG Roxanne, LLC, and Does 21 through 100,* Inyo County Superior Court Case No. SICVPT 1354991.

34. ***CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION [Pursuant to Government Code §54956.9(d)(4)]*** – Decision whether to initiate litigation (one case).

35. ***REAL PROPERTY NEGOTIATIONS [CONFERENCE WITH REAL PROPERTY NEGOTIATOR PURSUANT TO GOVERNMENT CODE SECTION 54956.8]*** – Property: APN001-144-12, 237 North Hanby, Bishop, California, - Negotiating Parties: County Administrator, Director of Health and Human Services, and Interim Public Works Director – Negotiations: Terms and Conditions.

36. ***REAL PROPERTY NEGOTIATIONS [CONFERENCE WITH REAL PROPERTY NEGOTIATOR PURSUANT TO GOVERNMENT CODE SECTION 54956.8]*** – Property: APN001-105-06, 237 486 North Second Street, Bishop, California, - Negotiating Parties: County Administrator, Director of Health and Human Services, and Interim Public Works Director – Negotiations: Terms and Conditions.

REPORT ON CLOSED SESSION AS REQUIRED BY LAW

CORRESPONDENCE - INFORMATIONAL

37. ***COUNTY ADMINISTRATOR – Film Commissioner*** – Film Commissioner's June 1, 2013 Report.

38. ***U.S. FOREST SERVICES*** – Notification that the Inyo National Forest is extending the public review and feedback for the Forest Plan Revision Assessment "topic papers" through September 1, 2013.

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: Jon Klusmire, Museum Services Administrator

FOR THE BOARD MEETING OF: June 25, 2013

SUBJECT: Approval of Amendment No. 1 to the 2012-13 Community Project Sponsorship Grant contract with the Bishop Chamber of Commerce for the Redesign/Reprint of the Eastern Sierra Treasure Map Brochure project.

DEPARTMENTAL RECOMMENDATION: Request your Board approve Amendment No. 1 (see attached), which will extend the term of the contract from June 30, 2013 to August 31, 2013, for the Community Project Sponsorship Grant contract with the Bishop Area Chamber of Commerce and Visitors Bureau for its Treasure Map project, which is funded by the 2012-13 Advertising County Resources budget, (011400), and authorize the Chairperson to sign, contingent upon the appropriate signatures being obtained.

SUMMARY DISCUSSION: On Feb. 5, 2013 your Board approved the Bishop Chamber's CPSP grant request for $8,500 to redesign and reprint the popular Eastern Sierra Treasure Map promotional brochure. The siged contract (see attached) stipulates funding would come from the ACR Budget, and be spent by June 30, 2013. Because of unforeseen delays in the work to completely revamp the large, mulit-faceted brochure, and staff and time constraints at the Bishop Chamber which slowed collection and verification of new information and obtaining new photos, the brochure cannot be completed by the contract's June 30, 2013 deadline, thus the Chamber is requesting a contract extension so it can complete the brochure by Aug. 31, 2013.

ALTERNATIVES: The Board could deny the request

OTHER AGENCY INVOLVEMENT: Auditor/Controller, County Counsel.

FINANCING: The Treasure Map CPSP grant is funded through. the Community Project Sponsorship Program, which is part of the FY 2012-13 Advertising County Resources budget, (011400), Professional Services, (5265).

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 6-18-13
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 6/18/13
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_____

DEPARTMENT HEAD SIGNATURE: Date: 6-17-13
(Not to be signed until all approvals are received)
(The Original plus 20 copies of this document are required)

AMENDMENT NUMBER ONE TO
AGREEMENT BETWEEN THE COUNTY OF INYO AND
BISHOP CHAMBER OF COMMERCE
FOR THE PROVISION OF INDEPENDENT CONTRACTOR SERVICES

WHEREAS, the County of Inyo (hereinafter referred to as "County") and BISHOP CHAMBER OF COMMERCE, of BISHOP, CA (hereinafter referred to as "Contractor"), have entered into an Agreement for the Provision of Independent Contractor Services dated FEBRUARY 5, 2013, on County of Inyo Standard Contract No. 159, for the term from FEBRUARY 5, 2013 to JUNE 30, 2013.

WHEREAS, County and Contractor 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 Contractor hereby amend such Agreement as follows:

To amend the term of this agreement, Item 6 of Contract No. 159 to state"the term of this Agreement shall be from February 5, 2013 to August 31, 2013, unless sooner terminated as provided below".

The effective date of this Amendment to the Agreement is JUNE 25, 2013.

All the other terms and conditions of the Agreement are unchanged and remain the same.

AMENDMENT NUMBER ONE TO
AGREEMENT BETWEEN THE COUNTY OF INYO AND
BISHOP CHAMBER OF COMMERCE
FOR THE PROVISION OF INDEPENDENT CONTRACTOR SERVICES

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

COUNTY OF INYO

By: _____

Dated: _____

CONTRACTOR

By: _____
Signature

_____
Type or Print

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 RISK ASSESSMENT:

_____
County Risk Manager

EDESIGN/REPRINT EASTERN SIERRA TREASURE MAP BROCHURE

AGREEMENT BETWEEN COUNTY OF INYO AND BISHOP CHAMBER OF COMMERCE FOR COMMUNITY PROJECT SPONSORSHIP GRANT AWARD

INTRODUCTION

This Agreement is entered into this 5th day of February, 2013, by and between the County of Inyo, hereinafter referred to as "County", and Bishop Chamber of Commerce, hereinafter referred to as "Applicant". This Agreement, upon execution by both the County and Applicant, is a Grant Award.

WHEREAS, County desires to sponsor and support specific events or projects undertaken by non-profit organizations in Inyo County communities that enhance in-county and/or out-of-county visitation to the community, or otherwise provide for the cultural or recreational enrichment of the citizens of Inyo County and;

WHEREAS, Applicant has requested County funding to provide such specific events or projects as described in the Grant Application attached hereto as Attachment **A** and by reference incorporated herein;

WHEREAS, said specific events or projects will be provided as is described in Attachment **A**, thereby serving a public purpose;

NOW, THEREFORE, County and Applicant, in consideration of the mutual benefits, promises, covenants, terms, and conditions hereinafter contained, do agree as follows:

TERMS AND CONDITIONS

1. SPECIFIC EVENTS OR PROJECTS.

The Applicant will furnish, provide, and conduct the specific events and/or projects (herein after collectively referred to as "Project") which are described in Attachment **A**.

The Applicant will furnish, provide, and conduct such Project in the manner and by the means set forth in Attachment **A**, and in a manner consistent with the requirements and standards established by applicable federal, state, and County laws, ordinances, regulations, resolutions, and the terms and conditions of this Agreement . Such laws, ordinances, regulations, and resolutions include, but are not limited to, those which are referred to in this Agreement, including any Attachments thereto.

Applicant agrees to diligently and promptly pursue the completion of the Project, and to complete the Project within the fiscal year ending June 30, 2013.

2. FUNDING AND FUNDING LIMITATIONS.

A. Funding Process. Each year, as part of the County budget process, the Board of Supervisors will appropriate the amount of funding available for the Community Project Sponsorship Program. However, to provide an opportunity to sponsor events that will take place during July, August, September or October, the months when the County budget is usually being prepared, adopted and initially implemented, up to 35% of the prior fiscal year's board-approved budget for the Community Project Sponsorship Program will be included in the County's Preliminary Budget for the coming fiscal year.

B. One-Time Funding. The Community Project Sponsorship Program is intended to provide funding, in the form of County sponsorship, for a specific project or event. Accordingly, it is one-time funding. Annual events or reoccurring projects are eligible to submit Community Project Sponsorship Program applications in consecutive years, but there is no assurance of receiving on-going funding.

C. Maximum Award. The maximum amount of any single Grant Award made through the Community Project Sponsorship Program is $10,000.00.

D. Use of Funds.

1. Grant funds shall only be used as described, and to carry out the specific project or event identified, in the Grant Application (Attachment **A**) as approved by the Inyo County Board of Supervisors.

2. Grant funds may be used to pay for regularly paid staff time, exclusive of overtime and benefits, providing that the amount of staff time paid for with grants funds does not exceed staff time allocated to the specific project or event in the Grant Application (Attachment **A**) as approved by the Board of Supervisors.

3. Grant funds cannot be used to pay for expenses associated with the Applicant's day-to-day operating costs (e.g., office rent, office utilities, general office supplies, general travel expense, general insurance, per diem, etc.).

E. Pre-Award Funding Grant funding must be awarded by the Board of Supervisors in advance of the event or project (or component thereof) for which financial assistance is sought. Grant Funding is not to be used to pay for costs that have been incurred by the Applicant before the Grant is awarded by the Board of Supervisors.

F. Prepaid Expenses. Prepaid expenses are not eligible for Grant funding until the goods or services are actually received, unless prepaid costs are specifically identified in the Grant Application (Attachment **A**) as approved by the Board of Supervisors. Expenses which are authorized to be prepaid cannot be prepaid before the Grant Award (see Section E. above.)

G. Prohibition against Lobbying and Campaigning. None of the funds provided by the County to Applicant under this Agreement may be used, directly or indirectly, by Applicant, any of its agents, officers, or employees to lobby any Federal officer or employee, member of Congress, State officer or employee, member of the State Legislature, any officer, employee or member of any governing or advisory body of any county, city, or special district within the State of California or any other state on any issue whatsoever. Further, none of the funds provided by the County to Applicant under this Agreement may be used, directly or indirectly, by Applicant, any of its agents, officers or employees to campaign for or against any candidate for any federal, state, or local office, or to campaign for or against any measure appearing on any state or local ballot.

3. APPLICANT'S NON-PROFIT STATUS.

Applicant shall be, at the time of submitting the Grant Application (Attachment A), a non-profit organization certified by the IRS as meeting the requirements of Section 501(c)(3), 501(c)(4), 501(c)(6), or 501(c)(7) of the Internal Revenue Code, and shall continue to maintain such status during the term of this Agreement. Applicant shall attach to this Agreement as part of the Grant Application (Attachment **A**) a copy of it IRS certification which certification shall not be more than two years old at the time the Grant Application (Attachment **A**) is submitted.

4. APPLICANT'S "IN-COUNTY" STATUS.

Applicant shall, at the time of submitting the Grant Application (Attachment **A**) and continuing during the term of this Agreement, have its principle offices, primary place of operations, and business address located within Inyo County.

5. SPECIAL REQUIREMENTS.

A. Recognition of County Sponsorship. The County of Inyo must be prominently listed as an event or project sponsor on all advertisements, promotional items, or other collateral materials (including brochures, web sites, etc.) associated with the project or event. This includes featuring a logo, web site and/or telephone number if so specified by the County. The applicant will be required to demonstrate compliance with this requirement prior to receiving the last 25% of its Grant award.

B. Pre-Approval of Advertising/Promotional Items. If there is a circumstance which makes it impractical, physically improbable, or graphically and technically inappropriate to include the mandated credit or sponsorship information noted above, the County must be notified and then approve, in advance in writing or e-mail, any advertisement or promotional item that does not include listing or crediting the County as an event sponsor or contributor. The County and the Applicant will, at that time, agree on alternative ways (press releases, Web page announcements, other material related to the event) to give the County the appropriate credit for co-sponsoring or co-funding the event.

C. Copyright/Licensing Compliance. Applicant is responsible to insure that all content and photos, information, logos, etc. used in advertisements and promotional items are appropriately licensed.

6. TERM.

The term of this Agreement shall be from February 5, 2013, to June 30, 2013, unless sooner terminated as provided below.

7. PAYMENT TO APPLICANT.

A. Compensation. County agrees to pay, as set forth below, a sum not to exceed $ Eight thousand five hundred and 00/100, (Grant Award) to Applicant for the purpose of funding the aforesaid Project, which will be a public benefit.

B. No Additional Consideration. Except as expressly provided in this Agreement, Applicant 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, Applicant shall not be entitled, by virtue of this Agreement, to consideration in the form of overtime, health insurance benefits, retirement benefits, disability retirement benefits, sick leave, vacation time, paid holidays, or other paid leaves of absence of any type or kind whatsoever.

C. Limit Upon Amount Payable Under Agreement. The total sum of all payments made by the County to Applicant under this Agreement shall not exceed $ Eight thousand five hundred and 00/100 (hereinafter referred to as "contract limit"). County expressly reserves the right to deny any payment or reimbursement requested by Applicant which is in excess of the contract limit.

D. Payment.

1. Upon the County and Applicant executing Inyo County Standard Contract Number 159, the Applicant will within 30 calendar days receive 50% of the amount of their Grant Award, excluding paid staff costs.

2. The County will advance to Applicant an additional 25% of their total Grant Award, excluding paid staff costs, within 30 calendar days of County's receipt of satisfactory documentation demonstrating that the Applicant has expended the initial Grant funding consistent with the terms of their application and this Agreement.

3. The County will pay the Applicant the final 25% of the Grant Award, and all eligible paid staff expenses within 30 calendar days after:

   - Completion of the project or event; and
   - Receipt and approval of a Final Reimbursement Request including appropriate documentation of expenses; and
   - Submit a final written report to the County that includes an overview of the event or project, a statistical overview of the event or project, number of participants, etc., or other relevant details about the project event. If the final written report is deemed satisfactory, County staff can present the final written report and other supplemental information about the event or project and provide an oral report to the Board of Supervisors; and
   - If there are questions or concerns expressed by County staff about the expenditure of the grant money as outlined in the final written report, or if the Board of Supervisors has additional questions and determines it needs more information than in the written final report, the grant receipt will appear in front of the Board to present a final, oral and written report.

4. Applicant shall indemnify and hold County harmless from any liability or damage resulting from any failure to make, withholding of, or delay in making payments.

5. Applicant agrees to abide by all laws, regulations and requirements applicable to the expenditure of County Funds, including, but not limited to, the audit of the expenditure of these funds for compliance with such laws, regulations, and requirements, including compliance with all labor laws and regulations pertinent to public funds, and further, to assure compliance with the anti-discrimination provisions of the law, including County Ordinances.

E. Federal and State Taxes.

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

2. County will withhold California State income taxes from payments made under this Agreement to a non-California resident Applicant when it is anticipated that total annual payments to Applicant 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 Applicant under this Agreement. Payment of all taxes and other

assessments on such sums is the sole responsibility of Applicant. County has no responsibility or liability for payment of Applicant's taxes or assessments.

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

8. REQUIRED LICENSES, CERTIFICATES, AND PERMITS.

A. Any licenses, certificates, or permits required by the federal, state, county, or municipal governments for Applicant to conduct the Project described in this Agreement must be procured by Applicant and be valid at the time Applicant enters into this Agreement. Further, during the term of this Agreement, Applicant 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 license, professional licenses or certificates, and business licenses. Such licenses, certificates, and permits will be procured and maintained in force by Applicant at no expense to the County. Applicant will provide County, upon execution of this Agreement, with evidence of current and valid licenses, certificates and permits which are required to conduct the Project identified in the Grant Application (Attachment **A**). Where there is a dispute between Applicant and County as to what licenses, certificates, and permits are required to conduct the Project identified in the Grant Application (Attachment **A**), County reserves the right to make such determinations for purposes of this Agreement.

B. Applicant 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. Applicant 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.

9. OFFICE SPACE, SUPPLIES, EQUIPMENT, ETC.

Applicant shall provide such office space, supplies, equipment, vehicles, reference materials, and telephone service as is necessary for Applicant to conduct the Project identified in the Grant Application (Attachment **A**) to this Agreement. Unless expressly provided for the Grant Application (Attachment **A**), County is not obligated to reimburse or pay Applicant for any expense or cost incurred by Applicant in procuring or maintaining such items. Unless expressly provided in the Grant Application (Attachment **A**), responsibility for the costs and expenses incurred by Applicant in providing and maintaining such items is the sole responsibility and obligation of Applicant. Any supplies, equipment, vehicles, materials, etc., paid for by County under this Agreement are the personal property of County.

10. 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 Applicant by County pursuant to this Agreement are, and at the termination of this Agreement remain, the sole and exclusive property of County. Applicant will use reasonable care to protect, safeguard and maintain such items while they are in Applicant's possession. Applicant will be financially responsible for any loss or damage to such items, partial or total, which is the result of Applicant's negligence.

B. Products of Applicant's Work and Services. County retains a non-exclusive right to use 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, Applicant's services or work under this Agreement.

11. INSURANCE.

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

12. STATUS OF APPLICANT.

All acts of Applicant, its agents, officers, employees, and volunteers, relating to the performance of this Agreement, shall be performed as independent Applicants, and not as agents, officers, or employees of County.

Applicant, 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**, Applicant 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 Applicant. It is understood by both Applicant 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. Applicant shall determine the method, details, and means of conducting the Project described in Attachment **A**.

B. Applicant 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 Applicant in fulfillment of this Agreement.

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

13. DEFENSE AND INDEMNIFICATION.

Applicant 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 Applicant, or Applicant's agents, officers, employees, or volunteers. Applicant'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. Applicant'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 Applicant, its agents, employees, volunteers, suppliers, or any one directly or indirectly employed by any of them, or anyone for whose acts or omissions any of them may be liable.

Applicant'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 Applicant to procure and maintain a policy of insurance.

To the extent permitted by law, County shall defend, indemnify, and hold harmless Applicant, 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.

14. RECORDS AND AUDIT.

A. Records. Applicant shall prepare and maintain all records required by the various provisions of this Agreement, federal, state, and municipal law, ordinances, regulations, and directions. Applicant shall maintain these records for a minimum of four (4) years from the termination or completion of this Agreement. Applicant 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 Applicant, 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 Applicant. Further, County has the right, at all reasonable times, to audit, inspect, or otherwise evaluate the work performed or being performed under this Agreement and further, to submit to the County Administrative Officer a written report upon completion of the Project detailing the record of expenditures under this Agreement.

15. NONDISCRIMINATION.

During the performance of this Agreement, Applicant, its agents, officers, employees and volunteers 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. Applicant and its agents, officers, employees, and volunteers 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. Applicant 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.

16. ASSIGNMENT.

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

17. DEFAULT.

If the Applicant abandons the Project, or fails to proceed with the Project in a timely manner, or fails in any way as required to conduct the Project as required, County may declare the Applicant in default and terminate this Agreement upon five (5) days written notice to Applicant. Upon such termination, County will pay Applicant all sums owed it for services and work authorized in the Grant Application (Attachment A) which were satisfactorily performed before the date of termination.

18. WAIVER OF DEFAULT.

Waiver of any default by either party to this Agreement shall not be deemed to be waiver of any subsequent default. Waiver of any breach of any provision of this Agreement shall not be deemed to be a waiver of any other or subsequent breach, and shall not be construed to be a modification of the terms of this Agreement unless this Agreement is modified as provided in paragraph Twenty-Five (25) below.

19. CONFIDENTIALITY.

Applicant 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 Applicant in the course of providing services and work under this Agreement, shall be privileged, restricted, or confidential. Applicant agrees to keep confidential all such information and records. Disclosure of such confidential, privileged, or protected information shall be made by Applicant only with the express written consent of the County.

20. CONFLICTS.

Applicant agrees that it has no interest, and shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with its performance of the Project as described in this Agreement.

21. POST AGREEMENT COVENANT.

Applicant agrees not to use any confidential, protected, or privileged information which is gained from the County under this Agreement, for any personal benefit, gain, or enhancement. Further, Applicant 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, and concerning such, Applicant by virtue of this Agreement has gained access to the County's confidential, privileged, protected, or proprietary information.

22. 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.

23. 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 Applicant 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-Five (25) (Amendment).

24. 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.

25. 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.

26. 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 Applicant 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:
County Administrative Officer — Department
P.O. Drawer N — Address
Independence, CA 93526 — City and State

Applicant:
Bishop Chamber of Commerce — Name
690 N. Main St. — Address
Bishop, CA 93514 — City and State

27. 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 BISHOP CHAMBER OF COMMERCE
FOR COMMUNITY PROJECT SPONSORSHIP GRANT AWARD

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

COUNTY OF INYO

By: _____

Dated: 04-08-2013

APPLICANT

By: Tawni Thomson
Signature

Tawni Thomson
Type or Print Name

Dated: 3-15-13

APPROVED AS TO FORM AND LEGALITY:

_____
County Counsel

APPROVED AS TO ACCOUNTING FORM:

_____
County Auditor

APPROVED AS TO INSURANCE REQUIREMENTS:

_____
County Risk Manager

ATTACHMENT A

AGREEMENT BETWEEN COUNTY OF INYO
AND BISHOP CHAMBER OF COMMERCE
FOR COMMUNITY PROJECT SPONSORSHIP GRANT AWARD

TERM:

FROM: February 5, 2013 **TO:** June 30, 2013

GRANT APPLICATION:

Any grant application and or Board order attached hereto is/are incorporated by reference, but terms contained in these attachments, if any, which are inconsistent with provisions of this contract will not be binding over terms of this contract as otherwise set forth. Any budget contained in the attachment is merely an estimate of costs, and informational. All expenses that the grant recipient can show relate directly to the completion of the program, project, or events are eligible for reimbursement for the exact costs incurred, based on the appropriate invoice or other documentation of those costs, as determined by staff review. Payment of all grant amounts is expressly contingent upon the Applicant having fully paid all of Applicant's property taxes due and owing in the County of Inyo.

RECEIVED

DEC 21 2012

Inyo Co. Water Department

COMMUNITY PROJECT SPONSORSHIP PROGRAM
GRANT APPLICATION

Name of Project/Event: **Redesign and Reprint Eastern Sierra "Treasure Map" Brochure**

Amount of Grant Request: **$10,000**

Date: **December 20, 2012**

APPLICANT INFORMATION

Name of Organization: **Bishop Area Chamber of Commerce & Visitors Bureau**

Street Address: **690 North Main Street, Bishop, CA 93514**

Mailing Address (if different): _____

Contact Person: **Tawni Thomson** Phone: **(760) 873-8405** E-Mail: **execdir@bishopvisitor.com**

Type of Organization: **Non-profit Chamber/Visitors Bureau** Tax ID#: **95-2490894**

Primary Purpose of Organization: **It is the mission of the Bishop Area Chamber of Commerce and Visitors Bureau to promote business, tourism, and greater Bishop for the betterment of the community and its residents. Note: *This purpose extends far beyond the city limits of Bishop, to the residents of and visitors to all of Inyo County and the entire Eastern Sierra.***

ACTIVITY INFORMATION

Description of Project or Event for Which Funding Is Being Requested: **Redesign and reprint Inyo County "Treasure Map" brochure which features recreational, scenic and cultural highlights of Inyo County communities. The current edition of the map includes the Owens Valley along the Highway 395 corridor from Lone Pine to the Mono County Line. The redesign will provide for the addition of a Death Valley map and updated text and photos to highlight points of interest in that region.**

Date(s) of Event or Project period: **January, 2013 *and beyond.***

OTHER INFORMATION

What percentage of Project/Event budget does grant request represent? **100%**

Sources of In-kind Support:

Description	Source	Value
_____	_____	$_____
_____	_____	$_____
	TOTAL	$_____

Describe how the event or project will comply with the requirement that the County of Inyo must be listed as an event or project sponsor on all advertisements, promotional items, or other collateral materials (including brochures, web sites, etc.). Identify each medium, including quantity (e.g., number of ads, posters, t-shirts, etc.) and location (e.g., name of publication in which ad will be placed).

The Treasure Map brochure includes "The Other Side of California" logo and website and all copies of this reprinting will feature both. We will also acknowledge Inyo County's support of this vital marketing effort via e-newsletters and news releases.

Will the Project/Event happen if your organization does not receive a Community Project Sponsorship Grant? **No. Unfortunately, the Bishop Chamber simply does not have sufficient financial resources at this time to fund the project without Inyo County grant assistance.**

If, "Yes" how will receiving a grant enhance the Project/Event? _____

If "Yes" how would receiving only partial grant funding enhance the Project/Event? **Ideally, the project would be funded in its entirety; however partial grant funding may allow for a "scaled back" version of the project to be implemented. The graphic design fee would remain unchanged; however, we would order fewer copies. For this proposal, we have budgeted printing fees at $0.30 per copy, if the number of maps printed is reduced, we will definitely have to pay a higher price per brochure.**

Identify Top 3 Benefits of Project Event (Place 1,2,3 in boxes below)

☐ Fundraiser

1 - Attract visitors from outside of Inyo County

☐ Attract visitors from other communities in Inyo County

☐ Fundraiser for multiple groups (list groups: _____)

2 - Cultural enrichment

3 - Civic tourism

2 - Recreational enrichment

☐ Other _____ Describe: _____

☐ Other _____ Describe: _____

Comments: _____

Is your organization, or the Project, or Event already receiving financial or in-kind support from Inyo County? **Yes (hopefully).**

Describe: **The Bishop Area Chamber of Commerce and Visitors Bureau has successfully participated in the CPSP program for the past several years and we are hopeful that our applications for funding in 2013 will be approved. We do not currently receive any financial support through GIS or other Inyo County funded programs.**

If this Project/Event was funded in the past five years by a CPSP grant, did the Project/Event meet the goals and measurements of success outlined in the previous CPSP Grant Application? **Yes. The Bishop Chamber was awarded CPSP grant funding in 2009 and 2011 for reprinting of the Treasure Map. The 2009 project included updating the content to increase emphasis of southern Owens Valley points of interest and addition of the Inyo County marketing logo. All aspects of the agreement to produce and distribute the Treasure Map were completed successfully.**

What are your plans for continuing the Project or Event in future years? **The Treasure Map has proven to be one of the most requested brochures offered to Inyo County Visitors. The Bishop Area Chamber intends to continue to produce the piece for as long as it continues to prove to be beneficial and for as long as our limited resources allow.**

How? **The Bishop Chamber will continue to seek funding from a variety of sources including Chamber membership dues, sponsor donations, fundraising events, Inyo County and City of Bishop grant funding.**

Signature acknowledges that all information on application is true and correct and that Applicant has read and agrees to comply with Community Project Sponsorship Program Guidelines and Standard Contract No. 159.

Dawni Thomson — Signature

12/20/2012 — Date

Attach:

- [x] Certification of Tax Status
- [x] IRS certification of organization's 501(c)(3) or 501(c)(6) status
- [x] Organization's Budget for current fiscal year including identification of all reserve funds
- [x] Financial Statements prepared/reviewed/compiled/audited (circle all that apply) by: **Randy VanTassell, CPA.**
- [x] W-9 Form

Optional:

- [x] Single page (one sided, 12-pt font, single spaced) expanding on any aspect of your Project or Event
- [ ] Letters demonstrating community support

For Clerk's Use Only:
AGENDA NUMBER

5

AGENDA REQUEST FORM

BOARD OF SUPERVISORS
COUNTY OF INYO

X Consent ☐ Departmental ☐ Correspondence Action ☐ Public Hearing

☐ Scheduled Time for ☐ Closed Session ☐ Informational

FROM: Jon Klusmire, Museum Services Administrator

FOR THE BOARD MEETING OF: June 25, 2013

SUBJECT: Final County of Inyo Community Project Sponsorship Grant Presentation and Payment to the Lone Pine Chamber of Commerce for successfully completing the Inyo County Visitor Guide, a 2012-13 CPSP project.

DEPARTMENTAL RECOMMENDATION: Request your Board approve a final payment to the Lone Pine Chamber of Commerce for $4,500 for the sixth edition of the Inyo County Visitor Guide, a 2012-13 Community Project Sponsorship Grant project funded from the 2012-2013 Advertising County Resources budget, 011400.

SUMMARY DISCUSSION: The Lone Pine Chamber of Commerce was awarded a FY 2012-13 County of Inyo Community Project Sponsorship Grant in the amount of $9,000 in Feburary of 2013 to help produce and distribute the sixth edition of the Inyo County Visitor Guide. "Each year the quality increases and the distribution is expanded," the Chamber said. This year, 25,000 copies will be distributed, with 3,000 available at Inyo County's booth at Cal Expo, and the Guide will also be available at locations where vistitors drive into the county, as well as in the county. The Guide is also a "fullfilment" piece, since it is mailed to people requesting information after seeing Inyo County's advertisements in magazines and other media.

After contracts were finalized, half the grant funds ($4,500) were disbursed to the Lone Pine Chamber of Commerce. The Chamber has provided staff with sufficient documentation of acceptable expenses for reimbursement for a final payment of $4,500. The organizers also provided evidence that Inyo County was prominently mentioned as a sponsor of the event in ads and other promotional material.

ALTERNATIVES: The Board could deny the request.

OTHER AGENCY INVOLVEMENT: County Administrator's Office, Auditor/Controller.

FINANCING: The Community Project Sponsorship Program is part of the Advertising County Resources budget and is financed from the General Fund. Funds for these grants have been budgeted in FY 2012-13 Advertising County Resources Budget (011400), Professional Services (5265).

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:	ACCOUNTING/FINANCE AND RELATED ITEMS (*Must be reviewed and approved by the auditor-controller prior to submission to the board clerk.)* Approved: YES Date 6/18/13
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_____

DEPARTMENT HEAD SIGNATURE: L Piper for Jon Klusmire Date: 6/19/13
(Not to be signed until all approvals are received)
(The Original plus 20 copies of this document are required)

June 10, 2013

Inyo County Board of Supervisors
Drawer N
Independence CA 93545

Dear Board,

The Lone Pine Chamber is proud to present the sixth edition of the Inyo County Visitor's Guide.

Each year the quality increases and the distribution is expanded and this year is no exception.

We now have Inyo County Guides at every entry to Inyo County, plus distribution of 3,000 at CalExpo. 25,000 are distributed each year, plus it is digitally presented on the Chamber websites as well as www.theothersideofcalifornia.com.

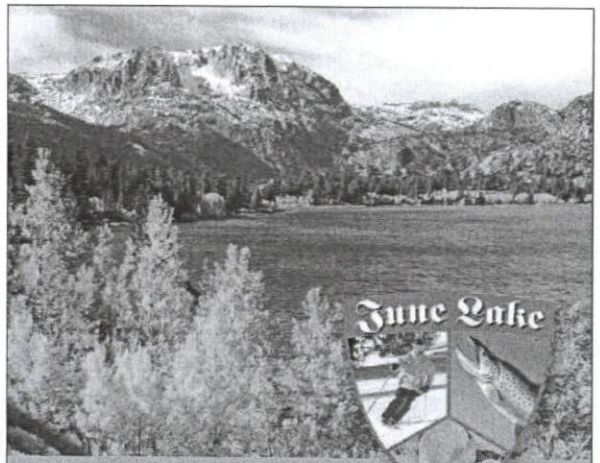
Thank you.

Sincerely,

Kathleen

Kathleen New
President/CEO
Lone Pine Chamber of Commerce

PH. [760] 876.4444 • www.lonepinechamber.org
info@lonepinechamber.org



A mountain hideaway for all seasons...

Tucked away at the base of 10,909-ft Carson Peak, the scenic 14-mile June Lake Loop is a year-round outdoor recreation paradise.

Spring and Summer The Loop's four glistening lakes – June, Gull, Silver, and Grant, are renowned for fishing and are stocked with trophy-size Alpers trout. Kayak and boat rentals, horseback riding, jeep tours, scenic chairlift rides, and miles of hiking trails provide additional summer enjoyment.

Autumn A delight for artists and photographers, with aspen color ablaze.

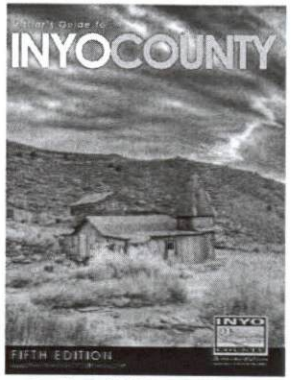
Winter June Mountain Ski Area is famous for its wide, uncrowded trails, innovative terrain parks and easy access to backcountry skiing. Other winter sports include snowmobiling, snow-shoeing, cross-country skiing and ice-skating.

June Lake Chamber of Commerce Members

Adventure in Camping	760-648-7509
Alpine Deli & Pizza Co.	760-648-7633
Boulder Lodge	800-458-6355
Carson Peak Inn	760-648-7575
Coldwell Banker	760-648-7505
Double Eagle Resort & Spa	760-648-7004
EastSierra.com	dan@eastsierra.com
Ernie's Tackle & Ski Shop	760-648-7756
Frontier Pack Station	888-437-6853
Golden Pines RV	760-648-7473
Gull Lake Lodge	800-631-9081
Gull Lake Marina	760-648-7539
The Haven	800-648-7524
The Heidelberg Inn	800-438-5863
June Lake General Store	760-648-7771
June Lake Junction	760-648-7509
June Lake Marina	760-648-7726
June Lake Motel	800-648-6835
June Lake Pines Cottage	800-481-3637
June Lake Vacation Res.	800-648-5863
June Mountain Ski Area	888-586-3686
Lake Front Cabins	877-648-7527
Lee Vining Shell & Towing	760-647-6444
Reverse Creek Lodge	800-762-6440
Sierra Inn	760-648-7774
Silver Lake Resort	760-648-7525
State Farm - Linda Wright	760-934-7575
Tiger Bar	760-648-7551
Whispering Pines	800-648-7762

JUNE LAKE CHAMBER OF COMMERCE
JuneLakeLoop.org

ABOUT THE COVER



Our Beautiful Cover of the Cerro Gordo Mining Area in the Inyo Mountains was photographed by Dennis & Kim Dessolier they used a Canon EOS 5D Mark II Camera.

GOLDEN GATE MEDIA GROUP

Golden Gate Media Group Now offers iPhone Apps!

Now available as a FREE Download at Apples App Store:

Vista Chamber of Commerce

Apps Coming this Spring:

Clos LaChance Winery

Ridgecrest Regional Film Commission

Ridgecrest Area Convention & Visitors Bureau

Death Valley Chamber of Commerce

Lone Pine Chamber of Commerce

Bishop Chamber of Commerce

Lake Elsinore Chamber of Commerce

Hanford Chamber of Commerce

Port Hueneme Chamber of Commerce

Delano Chamber of Commerce

For More Information Call:
(310) 872-7395

INYO COUNTY

FIFTH EDITION

Made possible with a Grant from The County of Inyo

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CHAMBERS OF COMMERCE OF INYO COUNTY

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120 South Main Street
P.O. Box 749
Lone Pine, California 93545
(760) 876-4444
www.lonepinechamber.org

Bishop Area Chamber of Commerce and Visitors Bureau
690 N. Main Street
Bishop, California 93514
760-873-8405 • 888-395-3952
wwwBishopVisitor.com

Death Valley Chamber of Commerce
860 Tecopa Hot Springs Road
Tecopa Hot Springs, California 92384
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(760) 852-4420
www.deathvalleychamber.com
deathvalleychamber@gmail.com

Independence Chamber of Commerce
PO Box 397
Independence, California 93526
(760) 878-0084
www.independence-ca.com

Government Agencies:

Bureau of Land Management (BLM)
(760) 872-4881

County of Inyo
(760) 878-0366

Death Valley National Park
(760) 786-3200

Eastern Sierra Interagency Visitors Center
(760) 876-6222

Inyo National Forest-Supervisor
(760) 873-2400

Mt. Whitney Ranger Station
(760) 876-6200

White Mountain Ranger Station
(760) 873-2500

For Clerk's Use Only:
AGENDA NUMBER

6

AGENDA REQUEST FORM

BOARD OF SUPERVISORS
COUNTY OF INYO

☒ Consent ☐ Departmental ☐ Correspondence Action ☐ Public Hearing

☐ Scheduled Time for ☐ Closed Session ☐ Informational

FROM: County Administrator-Planning

FOR THE BOARD MEETING OF: June 25, 2013

SUBJECT: Approval of Amendment #7 to the Contract Between the County of Inyo and Gruen Gruen + Associates

DEPARTMENTAL RECOMMENDATION

Request your Board Approve Amendment #7 to the Contract between the County of Inyo and Gruen Gruen + Associates, revising the Scope of Work to include additional analysis work and amending the contract term of the agreement to be from October 26, 2010 to June 30, 2014 and authorize the County Administrator to sign, contingent upon Board approval of future budgets and contingent upon appropriate signatures being obtained.

SUMMARY DISCUSSION

The County entered into a contract with Gruen Gruen + Associates (GGA) in 2010 to provide for socioeconomic impact analysis services. GGA has provided invaluable services to the County for its participation in the City of Los Angeles' Solar Ranch project in the southern Owens Valley and the Hidden Hills Solar Energy Generating System project in Charleston View. The contract has been amended on numerous occasions to extend the contract term, increase the fee, and expand the scope of work. Recently it has become apparent that GGA services will become necessary due to the proposed listing and critical habitat for three amphibian species in the Sierra Nevada. It is necessary to extend the contract term and augment the scope of work to proceed with these services.

ALTERNATIVES

Your Board could choose not to amend the contract with GGA, however, this is not recommended. GGA's work is critical in ensuring the County's interests are fully represented.

OTHER AGENCY INVOLVEMENT

US Fish and Wildlife Service, Inyo National Forest, and other impacted agencies.

FINANCING

Funding for this work is included in the Board approved FY 2012/2013 Natural Resource Budget (010204) and in the recommended FY 2013/2014 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 6/20/13
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 6/20/13
PERSONNEL DIRECTOR:	PERSONNEL AND RELATED ITEMS (Must be reviewed and approved by the director of personnel services prior to submission to the board clerk.) N/A Approved:_____ Date_____

DEPARTMENT HEAD SIGNATURE:
(Not to be signed until all approvals are received)_____ Date: 6/20/13

DEPARTMENT HEAD SIGNATURE:
(Not to be signed until all approvals are received)_____ Date: 6/20/13

AMENDMENT NUMBER 7 TO
AGREEMENT BETWEEN THE COUNTY OF INYO AND
Gruen Gruen + Associates
FOR THE PROVISION OF INDEPENDENT CONTRACTOR SERVICES

WHEREAS, the County of Inyo (hereinafter referred to as "County") and Gruen Gruen + Associates, of San Francisco, California (hereinafter referred to as "Contractor"), have entered into an Agreement for the Provision of Independent Contractor Services dated October 26, 2010, on County of Inyo Standard Contract No. 123, for the term from October 26, 2010 to June 30, 2013.

WHEREAS, County and Contractor 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 from, and executed with the same formalities as such Agreement, and attached to the original Agreement to maintain continuity.

County and Contractor hereby amend such Agreement as follows:

2. TERM.

The term of this Agreement shall be from October 26, 2010 to June 30, 2014 unless sooner terminated as provided below.

ATTACHMENT A – SCOPE OF WORK (Addition)

Contractor will provide services to the County in reviewing, analyzing, preparing comments and providing testimony on plans, regulations, and related actions being undertaken by State and Federal agencies, including but not limited to critical habit designations and US Forest Management Plan Updates.

The effective date of this Amendment to the Agreement is _____.

All the other terms and conditions of the Agreement are unchanged and remain the same.

AMENDMENT NUMBER 7 TO
AGREEMENT BETWEEN THE COUNTY OF INYO AND
Gruen Gruen + Associates
FOR THE PROVISION OF INDEPENDENT CONTRACTOR SERVICES

IN WITNESS THEREOF, THE PARTIES HERETO HAVE SET THEIR HANDS AND SEALS THIS

____ DAY OF _____, _____.

COUNTY OF INYO

By: _____

Dated: _____

CONTRACTOR

By: Claude Gruen
Signature

Claude Gruen
Type or Print

Dated: 6-20-13

APPROVED AS TO FORM AND LEGALITY

County Counsel

APPROVED AS TO ACCOUNTING FORM:

County Auditor

APPROVED AS TO PERSONNEL REQUIREMENTS:

N/A

Director of Personnel Services

APPROVED AS TO RISK ASSESSMENT:

M Baker/WRC

County Risk Manager

For Clerk's Use Only:
AGENDA NUMBER

7

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 ADMINSTRATOR

FOR THE BOARD MEETING OF: June 25, 2013

SUBJECT: Anti-Fraud, Waste and Abuse Policy

DEPARTMENTAL RECOMMENDATION:

Request your Board adopt the Anti-Fraud, Waste and Abuse Policy.

SUMMARY DISCUSSION:

During the Mid-Year Budget Review, your Board approved additional funds for a fraud detection training program. This training program is currently scheduled for June 26th and 27th for County staff. To re-enforce the County's commitment to prevent fraud, waste and abuse and to strengthen the fraud training, a formal policy is desirable. With a collaborated effort by the County management team including the Auditor-Controller, County Administrator, County Counsel, and Risk Management the recommended policy was developed. The policy defines fraud, waste, and abuse and provides direction to County employees when confronted with issues related to fraud, waste and abuse.

ALTERNATIVES:

Your Board could choose not to adopt the policy or could direct staff to modify the policy.

FINANCING:

There are no costs associated with the adoption of this policy.

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: ✓ 6-19-13 Date:
AUDITOR/CONTROLLER: Amy Shepherd	**ACCOUNTING/FINANCE AND RELATED ITEMS** *(Must be reviewed and approved by the Auditor/Controller prior to submission to the Board Clerk.)* Approved: ✓ 6/19/13 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: 06-19-2013 Date:

DEPARTMENT HEAD SIGNATURE:
(Not to be signed until all approvals are received) Amy Shepherd Date: 6/19/13

DEPARTMENT HEAD SIGNATURE:
(Not to be signed until all approvals are received) Date: 06-19-2013

County of Inyo
Anti-Fraud, Waste, and Abuse Policy

PURPOSE

Inyo County expects its employees to strive for excellence in public service as well as maintain the highest standards of ethics and integrity. To help achieve this vision, this policy has been developed to re-enforce the County's commitment to preventing and detecting fraud, waste, and abuse. The policy also defines what constitutes fraud, waste, and abuse and outlines expectations and procedures all employees must follow when fraud, waste or abuse is suspected.

SCOPE

This policy applies to all County employees.

DEFINITIONS OF FRAUD, WASTE, AND ABUSE FOR PURPOSES OF THIS POLICY

Fraud is a type of **illegal act** involving the obtaining of something of value through willful misrepresentation. Whether an act is, in fact, fraud is a determination to be made through the judicial or other adjudicative system.

Waste occurs if the taxpayer does not receive reasonable value for his or her taxes in connection with any government funded activity due to an inappropriate act or omission of a County employee. Importantly, waste goes beyond fraud and abuse and most waste does not involve a violation of law. Rather, waste relates primarily to mismanagement, inappropriate actions and inadequate oversight.

Abuse involves behavior that is deficient or improper when compared with behavior that a prudent person would consider reasonable and necessary business practice given the facts and circumstances. Abuse also includes misuse of authority or position for personal financial interests or those of an immediate or close family member or business associate. Abuse does not necessarily involve fraud, violation of laws, regulations, or provisions of a contract or grant agreement.

Examples of fraud, waste, and abuse include, but are not limited to:

- Using County resources in a manner contrary to established policies or permissions governing the use of those resources, or that otherwise constitutes fraud, waste or abuse.
- Obtaining County funds or compensation through dishonesty
- Manipulating computer files, programs or data to hide fraud
- Falsification of costs or expenses
- Forgery or alteration of documents
- Destruction or removal of records in violation of County records retention policies or departmental policies.
- Paying of excessive prices or fees to third parties with the aim of personal gain

POLICIES AND PRINCIPLES

The following policies and principles apply to the County workforce:

- County employees must have, and be seen to have, the highest standards of honesty and integrity in the exercise of their duties
- County staff will not tolerate fraud, waste, abuse, or dishonest conduct. Suspected acts of such will be investigated. Employees may be disciplined for committing fraud, waste or abuse
- The County will co-operate with external investigating bodies
- The County will recover funds lost through fraud when possible

County of Inyo
Anti-Fraud, Waste, and Abuse Policy

The County will:

- Develop and maintain effective controls to prevent fraud, waste, and abuse
- Ensure that if fraud, waste or abuse is suspected, an appropriate investigation takes place
- Review systems and procedures to prevent similar frauds, waste, or abuse

RESPONSIBILITIES

Department Heads – are responsible for establishing and maintaining a system of internal controls and department procedures to ensure the detection and prevention of fraud, waste and abuse. Upon notification from an employee or supervisor of suspected fraud or abuse ,or if the Department Head has reason to suspect that a fraud or abuse has occurred, the Department Head shall immediately (by the end of their shift) contact the County Administrative Officer, Risk Manager, or the Auditor-Controller. The Department Head shall not attempt to investigate or discuss the matter with anyone other than the County Administrative Officer, Risk Manager, Auditor-Controller, or law enforcement. If a Department Head is notified or suspects minor instances of waste by an employee, he or she may take appropriate action without notifying the County Administrative Officer, Risk Manager, and Auditor-Controller.

Managers - must report suspected fraud, waste, or abuse to the Department Head. Suspected fraud and abuse will also be reported to the County Administrative Officer, the Risk Manager and Auditor-Controller.

Employees - must immediately (by the end of their shift) notify their Department Head of any act of suspected fraud, waste or abuse that has occurred or is occurring. If an employee has reason to believe that the Department Head may be involved or has not addressed the situation, the employee must also report the suspected fraud, waste or abuse to the County Administrative Officer, the Risk Manager and the Auditor-Controller. Employees must maintain strict confidentiality concerning reported fraud, waste, and abuse as instructed by higher authority.

AGENDA REQUEST FORM
BOARD OF SUPERVISORS
COUNTY OF INYO

For Clerk's Use Only:
Agenda Number: 8

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

FROM: Kammi Foote, Clerk-Recorder and Registrar of Voters

FOR THE BOARD MEETING OF: June 25, 2013

SUBJECT: Approval to authorize payment to AtPac for Software License Maintenance and Support Fee

DEPARTMENTAL RECOMMENDATION:

Request Board authorize payment to AtPac in an amount of $10,080.00 for the annual CRiis ™ Software License Maintenance and Support Fee contingent upon the adoption of the 2013-2014 budget

SUMMARY DISCUSSION:

AtPac is the sole source provider of the Recorder's Cashiering and Imaging System (CRiis™). The payment of this annual CRiis™ license fee is a requirement of continuing with the Recorder's Cashiering and Imaging System. CRiis™ is the cashiering system for the offices of the County Clerk, Recorder and Registrar of Voters. CRiis™ is also the system that facilitates recording document into the permanent record, issuance of Marriage Licenses and issuance of certified copies of Vital Records.

ALTERNATIVES:

The Board can deny the payment, which would result in the discontinuation of the Recorder's Cashiering and Imaging System (CRiis™) and the inability to issue Marriage Licenses or to record documents into the permanent records as required by State law.

OTHER AGENCY INVOLVEMENT: N/A

FINANCING:

Sufficient funds to cover this annual payment are contained in the FY 2013-2014 budget (023401-5311).

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: 6·11·13 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: yes 6/13/13 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: 6/13/13

ATPAC
13300 New Airport Rd, STE 101
Auburn, California 95602
Phone (530) 887-2249
Fax (530) 887-2259

Invoice

Date	Invoice #
5/1/2013	2013627

Bill To:

Inyo County Clerk/Recorder
Ms. Kammi Foote
P.O. Box F
Independence, CA 93526

Products - Services Fee Descriptions	Amount(s)
REFERENCE CRiis PROGRAM LICENSE AGREEMENT	
CRiis Software License Maintenance and Support Fee Annual License July 01, 2013 to June 30, 2014	10,080.00
Sales Tax	0.00

Thank you for your business.

Total → $10,080.00

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: HEALTH & HUMAN SERVICES – Behavioral Health, Substance Use Disorders Program

FOR THE BOARD MEETING OF: June 25, 2013

SUBJECT: Approval of the FY 2012-2014 V.1 Amended Negotiated Net Amount (NNA) Contract for Alcohol and Drug Services.

DEPARTMENTAL RECOMMENDATION:
Request that your Board approve the FY 2012/2013 V.1 Amended Negotiated Net Amount (NNA) Contract with the California Department of Alcohol and Drug (ADP) Programs and the Department of Health Care Services (DHCS) that extends the contract period to end June 30, 2014, for a new multi-year contract total of $1,701,570, and authorize the chairperson to sign the amendment forms, contingent upon the adoption of the FY 2013/14 budget.

CAO RECOMMENDATION:

SUMMARY DISCUSSION:
This is the standard V.1 Amendment to our State contract for Inyo County's Substance Use Disorders Program. The State keeps the basic multi-year contract in place and provides amendments to the contract reflecting any changes in the allocation. The total amount of the multi-year contract is $1,701,570. Additionally, there are changes in the contract with regard to the "Non Drug Medi-Cal" program portions of this contract amendment that implements a Contingency Assignment of Agreement from ADP to the DHCS if the FY 2013-14 Budget Act is enacted to eliminate AQDP and transfer the "Non Drug Medi-Cal" program to DHCS.

ALTERNATIVES:
Your Board could elect not to approve this amendment, resulting in future delay or loss of funding for the Alcohol and Drug programs.

OTHER AGENCY INVOLVEMENT:
California Department of Alcohol and Drug Programs and Department of Health Care Services

FINANCING:
100% Federal Funds. This will be brought in as Revenue to the Alcohol and Other Drug Services Budget # 045315.

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: 6/11/2013
AUDITOR/CONTROLLER:	**ACCOUNTING/FINANCE AND RELATED ITEMS** *(Must be reviewed and approved by the Auditor/Controller prior to submission to the Board Clerk.)* Approved: _____ Date: 6/13/13
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:

DEPARTMENT HEAD SIGNATURE:
(Not to be signed until all approvals are received) Jean Turner DE Date: 6/13/13

STATE OF CALIFORNIA

STANDARD AGREEMENT AMENDMENT

STD 213A Tri-Amend_DHCS (3/12)

☒ Check here if additional pages are added: 1 Page(s)

ADP Agreement / Amend Number	DHCS Agreement / Amend Number
10-NNA14 V.1	12-89208 A01
Registration Number:	

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

Primary State Agency also referred to as ADP	Secondary State Agency also referred to as DHCS
Department of Alcohol and Drug Programs	Department of Health Care Services

Contractor's Name (Also referred to as Contractor)
County of Inyo

2. The term of this Agreement is: July 1, 2010 through June 30, 2014

3. The maximum amount of this Agreement after this amendment is: $ 1,701,570
One million, seven hundred one thousand, five hundred seventy dollars

4. The parties mutually agree to this amendment as follows. All actions noted below are by this reference made a part of the Agreement and incorporated herein:

I. **Amendment effective date:** July 1, 2012

II. **Purpose of amendment:** This amendment: (1) extends the contract period to expire June 30, 2014; (2) decreases contract amount for Fiscal Year 2012-13 services; (3) adds new funding for Fiscal Year 2013-14; and (4) with regard to the "Non Drug Medi-Cal" program portions of this agreement, implements a Contingency Assignment of Agreement (#10-NNA14 V.1) from the Department of Alcohol and Drug Programs to the Department of Health Care Services if the FY 2013-14 Budget Act is enacted to eliminate the Department of Alcohol and Drug Programs and transfer of the "Non Drug Medi-Cal" Program to the Department of Health Care Services.

III. Paragraph 3 (maximum amount) of the face of the amended STD 213 is amended to read: **$1,701,570** ~~$1,343,773~~.

(Continued on next page)

All other terms and conditions shall remain the same.

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

STATE OF CALIFORNIA *(Primary)*		STATE OF CALIFORNIA *(Secondary)*	
Primary Agency Name Department of Alcohol and Drug Programs		Secondary Agency Name Department of Health Care Services	
By *(Authorized Signature)* ✍ Susan L. Lussier	Date Signed *(Do not type)* 5/2/13	By *(Authorized Signature)* ✍	Date Signed *(Do not type)*
Printed Name and Title of Person Signing Susan Lussier, Deputy Director, Division of Administration		Printed Name and Title of Person Signing Andrew Young, Chief, Contracts and Purchasing Services Section	
Address 1700 K Street, Sacramento, CA 95811		Address P.O. Box 997413, MS Code 1403, Sacramento, CA 95899-7413	

CONTRACTOR		CALIFORNIA Department of General Services Use Only
Contractor's Name (if not an individual, indicate a corporation, partnership etc.) County of Inyo		
By *(Authorized Signature)* ✍	Date Signed *(Do not type)*	
Printed Name and Title of Person Signing		
Address		☒ Exempt per: **DGS memo dated 7/10/96 and Welfare and Institutions Code 14087.4**

IV. By executing this amendment, the Department of Alcohol and Drug Programs expressly consents that all rights and interests in Agreement (#10-NNA14 V.1) with respect to the "Non Drug Medi-Cal" Program are assigned to the Department of Health Care Services as of July 1, 2013, if the Fiscal Year 2013-14 Budget Act eliminating the Department of Alcohol and Drug Programs, which includes the transfer of the "Non Drug Medi-Cal" Program to the Department of Health Care Services is approved. By executing this amendment, the Department of Health Care Services assumes all rights, duties, obligations, responsibilities, and liabilities of any type that accrue under Agreement (#10-NNA14 V.1) with respect to the "Non Drug Medi-Cal Program" on or after July 1, 2013 and agrees to abide by the terms and conditions of said agreement.

V. Attached to this contract amendment is a listing of contract boilerplate changes from Fiscal Year 2011-12 to Fiscal Year 2012-13.

VI. Attached to this contract amendment is Exhibit A1 (DMC Federal Funding Only) of the Fiscal Year 2012-13 Substance Use Disorder Budget for the County of Inyo, ADP Contract #10-NNA14 V.1 and DHCS Contract #12-89208 A01.

VII. Attached to this contract amendment is Exhibit A1 (DMC Federal Funding Only) of the Fiscal Year 2013-14 Substance Use Disorder Budget for the County of Inyo, ADP Contract #10-NNA14 V.1 and DHCS Contract #12-89208 A01.

VIII. As part of the Contingency Assignment, attached to this contract amendment is Exhibit A1 (All Funding) of the Fiscal Year 2012-13 Substance Use Disorder Budget for the County of Inyo, ADP Contract #10-NNA14 V.1 and DHCS Contract #12-89208 A01.

IX. As part of the Contingency Assignment, attached to this contract amendment is Exhibit A1 (All Funding) of the Fiscal Year 2013-14 Substance Use Disorder Budget for the County of Inyo, ADP Contract #10-NNA14 V.1 and DHCS Contract #12-89208 A01.

X. Attached to this contract amendment is Exhibit B, General Terms and Conditions, effective July 1, 2012, as part of the multi-year contract for the Fiscal Year 2010-11 through Fiscal Year 2013-14, for the County of Inyo, ADP Contract #10-NNA14 V.1 and DHCS Contract #12-89208 A01.

XI. Attached to this contract amendment is Exhibit C, Non Drug Medi-Cal Substance Abuse Treatment Services and Funding Conditions, effective July 1, 2012, as part of the multi-year contract for the Fiscal Year 2010-11 through Fiscal Year 2013-14, for the County of Inyo, ADP Contract #10-NNA14 V.1 and DHCS Contract #12-89208 A01.

XII. Attached to this contract amendment is Exhibit D, Drug Medi-Cal Treatment Program Services and Funding Conditions, effective July 1, 2012, as part of the multi-year contract for the Fiscal Year 2010-11 through Fiscal Year 2013-14, for the County of Inyo, ADP Contract #10-NNA14 V.1 and DHCS Contract #12-89208 A01.

XIII. By executing this amendment, the County of Inyo consents to this assignment.

XIV. As a result of the government reorganization that resulted in the assignment, various department programs may experience a physical relocation, reassignment of personnel, change in programmatic procedures/policies, or other effect. If this agreement, during the remainder of its duration, is impacted by such changes, the Department of Health Care Services reserves the right, without initiation of a formal amendment, to issue one or more written notices to the Contractor supplying alternate information and/or instructions regarding contract numbers, invoicing instructions, document addressing, personnel changes, and/or other procedural/policy changes

County of Inyo

Exhibit A1 - All Funding

FISCAL CONTRACT DETAIL
DEPARTMENT OF ALCOHOL AND DRUG PROGRAMS
DEPARTMENT OF HEALTH CARE SERVICES
Fiscal Year 2012-13 Substance Use Disorder Budget

ADP Contract #10-NNA14 V.1
DHCS Contract #12-89208 A01

State General Funds	Amounts	Totals
State General Funds (July 1, 2012 - June 30, 2013)		
Parolee Services Network Funds	$ -	
Total State General Funds		$ -
TOTAL STATE GENERAL FUNDS		$ -

Federal Funds		
SAPT Block Grant - 93.959 (FFY 2013 Award) (October 1, 2012 to June 30, 2014 - 21 Months)		
SAPT Female Offender Treatment Services - FFY 2013 Award	$ -	
SAPT Discretionary - FFY 2013 Award	$ 317,603	
SAPT Adolescent/Youth Treatment Program - FFY 2013 Award	$ -	
SAPT Friday Night Live/Club Live - FFY 2013 Award	$ -	
SAPT Primary Prevention Set-Aside - FFY 2013 Award	$ 75,194	
SAPT HIV Set-Aside - FFY 2013 Award	$ 7,500	
SAPT Perinatal Set-Aside - FFY 2013 Award	$ -	
SAPT Special Projects - FFY 2013 Award	$ -	
Total SAPT Block Grant - FFY 2013 Award		$ 400,297
Federal Drug Medi-Cal Funds (Reimbursement) (July 1, 2012 to June 30, 2013) (12 Months)		
Drug Medi-Cal	$ 1,000	
Perinatal Drug Medi-Cal	$ -	
Total Federal Drug Medi-Cal Funds		$ 1,000
TOTAL FEDERAL FUNDS		$ 401,297
GRAND TOTAL - ALL FUNDS		$ 401,297

County of Inyo | Exhibit A1 - All Funding

FISCAL CONTRACT DETAIL
DEPARTMENT OF ALCOHOL AND DRUG PROGRAMS
DEPARTMENT OF HEALTH CARE SERVICES
Fiscal Year 2013-14 Substance Use Disorder Budget

ADP Contract #10-NNA14 V.1
DHCS Contract #12-89208 A01

State General Funds	Amounts	Totals
State General Funds (July 1, 2013 - June 30, 2014)		
Parolee Services Network Funds	$ -	
Total State General Funds		$ -
TOTAL STATE GENERAL FUNDS		$ -

Federal Funds		
SAPT Block Grant - 93.959 (FFY 2014 Award) (October 1, 2013 to June 30, 2015 - 21 Months)		
SAPT Female Offender Treatment Services - FFY 2014 Award	$ -	
SAPT Discretionary - FFY 2014 Award	$ 317,603	
SAPT Adolescent/Youth Treatment Program - FFY 2014 Award	$ -	
SAPT Friday Night Live/Club Live - FFY 2014 Award	$ -	
SAPT Primary Prevention Set-Aside - FFY 2014 Award	$ 75,194	
SAPT HIV Set-Aside - FFY 2014 Award	$ 7,500	
SAPT Perinatal Set-Aside - FFY 2014 Award	$ -	
SAPT Special Projects - FFY 2014 Award	$ -	
Total SAPT Block Grant - FFY 2014 Award		$ 400,297
Federal Drug Medi-Cal Funds (Reimbursement) (July 1, 2013 to June 30, 2014) (12 Months)		
Drug Medi-Cal	$ 1,000	
Perinatal Drug Medi-Cal	$ -	
Total Federal Drug Medi-Cal Funds		$ 1,000
TOTAL FEDERAL FUNDS		$ 401,297
GRAND TOTAL - ALL FUNDS		$ 401,297

County of Inyo | Exhibit A1 - DMC Federal Funding Only

FISCAL CONTRACT DETAIL
DEPARTMENT OF HEALTH CARE SERVICES
Fiscal Year 2012-13 Substance Use Disorder Budget

DHCS Contract #12-89208 A01

	Amounts	Totals
Federal Drug Medi-Cal Funds (Reimbursement) (July 1, 2012 to June 30, 2013) (12 Months)		
Drug Medi-Cal	$ 1,000	
Perinatal Drug Medi-Cal	$ -	
Total Federal Drug Medi-Cal Funds		$ 1,000
TOTAL FEDERAL FUNDS		$ 1,000
GRAND TOTAL		$ 1,000

County of Inyo

Exhibit A1 - DMC Federal Funding Only

FISCAL CONTRACT DETAIL
DEPARTMENT OF HEALTH CARE SERVICES
Fiscal Year 2013-14 Substance Use Disorder Budget

DHCS Contract #12-89208 A01

	Amounts	Totals
Federal Drug Medi-Cal Funds (Reimbursement) (July 1, 2013 to June 30, 2014) (12 Months)		
Drug Medi-Cal	$ 1,000	
Perinatal Drug Medi-Cal	$ -	
Total Federal Drug Medi-Cal Funds		$ 1,000
TOTAL FEDERAL FUNDS		$ 1,000
GRAND TOTAL		$ 1,000

Standard Agreement Attachment for Counties

Contract Changes for Fiscal Year 2012-13

EXHIBIT B - GENERAL TERMS AND CONDITIONS

Section A - Contract Exhibits

This Contract between the State with both the Department of Alcohol and Drug Programs (ADP) and the ~~State~~ Department of Health Care Services (DHCS) and the county named in the Standard Agreement attached hereto (Contractor) consists of the Standard Agreement; Exhibit A1's listing ~~of~~ ADP's and DHCS's allocated funding sources; Exhibit B, entitled "General Terms and Conditions," which contains Contract provisions applicable to all of the Contractors; Exhibit C, ~~Negotiated Net Amount (NNA) funds~~ entitled "Non-Drug Medi-Cal Substance Abuse Treatment Services and Funding Conditions" which defines the rights and obligations of the parties regarding non-Drug Medi-Cal funds managed by ADP; and Exhibit D, entitled "Drug Medi-Cal Treatment Program and Funding Conditions" which defines the rights and obligations of the parties regarding Medicaid/Medi-Cal funds, as expended through the Drug Medi-Cal (DMC) Treatment Program, managed by DHCS.

Section B - Contract Term

The term of this Contract shall be from July 1, 2010, through June 30, ~~2013~~ 2014. Except as provided in Exhibit C, Article III, Sections G and H, the expenditure period for the funds available hereunder shall be as stated on the Exhibit A1's. The State is under no obligation to extend or renew this Contract.

Section C - Nullification of Exhibit D (if applicable)

The parties agree that if the Contractor fails to comply with the provisions of ~~Health and Safety Code (hereinafter referred to as HSC) Section 11758.46~~ Welfare and Institutions Code (W&I) Section 14124.24, Exhibit D shall be null and void and severed from the remainder of this Contract.

In the event Exhibit D becomes null and void, ~~an~~ updated Exhibit A1's will take effect reflecting the removal of federal Medicaid funds from this Contract. Exhibit C of this Contract will remain in effect until amended or terminated.

Section E(1) - Use of State Funds

State General Fund (SGF) provided by the State California Department of Corrections and Rehabilitation (CDCR) through an interagency agreement with ADP shall be subject to specific expenditure requirements as stated in the "Services to California Department of Corrections and Rehabilitation Parolee Services Network," as identified in Document 1D(a) of Exhibit C, which is incorporated by this reference.

Standard Agreement Attachment for Counties

Contract Changes for Fiscal Year 2012-13

Section F(2) - Contract Amendments

Contract amendments will be required to change encumbered amounts for each year of a multi-year contract period, of which the first amendment will be based on the Governor's Budget Act allocation of that specific fiscal year. The signed contract from the Contractor will be due to the Department of Alcohol and Drug Programs within 90 days from the ~~Departments~~ issuance to the County. If the signed Contract from the Contractor is not received within 90 days from the ~~Departments~~ issuance to the County, ~~the State~~ ADP may withhold all ~~NNA~~ non-DMC payments under Exhibit C of this Contract until the required amendment is received by the State.

Section F(3) – Contract Amendments

Contract amendments may be requested by the Contractor until May 1 of each of the contract's fiscal years. An amendment proposed by either ~~party~~ the Contractor or the State shall be forwarded in writing to the other party.

Section F(5) – Contract Amendments

Contractor acknowledges that any newly allocated funds that are in excess of the initial amount for each fiscal year may be forfeited if ~~the State~~ ADP does not receive a fully executable contract amendment on or before June 30, ~~2012~~ 2013.

Section G(3)(a) -Termination

In the event the federal Department of Health and Human Services (hereinafter referred to as DHHS), ~~the California Department of Health Care Services (hereinafter referred to as DHCS)~~ or State determines Contractor does not meet the requirements for participation in the DMC Treatment Program, State will terminate payments for services provided pursuant to Exhibit D of this Contract for cause.

Section H(1) - Audit

In addition to the audit requirements in Exhibits C and D, this Contract, and any Subcontracts, shall be subject to the examination and audit by the California Bureau of State Audits for a period of three years from the date that final payment is made pursuant to the Contract (Government Code, Section ~~10527~~ 8546.7).

Standard Agreement Attachment for Counties

Contract Changes for Fiscal Year 2012-13

Section H(4) – Audit

Contractor shall comply, and shall require that its Subcontractors comply, with all terms and conditions of this Contract and all pertinent state and federal statutes and regulations. Contractor and its Subcontractors shall permit the State, ~~DHCS,~~ DHHS, Comptroller General of the United States, or other authorized state or federal agencies and representatives, to inspect or otherwise evaluate the quality, appropriateness, and timeliness of services performed under this Contract. Contractor shall allow the State, ~~DHCS,~~ DHHS, the Comptroller General of the United States, and other authorized state or federal agencies and representatives to review and copy any and all books and records maintained by the Contractor and its Subcontractors related to these services at any time during normal business hours. Unannounced visits may be made at the discretion of the State. Employees who might reasonably have information related to such records may be interviewed.

Section J(1)(d)(v) - Lobbying and Restrictions and Disclosure Certification

All disclosure forms (but not certifications) shall be forwarded from tier to tier until received by the person referred to in Paragraph 1(a) of this provision. That person shall forward all disclosure forms to ~~AOD~~ ADP program contract manager.

Section P - Primary Prevention

Use of the Strategic Prevention Framework (SPF) is mandatory for all counties~~, which became effective FY 2007-2008~~ and SPF-required data must be submitted via CalOMS Prevention as evidence of engagement and use of the practices. Adherence to the SPF by subcontractors is at the discretion of the subcontracting county.

Section Q(2) - Confidentiality and Security of Information

~~Welfare and Institutions Code (hereinafter refereed to)~~ W&IC Section 14100.2, which is specific to Medi-Cal

~~HSC~~ Health and Safety Code (hereinafter referred to HSC), Sections 11812 and 11845.5

HSC Sections 123100 ~~123110~~ through 123149.5 – Patient Access to Health Records

Civil Code Section 1798.80 through ~~1798.82~~ 1798.84 – Customer Records (breach of security)

State Administrative Manual, Section 1600 to 1695 – Destruction of Confidential Records

Standard Agreement Attachment for Counties

Contract Changes for Fiscal Year 2012-13

Section Q(4) – Confidentiality and Security Information

Contractor shall notify the Information Security Officer, Executive Branch, of the State within twenty-four (24) hours during a work week of any suspected or actual breach of computer system security impacting persons served by the contract, if the security breach would require notification under Civil Code Section 1798.82. Contractor agrees to materially assist the State in any action pertaining to such unauthorized disclosure required by applicable Federal or state laws (Reference Document 3K).

Section R(1) - Nondiscrimination in Employment and Services

Federal Law Requirements:

Titles VI of the Civil Rights Act of 1964, Section 2000d, as amended, prohibiting discrimination based on race, color, or national origin in federally funded programs.

Age Discrimination Act of 1975 (45 CFR Part 90), as amended (42 USC Sections 6101 - 6107), which prohibits discrimination on the basis of age.

State Law Requirements:

Title 9, Division 4, Chapter ~~6~~ 8 of the CCR, commencing with Section 10800

Section S - Drug-Free Workplace

Contractor shall comply, and require that its Subcontractors comply, with Government Code Section ~~8355 et seq.~~ 8350-8357, also known as Drug-Free Workplace Act of 1990. Every person or organization awarded a contract or a grant for the procurement of any property or services shall certify to the contracting or granting agency that it will provide a drug-free workplace in accordance with Government Code Section 8355.

Section T - No Unlawful Use or Unlawful Use Messages Regarding Drugs

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

Standard Agreement Attachment for Counties

Contract Changes for Fiscal Year 2012-13

Section W - Noncompliance with Reporting Requirements

Contractor agrees that the State has the right to withhold payments until Contractor has submitted any required data and reports to the State, as identified in Exhibit C, Document 1F(a), "Reporting Requirement Matrix - County Submission Requirements for the Department of Alcohol and Drug Programs and the Department of Health Care Services."

Section AA - Indemnification

Contractor agrees to indemnify, defend and save harmless ~~the Department and~~ the State of California, its officers, agents and employees from any and all claims and losses accruing or resulting to any and all contractors, subcontractors, suppliers, laborers, and any other person, firm, or corporation furnishing or supplying work services, materials, or supplies in connection with the performance of this Contract and from any and all claims and losses accruing or resulting to any person, firm or corporation who may be injured or damaged by the Contractor in the performance of this Contract.

Section FF - Health Insurance Portability and Accountability Act (HIPAA) of 1996

All DMC claims shall be submitted in electronic HIPAA compliant format (837P) and shall be submitted through the ~~Department of Mental Health's~~ DHCS's Information Technology Web Service (ITWS) system for adjudication in the Short-Doyle Medi-Cal System. ~~Refer to Document 2Y (Companioin Guide for HIPAA 837P Transactions) for HIPAA compliant format of the 837P.~~ All DMC adjudicated claim information must be retrieved by the Contractor via an 835 format (Health Care Claim Payment/Advice) from ITWS. ~~Refer to Document 3P (Companion Guide for HIPAA 835 Transaction) for HIPAA compliant format for 835. All DMC claim status inquireies must be processed through the 276 (Request for Claim Status). Refer to Document 3Q (Companion Guide for 276 HIPAA Transactions) for HIPAA compliant format for 276. Results of the 276 inquiry will be generated via a 277 format from ITWS. Refer to Document 3R (Companion Guide for HIPAA 277 Transaction) for HIPAA compliant format.~~

If any of the work performed under this Contract is subject to the Health Insurance Portability and Accountability Act of 1996, Public Law 104-191 (HIPAA), then Contractor shall perform the work in compliance with all applicable provisions of HIPAA. As identified in Document 3K which is referenced in Exhibit C, ~~ADP~~ the State and County shall cooperate to assure mutual agreement as to those transactions between them, to which this Provision applies. Refer to Document 3K for additional information.

Section FF(2) - Health Insurance Portability and Accountability Act (HIPAA) of 1996

Concurrence for Test Modifications to HHS Transaction Standards. Contractor agrees and understands that there exists the possibility that ~~ADP~~ the State or others may request an extension from the uses of a standard in the HHS Transaction ~~Standards. If this occurs~~, Contractor agrees that it will participate in such test modifications.

Standard Agreement Attachment for Counties

Contract Changes for Fiscal Year 2012-13

Section GG(1)(a) - Procurement Rules

Major equipment: A tangible or intangible item having a base unit cost of $5,000 or more and greater than the Contractor's or Subcontractor's capitalization level with a life expectancy of one (1) year or more and is either furnished by ~~ADP~~ the State or the cost is reimbursed through this agreement. Software and videos are examples of intangible items that meet this definition. Major equipment shall be recovered only through straight line depreciation over the class life of the property, as specified in the "Table of Class Lives and Recovery Periods" in federal IRS Publication 946, "How to Depreciate Property," which is available from any office of the IRS.

Section GG(4) - Procurement Rules

Unless waived or otherwise stipulated in writing by the State, prior written authorization from the appropriate ~~AOD~~ ADP program contract manager will be required before the Contractor or Subcontractor may make a purchase of $5,000 or more for commodities, supplies, equipment, and services related to such purchases. Contractor shall provide in its request for authorization all particulars necessary, as specified by the State, for evaluating the necessity or desirability of incurring such costs. The term "purchase" excludes the purchase of services from its Subcontractors and public utility services at rates established for uniform applicability to the general public.

Section HH(1)(a) - Equipment Ownership / Inventory / Disposition

Upon receipt of equipment and/or miscellaneous property, Contractor shall report the receipt to the ~~AOD~~ ADP program contract manager and receive State property tags.

Section HH(1)(b) - Equipment Ownership / Inventory / Disposition

If the Contractor enters into an agreement with a term of more than twelve months, Contractor shall submit an annual inventory of State equipment and/or miscellaneous property to the ~~AOD~~ ADP program contract manager. The Contractor shall:

Section HH(1)(b)(ii) - Equipment Ownership / Inventory / Disposition

Contact the ~~AOD~~ ADP program contract manager to learn how to remove, trade-in, sell, transfer or survey off, from the inventory report, expired equipment and/or miscellaneous property that is no longer wanted, usable or has passed its life expectancy.

Standard Agreement Attachment for Counties

Contract Changes for Fiscal Year 2012-13

Section HH(4) - Equipment Ownership / Inventory / Disposition

In administering this provision, the State may require the Contractor and/or its Subcontractors to repair or replace, to the State's satisfaction, any damaged, lost or stolen state equipment and/or miscellaneous property. Should a theft occur, Contractor and/or its Subcontractors shall immediately file a theft report with the appropriate police agency or the California Highway Patrol and the Contractor shall promptly submit one copy of the theft report to the ~~AOD~~ ADP program contract manager.

Section HH(6) - Equipment Ownership / Inventory / Disposition

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

Section HH(7)(c) - Equipment Ownership / Inventory / Disposition

Contractor and/or its Subcontractors agree that all operators of motor vehicles, purchased/reimbursed with agreement funds or furnished by ~~ADP~~ the State 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.

Section JJ(2)(b) - California Outcomes Measurement System (CalOMS) for Treatment (CalOMS Tx) and for Prevention (CalOMS Pv)

All CalOMS Pv service/activity data shall be reviewed by each county and released to the State no later than ~~the end of the first month~~ 30 days following the close of each quarter. The reporting quarters are: July through September, October through December, January through March, and April through June.

Standard Agreement Attachment for Counties

Contract Changes for Fiscal Year 2012-13

Section JJ(2)(f) - California Outcomes Measurement System (CalOMS) for Treatment (CalOMS Tx) and for Prevention (CalOMS Pv)

If the Contractor experiences system or service failure or other extraordinary circumstances that affect its ability to timely submit CalOMS Tx and/or CalOMS Pv data, and/or to meet other CalOMS Tx and CalOMS Pv data compliance requirements, the Contractor shall report the problem in writing before the established data submission deadlines. The written notice shall include a remediation plan that is subject to review and approval by the State. A grace period of up to sixty (60) days may be granted, at the State's sole discretion, for the Contractor to resolve the problem before ~~NNA~~ non-DMC payments are withheld.

Section JJ(2)(h) - California Outcomes Measurement System (CalOMS) for Treatment (CalOMS Tx) and for Prevention (CalOMS Pv)

Contractor shall comply with the treatment and prevention data quality standards established by the State. Failure to meet these standards on an ongoing basis may result in withholding ~~NNA~~ non-DMC funds.

Section KK(1)(e) - Drug and Treatment Access Report (DATAR)

If the Contractor experiences system or service failure or other extraordinary circumstances that affect its ability to timely submit a monthly DATAR report, and/or to meet data compliance requirements, the Contractor shall report the problem in writing before the established data submission deadlines. The written notice shall include a remediation plan that is subject to review and approval by the State. A grace period of up to sixty (60) days may be granted, at the State's sole discretion, for the Contractor to resolve the problem before ~~NNA~~ non-DMC payments are withheld.

Section PP. Cultural and Linguistic Proficiency

To ensure equal access to quality care by diverse populations, each service provider receiving funds from this contract shall adopt the federal Office of Minority Health (OMH) Culturally and Linguistically Appropriate Service (CLAS) national standards. The OMH CLAS standards (referenced as Document ~~3U~~ 3V) are located at:
http://minorityhealth.hhs.gov/templates/browse.aspx?lvl=2&lvlID=15

Section TT - Tribal Communities and Organizations (new)

Contractor shall regularly assess (e.g. review population information available through Census, compare to information obtained in CalOMS Treatment to determine whether population is being reached, survey Tribal representatives for insight in potential barriers) the substance use service needs of it's American Indian/Alaskan Native (AI/AN) population and shall engage in regular ~~and meaningful consultation~~ and collaboration with elected officials of the tribe or their designate for the purpose of identifying issues/barriers to

service delivery and improvement of the quality, effectiveness and accessibility of services available to AI/NA communities within the county.

Section VV. Participation of County Alcohol and Drug Program Administrators Association of California (CADPAAC) Members (formerly UU)

Pursuant to HSC Section ~~11801(k)~~ 11801(g), the alcohol and drug program administrator shall participate and represent the county in meetings of the CADPAAC for the purposes of representing the counties in their relationship with the state with respect to policies, standards, and administration for alcohol and other drug abuse services.

Pursuant to HSC Section ~~11811.6(b),~~ 11811.5(c), the county alcohol and drug program administrator shall attend any special meetings called by the Director of ADP.

EXHIBIT C - NON DRUG MEDI-CAL SUBSTANCE ABUSE TREATMENT SERVICES AND FUNDING CONDITIONS ~~NEGOTIATED NET AMOUNT~~

Article I. Formation and Purpose

Section B(6) - Control Requirement

Contractor shall comply with the requirements contained in Document 1F(a), incorporated by this reference, "Reporting Requirement Matrix" – County Submission Requirements for the Department of Alcohol and Drug Programs and the Department of Health Care Services."

Article II. Definitions

Section A(3)

"County Realignment Funds" means funds received by the county based on FY ~~2011-12~~ 2012-13 State Budget and accompanying law (Chapter 40, Statutes of ~~2011~~ 2012) ~~[Assembly Bill (AB) 118] and Chapter 13, Statues of 2011, First Extraordinary Session [ABX1-16]~~). In FY 2012-13, the Local Revenue Fund for county realignment funding was modified. Senate Bill 1020, Chapter 40, Statutes of 2012 amended the California Government Code Section 30025 to redefine Local Revenue Fund accounts and the placement of substance use disorder services funding. The Health and Human Services Account as established in FY 2011-12 was abolished September 30, 2012. The Behavioral Health Subaccount, which contains funding for substance use disorder services, was created within the Support Services Account.

Standard Agreement Attachment for Counties

Contract Changes for Fiscal Year 2012-13

Section A(4)

"Fiscal Year 2011-12 Unexpended County Realignment Funds" means funds issued as part of the FY 2011-12 State Budget and accompanying law (Chapter 40, Statutes of 2011 [Assembly Bill (AB) 118] and Chapter 13, Statutes of 2011, First Extraordinary Session [ABX1 16]), that were not expended for Fiscal Year 2011-12 services. These funds shall be transferred into the Behavioral Health Subaccount for the use on the following mental health and substance use disorder services: Drug Medi-Cal, Drug Courts, Women and Children's Residential Treatment Services; non-Drug Medi-Cal; Medi-Cal Mental Health Managed Care; and Early and Periodic Screening, Diagnosis and Treatment.

Section A(5) (formerly A(4))

"Dedicated Capacity" means the historically calculated service capacity, by modality, adjusted for the projected expansion or reduction in services, which the Contractor agrees to make available to provide non-Drug Medi-Cal ~~DMC drug and alcohol~~ substance use disorder services to persons eligible for Contractor services.

Section A(6) formerly A(5))

"Encumbered Amount" means the amount reflected on the Standard Agreement of this Contract and supported by the Exhibit A1. ~~as the Negotiated Net Amount (NNA)~~.

Section A(11) (formerly A(10))

"~~Negotiated Net Amount~~ Non-Drug Medi-Cal" amount means the contracted amount of SAPT Block Grant funds and Parolee Services Network funds for services agreed to by the State and the Contractor.~~, less federal funds budged for DMC. The net amount reflects only those funds allocated to the Contractor by the State. The NNA does not include other revenue budgeted by the Contractor such as client fees or revenue. The cost per unit for the dedicated capacity to be provided for each service modality identified in the Contract will be based on the net amount of the contract~~.

Article III. Fiscal Provision

Section B(1) - Payment Provisions

For each fiscal year, the total amount payable by the State to the Contractor under Exhibit C shall not exceed the encumbered amount. The funds identified for the fiscal years covered by Exhibit C are subject to change depending on the availability and amount of funds appropriated by the Legislature and the Federal Government. The amount of funds available for expenditure by the Contractor shall be limited to the amount identified in the final allocations issued by the State for that fiscal year or the ~~NNA~~ non-DMC amount, whichever is less. Changes to encumbered funds will require written amendment to the

Contract. State may settle costs for ~~NNA~~ non-DMC services based on the year-end cost settlement report as the final amendment to the approved single state/county contract.

Section B(3) – Payment Provisions

However, based on the expenditure information submitted by the counties in the Quarterly Federal Financial Management Report (QFFMR) (Document 3O), State may adjust monthly payments of encumbered federal funds to extend the length of time (not to exceed 21 months) over which payments of federal funds will be made.

Section B(5) – Payment Provisions

State may withhold monthly non-DMC payments if the Contractor fails to timely submit reports and data required by the State, including but not limited to, reports required pursuant to Exhibit C, Article V. Upon the State's receipt of the complete and accurate reports, or data, Contractor's monthly payment shall commence with the next scheduled monthly payment, and shall include any funds withheld due to late submission of reports or data.

State may withhold monthly non-DMC payments if the Contractor fails to submit the contract amendment, within 90 days from issuance from the State to the Contractor.

Section B(6) – Payment Provisions

Adjustments may be made to the total ~~NNA~~ of the Contract and amounts may be withheld from payments otherwise due to the Contractor hereunder, for nonperformance to the extent that nonperformance involves fraud, abuse, or failure to achieve the objectives of the provisions of Exhibit C.

Section E(3) - Contractor Monitoring Requirements

If differences cannot be resolved between the State and the Contractor regarding the terms of the final financial audit settlements for funds expended under Exhibit C, Contractor may request an appeal in accordance with the appeal process described in Document 1J(a), "~~NNA~~ Non-DMC Audit Appeal Process," incorporated by this reference. When a financial audit is conducted by the Federal Government, the State, or the Bureau of State Audits directly with a Subcontractor of the Contractor, and if the Subcontractor disagrees with audit disallowances related to its programs, claims or services, Contractor shall, at the Subcontractor's request, request an appeal to the State in accordance with Document 1J(a). Contractor shall include a provision in its subcontracts regarding the process by which its Subcontractors may file an audit appeal via the Contractor.

Standard Agreement Attachment for Counties

Contract Changes for Fiscal Year 2012-13

Section G(1) - Cost Efficiencies

It is intended that the cost to the Contractor in maintaining the dedicated capacity and units of service shall be met by the ~~NNA~~ non-DMC funds allocated to the Contractor and other Contractor or Subcontractor revenues. Amounts awarded pursuant to Exhibit C shall not be used for services where payment has been made, or can reasonably be expected to be made under any other state or federal compensation or benefits program, or where services can be paid for from revenues.

Section H(1)(e) - Expenditure of SAPT Block Grant Funds

The expenditure period of the FFY 2014 award is October 1, 2013 through June 30, 2015.

Section H(4) – Expenditure of SAPT Block Grant Funds

~~In addition, Contractor shall comply with the following fiscal reporting instructions:~~

~~a. The tracking of the HIV early intervention services shall be at the following level:~~

~~i. Pre- and/or Post HIV test counseling;~~

~~ii. Testing individuals with respect to such disease, including tests to confirm the presence of the disease, tests to diagnose the extent of the deficiency in the immune system, and tests to provide information on appropriate therapeutic measures for preventing and treating the deterioration of the immune system and for preventing and treating conditions arising from the disease; and,~~

~~iii. Providing the therapeutic measures for preventing and treating conditions arising from HIV.~~

Section H(5) – Expenditure of SAPT Block Grant Funds

Additionally, Contractors expending SAPT Block Grant HIV Set Aside funds for HIV Early Intervention Services are required to collect data regarding their use of HIV Set-Aside funds and to report this data to the State.

Standard Agreement Attachment for Counties

Contract Changes for Fiscal Year 2012-13

Article V. Reporting Requirements

Section A(2) - Financial Reports

Contractor shall submit timely the Quarterly Federal Financial Management Report (QFFMR) and end-of-year cost data in the form of year-end cost settlement reports, including Document 2P, "County Certification Cost Report Year-End Claim for Reimbursement" with the original signature of the Contractor's authorized designee in accordance with Document 1F(a), "Reporting Requirement Matrix - County Submission Requirements for the Department of Alcohol and Drug Programs and the Department of Health Care Services."

Section B(1) - Additional Reports

~~In accordance with HSC, Section 11758.12(c),~~ Contractor shall submit, and shall require its Subcontractors to submit, information required by the State. The information shall include, but is not limited to, utilization reports, compliance reports, financial reports, treatment and prevention services reports, demographic characteristics of service recipients, and data as required pursuant to the following:

Section B(1) - Document 1T – Additional Reports
Contractor shall comply with the requirements which address the collection of information required in the SAPT Block Grant contained in Document 1T, incorporated by this reference ("CalOMS Prevention User Manual"). Refer to the List of Exhibits for the web site location of the manual, in which the manual is updated on a quarterly basis. Prevention service/activity data is to be reported via CalOMS Pv by all funded primary prevention providers. Services are to be reported by the date of occurrence on a weekly basis. No more than one week's data shall be aggregated into one reported service. All CalOMS Pv data shall be reviewed by each county and released to the State no later than ~~the end of the month~~ 30 days following the close of each quarter. The reporting quarters are: July through September, October through December, January through March, and April through June.

Section B(2) – Additional Reports

Contractor agrees that it shall submit all data requested pursuant to Article V in a manner identified, or on forms provided, by the State by the applicable due dates or the dates in Document 1F(a), "Reporting Requirement Matrix - County Submission Requirements for the Department of Alcohol and Drug Programs and the Department of Health Care Services."

Standard Agreement Attachment for Counties

Contract Changes for Fiscal Year 2012-13

Article VI. General Provisions

Section B(2) - Dispute Resolution Process

In the event of a dispute over financial audit findings between the State and the Contractor, Contractor may appeal the audit in accordance with the "~~NNA~~ non DMC Audit Appeal Process" (Document 1J(a)). When a financial audit by the Federal Government, the State, or the Bureau of State Audits is conducted directly with a Subcontractor of the Contractor, and if the Subcontractor disagrees with audit disallowances related to its programs, claims or services, Contractor shall, at the Subcontractor's request, request an appeal to the State in accordance with Document 1J(a). Contractor shall include a provision in its subcontracts regarding the process by which a Subcontractor may file an audit appeal via the Contractor.

Section C - ~~Negotiated Net Amount~~ Funding Limitations

Pursuant to HSC Section 11818(2)(A), Contractor shall reimburse its Subcontractors that receive a combination of Medi-Cal funding and other federal or county realignment funding for the same service element and location based on the Subcontractor's actual costs in accordance with Medicaid reimbursement requirements as specified in Title XIX of the Social Security Act; Title 22, and the State's Medicaid Plan. Payments at negotiated rates shall be settled to actual cost at year-end.

List of Exhibit C Documents Incorporated by Reference – Fiscal Year ~~2011-12~~ 12-13

Document 1F(a):	Reporting Requirement Matrix – County Submission Requirements for the Department of Alcohol and Drug Programs and the Department of Health Care Services
Document 1H(c):	Funding Line Descriptions
Document 1J(a):	~~NNA~~ Non-Drug Medi-Cal Audit Appeals Process
Document 1S:	Primary Prevention Mid-Year Budget - Example
Document 3O:	Quarterly Federal Financial Management Report (QFFMR) ~~2008-09~~ ~~2011-12~~ 2012-13
Document 3T:	ADP/DHCS Local Assistance Funding Matrix – FY 2012-13
Document 3T(a):	SAPT Authorized and Restricted Expenditures Information (November 2012)

Document 4E: Treatment Standards for Substance Use Diagnosis : A Guide for Services (Spring 2010)

http://www.adp.ca.gov/treatment/standards/pdf/treatment_standards_spring_2010.pdf

EXHIBIT D - DRUG MEDI-CAL ~~ALCOHOL AND OTHER DRUG~~ TREATMENT PROGRAM SERVICES AND FUNDING CONDITIONS

Article I. Formation and Purpose

Section A

Exhibit D of this Contract is entered into by and between the State and the Contractor for the purpose of identifying and providing for covered Drug Medi-Cal (DMC) services for ~~alcohol and other drug (AOD)~~ substance use treatment in the Contractor's service area pursuant to Sections ~~11848,~~11848.5(a) and (b)~~, and 11758.40 through 11758.47~~ of the Health and Safety Code (hereinafter referred to as HSC), Sections 14124.20, 14021.51 – 14021.53, and 14124.20 – 14124.25 of the Welfare and Institutions Code (hereinafter referred to as W&IC), and Title 22 of the California Code of Regulations (hereinafter referred to as Title 22), Sections 51341.1, 51490.1, and 51516.1. ~~and consistent with the Interagency Agreement between the Department of Health Care Services (DHCS) and the State.~~

Section B

It is further agreed that Exhibit D of this Contract is controlled by applicable provisions of: (a) the ~~Welfare and Institutions Code (hereinafter referred to as W&IC)~~ W&IC, Chapter 7, Sections 14000, et seq., in particular, but not limited to, Sections 14021, 14021.5, 14021.6, 14043, et seq. ~~and 114132.90; (b) the HSC, in particular but not limited to, Sections 11758.40 through 11758.47;~~, ~~(c)~~ (b) Title 22, including but not limited to Sections 51490.1, 51341.1 and 51516.1; and ~~(d)~~ (c) Division 4 of Title 9 of the California Code of Regulations (hereinafter referred to as Title 9).

Section D

The objective of Exhibit D is to make ~~AOD~~ substance use treatment services available to Medi-Cal beneficiaries through utilization of federal funds available pursuant to Title XIX of the Social Security Act for reimbursable covered services rendered by certified DMC providers.

Standard Agreement Attachment for Counties

Contract Changes for Fiscal Year 2012-13

Article II. Definitions

Section D

"Covered Services" means those DMC services authorized by Title XIX of the Social Security Act; Title 22 Section 51341.1; ~~HSC Section 11758.46~~ W&IC Section 14124.24; and California's Medicaid State Plan. Covered services are Naltrexone treatment, outpatient drug-free treatment, narcotic replacement therapy, day care rehabilitative (for pregnant, postpartum, and Early and Periodic Screening, Diagnosis and Treatment (EPSDT) beneficiaries only), and perinatal residential ~~AOD~~ substance use treatment (excluding room and board).

Section F

"County Realignment Funds" means the funds received by the county based on FY ~~2011-12~~ 2012-13 State Budget and accompanying law (Chapter 40, Statutes of ~~2011~~ 2012 ~~[Assembly Bill (AB118)] and Chapter 13, Statutes of 2011, First Extraordinary Session [ABX1-16]~~). In FY 2012-13, the Local Revenue Fund for county realignment funding was modified. Senate Bill 1020, Chapter 40, Statutes of 2012 amended the California Government Code Section 30025 to redefine Local Revenue Fund accounts and the placement of substance use services funding. The Health and Human Services Account as established in FY 2011-12 was abolished on September 30, 2012. The Behavioral Health Subaccount, which contains funding for substance use disorder services was created within the Support Services Account.

Section G (new)

"Unexpended County Realignment Funding" means funds issued as part of the FY 2011-12 State Budget and accompanying law (Chapter 40, Statutes of 2011 [Assembly Bill (AB) 118] and Chapter 13, Statutes of 2011, First Extraordinary Session ABX1_16]) that were not expended for FY 2011-12 services. These funds shall be transferred into the Behavioral Health Subaccount for the use on the following mental health and substance use disorder services: Drug Medi-Cal, Drug Courts, Women and Children's Residential Treatment Services; non-Drug Medi-Cal; Medi-Cal Mental Health Managed Care; and Early and Periodic Screening, Diagnosis and Treatment.

Section I (formerly H)

"Drug Medi-Cal Program" means the state system wherein beneficiaries receive covered services from DMC-certified ~~AOD~~ substance use treatment providers.

Section O (formerly N)

"Medical Necessity" means those ~~AOD~~ substance use treatment services that are reasonable and necessary to protect life, prevent significant illness or disability, or alleviate severe pain through the diagnosis and treatment of a disease, illness, or injury or, in the case of EPSDT, services that meet the criteria specified in Title 22, Section 51340.1.

Section Q (formerly P)

"Narcotic Treatment Program (NTP)" means an outpatient clinic licensed by the State to provide narcotic replacement therapy using methadone directed at stabilization and rehabilitation of persons who are opiate-addicted and have a~~n AOD~~ substance use diagnosis.

Section T (formerly S)

"Postservice Postpayment (PSPP) Utilization Review" means the review for program compliance and medical necessity conducted by the State after service was rendered and ~~the claim~~ paid. State may recover prior payments of Federal funds if such review determines that the services did not comply with the applicable statutes, regulations, or standards.

Section U (formerly T)

"Projected Units of Service" means the number of reimbursable DMC units of service, based on historical data and current capacity, the Contractor expects to provide on an annual basis.

Section W (formerly V)

"Provider of DMC Services" means any person or entity that provides direct ~~AOD~~ substance use treatment services and has been certified by State as meeting the standards for participation in the DMC program set forth in the "DMC Certification Standards for Substance Abuse Clinics", Document 2E and "Standards for Drug Treatment Programs (October 21, 1981)", Document 2F.

Section Z (new)

"State" means the Department of Alcohol and Drug Programs and/or the Department of Health Care Services.

Section AA (formerly Y)

"Statewide Maximum Allowances (SMA)" means the maximum amount authorized to be paid by DMC for each covered unit of service for outpatient drug free, day care rehabilitative, perinatal residential, and Naltrexone treatment services. ~~Rates are subject to change annually.~~ While the rate are approved by the State, they are subject to change through the regulation process. The SMA for FY ~~2011-12~~ 2012-13 is listed in the "Unit of Service" table in this Article II, Section Y.

Section DD (formerly BB)

"Uniform Statewide Daily Reimbursement (USDR) Rate" means the rate for NTP services based on a unit of service that is a daily treatment service provided pursuant to Title 22, Sections 51341.1 and 51516.1 and Title 9, commencing with Section 10000 (Document 3G), or the rate for individual or group counseling. The following table shows the Fiscal Year (FY) ~~2011-12~~ 2012-13 USDR rates.

Service	Type of Unit of Service (UOS)	Non-perinatal (Regular) Rate Per UOS (*)	Perinatal Rate Per UOS (*)
NTP-Methadone Dosing	Daily	~~$11.86~~ 11.97 ~~$1.08~~ 1.09 (*)	~~$12.77~~ 13.05 ~~$1.16~~ 1.19 (*)
NTP-Individual Counseling (**)	One 10-minute increment	~~$13.91~~ 14.24 ~~$1.28~~ 1.31 (*)	~~$19.92~~ 20.39 ~~$1.82~~ 1.86 (*)
NTP Group Counseling (**)	One 10-minute increment	~~$3.28~~ 3.36 ~~$0.30~~ 0.31 (*)	~~$5.98~~ 6.81 ~~$0.54~~ 0.62 (*)

Reimbursement for covered NTP services shall be limited to the lower of the NTP's usual and customary charge to the general public for the same or similar services or the USDR rate. However, reimbursement paid by a county to an NTP provider for services provided to any person subject to Penal Code Sections 1210.1 or 3063.1 and for which the individual patient/client is not liable to pay, does not constitute a usual or customary charge to the general public. (~~HSC Section 11758.42(h)(2)(A)~~ W&IC Section 14021.51).

Section EE (formerly CC)

"Unit of Service" means a face-to-face contact on a calendar day for outpatient drug free, day care rehabilitative, perinatal residential, and Naltrexone treatment services. Only one face-to-face service contact per day is covered by DMC except in the case of emergencies when an additional face-to-face contact may be covered for intake crisis intervention or collateral service. To count as a unit of service, the second contact shall not duplicate the

services provided on the first contact, and each contact shall be clearly documented in the beneficiary's record. While the rates are approved by the State, they are subject to change through the regulation process. Units of service and SMA for FY ~~2011-12~~ 2012-13 are identified in the following table.

Service	**Type of Unit of Service (UOS)**	**Non-Perinatal (Regular) Rate Per UOS**	**Perinatal Rate Per UOS**
Day Care Rehabilitative	Face-to-Face Visit	~~$63.86~~ 65.38 (for EPSDT only or pregnant/postpartum)	~~$76.40~~ 78.23
Naltrexone Treatment	Face-to-Face Visit	$19.07	NA
Outpatient Drug Free	Face-to Face Visit – Individual (per person)	~~$69.59~~ 71.25	~~$99.61~~ 101.99
	Face-to-Face Visit – Group (per person)	~~$29.57~~ 30.28	~~$53.80~~ 61.33
Perinatal Residential	Daily – Residential Day	NA	~~$92.45~~ 96.28

Article III. Provision of Services

Section B(5)(c) - Federal and State Mandates

Contractor agrees that it shall submit all data requested in (a) and (b) in a manner identified, or on forms provided, by the State by the applicable due dates or the dates in Document 1F(a), "Reporting Requirement Matrix – County Submission Requirements for the Department of Alcohol and Drug Programs and the Department of Health Care Services."

Section B(11) – Federal and State Mandates

In the event that the Contractor fails to provide covered services in Accordance with the provisions of this Contract, at the discretion of the State, Contractor may be required to forfeit its county realignment funds from the ~~Drug Medi-Cal subaccount~~ Behavioral Health Subcaccount that is set aside for Drug Medi-Cal services and surrender its authority to function as the administrator of covered services in its service area.

Standard Agreement Attachment for Counties

Contract Changes for Fiscal Year 2012-13

Section C(3) - Provider Participation, Certification, Recertification, and Appeals

Contractor acknowledges that if a provider is under investigation by ~~DHCS~~ the State or any other state, local or federal law enforcement agency for fraud or abuse, the State may temporarily suspend the provider from the DMC program, pursuant to W&IC Section 14043.36(a).

Section C(4) - Provider Participation, Certification, Recertification, and Appeals

If, at any time, a Subcontractor's license, registration, certification, or approval to operate ~~an AOD~~ substance use treatment program or provide a covered service is revoked, suspended, modified, or not renewed, the State may amend this Contract.

Section C(5) - Provider Participation, Certification, Recertification, and Appeals (new)

Narcotic treatment program services per W&IC 14124.22:

(a) In addition to narcotic treatment program services, a narcotic treatment program provider who is also enrolled as a Medi-Cal provider may provide medically necessary treatment of concurrent health conditions within the scope of the provider's practice, to Medi-Cal beneficiaries who are not enrolled in managed care plans. Medi-Cal beneficiaries enrolled in managed care plans shall be referred to those plans for receipt of medically necessary medical treatment of concurrent health conditions.

(b) Diagnosis and treatment of concurrent health conditions of Medi-Cal beneficiaries not enrolled in managed care plans by a narcotic treatment program provider may be provided within the Medi-Cal coverage limits. When the services are not part of the substance use disorder treatment reimbursed pursuant to Section 14021.51, services shall be reimbursed in accordance with the Medi-Cal program. Services reimbursable under this sections shall include, but not limited to, all of the following:

(1) Medical treatment visits
(2) Diagnostic blood, urine, and X-rays
(3) Psychological and psychiatric tests and services
(4) Quantitative blood and urine toxicology assays
(5) Medical supplies

(c) A narcotic treatment provider, who is enrolled as a Medi-Cal fee-for-service provider, shall not seek reimbursement from a beneficiary for substance abuse treatment services, if services for treatment of concurrent health conditions are billed to the Medi-Cal fee-for-service program.

Article IV. Fiscal Provisions

Section A - Reimbursements

To the extent that the Contractor provides the covered services in a satisfactory manner and in accordance with the terms and conditions of this Contract, the State agrees to pay the Contractor federal Medicaid funds according to Article V. Subject to the availability of such funds, Contractor shall receive federal Medicaid funds for allowable expenditures as established by the federal government and approved by ~~DHCS~~ the State, for the cost of services rendered to beneficiaries.

Section A(2) - Reimbursements

It is understood and agreed that failure by the Contractor or its Subcontractors to comply with applicable federal and state requirements in rendering covered services shall be sufficient cause for the State to deny payments to and/or recover payments from the Contractor. If the State~~,~~ ~~DHCS,~~ or the Department of Health and Human Services (DHHS) disallows or denies payments for any claim, Contractor shall repay to the State the federal Medicaid funds it received for all claims so disallowed or denied. The overpayment shall be recovered by any of the methods allowed in Title 22, CCR, Sections 51047(a) and (b).

Before such denial, recoupment, or disallowances are made, State shall provide the Contractor with written notice of its proposed action. Such notice shall include the reason for the proposed action and shall allow the Contractor sixty (60) days to submit additional information before the proposed action is taken, as required in Title 22, CCR, Section 51047(a). This requirement does not apply to the DMC PSPP Utilization Reviews.

The State shall refund to the Contractor any recovered Federal Drug Medi-Cal overpayment that is subsequently determined to have been erroneously collected, together with interest, in accordance with Title 22, CCR, Section 51047(e).

Section G(1) - Payment for Covered Services

Pursuant to ~~HSC Section 11758.42(h)~~ W&IC Section 14021.51(h), reimbursement to NTP providers shall be limited to the lower of either the uniform statewide monthly reimbursement rate, or the provider's usual and customary charge to the general public for the same or similar service. However, reimbursement paid by a Contractor to an NTP provider for services provided to any person subject to Penal Code Sections 1210.1 or 3063.1 and for which the individual client is not liable to pay, does not constitute a usual or customary charge to the general public. (~~HSC Section 11758.42 (H)(2)(A))~~ W&IC Section 14021.51(h)(2)(A))

Standard Agreement Attachment for Counties

Contract Changes for Fiscal Year 2012-13

Section G(2) – Payment for Covered Services

Pursuant to HSC Section ~~11818(b)(2)~~ 11818(2)(A), Contractor shall reimburse providers that receive a combination of Medi-Cal funding and other federal funding for the same service element and location based on the provider's actual costs in accordance with Medi-Cal reimbursement requirements as specified in Title XIX of the Social Security Act; Title 22, and the state's Medicaid Plan. Payments at negotiated rates shall be settled to actual cost at year-end.

Section I(3) - Records and Additional Audit Requirements

Contractor shall retain client records for a minimum of three (3) years from the date of the last face-to-face contact. When an audit by the Federal Government or the State~~, or DHCS~~ has been started before the expiration of the three-year period, the client records shall be maintained until completion of the audit and the final resolution of all audit issues.

Section I(5)(a) - Records and Additional Audit Requirements

For those NTP providers required to submit a cost report pursuant to ~~HSC Section 11758.46(j)(2)~~ W&IC Section 14124.24, a review of cost allocation methodology between NTP and other service modalities, and between DMC and other funding sources;

Section I(6) - Records and Additional Audit Requirements

Audit reports by the State ~~and/or DHCS~~ shall reflect all findings and any recommendations, adjustments, or corrective action necessary as a result of those findings.

Section I(7) - Records and Additional Audit Requirements

Contractor shall be responsible for any disallowances taken by the Federal Government, ~~State,~~ the State, or the Bureau of State Audits, ~~or DHCS~~ as a result of any audit exception that is related to its responsibilities. Contractor shall not use funds administered by the State to repay one federal funding source with funds provided by another federal funding source, or to repay federal funds with state funds, or to repay state funds with federal funds

Section I(10) - Records and Additional Audit Requirements

If differences cannot be resolved between the State ~~and/or DHCS~~ and the Contractor regarding the terms of the final financial audit settlements for funds expended under Exhibit D, Contractor may request an appeal in accordance with the appeal process described in the "DMC Audit Appeal Process," Document 1J(b), incorporated by this reference. When a financial audit is conducted by the Federal Government, the State, or the Bureau of State Audits directly with a Subcontractor of the Contractor, and if the Subcontractor disagrees with audit disallowances related to its programs, claims or

services, Contractor shall, at the Subcontractor's request, request an appeal to the State in accordance with Document 1J(b). Contractor shall include a provision in its subcontracts regarding the process by which a Subcontractor may file an audit appeal via the Contractor.

Section J - Direct Provider Contracts

Pursuant to Exhibit B, Section G.1., and in accordance with Government Code Section ~~30029.3~~ 30029.7 and W&IC Section 14124.21, effective ~~December 1, 2011~~ July 1, 2012, the State shall, through the use of county-approved subcontractors, provide specified DMC services on the Contractor's behalf.

The State will invoice the Contractor for the county realignment share of approved DMC claims received by the State from the State's subcontractor. Contractor shall reimburse the State for the county realignment share of the approved DMC claims within 30 days of receipt of the invoice. If Contractor does not reimburse the State within 30 days of receipt of the invoice, the State may offset the amount owed from any other funding owed to Contractor by the State or any other State agency. ~~The State shall seek federal Medicaid reimbursement for funds paid by the State to its subcontractor and, upon receipt, will provide to Contractor said reimbursement.~~ The parties acknowledge that the State's subcontractor shall be responsible for repayment of any disallowed claims. However, in no event shall the State be liable for Medicaid reimbursement for any disallowed claims.

Effective ~~December 1, 2011~~ July 1, 2012, any Contractor contracting with the State for the provision of services through NTP providers may receive reimbursement of the NTP administrative rate.

Article V. Invoice/Claim and Payment Procedures

Section A(1) - Payments

State shall reimburse the Contractor:

(a) The federal Medicaid amount of the approved DMC claims and documents submitted in accordance with Article V of Section B, below;

(b) The federal Medicaid share:

1. At either the USDR or the provider's usual or customary charge to the general public for NTP's; or,

2. At a rate that is lesser of the projected cost or the maximum rate allowance for other DMC modalities.

~~For the July 2011 and August 2011 service period:~~

~~the federal Medicaid amount and the DMC non-Federal share amount upon approval by DHCS of the DMC claims and documents submitted in accordance with Article V of Section B, below:~~

~~ii. the federal Medicaid and DMC non-Federal share:~~

~~1. At either the USDR or the provider's usual or customary charge to the general public for NTP's; or,~~

~~2. At a rate that is the lesser of the projected cost or the maximum rate allowance for other DMC modalities.~~

~~For the September 2011 through June 2012 service period:~~

Section B(1) - Drug Medi-Cal Claims and Reports

Contractors or providers that ~~invoice~~ bill the State or the County for services identified in Section 51516.1 of Title 22 shall submit claims in accordance with the DMC Provider Billing manual.

Section B(1)(a) - Drug Medi-Cal Claims and Reports

Claims shall be submitted electronically in ~~the~~ a Health Insurance Portability and Accountability Act (HIPAA) compliance format (837P). All adjudicated claim information must be retrieved by the Contractor via an 835 HIPAA compliance format (Health Care Claim Payment/Advice) ~~format~~.

Section B(1)(b) - Drug Medi-Cal Claims and Reports

Contractor shall submit to ~~ADP~~ the State a Drug Medi-Cal Certification Form ADP 100224 (Document 4D) developed by ADP for each claim file submitted~~, starting with September 2011 services,~~ for reimbursement of the federal Medicaid funds.

Standard Agreement Attachment for Counties

Contract Changes for Fiscal Year 2012-13

Section B(1)(c) - Drug Medi-Cal Claims and Reports

The following forms shall be prepared as needed and retained by the provider for review by State staff:

- Multiple Billing Override Certification (~~ADP 7700~~ MC 6700), Document 2K
- Good Cause Certification (~~ADP~~ MC 6065A), Document 2L(a)
- Good Cause Certification (MC 6065B), Document 2L(b)

Section B(2) - Drug Medi-Cal Claims and Reports

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

Section B(4) - Drug Medi-Cal Claims and Reports

~~Contractor shall utilize the Companion Guides for HIPAA 837P and 835 Transactions (Document 2Y and 3P), and HIPAA 837P Companion Guide Appendix V.4 (Document 3U) for understanding and obtaining instructions for the DMC billing process and obtaining adjudicated claim information. Contractor shall also utilize the Companion Guides for 276 (Document 3Q) and 277 (Document 3R) for checking status of claims.~~

Section C(1) - Year-End Cost Settlement Reports

Pursuant to ~~HSC Section 11758.46(j)(2)~~ W&IC Section 14124.24 Contractor shall submit to the State, on November 1 of each year, the following year-end cost settlement documents by paper or electronic submission for the previous fiscal year:

Section (C)(5) – Year-End Cost Settlement Reports

Reimbursement to NTP's shall be limited to the lower of either the USDR, pursuant to ~~HSC Section 11758.42(h)(1)~~ W&IC Section 14021.51(h), or the provider's usual and customary charge to the general public for the same or similar service. However, reimbursement paid by a county to an NTP provider for services provided to any person subject to Penal Code Sections 1210.1 or 3063.1 and for which the individual client is not liable to pay, does not constitute a usual or customary charge to the general public. (~~HSC Section 11758.42(h)(2)(A)~~) (W&IC Section 14021.51(h)(2)(A)).

Article VI. Postservice Postpayment Utilization Review

Section B

Contractor and/or Subcontractor may appeal DMC dispositions concerning demands for recovery of payment and/or programmatic deficiencies of specific claims. Such appeals shall be handled pursuant to Title 22, CCR, Section 51015.~~, in accordance with the Interagency Agreement between the State and DHCS.~~ This section shall not apply to those grievances or complaints arising from the financial findings of an audit or examination made by or on behalf of the State pursuant to Article IV, Division I, of this Contract.

Section C

State shall monitor the Subcontractor's compliance with PSPP utilization review requirements in accordance with Title 22. ~~DHCS and~~ The federal government may also review the existence and effectiveness of the State's utilization review system.

Section E

Satellite sites must keep a record of the clients/patients being treated at that location. Contractor shall retain client records for a minimum of three (3) years from the date of the last face-to-face contact. When an audit by the Federal Government ~~,~~ or ~~DHCS,~~ the State has been started before the expiration of the three-year period, the client records shall be maintained until completion of the audit and the final resolution of all issues as a result of the audit.

List of Exhibit D Documents Incorporated by Reference – Fiscal Year ~~2011-12~~ 12-13

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

Document 1H(c): Funding Line Descriptions

Document 2K: Multiple Billing Override Certification (~~ADP 7~~MC 6700)

~~http://www.adp.ca.gov/dmc/pdf/ADP7700.pdf~~

Document 2L(a): Good Cause Certification (~~ADP~~MC 6065A)

Document 2L(b): Good Cause Certification (~~ADP~~MC 6065B)

Document 2E:	Drug Medi-Cal Certification Standards for Substance Abuse Clinics (Updated July 1, 2004) http://www.adp.ca.gov/dmc/pdf/DMCA_Drug_Medi-Cal_Certification_Standards.pdf
Document 2F:	Standards for Drug Treatment Programs (October 21, 1981) http://www.adp.ca.gov/dmc/pdf/DMCA_Standards_for_Drug_Treatment_Programs.pdf
Document 2K:	Multiple Billing Override Certification (MC 6700)
Document 2L(a):	Good Cause Certification (MC 6065A)
Document 2L(b):	Good Cause Certification (MC 6065B)
Document 2P:	County Certification - Cost Report Year-End Claim For Reimbursement
Document 2P(a):	Drug Medi-Cal Cost Report Forms – Day Care Rehabilitative – Non-Perinatal (form and instructions)
Document 2P(b):	Drug Medi-Cal Cost Report Forms – Day Care Rehabilitative – Perinatal (form and instructions)
Document 2P(c):	Drug Medi-Cal Cost Report Forms – Outpatient Drug Free Individual Counseling – Non-Perinatal (form and instructions)
Document 2P(d):	Drug Medi-Cal Cost Report Forms – Outpatient Drug Free Individual Counseling – Perinatal (form and instructions)
Document 2P(e):	Drug Medi-Cal Cost Report Forms – Outpatient Drug Free Group Counseling – Non-Perinatal (form and instructions)
Document 2P(f):	Drug Medi-Cal Cost Report Forms – Outpatient Drug Free Group Counseling – Perinatal (form and instructions)
Document 2P(g):	Drug Medi-Cal Cost Report Forms – Residential – Perinatal (form and instructions)
Document 2P(h):	Drug Medi-Cal Cost Report Forms – Narcotic Treatment Program – County – Non-Perinatal (form and instructions)
Document 2P(i):	Drug Medi-Cal Cost Report Forms – Narcotic Treatment Program – County – Perinatal (form and instructions)

LIST OF EXHIBIT D DOCUMENTS INCORPORATED BY REFERENCE*
FISCAL YEAR 12-13

The following documents are hereby incorporated by reference into Exhibit D of the combined County contract though they may not be physically attached to the contract:

Document 1F(a):	Reporting Requirement Matrix – County Submission Requirements for the Department of Alcohol and Drug Programs and the Department of Health Care Services
Document 1H(a):	Service Code Descriptions
Document 1H(b):	Program Code Listing
Document 1H(c) :	Funding Line Descriptions
Document 1J(b):	DMC Audit Appeals Process
Document 1K:	Drug and Alcohol Treatment Access Report (DATAR) http://www.adp.ca.gov/datar/manuals/DATARWeb_manual.pdf
Document 1P:	Alcohol and/or Other Drug Program Certification Standards (March 15, 2004) http://www.adp.ca.gov/Licensing/doc/Alcohol_andor_Other_Drug_Program_Certification_Standards.doc
Document 1V:	Youth Treatment Guidelines http://www.adp.ca.gov/youth/pdf/Youth_Treatment_Guidelines.pdf
Document 1W:	Certification Regarding Lobbying
Document 1X:	Disclosure of Lobbying Activities – Standard Form LLL http://www.whitehouse.gov/omb/grants/sfllin.pdf
Document 2A:	Sobky v. Smoley, Judgment, Signed February 1, 1995
Document 2C:	Title 22, California Code of Regulations http://ccr.oal.ca.gov

ARTICLE VI. POSTSERVICE POSTPAYMENT UTILIZATION REVIEW

A. State shall conduct Postservice Postpayment (PSPP) utilization reviews in accordance with Title 22 Section 51341.1. Any claimed DMC service may be reviewed for compliance with all applicable standards, regulations and program coverage after services are rendered and the claim paid.

B. State shall take appropriate steps in accordance with Title 22, CCR, Section 51341.1 to recover payments made if subsequent investigation uncovers evidence that the claim(s) should not have been paid or that DMC services have been improperly utilized, and/or shall take the corrective action as appropriate.

Contractor and/or Subcontractor may appeal DMC dispositions concerning demands for recovery of payment and/or programmatic deficiencies of specific claims. Such appeals shall be handled pursuant to Title 22, CCR, Section 51015. This section shall not apply to those grievances or complaints arising from the financial findings of an audit or examination made by or on behalf of the State pursuant to Article IV, Division I, of this Contract.

C. State shall monitor the Subcontractor's compliance with PSPP utilization review requirements in accordance with Title 22. The federal government may also review the existence and effectiveness of the State's utilization review system.

D. Contractor shall implement and maintain compliance with the system of review described in Title 22, Section 51341.1, for the purposes of reviewing the utilization, quality, and appropriateness of covered services and ensuring that all applicable Medi-Cal requirements are met.

E. Satellite sites must keep a record of the clients/patients being treated at that location. Contractor shall retain client records for a minimum of three (3) years from the date of the last face-to-face contact. When an audit by the Federal Government or the State has been started before the expiration of the three-year period, the client records shall be maintained until completion of the audit and the final resolution of all issues as a result of the audit.

(g) Electronic program as prescribed by the State that contains the detailed cost report data

2. Cost reports for direct contract providers will be settled prior to the settlement of the Contractor's cost report. As a result of the direct contract provider's settled cost report, any County Realignment funds owed to the direct contract provider will be handled through an invoice process to the Contractor. Additionally, as a result of the direct contract provider's settled cost report, any County Realignment funds owed to the State will be returned to the Contractor.

3. State may settle costs for DMC services based on the year-end cost settlement report as the final amendment to the approved single State/County contract.

4. Reimbursement for covered services, other than NTP services, shall be limited to the lower of: (a) the provider's usual and customary charges to the general public for the same or similar services; (b) the provider's actual allowable costs; or (c) the DMC SMA for the modality.

5. Reimbursement to NTP's shall be limited to the lower of either the USDR, pursuant to W&IC Section 14021.51(h), or the provider's usual and customary charge to the general public for the same or similar service. However, reimbursement paid by a county to an NTP provider for services provided to any person subject to Penal Code Sections 1210.1 or 3063.1 and for which the individual client is not liable to pay, does not constitute a usual or customary charge to the general public. (W&IC Section 14021.51(h)(2)(A)).

(c) The following forms shall be prepared as needed and retained by the provider for review by State staff:

- Multiple Billing Override Certification (MC 6700), Document 2K
- Good Cause Certification (MC 6065A), Document 2L(a)
- Good Cause Certification (MC 6065B), Document 2L(b)

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

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

C. Year-End Cost Settlement Reports

1. Pursuant to W&IC Section 14124.24 Contractor shall submit to the State, on November 1 of each year, the following year-end cost settlement documents by paper or electronic submission for the previous fiscal year:

(a) Document 2P, County Certification Year-End Claim for Reimbursement

(b) Document 2P(a) and 2P(b), Drug Medi-Cal Cost Report Forms for Day Care Rehabilitative for Non-Perinatal or Perinatal (if applicable)

(c) Document 2P(c) and 2P(d), Drug Medi-Cal Cost Report Forms for Outpatient Drug Free Individual Counseling for Non-Perinatal or Perinatal (if applicable)

(d) Document 2P(e) and 2P(f), Drug Medi-Cal Cost Report Forms for Outpatient Drug Free Group Counseling for Non-Perinatal or Perinatal (if applicable)

(e) Document 2P(g), Drug Medi-Cal Cost Report Forms for Residential for Perinatal (if applicable)

(f) Document 2P(h) and 2P(i), Drug Medi-Cal Expenditure Forms for Narcotic Treatment Programs for Non-Perinatal or Perinatal (if applicable)

ARTICLE V. INVOICE/CLAIM AND PAYMENT PROCEDURES

A. Payments

1. State shall reimburse the Contractor:

   (a) the federal Medicaid amount of the approved DMC claims and documents submitted in accordance with Article V of Section B, below:

   (b) the federal Medicaid share:

      1. At either the USDR or the provider's usual or customary charge to the general public for NTP's; or,

      2. At a rate that is lesser of the projected cost or the maximum rate allowance for other DMC modalities.

2. State will adjust subsequent reimbursements to the Contractor to actual allowable costs. Actual allowable costs are defined in the Medicare Provider Reimbursement Manual (CMS-Pub.15), which can be obtained from the Centers for Medicare & Medicaid Services, Baltimore, Maryland, or www.cms.hhs.gov.

3. Contractors and Subcontractors must accept, as payment in full, the amounts paid by the State in accordance with Title 22, CCR, Section 51516.1, plus any cost sharing charges (deductible, coinsurance, or copayment) required to be paid by the client. However, Contractors and Subcontractors may not deny services to any client eligible for DMC services on account of the client's inability to pay or location of eligibility. Contractors and Subcontractors may not demand any additional payment from the State, client, or other third party payers.

B. Drug Medi-Cal Claims and Reports

1. Contractors or providers that bill the State or the County for services identified in Section 51516.1 of Title 22 shall submit claims in accordance with the DMC Provider Billing manual.

   (a) Claims shall be submitted electronically in a Health Insurance Portability and Accountability Act (HIPAA) compliance format (837P). All adjudicated claim information must be retrieved by the Contractor via an 835 HIPAA compliance format (Health Care Claim Payment/Advice)

   (b) Contractor shall submit to the State a Drug Medi-Cal Certification Form ADP 100224 (Document 4D) developed by ADP for each claim file submitted for reimbursement of the federal Medicaid funds.

J. Direct Provider Contracts

Pursuant to Exhibit B, Section G.1., and in accordance with Government Code section 30029.7 and W&IC Section 14124.21, effective July 1, 2012, the State shall, through the use of county-approved subcontractors, provide specified DMC services on the Contractor's behalf.

The State will invoice the Contractor for the county realignment share of approved DMC claims received by the State from the State's subcontractor. Contractor shall reimburse the State for the county realignment share of the approved DMC claims within 30 days of receipt of the invoice. If Contractor does not reimburse the State within 30 days of receipt of the invoice, the State may offset the amount owed from any other funding owed to Contractor by the State or any other State agency. The parties acknowledge that the State's subcontractor shall be responsible for repayment of any disallowed claims. However, in no event shall the State be liable for Medicaid reimbursement for any disallowed claims

Effective July 1, 2012, any Contractor contracting with the State for the provision of services through NTP providers may receive reimbursement of the NTP administrative rate.

Contractors that conduct financial audits of Subcontractors, other than a Subcontractor whose funding consists entirely of non-Department funds, shall develop a process to resolve disputed financial findings and notify Subcontractors of their appeal rights pursuant to that process.

11. Providers of DMC services shall, upon request, make available to the State their fiscal and other records to assure that such provider have adequate recordkeeping capability and to assure that reimbursement for covered DMC services are made in accordance with Title 22, CCR, Section 51516.1. These records include, but are not limited to, matters pertaining to:

    (a) Provider ownership, organization, and operation;

    (b) Fiscal, medical, and other recordkeeping systems;

    (c) Federal income tax status;

    (d) Asset acquisition, lease, sale, or other action;

    (e) Franchise or management arrangements;

    (f) Patient service charge schedules;

    (g) Costs of operation;

    (h) Cost allocation methodology;

    (i) Amounts of income received by source and purpose; and,

    (j) Flow of funds and working capital.

12. In the event this Contract is terminated, Contractor shall deliver its entire fiscal and program records pertaining to the performance of this Contract to the State, which will retain the records for the required retention period.

13. Contractor shall retain records of utilization review activities required in Article VI herein for a minimum of three (3) years.

(c) A review of counseling claims to ensure that the appropriate group or individual counseling rate has been used and that counseling sessions have been billed appropriately;

(d) A review of the number of clients in group sessions to ensure that sessions include no less than four and no more than ten clients at the same time, with at least one Medi-Cal client in attendance;

(e) Computation of final settlement based on the lower of USDR rate or the provider's usual and customary charge to the general public; and,

(f) A review of supporting service, time, financial, and patient records to verify the validity of counseling claims.

6. Audit reports by the State shall reflect all findings and any recommendations, adjustments, or corrective action necessary as a result of those findings.

7. Contractor shall be responsible for any disallowances taken by the Federal Government, the State, or the Bureau of State Audits as a result of any audit exception that is related to its responsibilities. Contractor shall not use funds administered by the State to repay one federal funding source with funds provided by another federal funding source, or to repay federal funds with state funds, or to repay state funds with federal funds

8. Contractor agrees to promptly develop and implement any corrective action plans in a manner acceptable to the State in order to comply with recommendations contained in any audit report. Such corrective action plans shall include time-specific objectives to allow for measurement of progress and are subject to verification by the State within one year from the date of the plan.

9. Contractor, in coordination with the State, must provide follow-up on all significant findings in the audit report, including findings relating to a Subcontractor, and submit the results to the State.

10. If differences cannot be resolved between the State and the Contractor regarding the terms of the final financial audit settlements for funds expended under Exhibit D, Contractor may request an appeal in accordance with the appeal process described in the "DMC Audit Appeal Process," Document 1J(b), incorporated by this reference. When a financial audit is conducted by the Federal Government, the State, or the Bureau of State Audits directly with a Subcontractor of the Contractor, and if the Subcontractor disagrees with audit disallowances related to its programs, claims or services, Contractor shall, at the Subcontractor's request, request an appeal to the State in accordance with Document 1J(b). Contractor shall include a provision in its subcontracts regarding the process by which a Subcontractor may file an audit appeal via the Contractor.

Contractor shall retain client records for a minimum of three (3) years from the date of the last face-to-face contact. When an audit by the Federal Government or the State has been started before the expiration of the three-year period, the client records shall be maintained until completion of the audit and the final resolution of all audit issues.

4. In addition to the audit requirements set forth in Exhibit B, State may also conduct financial audits of DMC programs, exclusive of NTP services provided on or after July 1, 1997, to accomplish any of, but not limited to, the following audit objectives:

   (a) To review reported costs for validity, appropriate allocation methodology, and compliance with Medicaid laws and regulations;

   (b) To ensure that only the cost of allowable DMC activities are included in reported costs;

   (c) To determine the provider's usual and customary charge to the general public in accordance with CMS (The Medicare Provider Reimbursement Manual) (CMS-Pub.15), which can be obtained from the Centers for Medicare & Medicaid Services, Baltimore, Maryland, or www.cms.hhs.gov, for comparison to the DMC cost per unit;

   (d) To review documentation of units of service and determine the final number of approved units of service;

   (e) To determine the amount of clients' third-party revenue and Medi-Cal share of cost to offset allowable DMC reimbursement; and,

   (f) To compute final settlement based on the lower of actual allowable cost, the usual and customary charge, or the maximum allowance, in accordance with Title 22, Section 51516.1.

5. In addition to the audit requirements set forth in Exhibit B, State may conduct financial audits of NTP programs. For NTP services on or after July 1, 1997, the audits will address items 4(c) through 4(e) above, except that the comparison of the provider's usual and customary charge in 4(c) will be to the DMC USDR rate in lieu of DMC cost per unit. In addition, these audits will include, but not be limited to:

   (a) For those NTP providers required to submit a cost report pursuant to W&IC Section 14124.24, a review of cost allocation methodology between NTP and other service modalities, and between DMC and other funding sources;

   (b) A review of actual costs incurred for comparison to services claimed;

2. Pursuant to HSC Section 11818(2)(A), Contractor shall reimburse providers that receive a combination of Medi-Cal funding and other federal funding for the same service element and location based on the provider's actual costs in accordance with Medi-Cal reimbursement requirements as specified in Title XIX of the Social Security Act; Title 22, and the state's Medicaid Plan. Payments at negotiated rates shall be settled to actual cost at year-end.

H. Allowable Costs

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

I. Records and Additional Audit Requirements

1. Accurate fiscal records and supporting documentation shall be maintained by the Contractor and its Subcontractors to support all claims for reimbursement. All records must be capable of verification by auditors.

2. Should a Subcontractor discontinue operations, Contractor shall retain the Subcontractor's fiscal and program records for the required retention period. The State Administrative Manual (SAM) contains statutory requirements governing the retention, storage, and disposal of records retaining to state funds. Contractor shall follow SAM requirements.

   If the Contractor cannot physically maintain the fiscal and program records of the Subcontractor, then arrangements shall be made with the State to take possession and maintain all records.

3. Accounting records and supporting documents shall be retained for a three-year period from the date the year-end cost settlement report was approved by the State for interim settlement. When an audit by the Federal Government, the State, or the Bureau of State Audits has been started before the expiration of the three-year period, the records shall be retained until completion of the audit and final resolution of all issues that arise in the audit. Final settlement shall be made at the end of the audit and appeal process. If an audit has not been completed within three years, the interim settlement shall be considered as the final settlement.

C. Availability of Funds

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

D. Additional Restrictions

This Contract is subject to any additional restrictions, limitations, or conditions enacted by the Congress, or any statute enacted by the Congress, which may affect the provisions, terms, or funding of this Contract in any manner.

E. Amendment or Cancellation Due to Insufficient Appropriation

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

F. Exemptions

Exemptions to the provisions of Section E, above, may be granted by the California Department of Finance provided that the Director of DHCS certifies in writing that federal funds are available for the term of the contract.

G. Payment for Covered Services

Any payment for covered services rendered pursuant to this Exhibit D shall only be made pursuant to applicable provisions of Title XIX of the Social Security Act; the W&IC; the HSC; California's Medicaid State Plan; and Sections 51341.1, 51490.1, 51516.1, and 51532 of Title 22.

1. Contractor shall be reimbursed by the State on the basis of its actual net reimbursable cost, including any allowable county administrative costs, not to exceed the unit of service maximum rate.

   Pursuant to W&IC Section 14021.51(h), reimbursement to NTP providers shall be limited to the lower of either the uniform statewide monthly reimbursement rate, or the provider's usual and customary charge to the general public for the same or similar service. However, reimbursement paid by a Contractor to an NTP provider for services provided to any person subject to Penal Code Sections 1210.1 or 3063.1 and for which the individual client is not liable to pay, does not constitute a usual or customary charge to the general public. (W&IC Section 14021.51(h)(2)(A))

ARTICLE IV. FISCAL PROVISIONS

A. Reimbursements

To the extent that the Contractor provides the covered services in a satisfactory manner and in accordance with the terms and conditions of this Contract, the State agrees to pay the Contractor federal Medicaid funds according to Article V. Subject to the availability of such funds, Contractor shall receive federal Medicaid funds for allowable expenditures as established by the federal government and approved by the State, for the cost of services rendered to beneficiaries.

1. Reimbursement for covered services shall be made in accordance with applicable provisions of Title 22 and all other currently applicable policies and procedures.

2. It is understood and agreed that failure by the Contractor or its Subcontractors to comply with applicable federal and state requirements in rendering covered services shall be sufficient cause for the State to deny payments to and/or recover payments from the Contractor. If the State or the Department of Health and Human Services (DHHS) disallows or denies payments for any claim, Contractor shall repay to the State the federal Medicaid funds it received for all claims so disallowed or denied. The overpayment shall be recovered by any of the methods allowed in Title 22, CCR, Sections 51047(a) and (b).

   Before such denial, recoupment, or disallowances are made, State shall provide the Contractor with written notice of its proposed action. Such notice shall include the reason for the proposed action and shall allow the Contractor sixty (60) days to submit additional information before the proposed action is taken, as required in Title 22, CCR, Section 51047(a). This requirement does not apply to the DMC PSPP Utilization Reviews.

   The State shall refund to the Contractor any recovered Federal Drug Medi-Cal overpayment that is subsequently determined to have been erroneously collected, together with interest, in accordance with Title 22, CCR, Section 51047(e).

B. Return of Unexpended Funds

Contractor assumes the total cost of providing covered services on the basis of the payments delineated in this Exhibit D. Any federal Medicaid funds paid to the Contractor, but not expended for DMC services shall be returned to the State.

Contractor and Subcontractors shall participate in DMC orientation training sessions as prescribed by the Department.

4. If, at any time, a Subcontractor's license, registration, certification, or approval to operate a substance use treatment program or provide a covered service is revoked, suspended, modified, or not renewed, the State may amend this Contract.

   A provider's certification to participate in the DMC program shall automatically terminate in the event that the provider or its owners, officers or directors are convicted of Medi-Cal fraud, abuse or malfeasance. For purposes of this section, a conviction shall include a plea of guilty or nolo contendere.

5. Narcotic treatment program services per W&IC 14124.22:

   (a) In addition to narcotic treatment program services, a narcotic treatment program provider who is also enrolled as a Medi-Cal provider may provide medically necessary treatment of concurrent health conditions within the scope of the provider's practice, to Medi-Cal beneficiaries who are not enrolled in managed care plans. Medi-Cal beneficiaries enrolled in managed care plans shall be referred to those plans for receipt of medically necessary medical treatment of concurrent health conditions.

   (b) Diagnosis and treatment of concurrent health conditions of Medi-Cal beneficiaries not enrolled in managed care plans by a narcotic treatment program provider may be provided within the Medi-Cal coverage limits. When the services are not part of the substance use disorder treatment reimbursed pursuant to Section 14021.51, services shall be reimbursed in accordance with the Medi-Cal program. Services reimbursable under this sections shall include, but not limited to, all of the following:

   (1) Medical treatment visits
   (2) Diagnostic blood, urine, and X-rays
   (3) Psychological and psychiatric tests and services
   (4) Quantitative blood and urine toxicology assays
   (5) Medical supplies

   (c) A narcotic treatment provider, who is enrolled as a Medi-Cal fee-for-service provider, shall not seek reimbursement from a beneficiary for substance abuse treatment services, if services for treatment of concurrent health conditions are billed to the Medi-Cal fee-for-service program.

12. The failure of the Contractor or its Subcontractors to comply with Section B of this Article will be deemed a breach of this Contract sufficient to terminate this Contract for cause. In the event the Contract is terminated, the provision of Exhibit B, Paragraph G, subsections 2, 3, and 4 shall apply.

C. Provider Participation, Certification, Recertification, and Appeals

1. State will review and certify eligible providers to participate in the DMC program. Certification agreements will not be time limited. State will conduct recertification on-site visits at clinics for circumstances identified in the "Drug Medi-Cal Certification Standards for Substance Abuse Clinics", (Document 2E). Document 2E contains the appeal process in the event the State disapproves a provider's request for certification or recertification and shall be included in the Contractor's subcontracts.

2. Contractor shall include a provision in its subcontracts informing the provider that it may seek assistance from the State in the event of a dispute over the terms and conditions of subcontracts.

3. Contractor shall require all the providers of services to be licensed, registered, DMC certified and/or approved in accordance with applicable laws and regulations. Contractor's subcontracts shall require that providers comply with the following regulations and guidelines:

   (a) Title 21, CFR Part 1300, et seq., Title 42, CFR, Part 8;

   (b) Drug Medi-Cal Certification Standards for Substance Abuse Clinics (Document 2E);

   (c) Title 22, CCR, Sections 51341.1, 51490.1, and 51516.1, (Document 2C);

   (d) Standards for Drug Treatment Programs (October 21, 1981) (Document 2F); and

   (e) Title 9, CCR, Division 4, Chapter 4, Subchapter 1, Sections 10000, et seq.

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

   Contractor acknowledges that if a provider is under investigation by the State or any other state, local or federal law enforcement agency for fraud or abuse, the State ~~may temporarily suspend the~~ provider from the DMC program, pursuant to W&IC Section 14043.36(a).

Contractor shall follow the CalOMS Treatment Data Compliance Standards for submission of CalOMS Treatment data (reference Document 3S).

(c) Contractor agrees that it shall submit all data requested in (a) and (b) in a manner identified, or on forms provided, by the State by the applicable due dates or the dates in Document 1F(a), "Reporting Requirement Matrix – County Submission Requirements for the Department of Alcohol and Drug Programs and the Department of Health Care Services."

(d) Contractor shall require that treatment programs are accessible to people with disabilities in accordance with Title 45, Code of Federal Regulations (hereinafter referred to as CFR), Part 84 and the Americans with Disabilities Act.

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

7. In the event Contractor fails to comply with subdivisions 1 through 6 of this Section, the State may terminate this Contract for cause.

8. Contractor shall notify the State in writing prior to reducing the provision of covered services. In addition, any proposal to change the location where covered services are provided, or to reduce their availability, shall be submitted in an application to the State sixty (60) days prior to the proposed effective date. Contractor shall not implement the proposed changes if the State denies the Contractor's proposal.

9. Contractor shall amend its subcontracts for covered services in order to provide sufficient funds to match allowable federal Medicaid reimbursements for any increase in provider DMC services to beneficiaries.

10. Contractor shall require that providers of perinatal DMC services are properly certified to provide these services and comply with the requirements contained in Title 22, Section 51341.1, Services for Pregnant and Postpartum Women.

11. In the event that the Contractor fails to provide covered services in accordance with the provisions of this Contract, at the discretion of the State, Contractor may be required to forfeit its county realignment funds from the Behavioral Health Subaccount that is set aside for Drug Medi-Cal services and surrender its authority to function as the administrator of covered services in its service area.

5. Contractor shall maintain continuous availability and accessibility of covered services and facilities, service sites, and personnel to provide the covered services in its service area. Such services shall not be limited due to budgetary constraints.

   (a) When a request for covered services is made by a beneficiary, Contractor shall require services to be initiated with reasonable promptness. Contractor shall have a documented system for monitoring and evaluating accessibility of care, including a system for addressing problems that develop regarding waiting times and appointments.

   (b) Contractor shall submit, and shall require its Subcontractors to submit, client data required by the State. The information shall include, but is not limited to, data as required pursuant to the following:

   Document 1K: Drug and Alcohol Treatment Access Report (DATAR) in an electronic format as provided and/or approved by the State, which complies with the Department of Alcohol and Drug Programs (ADP) compliance requirements for data content, data quality, data completeness, reporting frequency, reporting deadlines, and reporting method. The format for submission shall be limited to electronic format only.

   Document 3J: California Outcomes Measurement System (CalOMS) Treatment records – Submit CalOMS Treatment admission, discharge, annual update, or "provider no activity report" records in an electronic format provided and/or approved by the State, which complies with ADP compliance requirements for data content, data quality, data completeness, reporting frequency, reporting deadlines, and report method.

   When contractor obtains a new software vendor or when there are changes to the Contractor's CalOMS Treatment software, or changes to Contractors vendors CalOMS Treatment software, ADP's Information Management Services Division must be contacted and re-certification and testing of the new or changed software must be completed before Contractor can submit data.

ARTICLE III. PROVISION OF SERVICE

A. Covered Services

1. Contractor shall establish assessment and referral procedures and shall arrange, provide, or subcontract for covered services in the Contractor's service area. Covered services include:

   (a) Outpatient drug-free treatment;

   (b) Narcotic replacement therapy;

   (c) Naltrexone treatment;

   (d) Day care rehabilitative (pregnant or postpartum, and EPSDT only); and,

   (e) Perinatal residential AOD treatment services (excluding room and board).

2. In the event of a conflict between the definition of services contained in this Exhibit D and the definition of services in Title 22, Sections 51341.1, 51490.1, and 51516.1, the provisions of Title 22 shall govern.

B. Federal and State Mandates

1. Contractor, to the extent applicable, shall comply with "Sobky v. Smoley" (Document 2A), 855 F. Supp. 1123 (E.D. Cal 1994), incorporated by this reference.

2. Contractor shall comply with any additional legal requirements including, but not limited to, any court-ordered requirements and statutory or regulatory amendments to existing law (including changes in covered services) that are imposed or are effective subsequent to the execution of this Contract. Contractor agrees that this Contract shall be amended to reflect such requirements, amendments, or changes.

3. Contractor shall comply with federal and state mandates to provide alcohol and other drug treatment services deemed medically necessary for Medi-Cal eligible: (1) pregnant and postpartum women, and (2) youth under age 21 who are eligible under the EPSDT Program.

4. If Drug Medi-Cal services are provided to Minor Consent beneficiaries, Contractor shall comply with California Family Code Section 6929.

Reimbursement for covered NTP services shall be limited to the lower of the NTP's usual and customary charge to the general public for the same or similar services or the USDR rate. However, reimbursement paid by a county to an NTP provider for services provided to any person subject to Penal Code Sections 1210.1 or 3063.1 and for which the individual patient/client is not liable to pay, does not constitute a usual or customary charge to the general public. (W&IC Section 14021.51).

EE. **"Unit of Service"** means a face-to-face contact on a calendar day for outpatient drug free, day care rehabilitative, perinatal residential, and Naltrexone treatment services. Only one face-to-face service contact per day is covered by DMC except in the case of emergencies when an additional face-to-face contact may be covered for intake crisis intervention or collateral service. To count as a unit of service, the second contact shall not duplicate the services provided on the first contact, and each contact shall be clearly documented in the beneficiary's record. While the rates are approved by the State, they are subject to change through the regulation process. Units of service and SMA for FY 2012-13 are identified in the following table.

Service	**Type of Unit of Service (UOS)**	**Non-Perinatal (Regular) Rate Per UOS**	**Perinatal Rate Per UOS**
Day Care Rehabilitative	Face-to-Face Visit	$65.38 (for EPSDT only or pregnant/postpartum)	$78.23
Naltrexone Treatment	Face-to-Face Visit	$19.07	NA
Outpatient Drug Free	Face-to Face Visit – Individual (per person)	$71.25	$101.99
	Face-to-Face Visit – Group (per person)	$30.28	$61.33
Perinatal Residential	Daily – Residential Day	NA	$96.28

AA. **"Statewide Maximum Allowances (SMA)"** means the maximum amount authorized to be paid by DMC for each covered unit of service for outpatient drug free, day care rehabilitative, perinatal residential, and Naltrexone treatment services. While the rate are approved by the State, they are subject to change through the regulation process. The SMA for FY 2012-13 is listed in the "Unit of Service" table in this Article II, Section Y.

BB. **"Subcontract"** means an agreement between the Contractor and its Subcontractors. A Subcontractor shall not delegate its obligation to provide covered services or otherwise subcontract for the provision of direct patient/client services.

CC. **"Subcontractor"** means an individual or entity that is DMC certified and has entered into an agreement with the Contractor to be a provider of covered services. It may also mean a vendor who has entered into a procurement agreement with the Contractor to provide any of the administrative functions related to fulfilling the Contractor's obligations under the terms of this Exhibit D.

DD. **"Uniform Statewide Daily Reimbursement (USDR) Rate"** means the rate for NTP services based on a unit of service that is a daily treatment service provided pursuant to Title 22, Sections 51341.1 and 51516.1 and Title 9, commencing with Section 10000 (Document 3G), or the rate for individual or group counseling. The following table shows the Fiscal Year (FY) 2012-13 USDR rates.

Service	Type of Unit of Service (UOS)	Non-perinatal (Regular) Rate Per UOS (*)	Perinatal Rate Per UOS (*)
NTP-Methadone Dosing	Daily	$11.97 $1.09 (*)	$13.05 $1.19 (*)
NTP-Individual Counseling (**)	One 10-minute increment	$14.24 $1.31 (*)	$20.39 $1.86 (*)
NTP Group Counseling (**)	One 10-minute increment	$3.36 $0.31 (*)	$6.81 $0.62 (*)

(*) Administrative Costs incorporated within the rate.

(**) The NTP Subcontractors may be reimbursed for up to 200 minutes (20 10-minute increments) of individual and/or group counseling per calendar month per beneficiary.

P. **"Minor Consent DMC Services"** are those covered services that, pursuant to Family Code Section 6929, may be provided to persons 12-20 years old without parental consent.

Q. **"Narcotic Treatment Program (NTP)"** means an outpatient clinic licensed by the State to provide narcotic replacement therapy using methadone directed at stabilization and rehabilitation of persons who are opiate-addicted and have a substance use diagnosis.

R. **"Perinatal DMC Services"** means covered services as well as mother/child habilitative and rehabilitative services; services access (i.e., provision or arrangement of transportation to and from medically necessary treatment); education to reduce harmful effects of alcohol and drugs on the mother and fetus or infant; and coordination of ancillary services (Title 22, Section 51341.1(c) 4).

S. **"Postpartum",** as defined for DMC purposes, means the 60-day period beginning on the last day of pregnancy, regardless of whether other conditions of eligibility are met. Eligibility shall end on the last day of the calendar month in which the 60th day occurs.

T. **"Postservice Postpayment (PSPP) Utilization Review"** means the review for program compliance and medical necessity conducted by the State after service was rendered and paid. State may recover prior payments of Federal funds if such review determines that the services did not comply with the applicable statutes, regulations, or standards.

U. **"Projected Units of Service"** means the number of reimbursable DMC units of service, based on historical data and current capacity, the Contractor expects to provide on an annual basis.

V. **"Protected Population"** means: (1) EPSDT-eligible Medi-Cal beneficiaries under age 21; and (2) Medi-Cal-eligible pregnant and postpartum women.

W. **"Provider of DMC Services"** means any person or entity that provides direct substance use treatment services and has been certified by State as meeting the standards for participation in the DMC program set forth in the "DMC Certification Standards for Substance Abuse Clinics", Document 2E and "Standards for Drug Treatment Programs (October 21, 1981)", Document 2F.

X. **"Satellite Site"** has the same meaning as defined in the Drug Medi-Cal Certification Standards for Substance Abuse Clinics.

Y. **"Service Area"** means the geographical area under Contractor's jurisdiction.

Z. **"State"** means the Department of Alcohol and Drug Programs and/or the Department of Health Care Services.

G. **"Unexpended County Realignment Funding"** means funds issued as part of the FY 2011-12 State Budget and accompanying law (Chapter 40, Statutes of 2011 [Assembly Bill (AB) 118] and Chapter 13, Statutes of 2011, First Extraordinary Session ABX1_16]) that were not expended for FY 2011-12 services. These funds shall be transferred into the Behavioral Health Subaccount for the use on the following mental health and substance use disorder services: Drug Medi-Cal, Drug Courts, Women and Children's Residential Treatment Services; non-Drug Medi-Cal; Medi-Cal Mental Health Managed Care; and Early and Periodic Screening, Diagnosis and Treatment.

H. **"Direct Provider Contract"** means a contract established between the State and a Drug Medi-Cal certified provider entered into pursuant to this Agreement for the provision of Drug Medi-Cal services.

I. **"Drug Medi-Cal Program"** means the state system wherein beneficiaries receive covered services from DMC-certified substance use treatment providers.

J. **"Early and Periodic Screening, Diagnosis, and Treatment Program"** means the federally mandated Medicaid benefit that entitles full-scope Medi-Cal-covered beneficiaries under 21 years of age to receive any Medicaid service necessary to correct or ameliorate a defect, mental illness, or other condition, such as a substance-related disorder, that is discovered during a health screening.

K. **"Early and Periodic Screening, Diagnosis, and Treatment Program (Supplemental Service)"** means the supplemental individual outpatient drug-free (ODF) counseling services provided to beneficiaries eligible for the EPSDT program. Supplemental individual ODF counseling consists of any necessary individual AOD counseling not otherwise included in the ODF counseling modality under the DMC program.

L. **"Federal Financial Participation (FFP)"** means the share of federal Medicaid funds for reimbursement of DMC services.

M. **"Final Settlement"** means permanent settlement of the Contractor's actual allowable costs or expenditures as determined at the time of audit, which shall be completed within three years of the date the year-end cost settlement report was accepted for interim settlement by the State. If the audit is not completed within three years, the interim settlement shall be considered as the final settlement.

N. **"Interim Settlement"** means temporary settlement of actual allowable costs or expenditures reflected in the Contractor's year-end cost settlement report.

O. **"Medical Necessity"** means those substance use treatment services that are reasonable and necessary to protect life, prevent significant illness or disability, or alleviate severe pain through the diagnosis and treatment of a disease, illness, or injury or, in the case of EPSDT, services that meet the criteria specified in Title 22, Section 51340.1.

ARTICLE II. DEFINITIONS

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

A. **"Administrative Costs"** means the Contractor's actual direct costs, as recorded in the Contractor's financial records and supported by source documentation, to administer the program or an activity to provide service to the DMC program. Administrative costs do not include the cost of treatment or other direct services to the beneficiary. Administrative costs may include, but are not limited to, the cost of training, program review, and activities related to billing. Administrative costs may include Contractor's overhead per the approved indirect cost rate proposal pursuant to OMB Circular A-87. Contractor's indirect costs shall not be distributed to Subcontractors.

B. **"Beneficiary"** means a person who: (a) has been determined eligible for Medi-Cal; (b) is not institutionalized; (c) has a substance-related disorder per the "Diagnostic and Statistical Manual of Mental Disorders III Revised (DSM)," and/or DSM IV criteria; and (d) meets the admission criteria to receive DMC covered services.

C. **"Contractor"** means the county identified in the Standard Agreement or the department authorized by that county's Board of Supervisors to administer alcohol and drug programs.

D. **"Covered Services"** means those DMC services authorized by Title XIX of the Social Security Act; Title 22 Section 51341.1; W&IC Section 14124.24; and California's Medicaid State Plan. Covered services are Naltrexone treatment, outpatient drug-free treatment, narcotic replacement therapy, day care rehabilitative (for pregnant, postpartum, and Early and Periodic Screening, Diagnosis and Treatment (EPSDT) beneficiaries only), and perinatal residential substance use treatment (excluding room and board).

E. **"County"** means the county in which the Contractor physically provides covered substance use treatment services.

F. **"County Realignment Funds"** means the funds received by the county based on FY 2012-13 State Budget and accompanying law (Chapter 40, Statutes of 2012). In FY 2012-13, the Local Revenue Fund for county realignment funding was modified. Senate Bill 1020, Chapter 40, Statutes of 2012 amended the California Government Code Section 30025 to redefine Local Revenue Fund accounts and the placement of substance use disorder services funding. The Health and Human Services Account as established in FY 2011-12 was abolished on September 30, 2012. The Behavioral Health Subaccount, which contains funding for substance use disorder services was created within the Support Services Account.

DRUG MEDI-CAL TREATMENT PROGRAM SERVICES AND FUNDING CONDITIONS

ARTICLE I. FORMATION AND PURPOSE

A. Exhibit D of this Contract is entered into by and between the State and the Contractor for the purpose of identifying and providing for covered Drug Medi-Cal (DMC) services for substance use treatment in the Contractor's service area pursuant to Sections 11848.5(a) and (b) of the Health and Safety Code (hereinafter referred to as HSC), Sections 14124.20, 14021.51 – 14021.53, and 14124.20 – 14124.25 of the Welfare and Institutions Code (hereinafter referred to as W&IC), and Title 22 of the California Code of Regulations (hereinafter referred to as Title 22), Sections 51341.1, 51490.1, and 51516.1.

B. It is further agreed that Exhibit D of this Contract is controlled by applicable provisions of: (a) the W&IC, Chapter 7, Sections 14000, et seq., in particular, but not limited to, Sections 14021, 14021.5, 14021.6, 14043, et seq., (b) Title 22, including but not limited to Sections 51490.1, 51341.1 and 51516.1; and (c) Division 4 of Title 9 of the California Code of Regulations (hereinafter referred to as Title 9).

C. It is understood and agreed that nothing contained in Exhibit D shall be construed to impair the single state agency authority of DHCS.

D. The objective of Exhibit D is to make substance use treatment services available to Medi-Cal beneficiaries through utilization of federal funds available pursuant to Title XIX of the Social Security Act for reimbursable covered services rendered by certified DMC providers.

E. Awards under the Medical Assistance Program (CFDA 93.778) are no longer excluded from coverage under the HHS implementation of the A-102 Common Rule, 45 CFR part 92 (*Federal Register*, September 8, 2003, 68 FR 52843-52844). This change is effective for any grant award under this program made after issuance of the initial awards for the second quarter of Federal Fiscal Year (FFY) 2004. This program also is subject to the requirements of 45 CFR part 95 and the cost principles under Office of Management and Budget Circular A-87 (as provided in *Cost Principles and Procedures for Developing Cost Allocation Plans and Indirect Cost Rates for Agreements with the Federal Government*, HHS Publication ASMB C-10, available on the Internet at http://rates.psc.gov/fms/dca/asmb%20c-10.pdf).

Document 3H:	California Code of Regulations, Title 9 – Rehabilitation and Developmental Services, Division 4 – Department of Alcohol and Drug Programs, Chapter 8 – Certification of Alcohol and Other Drug Counselors http://www.calregs.com
Document 3J:	CalOMS Treatment Data Collection Guide http://www.adp.ca.gov/CalOMS/pdf/CalOMS_Data_Collection_Guide.pdf
Document 3K:	Privacy, Confidentiality and Information Security Provisions http://www.adp.ca.gov/NNA/files/Document_3K-Privacy,_Confidentiality_and_Information_Security_Provisions.doc
Document 3O:	Quarterly Federal Financial Management Report (QFFMR) 2012-13 http://www.adp.ca.gov/NNA/support_files.shtml
Document 3S	CalOMS Treatment Data Compliance Standards http://www.adp.ca.gov/CalOMS/pdf/CalOMS_Data_Compliance.pdf
Document 3T	ADP/DHCS Local Assistance Funding Matrix – FY 2012-13
Document 3T(a)	SAPT Authorized and Restricted Expenditures Information (November 2012)
Document 3V	Culturally and Linguistically Appropriate Services (CLAS) National Standards http://minorityhealth.hhs.gov/templates/browse.aspx?lvl=2&lvlID=15
Document 4E :	Treatment Standards for Substance Use Diagnosis : A Guide for Services (Spring 2010) http://www.adp.ca.gov/treatment/standards/pdf/treatment_standards_spring_2010.pdf

Document 1K:	Drug and Alcohol Treatment Access Report (DATAR) http://www.adp.ca.gov/datar/manuals/DATARWeb_manual.pdf
Document 1P:	Alcohol and/or Other Drug Program Certification Standards (March 15, 2004) http://www.adp.ca.gov/Licensing/doc/Alcohol_andor_Other_Drug_Program_Certification_Standards.doc
Document 1S :	Primary Prevention Mid-Year Budget - Example
Document 1T:	CalOMS Prevention User Manual http://www.kitsco.com/casupport/WebHelp/CalOMS_Manual.htm
Document 1V:	Youth Treatment Guidelines http://www.adp.ca.gov/youth/pdf/Youth_Treatment_Guidelines.pdf
Document 1W:	Certification Regarding Lobbying
Document 1X:	Disclosure of Lobbying Activities – Standard Form LLL http://www.whitehouse.gov/omb/grants/sflllin.pdf
Document 2F:	Standards for Drug Treatment Programs (October 21, 1981) http://www.adp.ca.gov/dmc/pdf/DMCA_Standards_for_Drug_Treatment_Programs.pdf
Document 2P:	County Certification - Cost Report Year-End Claim For Reimbursement
Document 3G:	California Code of Regulations, Title 9 – Rehabilitation and Developmental Services, Division 4 – Department of Alcohol and Drug Programs, Chapter 4 – Narcotic Treatment Programs http://www.calregs.com

LIST OF EXHIBIT C DOCUMENTS INCORPORATED BY REFERENCE FISCAL YEAR 2012-13

The following documents are hereby incorporated by reference into Exhibit C and, as applicable, into Exhibit D regardless of whether or not they are actually attached to the Contract.

Document 1A:	Title 45, Code of Federal Regulations 96, Subparts C and L, Substance Abuse Prevention and Treatment Block Grant Requirements http://www.access.gpo.gov//nara/cfr/waisidx_04/45cfr96_04.html
Document 1B:	Title 42, Code of Federal Regulations, Charitable Choice Regulations http://www.access.gpo.gov//nara/cfr/waisidx_04/42cfr54_04.html
Document 1C:	Driving-Under-the-Influence Program Requirements
Document 1D(a):	Services to California Department of Corrections and Rehabilitation (CDCR) – Parolee Services Network (PSN)
Document 1D(b):	SAPT Female Offender Treatment Project (FOTP)
Document 1F(a):	Reporting Requirement Matrix – County Submission Requirements for the Department of Alcohol and Drug Programs and the Department of Health Care Services
Document 1G:	Perinatal Services Network Guidelines 2009 (for Non-DMC Perinatal Programs) http://www.adp.ca.gov/perinatal/pdf/guidelines_09.pdf
Document 1H(a):	Service Code Descriptions
Document 1H(b):	Program Code Listing
Document 1H(c) :	Funding Line Descriptions
Document 1J(a):	Non-Drug Medi-Cal Audit Appeals Process

Contractors that conduct financial audits of Subcontractors, other than a Subcontractor whose funding consists entirely of non-Department funds, shall develop a process to resolve disputed financial findings and notify Subcontractors of their appeal rights pursuant to that process. This section shall not apply to those grievances or complaints arising from the financial findings of an audit or examination made by or on behalf of the State pursuant to Article IV of this Contract.

3. To ensure that necessary corrective actions are taken, financial audit findings are either uncontested or upheld after appeal may be used by the State during prospective contract negotiations.

C. Funding Limitations

Pursuant to HSC Section 11818(2)(A), Contractor shall reimburse its Subcontractors that receive a combination of Medi-Cal funding and other federal or county realignment funding for the same service element and location based on the Subcontractor's actual costs in accordance with Medicaid reimbursement requirements as specified in Title XIX of the Social Security Act; Title 22, and the State's Medicaid Plan. Payments at negotiated rates shall be settled to actual cost at year-end.

6. Should a Subcontractor discontinue its contractual agreement with the Contractor, or cease to conduct business in its entirety, Contractor shall be responsible for retaining the Subcontractor's fiscal and program records for the required retention period. The SAM contains statutory requirements governing the retention, storage, and disposal of records pertaining to state funds. Contractor shall follow SAM requirements.

   If the Contractor cannot physically maintain the fiscal and program records of the Subcontractor, then arrangements shall be made with the State to take possession and maintain all records.

7. In the expenditure of funds hereunder, and as required by 45 CFR Part 96, Contractor shall comply with the requirements of SAM and the laws and procedures applicable to the obligation and expenditure of federal and state funds.

8. In the event this Contract is terminated, Contractor shall deliver all of its fiscal and program records pertaining to the performance of this Contract to the State, which will retain the records for the required retention period.

B. Dispute Resolution Process

1. In the event of a dispute under this Exhibit C, other than an audit dispute, Contractor shall provide written notice of the particulars of the dispute to the State before exercising any other available remedy. Written notice shall include the contract number. The Director (or designee) of the State and the County Drug or Alcohol Program Administrator (or designee) shall meet to discuss the means by which they can effect an equitable resolution to the dispute. Contractor shall receive a written response from the State within sixty (60) days of the notice of dispute. The written response shall reflect the issues discussed at the meeting and state how the dispute will be resolved.

2. In the event of a dispute over financial audit findings between the State and the Contractor, Contractor may appeal the audit in accordance with the "non-DMC Audit Appeal Process" (Document 1J(a)). When a financial audit by the Federal Government, the State, or the Bureau of State Audits is conducted directly with a Subcontractor of the Contractor, and if the Subcontractor disagrees with audit disallowances related to its programs, claims or services, Contractor shall, at the Subcontractor's request, request an appeal to the State in accordance with Document 1J(a). Contractor shall include a provision in its subcontracts regarding the process by which a Subcontractor may file an audit appeal via the Contractor.

ARTICLE VI. GENERAL PROVISIONS

A. Records

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

1. Contractor shall include in any contract with an audit firm a clause to permit access by the State to the working papers of the external independent auditor, and require that copies of the working papers shall be made for the State at its request.

2. Contractor shall keep adequate and sufficient financial records and statistical data to support the year-end documents filed with the State. All records must be capable of verification by qualified auditors.

3. Accounting records and supporting documents shall be retained for a three-year period from the date the year-end cost settlement report was approved by the State for interim settlement. When an audit by the Federal Government, the State, or the Bureau of State Audits has been started before the expiration of the three-year period, the records shall be retained until completion of the audit and final resolution of all issues that arise in the audit. Final settlement shall be made at the end of the audit and appeal process. If an audit has not been completed within three years, the interim settlement shall be considered as the final settlement.

4. Financial records shall be kept so that they clearly reflect the source of funding for each type of service for which reimbursement is claimed. These documents include, but are not limited to, all ledgers, books, vouchers, time sheets, payrolls, appointment schedules, client data cards, and schedules for allocating costs. All records must be capable of verification by qualified auditors.

5. Contractor's subcontracts shall require that all Subcontractors comply with the requirements of Article III, Section A.

C. Subcontractor Documentation

Contractor shall require it's Subcontractors that are not licensed or certified by the State to submit organizational documents to the State within thirty (30) days of its execution of an initial subcontract, within ninety (90) days of the renewal or continuation of an existing subcontract or when there has been a change in Subcontractor name or ownership. Organizational documents shall include the Subcontractor's Articles of Incorporation or Partnership Agreements (as applicable), and business licenses, fictitious name permits, and such other information and documentation as may be requested by the State.

data is to be reported via CalOMS Pv by all funded primary prevention providers. Services are to be reported by the date of occurrence on a weekly basis. No more than one week's data shall be aggregated into one reported service. All CalOMS Pv data shall be reviewed by each county and released to the State no later than 30 days following the close of each quarter. The reporting quarters are: July through September, October through December, January through March, and April through June.

Document 3J: CalOMS Treatment Data Collection Guide – Submit CalOMS Treatment admission, discharge, annual update, resubmission and "provider no activity report" records in an electronic format approved by the State, which complies with ADP compliance requirements for data content, data quality, data completeness, reporting frequency, reporting deadlines, and report method. When contractor obtains a new software vendor or when there are changes to the Contractor's CalOMS Treatment software, or changes to Contractors vendors CalOMS Treatment software, ADP's Information Management Services Division must be contacted and re-certification and testing of the new or changed software must be completed before Contractor can submit data.

Contractor shall follow the CalOMS Treatment Data Compliance Standards for submission of CalOMS treatment data (reference Document 3S).

2. Contractor agrees that it shall submit all data requested pursuant to Article V in a manner identified, or on forms provided, by the State by the applicable due dates or the dates in Document 1F(a), "Reporting Requirement Matrix - County Submission Requirements for the Department of Alcohol and Drug Programs and the Department of Health Care Services."

3. Charitable Choice

Contractor shall submit annually the total number of referrals necessitated by religious objection to other alternative substance abuse providers. This information must be submitted to ADP in a format prescribed by ADP and at time required by ADP. (Reference is ADP Bulletin 04-5).

ARTICLE V. REPORTING REQUIREMENTS

A. Financial Reports

1. Contractor agrees to submit the Exhibit A1 with the original contract and with each contract amendment.

2. Contractor shall submit timely the Quarterly Federal Financial Management Report (QFFMR) and end-of-year cost data in the form of year-end cost settlement reports, including Document 2P, "County Certification Cost Report Year-End Claim for Reimbursement" with the original signature of the Contractor's authorized designee in accordance with Document 1F(a), "Reporting Requirement Matrix - County Submission Requirements for the Department of Alcohol and Drug Programs and the Department of Health Care Services."

B. Additional Reports

1. Contractor shall submit, and shall require its Subcontractors to submit, information required by the State. The information shall include, but is not limited to, utilization reports, compliance reports, financial reports, treatment and prevention services reports, demographic characteristics of service recipients, and data as required pursuant to the following:

Document 1K: Drug and Alcohol Treatment Access Report (DATAR) records in an electronic format as provided and/or approved by the State, and which complies with ADP compliance requirements for data content, data quality, data completeness, reporting frequency, reporting deadlines, and reporting method. The format for submission shall be limited to electronic format only.

Document 1T: CalOMS Prevention User Manual – Submit CalOMS Prevention data in the format prescribed in the CalOMS Prevention User Manual.

Contractor shall comply with the requirements which address the collection of information required in the SAPT Block Grant contained in Document 1T, incorporated by this reference ("CalOMS Prevention User Manual"). Refer to the List of Exhibits for the web site location of the manual, in which the manual is updated on a quarterly basis. Prevention service/activity

(e) Lack of service advocates; and,

(f) Failure to survey or otherwise identify the barriers to service accessibility.

(g) Needs of persons with a disability.

3. Contractor shall comply with any additional requirements of the documents that have been incorporated herein by reference, including, but not limited to, those on the "List of Exhibit C Documents" which is attached to Exhibit C.

4. Amounts awarded pursuant to Exhibit C shall be used exclusively for providing alcohol and/or drug program services consistent with the purpose of the funding.

ARTICLE IV. PERFORMANCE PROVISIONS

A. Monitoring

1. Contractor's performance under Exhibit C shall be monitored by the State during the term of this Contract. Monitoring criteria shall include, but not be limited to:

   (a) Whether the quantity of work or services being performed conforms to Exhibit A1;

   (b) Whether the Contractor has established and is monitoring appropriate quality standards;

   (c) Whether the Contractor is abiding by all the terms and requirements of this Contract; and,

   (d) Whether the Contractor is abiding by the terms of the Perinatal Services Network Guidelines (Document 1G), until such time new Perinatal Services Network Guidelines are established and adopted.

2. Failure to comply with the above provisions shall constitute grounds for the State to suspend or recover payments, subject to the Contractor's right of appeal, or may result in termination of the Contract or both.

B. Performance Requirements

1. Contractor shall provide services based on funding set forth in Exhibit A1 and under the terms of this Contract.

2. Contractor shall provide services to all eligible persons in accordance with federal and state statutes and regulations. Contractor shall assure that in planning for the provision of services, the following barriers to services are considered and addressed:

   (a) Lack of educational materials or other resources for the provision of services;

   (b) Geographic isolation and transportation needs of persons seeking services or remoteness of services;

   (c) Institutional, cultural, and/or ethnicity barriers;

   (d) Language differences;

H. Expenditure of SAPT Block Grant Funds

1. SAPT Block Grant funds are allocated based upon the Federal Grant award period. These funds must be expended for activities authorized pursuant to 42 USC Sections 300x-21(b) through 300x-66; and Title 45, CFR, Subpart L, within the availability period of the grant award. Any SAPT Block Grant funds that have not been expended by a Contractor at the end of the expenditure period identified below shall be returned to the State for subsequent return to the Federal government.

   (a) The expenditure period of the FFY 2010 award is October 1, 2009, through June 30, 2011.

   (b) The expenditure period of the FFY 2011 award is October 1, 2010 through June 30, 2012.

   (c) The expenditure period of the FFY 2012 award is October 1, 2011 through June 30, 2013.

   (d) The expenditure period of the FFY 2013 award is October 1, 2012 through June 30, 2014.

   (e) The expenditure period of the FFY 2014 award is October 1, 2013 through June 30, 2015.

2. Contractors receiving SAPT Block Grant funds shall comply with the financial management standards contained in Title 45, CFR, Part 92, Sections 92.20(b)(1) through (6), and Title 45, CFR, Part 96, Section 96.30.

3. Non-profit Subcontractors receiving SAPT Block Grant funds shall comply with the financial management standards contained in Title 45, CFR, Part 74, Sections 74.21(b)(1) through (4) and (b)(7), and Part 96, Section 96.30.

4. Contractors receiving SAPT Block Grant funds shall track obligations and expenditures by individual SAPT Block Grant award, including, but not limited to, obligations and expenditures for primary prevention, services to pregnant women and women with dependent children. "Obligation" shall have the same meaning as used in Title 45, CFR, Part 92, Section 92.3."

5. Additionally, Contractors expending SAPT Block Grant HIV Set Aside funds for HIV Early Intervention Services are required to collect data regarding their use of HIV Set-Aside funds and to report this data to the State.

an appeal to the State in accordance with Document 1J(a). Contractor shall include a provision in its subcontracts regarding the process by which its Subcontractors may file an audit appeal via the Contractor.

Contractors that conduct financial audits of Subcontractors, other than a Subcontractor whose funding consists entirely of non-Department funds, shall develop a process to resolve disputed financial findings and notify Subcontractors of their appeal rights pursuant to that process. This section shall not apply to those grievances or complaints arising from the financial findings of an audit or examination made by or on behalf of the State pursuant to Article IV of this Contract.

F. Revenue Collection

Contractor shall conform to revenue collection requirements in Division 10.5 of the HSC, Sections 11841, by raising revenues in addition to the funds allocated by the State. These revenues include, but are not limited to, fees for services, private contributions, grants, or other governmental funds. These revenues shall be used in support of additional alcohol and other drug services or facilities. Each alcohol and drug program shall set and collect client fees based on the client's ability to pay. The fee requirement shall not apply to prevention and early intervention services. Contractor shall identify in its annual cost report the types and amounts of revenues collected.

G. Cost Efficiencies

1. It is intended that the cost to the Contractor in maintaining the dedicated capacity and units of service shall be met by the non-DMC funds allocated to the Contractor and other Contractor or Subcontractor revenues. Amounts awarded pursuant to Exhibit C shall not be used for services where payment has been made, or can reasonably be expected to be made under any other state or federal compensation or benefits program, or where services can be paid for from revenues.

2. Funds payable to the County from the CDCR pursuant to Document 1D(a) that are not spent cannot be retained by the Contractor.

(a) Limited scope audits, as defined in the OMB Circular A-133, only include agreed-upon engagements that are (1) conducted in accordance with either the American Institute of Certified Public Accountant's generally accepted auditing standards or attestation standards; (2) paid for and arranged by pass-through entities (counties); and (3) address one or more of the following types of compliance requirements: (*i*) activities allowed or unallowed; (*ii*) allowable costs/cost principles; (*iii*) eligibility; (*iv*) matching, level of effort and earmarking; and (*v*) reporting.

(b) On-site visits focus on compliance and controls over compliance areas. The reviewer must make site visits to the subcontractor location(s), and can use a variety of monitoring mechanisms to document compliance requirements. The findings and the corrective action will require follow-up by the Contractor.

2. Reports of audits conducted by the State shall reflect all findings, recommendations, adjustments, and corrective action as a result of its findings in any areas.

3. Contractor shall be responsible for any disallowance taken by the Federal Government, the State, or the Bureau of State Audits, as a result of any audit exception that is related to the Contractor's responsibilities herein. Contractor shall not use funds administered by the State to repay one federal funding source with funds provided by another federal funding source, to repay federal funds with state funds, or to repay state funds with federal funds. State shall invoice Contractor 60 days after issuing the final audit report or upon resolution of an audit appeal. Contractor agrees to develop and implement any corrective action plans in a manner acceptable to State in order to comply with recommendations contained in any audit report. Such corrective action plans shall include time-specific objectives to allow for measurement of progress and are subject to verification by the State within one year from the date of the plan.

   If differences cannot be resolved between the State and the Contractor regarding the terms of the final financial audit settlements for funds expended under Exhibit C, Contractor may request an appeal in accordance with the appeal process described in Document 1J(a), "Non-DMC Audit Appeal Process," incorporated by this reference. When a financial audit is conducted by the Federal Government, the State, or the Bureau of State Audits directly with a Subcontractor of the Contractor, and if the Subcontractor disagrees with audit disallowances related to its programs, claims or services, Contractor shall, ~~at the Subcontractor's request~~, request

(g) Contractor, in coordination with the State, shall ensure that its Subcontractor's follow-up and take all necessary corrective action on any audit findings in the single or program-specific audit report.

2. Pursuant to OMB Circular A-133, State may impose sanctions against the Contractor for not submitting required single or program-specific audit reports, or failure to comply with all other audit requirements. The sanctions shall include:

(a) Withholding a percentage of federal awards until the audit is completed satisfactorily;

(b) Withholding or disallowing overhead costs;

(c) Suspending federal awards until the audit is conducted; or,

(d) Terminating the federal award.

E. Contractor Monitoring Requirements

1. Pursuant to OMB Circular A-133 §____.400(d)(3), Contractor shall monitor the activities of all its non-profit Subcontractors to ensure that:

- Subcontractors are complying with program requirements and achieving performance goals.
- Subcontractors are complying with fiscal requirements, such as having appropriate fiscal controls in place, and are using awards for authorized purposes.

Contractor can use a variety of monitoring mechanisms, including limited scope audits, on-site visits, progress reports, financial reports, and reviews of documentation supporting requests for reimbursement, to meet the Contractor's monitoring objectives. The Contractor may charge federal awards for the cost of these monitoring procedures as outlined in OMB Circular A-133.

The Contractor shall submit to the State a copy of the procedures and any other monitoring mechanism used to monitor non-profit Subcontractors at the time of the County's annual site visit or within 60 days thereafter. Contractor shall state the frequency that non-profit Subcontractors are monitored.

D. Additional Audit Requirements

1. Pursuant to OMB Circular A-133, Contractor shall require and ensure that, effective January 1, 2004, its non-profit Subcontractors expending $500,000 or more in federal funds in a fiscal year, have a single or program-specific audit performed with respect to the funds covered by Exhibit C.

   (a) The audit shall be performed in accordance with OMB Circular A-133 (Revised June 2003), entitled "Audits of States, Local Governments, and Non-Profit Organizations." OMB Circulars can be obtained from the Office of Management and Budget, Washington, D.C. 20503, or www.whitehouse.gov/omb/circulars/index.html.

   (b) The audit shall be conducted in accordance with generally accepted auditing standards and Government Auditing Standards, 2007 Revision, issued by the Comptroller General of the United States. The Government Auditing Standards can be obtained from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402, or www.gao.gov.

   (c) A copy of the audit performed in accordance with OMB Circular A-133 (Revised June 2003) shall be submitted to the State within 30 days of completion, but no later than nine months following the end of the Subcontractor's fiscal year.

   (d) The cost of the audit made in accordance with the provisions of the most recent version of OMB Circular A-133 can be charged to applicable federal awards. Where apportionment of the audit cost is necessary, such apportionment shall be made in accordance with generally accepted accounting principles, but shall not exceed the proportionate amount that the award represents of the Subcontractor's total revenue.

   (e) The work papers and the audit reports shall be retained for a minimum of three years from the date of the audit reports, and longer if the independent auditor is notified in writing by the State to extend the retention period.

   (f) Audit work papers shall be made available upon request to the State, and copies shall be made as is reasonable and necessary.

However, based on the expenditure information submitted by the counties in the Quarterly Federal Financial Management Report (QFFMR) (Document 3O), State may adjust monthly payments of encumbered federal funds to extend the length of time (not to exceed 21 months) over which payments of federal funds will be made.

4. Monthly disbursements to the Contractor at the beginning of each fiscal year of the Contract shall be based on the preliminary allocation of funds, as detailed in Exhibit A1.

   Final allocations will reflect any increases or reductions in the appropriations as reflected in the State Budget Act allocation and any subsequent allocation revisions. To the extent that any amendment encumbers an amount that is less than the State Budget Act allocation, the monthly disbursements will reflect the lesser amount.

5. State may withhold monthly non-DMC payments if the Contractor fails to timely submit reports and data required by the State, including but not limited to, reports required pursuant to Exhibit C, Article V. Upon the State's receipt of the complete and accurate reports, or data, Contractor's monthly payment shall commence with the next scheduled monthly payment, and shall include any funds withheld due to late submission of reports or data.

   State may withhold monthly non-DMC payments if the Contractor fails to submit the contract amendment, within 90 days from issuance from the State to the Contractor.

6. Adjustments may be made to the total of the Contract and amounts may be withheld from payments otherwise due to the Contractor hereunder, for nonperformance to the extent that nonperformance involves fraud, abuse, or failure to achieve the objectives of the provisions of Exhibit C.

C. Accrual of Interest

Any interest accrued from State-allocated funds and retained by the Contractor must be used for the same purpose as the State-allocated funds from which the interest was accrued.

ARTICLE III. FISCAL PROVISIONS

A. Funding Authorization

1. Exhibit C is valid and enforceable subject to sufficient funds being made available to the State by the United States Government and subject to authorization and appropriation of sufficient funds pursuant to the State's Budget Act.

2. In the event the United States Government and/or the State Government do not authorize and appropriate sufficient funds for the State to allocate amounts pursuant to the Payment Provisions of Exhibit C, it is mutually agreed that the Contract shall be amended to reflect any reduction in the Payment Provisions and the Performance Provisions.

3. Contractor shall bear the financial risk in providing any alcohol and/or drug services covered by this Exhibit C.

B. Payment Provisions

1. For each fiscal year, the total amount payable by the State to the Contractor under Exhibit C shall not exceed the encumbered amount. The funds identified for the fiscal years covered by Exhibit C are subject to change depending on the availability and amount of funds appropriated by the Legislature and the Federal Government. The amount of funds available for expenditure by the Contractor shall be limited to the amount identified in the final allocations issued by the State for that fiscal year or the non-DMC amount, whichever is less. Changes to encumbered funds will require written amendment to the Contract. State may settle costs for non-DMC services based on the year-end cost settlement report as the final amendment to the approved single state/county contract.

2. In the event a contract amendment is required pursuant to the preceding paragraph, Contractor shall submit to the State information as identified in Exhibit B, Section F(3)(a). To the extent the Contractor is notified of the State Budget Act allocation prior to the execution of the Contract, the State and the Contractor may agree to amend the contract after the issuance of the first revised allocation.

3. State shall reimburse the Contractor monthly in arrears an amount equal to one-twelfth of the amount encumbered pursuant to Exhibit C of the contract or the most recent allocation based on the Budget Act Allocation, whichever is less, with the exception of Parolee Services Network (PSN) funding. Payments for PSN services shall be made pursuant to Document 1Da.

17. **"Unit of Service"** means the type of unit used to quantify the service modalities/elements in the dedicated capacity reports. The units of services are listed below:

Support Services	staff hours
Primary Prevention Services	N/A
Secondary Prevention Services	staff hours
Nonresidential Services (Outpatient and Aftercare)	staff hours
Intensive Outpatient Services (Day Care Rehabilitative)	visit days
Residential Treatment Services	bed days
Narcotic Treatment Program	
Inpatient Detoxification	bed days
Outpatient Detoxification	slot days
Narcotic Replacement Therapy Methadone	slot days
Ancillary Services	staff hours
Driving Under-the-Influence	persons served

18. **"Utilization"** means the total actual units of service used by clients and participants.

6. **"Encumbered Amount"** means the amount reflected on the Standard Agreement of this Contract and supported by the Exhibit A1..

7. **"Final Allocation"** means the amount of funds identified in the last allocation letter issued by State for the current fiscal year.

8. **"Final Settlement"** means permanent settlement of the Contractor's actual allowable costs or expenditures as determined at the time of audit, which shall be completed within three years of the date the year-end cost settlement report was accepted for interim settlement by the State. If the audit is not completed within three years, the interim settlement shall be considered as the final settlement.

9. **"Interim Settlement"** means temporary settlement of actual allowable costs or expenditures reflected in the Contractor's year-end cost settlement report.

10. **"Modality"** means those necessary overall general service activities to provide alcohol and/or drug prevention or treatment that conform to the services described in Division 10.5 of the HSC.

11. **"Non-Drug Medi-Cal" amount** means the contracted amount of SAPT Block Grant funds and Parolee Services Network funds for services agreed to by the State and the Contractor.

12. **"Performance"** means providing the dedicated capacity in accordance with Exhibit A1 and abiding by the terms of Exhibits B and C of this Contract, including all applicable state and federal statutes, regulations, and standards, including Alcohol and/or Other Drug Certification Standards (Document 1P), in expending funds for the provision of alcohol and drug services hereunder.

13. **"Preliminary Settlement"** means the settlement of only SAPT funding.

14. **"Revenue"** means Contractor's income from sources other than the State allocation and the required county match.

15. **"Service Element"** is the specific type of service performed within the more general service modalities. A list of the service modalities and service elements and service elements codes is incorporated into this Contract as Document 1H(a) "Service Code Descriptions," and Document 1H(b), "Program Code Listing."

16. **"State"** means the California Department of Alcohol and Drug Programs.

ARTICLE II. DEFINITIONS

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

1. **"Available Capacity"** means the total number of units of service (bed days, hours, slots, etc.) that a Contractor actually makes available in the current fiscal year.

2. **"Contractor"** means the county identified in the Standard Agreement or the department authorized by the County Board of Supervisors to administer alcohol and drug programs.

3. **"County Realignment Funds"** means funds received by the county based on FY 2012-13 State Budget and accompanying law (Chapter 40, Statutes of 2012). In FY 2012-13, the Local Revenue Fund for county realignment funding was modified. Senate Bill 1020, Chapter 40, Statutes of 2012 amended the California Government Code Section 30025 to redefine Local Revenue Fund accounts and the placement of substance use disorder services funding. The Health and Human Services Account as established in FY 2011-12 was abolished September 30, 2012. The Behavioral Health Subaccount, which contains funding for substance use disorder services, was created within the Support Services Account.

4. "Fiscal Year 2011-12 Unexpended County Realignment Funds" means funds issued as part of the FY 2011-12 State Budget and accompanying law (Chapter 40, Statutes of 2011 [Assembly Bill (AB) 118] and Chapter 13, Statutes of 2011, First Extraordinary Session [ABX1 16]), that were not expended for Fiscal Year 2011-12 services. These funds shall be transferred into the Behavioral Health Subaccount for the use on the following mental health and substance use disorder services: Drug Medi-Cal, Drug Courts, Women and Children's Residential Treatment Services; non-Drug Medi-Cal; Medi-Cal Mental Health Managed Care; and Early and Periodic Screening, Diagnosis and Treatment.

5. **"Dedicated Capacity"** means the historically calculated service capacity, by modality, adjusted for the projected expansion or reduction in services, which the Contractor agrees to make available to provide non-Drug Medi-Cal substance use disorder services to persons eligible for Contractor services.

6. Contractor shall comply with the requirements contained in Document 1F(a), incorporated by this reference, "Reporting Requirement Matrix" – County Submission Requirements for the Department of Alcohol and Drug Programs and the Department of Health Care Services."

7. Contractor shall comply with the requirements for perinatal programs funded under Exhibit C contained in Document 1G, incorporated by this reference, "Perinatal Services Network Guidelines 2009" until such time new Perinatal Services Network Guidelines are established and adopted. No formal amendment of this contract is required for new guidelines to apply.

8. In accordance with the Fiscal Year 2011-12 State Budget Act and accompanying law (Chapter 40, Statues of 2011 and Chapter 13, Statues of 2011, First Extraordinary Session), contractors that provide Women and Children's Residential Treatment Services shall comply with the program requirements (Section 2.5, Required Supplemental/Recovery Support Services) of the Substance Abuse and Mental Health Services Administration's Grant Program for Residential Treatment for Pregnant and Postpartum Women, RFA found at http://www.samhsa.gov/Grants/2008/ti_08_009.doc.

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

C. Contract Negotiation

Contract negotiations may be conducted between the Contractor and the State through their authorized representative(s) each year of the multi-year contract period. Negotiations may be conducted at ADP, 1700 K Street, Sacramento, California, 95811 once during the multi-year contract period. In the alternative, negotiations may be conducted by correspondence.

(g) Title 45, Code of Federal Regulations (CFR), Sections 96.30 through 96.33 and Sections 96.120 through 96.137;

(h) Title 42, CFR, Sections 8.1 through 8.34;

(i) Title 21, CFR, Sections 1301.01 through 1301.93, Department of Justice, Controlled Substances; and,

(j) State Administrative Manual (SAM), Chapter 7200 (General Outline of Procedures).

Contractor shall be familiar with the above laws, regulations, and guidance and shall assure that its Subcontractors are also familiar with such requirements.

2. The provisions of Exhibit C are not intended to abrogate any provisions of law or regulation, or any standards existing or enacted during the term of this Contract.

3. Contractor shall adhere to the applicable provisions of Title 45, CFR, Part 96, Subparts C and L, as applicable, in the expenditure of the Substance Abuse Prevention and Treatment (SAPT) Block Grant funds. Document 1A, 45 CFR 96, Subparts C and L, is incorporated by reference.

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

5. Documents 1C, 1D(a), and 1D(b), incorporated by this reference, contain additional requirements that shall be adhered to by those Contractors that receive the types of funds specified by each document. These exhibits and documents are:

   (a) Exhibit A1;

   (b) Document 1C, Driving-Under-the-Influence Program Requirements;

   (c) Document 1D(a), Services to California Department of Corrections and Rehabilitation (CDCR) - Parolee Services Network (PSN); and,

   (d) Document 1D(b), SAPT Female Offender Treatment Project (FOTP).

NON DRUG MEDI-CAL SUBSTANCE ABUSE TERATMENT SERVICES AND FUNDING CONDITIONS

ARTICLE I. FORMATION AND PURPOSE

A. Authority

State and the Contractor enter into Exhibit C by authority of Chapter 3 of Part 1, Division 10.5 of the Health and Safety Code (HSC) and with approval of Contractor's County Board of Supervisors (or designee) for the purpose of providing alcohol and drug services, which will be reimbursed pursuant to Exhibit C. State and the Contractor identified in the Standard Agreement are the only parties to this Contract. This Contract is not intended, nor shall it be construed, to confer rights on any third party.

B. Control Requirements

1. Performance under the terms of Exhibit C is subject to all applicable federal and state laws, regulations, and standards. In accepting the State drug and alcohol combined program allocation pursuant to HSC Sections 11814(a) and (b), Contractor shall: (*i*) establish, and shall require its Subcontractors to establish, written procedures consistent with the following requirements; (ii) monitor for compliance with the written procedures; and (*iii*) be held accountable for audit exceptions taken by the State against the Contractor and its Subcontractors for any failure to comply with these requirements:

   (a) HSC, Division 10.5, commencing with Section 11760;

   (b) Title 9, California Code of Regulations (CCR) (herein referred to as Title 9), Division 4, commencing with Section 9000;

   (c) Government Code Section 16367.8;

   (d) Government Code, Article 7, Federally Mandated Audits of Block Grant Funds Allocated to Local Agencies, Chapter 1, Part 1, Division 2, Title 5, commencing at Section 53130;

   (e) Title 42 United State Code (USC), Sections 300x-21 through 300x-31, 300x-34, 300x-53, 300x-57, and 330x-65 and 66;

   (f) The Single Audit Act Amendments of 1996 (Title 31, USC Sections 7501-7507) and the Office of Management and Budget (OMB) Circular A-133 revised June 27, 2003;

TT. Tribal Communities and Organizations

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

UU. Subcontract Provisions

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

VV. Participation of County Alcohol and Drug Program Administrators Association of California (CADPAAC) Members

Pursuant to HSC Section 11801(g), the alcohol and drug program administrator shall participate and represent the county in meetings of the CADPAAC for the purposes of representing the counties in their relationship with the state with respect to policies, standards, and administration for alcohol and other drug abuse services.

Pursuant to HSC Section 11811.5(c), the county alcohol and drug program administrator shall attend any special meetings called by the Director of ADP.

them, the Contractor shall not be liable for damages of such delay or failure, unless the supplies or services to be furnished by the Subcontractor were obtainable from other sources in sufficient time to permit the Contractor to meet the required performance schedule.

OO. Counselor Certification

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

PP. Cultural and Linguistic Proficiency

To ensure equal access to quality care by diverse populations, each service provider receiving funds from this contract shall adopt the federal Office of Minority Health (OMH) Culturally and Linguistically Appropriate Service (CLAS) national standards. The OMH CLAS standards (referenced as Document 3V) are located at: ***http://minorityhealth.hhs.gov/templates/browse.aspx?lvl=2&lvlID=15***

QQ. Intravenous Drug Use (IVDU) Treatment

Contractor shall ensure that individuals in need of IVDU treatment shall be encouraged to undergo AOD treatment (42 USC 300x-23(b) of PHS Act).

RR. Tuberculosis Treatment

Contractor shall ensure the following related to Tuberculosis (TB):

1. Routinely make available TB services to each individual receiving treatment for alcohol and other drug use and/or abuse;

2. Reduce barriers to patients' accepting TB treatment; and,

3. Develop strategies to improve follow-up monitoring, particularly after patients leave treatment, by disseminating information through educational bulletins and technical assistance.

SS. Trafficking Victims Protection Act of 2000

Contractor and its Subcontractors that provide services covered by this Contract shall comply with Section 106(g) of the Trafficking Victims Protection Act of 2000 as amended (22 U.S.C. 7104). For full text of the award term, go to: http://www.samhsa.gov/grants/trafficking.aspx

(e) If the Contractor experiences system or service failure or other extraordinary circumstances that affect its ability to timely submit a monthly DATAR report, and/or to meet data compliance requirements, the Contractor shall report the problem in writing before the established data submission deadlines. The written notice shall include a remediation plan that is subject to review and approval by the State. A grace period of up to sixty (60) days may be granted, at the State's sole discretion, for the Contractor to resolve the problem before non-DMC payments are withheld.

(f) If the State experiences system or service failure, no penalties will be assessed to Contractor for late data submission.

2. Noncompliance Provision

The Contractor shall be considered compliant if a minimum of 95% of required DATAR reports from the Contractor's treatment providers are received by the due date.

LL. Domestic Partners Act

Pursuant to Public Contract Code 10295.3, no state agency may enter into any contract executed or amended after January 1, 2007, for the acquisition of goods or services in the amount of $100,000 or more with a contractor who, in the provision of benefits, discriminates between employees with spouses and employees with domestic partners, or discriminates between domestic partners and spouses of those employees.

MM. Nondiscrimination and Institutional Safeguards for Religious Providers

Contractor shall establish such processes and procedures as necessary to comply with the provisions of Title 42, USC, Section 300x-65 and Title 42, CFR, Part 54, (Reference Document 1B).

NN. Force Majeure

Neither party shall be responsible for delays or failures in performance resulting from acts beyond the control of the offending party. Such acts shall include but not be limited to acts of God, fire, flood, earthquake, other natural disaster, nuclear accident, strike, lockout, riot, freight, embargo, public related utility, or governmental statutes or regulations super-imposed after the fact. If a delay or failure in performance by the Contractor arises out of a default of its Subcontractor, and if such default of its Subcontractor, arises out of causes beyond the control of both the Contractor and Subcontractor, and without the fault or negligence of either of

(f) If the Contractor experiences system or service failure or other extraordinary circumstances that affect its ability to timely submit CalOMS Tx and/or CalOMS Pv data, and/or to meet other CalOMS Tx and CalOMS Pv data compliance requirements, the Contractor shall report the problem in writing before the established data submission deadlines. The written notice shall include a remediation plan that is subject to review and approval by the State. A grace period of up to sixty (60) days may be granted, at the State's sole discretion, for the Contractor to resolve the problem before non-DMC payments are withheld.

(g) If the State experiences system or service failure, no penalties will be assessed to Contractor for late data submission.

(h) Contractor shall comply with the treatment and prevention data quality standards established by the State. Failure to meet these standards on an ongoing basis may result in withholding non-DMC funds.

(i) If the Contractor submits data after the established deadlines, due to a delay or problem, Contractor is still responsible for collecting and reporting data from time of delay or problem.

KK. Drug and Treatment Access Report (DATAR)

1. The Contractor shall:

(a) Be responsible for ensuring that all treatment providers with whom Contractor makes a contract or otherwise pays for the services, and who are required to report CalOMS Treatment client data, submit a monthly DATAR report in an electronic copy format as provided by the State.

(b) Ensure that all DATAR reports are submitted to the State by the 10th of the month following the report activity month.

(c) Ensure that all applicable providers are enrolled in the State's web-based DATARWeb program for submission of data, accessible on the ADP website.

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

Tx data. If contractor changes or modifies the CalOMS Tx IT system, then contractor shall re-test and pass state certification prior to submitting data from new or modified system. Contractor must comply with ADP compliance requirements for data content, data quality, data completeness, reporting frequency, reporting deadlines, and report method.

(b) Participate in CalOMS informational meetings, training, and readiness meetings for both CalOMS Tx and CalOMS Pv.

(c) Implement and maintain a system for collecting and electronically submitting data for CalOMS Tx.

(d) Meet the requirements in the Privacy, Confidentiality and Information Security Provisions as outlined in Document 3K (as identified in Exhibit C).

2. The following business rules for the electronic submission of CalOMS Tx and CalOMS Pv data are:

(a) Prevention service/activity data is to be reported via CalOMS Pv by all funded primary prevention providers. Services are to be reported by the date of occurrence on a weekly basis. No more than one week's data shall be aggregated into one reported service.

(b) All CalOMS Pv service/activity data shall be reviewed by each county and released to the State no later than 30 days following the close of each quarter. The reporting quarters are: July through September, October through December, January through March, and April through June.

(c) Reporting progress on prevention goals and objectives via the Evaluation Module within CalOMS Pv shall be done on an annual basis. This information is due no later than August 31 of each fiscal year.

(d) Electronic submission of CalOMS Tx data is due 45 days from the end of the last day of the report month.

(e) If the Contractor cannot submit CalOMS Pv data by the established due dates, the Contractor shall submit a written request for an extension. The written request shall be approved by the State prior to the established due date.

iii The insurance carrier shall notify the State of California Department of Alcohol and Drug Programs, 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 the Contract number for which the insurance was obtained.

(f) Contractor and/or its Subcontractors are 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 the State, in writing, if this provision is applicable to this agreement. If DGS approval of the certificate of insurance is required, Contractor agrees that no work or services involving the motor vehicle shall be performed prior to obtaining said approval.

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

II. 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 its Subcontractors, the Contractor shall provide and shall require its 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.

JJ. California Outcomes Measurement System (CalOMS) for Treatment (CalOMS Tx) and for Prevention (CalOMS Pv).

1. The Contractor shall:

(a) Conduct information technology (IT) systems testing and pass State certification testing before commencing submission of CalOMS Tx data. If the Contractor subcontracts with vendor for IT services, Contractor is responsible for ensuring that the subcontracted IT system is tested and certified by the State prior to submitting CalOMS

8. Automobile Liability Insurance

(a) Contractor, by signing this Contract, 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 or has a program of adequate self-insurance. Said insurance shall be obtained and made effective upon the delivery date of any motor vehicle, purchased/reimbursed with agreement funds or furnished by the State under the terms of this agreement to the Contractor and/or its Subcontractors.

(b) Contractor shall maintain a copy of the certificate of insurance or a letter of self-insurance which must be made available to the State upon request. Subcontractors shall maintain a copy of the certificate of insurance which shall be made available to the State upon request.

(c) Contractor agrees that bodily injury and property damage liability insurance or a program of self-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 the State. Subcontractors 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 the State.

(d) Contractor and/or its Subcontractors agree to provide, at least thirty (30 days) prior to the expiration date of said insurance coverage, a copy of a new certificate or 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) Contractor and/or its Subcontractors, if not a self-insured government and/or public entity, shall provide evidence, that any required certificates of insurance contain the following provisions:

i The insurer will not cancel the insured's coverage without giving thirty (30) calendar days prior written notice to the State.

ii The State of California, it's officers, agents, employees, and servants are included as additional insured's, but only with respect to work performed for the State under this agreement and any extension or continuation of this agreement.

7. Motor Vehicles

This section is applicable only if motor vehicles are purchased/reimbursed with agreement funds or furnished by the State under this agreement.

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

(b) If motor vehicles are purchased/reimbursed with agreement funds or furnished by the State 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. Contractor and/or its Subcontractors may only use said vehicles for performance and under the terms of this agreement.

(c) Contractor and/or its Subcontractors agree that all operators of motor vehicles, purchased/reimbursed with agreement funds or furnished by the State 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.

(d) If any motor vehicle is purchased/reimbursed with agreement funds or furnished by the State under the terms of this agreement, Contractor and/or its Subcontractors, 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 period of contract extension during which any vehicle remains in the Contractor's and/or its Subcontractor's possession.

acquired to take the place of other equipment. To qualify as replacement equipment, the equipment shall serve the same or similar functions as the equipment replaced and must be of the same or similar nature or character, although not necessarily the same model, grade, or quality.

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

3. Unless otherwise stipulated, in writing, the State shall be under no obligation to pay the cost of restoration, or rehabilitation of the Contractors and/or its Subcontractors' facility, which may be affected by the removal of any State equipment and/or miscellaneous property.

4. Contractor and/or its Subcontractors shall maintain and administer a sound business program for ensuring the proper use, maintenance, repair, protection, insurance and preservation of State equipment and/or miscellaneous property.

   In administering this provision, the State may require the Contractor and/or its Subcontractors to repair or replace, to the State's satisfaction, any damaged, lost or stolen state equipment and/or miscellaneous property. Should a theft occur, Contractor and/or its Subcontractors shall immediately file a theft report with the appropriate police agency or the California Highway Patrol and the Contractor shall promptly submit one copy of the theft report to the ADP program contract manager.

5. Unless otherwise stipulated by the program funding this Contract, equipment and/or miscellaneous property purchased/reimbursed with Contract funds or furnished by the State under the terms of this Contract, shall only be used for performance of this Contract or another State Contract.

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

HH. Equipment Ownership / Inventory / Disposition

This section is applicable to Contracts in which equipment and/or miscellaneous property is furnished by the State and/or when said items are purchased or reimbursed with state or federal funds. Items shall also include leased equipment, where there is an option to purchase.

1. Wherever the term equipment and/or miscellaneous property is used in this provision, the definitions in the provision for Procurement Rules, Paragraph 1 shall apply.

   All equipment and/or miscellaneous property that are purchased/reimbursed with Contract funds or furnished by the State under the terms of this agreement and not fully consumed in performance of this Contract shall be considered State equipment and the property of the State.

   (a) The State requires the reporting, tagging, and annual inventorying of all equipment and/or miscellaneous property that is furnished by the State or purchased/reimbursed with funds provided through this Contract.

   Upon receipt of equipment and/or miscellaneous property, Contractor shall report the receipt to the ADP program contract manager and receive State property tags.

   (b) If the Contractor enters into an agreement with a term of more than twelve months, Contractor shall submit an annual inventory of State equipment and/or miscellaneous property to the ADP program contract manager. Contractor shall:

      i Include in the inventory report, equipment and/or miscellaneous property in the Contractor's possession and/or in the possession of its Subcontractor (including independent consultants).

      ii Contact the ADP program contract manager to learn how to remove, trade-in, sell, transfer or survey off, from the inventory report, expired equipment and/or miscellaneous property that is no longer wanted, usable or has passed its life expectancy.

      iii When replacing equipment, the equipment to be replaced shall be used as a trade-in or the equipment shall be sold and the proceeds shall be used to offset the cost of the replacement equipment. "Replacement equipment" means equipment

4. Unless waived or otherwise stipulated in writing by the State, prior written authorization from the appropriate ADP program contract manager will be required before the Contractor or Subcontractor may make a purchase of $5,000 or more for commodities, supplies, equipment, and services related to such purchases. Contractor shall provide in its request for authorization all particulars necessary, as specified by the State, for evaluating the necessity or desirability of incurring such costs. The term "purchase" excludes the purchase of services from its Subcontractors and public utility services at rates established for uniform applicability to the general public.

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

6. Contractor and/or its Subcontractors shall 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 its Subcontractors at any time.

7. For all purchases, Contractor and/or its Subcontractors shall maintain copies of all paid vendor invoices, documents, bids and other information used in vendor selection, for inspection or audit. All records shall be sufficient to determine the reasonableness of costs incurred by the Contractor and/or its Subcontractors and must be capable of verification by qualified auditors. Justifications supporting the absence of bidding (i.e., sole source purchases) shall also be maintained on file by the Contractor and/or its Subcontractors for inspection or audit.

8. The State 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 2 and/or 3 of this provision by giving the Contractor no less than thirty (30) calendar days written notice.

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

   (a) Equipment purchases shall not exceed $50,000 annually.

   (b) All equipment purchases are subject to Paragraphs 4 through 8 of this provision. Paragraph 2 of this provision shall also apply, if equipment purchases are delegated to subcontractors that are either a government or public entity.

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

      i 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 contract in which, to the best of their knowledge, they have a financial interest.

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

      iii Procurements shall be conducted in a manner that provides for all of the following:

         [1a] Avoid purchasing unnecessary or duplicate items.

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

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

GG. Procurement Rules

This section is applicable to all Contracts in which equipment, miscellaneous property, commodities and/or supplies are furnished by the State or expenses for said items are reimbursed with state or federal funds.

1. Equipment definitions

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

(a) Major equipment: A tangible or intangible item having a base unit cost of $5,000 or more and greater than the Contractor's or Subcontractor's capitalization level with a life expectancy of one (1) year or more and is either furnished by the State or the cost is reimbursed through this agreement. Software and videos are examples of intangible items that meet this definition. Major equipment shall be recovered only through straight line depreciation over the class life of the property, as specified in the "Table of Class Lives and Recovery Periods" in federal IRS Publication 946, "How to Depreciate Property," which is available from any office of the IRS.

(b) Minor equipment: A tangible item having a base unit cost of less than $5,000 and less than the Contractor's or Subcontractor's capitalization level, with a life expectancy of one (1) year or more, and is either furnished by the State or the cost is reimbursed through this Contract. Minor equipment may be reimbursed as allowable costs in the fiscal year incurred.

(c) Miscellaneous property: A specific tangible item with a life expectancy of one (1) year or more that is either furnished by the State or the cost is reimbursed through this Contract. Examples include, but are not limited to: furniture (excluding modular furniture), cabinets, typewriters, desktop calculators, portable dictators, non-digital cameras, etc.

2. 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 Contract. Said procurements are subject to Paragraphs 4 through 8 of this provision. Paragraph 3 of this provision shall also apply, if equipment purchases are delegated to subcontractors that are nonprofit organizations or commercial businesses.

(d) No Changes to Meaning or Intent. Contractor hereby agrees that for the Information, it will not change the meaning or intent of any of the HHS Transaction Standard's implementation specification. (45 CFR Part 162.915 (d))

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

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

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

5. Code Set Retention. Both Parties understand and agree to keep open code sets being processed or used in this Agreement for at least the current billing period or any appeal period, whichever is longer.

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

EE. Restriction on Distribution of Sterile Needles

No funds made available through this Contract shall be used to carry out any program of distributing sterile needles or syringes for the hypodermic injection of any illegal drug.

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

All DMC claims shall be submitted in electronic HIPAA compliant format (837P) and shall be submitted through the DHCS's Information Technology Web Service (ITWS) system for adjudication in the Short-Doyle Medi-Cal System. All DMC adjudicated claim information must be retrieved by the Contractor via an 835 format (Health Care Claim Payment/Advice) from ITWS.

If any of the work performed under this Contract is subject to the Health Insurance Portability and Accountability Act of 1996, Public Law 104-191 (HIPAA), then Contractor shall perform the work in compliance with all applicable provisions of HIPAA. As identified in Document 3K which is referenced in Exhibit C, the State and County shall cooperate to assure mutual agreement as to those transactions between them, to which this Provision applies. Refer to Document 3K for additional information.

1. Trading Partner Requirements

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

   (b) No additions. Contractor hereby agrees that for the Information, it will not add any data elements or segments to the maximum data set as proscribed in the HHS Transaction Standard Regulation. (45 CFR Part 162.915 (b))

   (c) No Unauthorized Uses. Contractor hereby agrees that for the Information, it will not use any code or data elements that either are marked "not used" in the HHS Transaction's Implementation specification or are not in the HHS Transaction Standard's implementation specifications. (45 CFR Part 162.915 (c))

X. Conflict of Interest

Contractor acknowledges that state laws on conflict of interest, found in the Political Reform Act, Public Contract Code Section 10365.5, and Government Code Section 1090, apply to this Contract.

Y. Disputes

Contractor shall continue to carry out its responsibilities under this Contract during any disputes.

Z. Assignment

This Contract is not assignable by the Contractor, either in whole or in part, without the consent of the State in the form of a formal written agreement.

AA. Indemnification

Contractor agrees to indemnify, defend and save harmless the Department of Alcohol and Drug Programs and the Department of Health Care Services, the State of California, its officers, agents and employees from any and all claims and losses accruing or resulting to any and all contractors, subcontractors, suppliers, laborers, and any other person, firm, or corporation furnishing or supplying work services, materials, or supplies in connection with the performance of this Contract and from any and all claims and losses accruing or resulting to any person, firm or corporation who may be injured or damaged by the Contractor in the performance of this Contract.

BB. Independent Contractor

Contractor, and the agents and employees of the Contractor, in the performance of this Contract, shall act in an independent capacity and not as officers, employees, or agents of State.

CC. Timeliness

Time is of the essence in this Contract.

DD. Limitation on Use of Funds for Promotion of Legalization of Controlled Substances

None of the funds made available through this Contract may be used for any activity that promotes the legalization of any drug or other substance included in Schedule I of Section 202 of the Controlled Substances Act (21 USC 812).

include any message on the responsible use, if the use is unlawful, of drugs or alcohol (HSC Section 11999-11999.3). By signing this Contract, Contractor agrees that it will enforce, and will require its Subcontractors to enforce, these requirements.

U. Smoking Prohibition Requirements

Contractor shall comply, and require that its Subcontractors comply, with Public Law 103-227, also known as the Pro-Children Act of 1994 (20 USC Section 6081, et seq.), and with California Labor Code Section 6404.5, the California Smoke-Free Workplace Law, which 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 Women, Infants, and Children (WIC) coupons are redeemed.

V. Adherence to Computer Software Copyright Laws

Contractor certifies that it has appropriate systems and controls in place to ensure that state or federal funds available under this Contract will not be used for the acquisition, operation or maintenance of computer software in violation of copyright laws. (Reference: Executive Order D-10-99 and Department of General Services Management Memo 00-02).

W. Noncompliance with Reporting Requirements

Contractor agrees that the State has the right to withhold payments until Contractor has submitted any required data and reports to the State, as identified in Exhibit C, Document 1F(a), "Reporting Requirement Matrix - County Submission Requirements for the Department of Alcohol and Drug Programs and the Department of Health Care Services."

2. Contractor shall, on a cycle of at least every three years, assess, monitor, and document each Subcontractor's compliance with Section 504 of the Rehabilitation Act of 1973 (as amended) and Americans with Disabilities Act of 1990 to ensure that recipients/beneficiaries and intended recipients/ beneficiaries of services are provided services without regard to physical or mental disability. Contractor shall also monitor to ensure that beneficiaries and intended beneficiaries of service are provided services without regard to race, color, creed, national origin, sex, or age.

   Contractor shall include the nondiscrimination and compliance provisions of this clause in all subcontracts to perform work under this Contract. Contractor shall include nondiscrimination and compliance provisions in all subcontracts. Contractor shall establish written procedures under which service participants are informed of their rights including their right to file a complaint alleging discrimination or a violation of their civil rights. Participants in programs funded hereunder shall be provided a copy of their rights that shall include the right of appeal and the right to be free from sexual harassment and sexual contact by members of the treatment, recovery, advisory, or consultant staff.

3. No state or federal funds shall be used by the Contractor or its Subcontractors for sectarian worship, instruction, or proselytization. No state funds shall be used by the Contractor or its Subcontractors to provide direct, immediate, or substantial support to any religious activity.

4. Noncompliance with the requirements of nondiscrimination in services shall constitute grounds for state to withhold payments under this Contract or terminate all, or any type, of funding provided hereunder.

S. Drug-Free Workplace

Contractor shall comply, and require that its Subcontractors comply, with Government Code Section 8350-8357, also known as Drug-Free Workplace Act of 1990. Every person or organization awarded a contract or a grant for the procurement of any property or services shall certify to the contracting or granting agency that it will provide a drug-free workplace in accordance with Government Code Section 8355.

T. No Unlawful Use or Unlawful Use Messages Regarding Drugs

Contractor agrees that information produced through these funds, and which pertains to drug- and alcohol-related programs, shall contain a clearly written statement that there shall be no unlawful use of drugs or alcohol associated with the program. Additionally, no aspect of a drug- or alcohol-related program shall

- Section 504 of the Rehabilitation Act of 1973, as amended (29 USC Section 794), prohibiting discrimination on the basis of handicap
- Executive Order 11246 (42 USC 2000(e) et seq. and 41 CFR Part 60) regarding nondiscrimination in employment under federal contracts and construction contracts greater than $10,000 funded by federal financial assistance
- Executive Order 13166 (67 FR 41455) to improve access to federal services for those with limited English proficiency
- The Drug Abuse Office and Treatment Act of 1972, as amended, relating to nondiscrimination on the basis of drug abuse
- The Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970 (P.L. 91-616), as amended, relating to nondiscrimination on the basis of alcohol abuse or alcoholism

State Law Requirements:

- Fair Employment and Housing Act (Government Code Section 12900 et seq.) and the applicable regulations promulgated thereunder (California Administrative Code, Title 2, Section 7285.0 et seq.)
- Title 2, Division 3, Article 9.5 of the Government Code, commencing with Section 11135
- Title 9, Division 4, Chapter 8 of the CCR, commencing with Section 10800

Contractor agrees to post, and further agrees to require its Subcontractors to post, in conspicuous places, notices available to all employees and applicants for employment setting forth the provisions of the Equal Employment Opportunity Act in conformance with Federal Executive Order No. 11246; and Section 503 of the Rehabilitation Act of 1973 (as amended). Contractor agrees to comply with provisions of the Rehabilitation Act of 1973.

For the purpose of this Contract, discrimination on the basis of race, color, creed, national origin, sex, age, or physical, sensory, cognitive, or mental disability includes, but is not limited to, the following: denying an otherwise eligible individual any service or providing a benefit which is different, or is provided in a different manner or at a different time, from that provided to others under this Contract; subjecting any otherwise eligible individual to segregation or separate treatment in any matter related to the receipt of any service; restricting an otherwise eligible individual in any way in the enjoyment of any advantage or privilege enjoyed by others receiving any service or benefit; and/or treating any individual differently from others in determining whether such individual satisfied any admission, enrollment, eligibility, membership, or other requirement or condition which individuals shall meet in order to be provided any service or benefit.

- Civil Code Section 1798.85 – Confidentiality of Social Security Numbers
- State Administrative Manual, Section 1600 to 1695 – Destruction of Confidential Records

3. Contractor shall monitor compliance with the above provisions on confidentiality and security and shall include them in all subcontracts.

4. Contractor shall notify the Information Security Officer, Executive Branch, of the State within twenty-four (24) hours during a work week of any suspected or actual breach of computer system security impacting persons served by the contract, if the security breach would require notification under Civil Code Section 1798.82. Contractor agrees to materially assist the State in any action pertaining to such unauthorized disclosure required by applicable Federal or state laws (Reference Document 3K).

R. Nondiscrimination in Employment and Services

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

   Federal Law Requirements:

   - Titles VI of the Civil Rights Act of 1964, Section 2000d, as amended, prohibiting discrimination based on race, color, or national origin in federally funded programs.
   - Title VIII of the Civil Rights Act of 1968 (42 USC 3601 et seq.) prohibiting discrimination on the basis of race, color, religion, sex, handicap, familial status or national origin in the sale or rental of housing.
   - Age Discrimination Act of 1975 (45 CFR Part 90), as amended (42 USC Sections 6101 - 6107), which prohibits discrimination on the basis of age.
   - Age Discrimination in Employment Act (29 CFR Part 1625).
   - Title I of the Americans with Disabilities Act (29 CFR Part 1630) prohibiting discrimination against the disabled in employment.
   - Title II of the Americans with Disabilities Act (28 CFR Part 35) prohibiting discrimination against the disabled by public entities
   - Title III of the Americans with Disabilities Act (28 CFR Part 36) regarding access

This contract and any subcontract shall meet data reporting requirements for capacity, process and outcome as required by federal grant requirements. In addition to the six Center for Substance Abuse Prevention (CSAP) strategies of Information Dissemination, Education, Alternative, Problem Identification and Referral, Community-Based Process, and Environmental, the data for the Institute of Medicine prevention categories of Universal, Selective and Indicated must be reported.

Use of the Strategic Prevention Framework (SPF) is mandatory for all counties and SPF-required data must be submitted via CalOMS Prevention as evidence of engagement and use of the practices. Adherence to the SPF by subcontractors is at the discretion of the subcontracting county.

Q. Confidentiality and Security of Information

1. Contractor agrees to implement administrative, physical, and technical safeguards that reasonably and appropriately protect the confidentiality, integrity, and availability of all confidential information that it creates, receives, maintains or transmits. Contractor will provide the State with information concerning such safeguards upon request.

2. Contractor and its Subcontractors that provide services covered by this Contract shall comply with all applicable state and federal statutes and regulations regarding confidentiality, including, but not limited to, the confidentiality and security of information requirements in the following:

   - Title 42 USC Section 290 dd-2
   - Title 42, CFR Part 2
   - Title 42, CFR Part 96, Sec. 96.132(e)
   - Title 42, USC 1320d through 1320d-8
   - Title 45, CFR Parts 160, 162, and 164 - the Health Insurance Portability and Accountability Act of 1996 (HIPAA) Privacy and Security Rules
   - W&IC, Section 14100.2, which is specific to Medi-Cal
   - Health and Safety Code (hereinafter referred to HSC), Sections 11812 and 11845.5
   - HSC Sections 123100 through 123149.5 – Patient Access to Health Records
   - Title 22, California Code of Regulations (hereinafter referred to as Title 22), Section 51009, which is specific to Medi-Cal
   - Civil Code Sections 56 through 56.37 – Confidentiality of Medical Information Act
   - Civil Code Section 1798.80 through 1798.84 – Customer Records (breach of security)

O. Union Organizing

Contractor, by signing this Agreement, hereby acknowledges the applicability of California Government Code Sections16645 through 16649 to this Contract.

1. Contractor will not assist, promote, or deter union organizing by employees performing work on a state service contract, including a public works contract.

2. No state funds received under this Contract will be used to assist, promote, or deter union organizing.

3. Contractor will not, for any business conducted under this Contract, use any state property to hold meetings with employees or supervisors, if the purpose of such meetings is to assist, promote or deter union organizing unless the state property is equally available to the general public for holding meetings.

4. If the Contractor incurs costs, or makes expenditures to assist, promote, or deter union organizing, Contractor will maintain records sufficient to show that no reimbursement from state funds has been sought for these costs, and the Contractor shall provide those records to the Attorney General upon request.

P. Primary Prevention

The SAPT Block Grant regulation defines "Primary Prevention Programs" as those programs directed at "individuals who have not been determined to require treatment for substance abuse" (45 CFR 96.121). Primary Prevention includes strategies, programs and initiatives which reduce both direct and indirect adverse personal, social, health, and economic consequences resulting from problematic alcohol and other drug (AOD) availability, manufacture, distribution, promotion, sales, and use. The desired result of primary prevention is to promote safe and healthy behaviors and environments for individuals, families and communities. The Contractor shall expend not less than its allocated amount of the Substance Abuse Prevention and Treatment (SAPT) Block Grant on primary prevention as described in the SAPT Block Grant requirements (45 CFR 96.125). Inappropriate use of these funds for non-primary prevention services will require repayment of SAPT Block Grant funds.

2. No part of any appropriation contained in this Act shall be used to pay the salary or expenses of any grant or contract recipient, or agent acting for such recipient, related to any activity designed to influence legislation or appropriations pending before the Congress or any State legislature.

L. Hatch Act

Contractor agrees to comply with the provisions of the Hatch Act (Title 5 USC, Sections 1501-1508), which limit the political activities of employees whose principal employment activities are funded in whole or in part with federal funds.

M. Restrictions on Salaries

Contractor agrees that no part of any federal funds provided under this Contract shall be used by the Contractor or its Subcontractors to pay the salary and wages of an individual at a rate in excess of Level I of the Executive Schedule. Salary and wages schedules may be found at http://www.opm.gov/oca. SAPT Block Grant funds used to pay a salary in excess of the rate of basic pay for Level I of the Executive Schedule shall be subject to disallowance. The amount disallowed shall be determined by subtracting the individual's actual salary from the Level I rate of basic pay and multiplying the result by the percentage of the individual's salary that was paid with SAPT Block Grant funds (Reference: Terms and Conditions of the SAPT Block Grant award.)

N. Child Support Compliance Act

Contractor acknowledges that it:

1. Recognizes the importance of child and family support obligations and shall fully comply with all applicable state and federal laws relating to child and family support enforcement, including but not limited to, disclosure of information and compliance with earnings assignment orders, as provided in Chapter 8 (commencing with Section 5200) of Part 5 of Division 9 of the California Family Code; and,

2. To the best of its knowledge, is fully complying with the earnings assignment orders of all employees and is providing the names of all new employees to the New Hire Registry maintained by the California Employment Development Department.

i 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;

ii A change in the person(s) or individuals(s) influencing or attempting to influence a covered federal action;

iii 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;

iv Each person (or recipient) who requests or receives from a person referred to in Paragraph 1(a) of this provision a contract, subcontract, grant or subgrant exceeding $100,000 at any tier under a contract or grant shall file a certification, and a disclosure form, if required, to the next tier above; and,

v All disclosure forms (but not certifications) shall be forwarded from tier to tier until received by the person referred to in Paragraph 1(a) of this provision. That person shall forward all disclosure forms to the ADP program contract manager.

2. Prohibition

Title 31, USC, Section 1352, provides in part that no Federally appropriated funds may be expended, have been paid, or will be paid by the recipient of a federal contract, 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, 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, grant, loan, or cooperative agreement.

K. Restrictions on Grantee Lobbying – Appropriations Act Section 503

1. No part of any appropriation contained in this Act shall be used, other than for formal and recognized executive-legislative relationships, for publicity or propaganda purposes, for the preparation, distribution, or use of any kit, pamphlet, booklet, publication, radio, television, or video presentation designed to support or defeat legislation pending before the Congress, except in presentation to ~~the Congress itself or any State~~ legislature, except in presentation to the Congress or any State legislative body itself.

3. If the Contractor is unable to certify to any statements in this certification, Contractor shall submit an explanation to the State.

4. If the Contractor knowingly violates this certification, in addition to other remedies available to the Federal Government, State may terminate this contract for cause or default.

J. Lobbying and Restrictions and Disclosure Certification

Applicable to any federally funded grant or contract in excess of $100,000 per Title 31, USC, Section 1352 and 45 CFR Part 93:

1. Certification and Disclosure Requirements

   (a) Each person (or recipient) who requests or receives a contract, subcontract, grant, or subgrant, which is subject to Title 31, USC, Section 1352, and which exceeds $100,000 at any tier, shall file a certification (in the form set forth in Exhibit C, Document 1W, consisting of one page, entitled "Certification Regarding Lobbying") that the recipient has not made, and will not make, any payment prohibited by Paragraph 2 of this provision.

   (b) Each recipient shall file a disclosure (in the form set forth in Exhibit C, Document 1X, entitled "Disclosure of Lobbying Activities - Standard Form – LLL") if any funds other than federally appropriated funds have been paid or will be paid to any person for influencing or attempting to influence any 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 this federal grant.

   (c) Each recipient shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, sub-grants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

   (d) 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 1(b) of this provision herein. An event that materially affects the accuracy of the information reported includes:

(f) To determine the facts in relation to analysis of data, complaints, or allegations, which may be indicative of fraud, abuse, willful misrepresentation, or failure to achieve the Contract objectives of Exhibit C or Exhibit D.

4. Contractor shall comply, and shall require that its Subcontractors comply, with all terms and conditions of this Contract and all pertinent state and federal statutes and regulations. Contractor and its Subcontractors shall permit the State, DHHS, Comptroller General of the United States, or other authorized state or federal agencies and representatives, to inspect or otherwise evaluate the quality, appropriateness, and timeliness of services performed under this Contract. Contractor shall allow the State, DHHS, the Comptroller General of the United States, and other authorized state or federal agencies and representatives to review and copy any and all books and records maintained by the Contractor and its Subcontractors related to these services at any time during normal business hours. Unannounced visits may be made at the discretion of the State. Employees who might reasonably have information related to such records may be interviewed.

5. The refusal of the Contractor or its Subcontractors to permit access to and inspection of electronic or print books and records, physical facilities, and/or refusal to permit interviews with employees, as described in this part constitutes an express and immediate material breach of this Contract and will be sufficient basis to terminate the Contract for cause or default.

I. Debarment and Suspension Certification

1. By signing this agreement, Contractor agrees to comply with federal suspension and debarment regulations found in 45 CFR Part 76. "Debarred" means excluded or disqualified from contracting with the federal, State or local government.

2. By signing this agreement, Contractor certifies to the best of his or her knowledge and belief, that it and its principals:

(a) Are not presently debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded from participation in this transaction by any Federal department or agency.

(b) 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.

4. In the event this Contract is terminated, Contractor shall deliver its entire fiscal and program records pertaining to the performance of this Contract to the State, which will retain the records for the required retention period.

H. Audit

1. In addition to the audit requirements in Exhibits C and D, this Contract, and any Subcontracts, shall be subject to the examination and audit by the California Bureau of State Audits for a period of three years from the date that final payment is made pursuant to the Contract (Government Code, Section 8546.7).

2. Contractor agrees that the State, the Comptroller General of the United States, and any authorized representatives have the right to review, obtain, and copy all records pertaining to the performance of this Contract. Contractor agrees to provide the State with any and all relevant information requested.

3. All expenditures of county realignment funds, state and federal funds furnished to the Contractor and its Subcontractors pursuant to this Contract are subject to audit by the State. Such audits shall consider and build upon external independent audits performed pursuant to audit requirements of the Office of Management and Budget (OMB) Circular A-133 (Revised June 27, 2003). Objectives of such audits may include, but not be limited to, the following:

   (a) To determine whether units of service claimed/reported are properly documented by service records and accurately accumulated for claiming/reporting;

   (b) To validate data reported by the Contractor for prospective contract negotiations;

   (c) To provide technical assistance in addressing current year activities and providing recommendations on internal controls, accounting procedures, financial records, and compliance with laws and regulations;

   (d) To determine the cost of services, net of related patient and participant fees, third-party payments, and other related revenues and funds;

   (e) To determine that expenditures are made in accordance with applicable state and federal laws and regulations and contract requirements; and/or,

G. Termination

1. This Contract may be terminated by either party by delivering written notice of termination to the other party at least 30 days prior to the effective date of termination. The notice shall state the effective date of and reason for the termination. In the event of changes in law that affect provisions of this Contract, the parties agree to amend the affected provisions to conform to the changes in law retroactive to the effective date of such changes in law. The parties further agree that the terms of this Contract are severable and in the event that changes in law render provisions of the Contract void, the unaffected provisions and obligations of this Contract will remain in full force and effect.

2. State may terminate this Contract immediately for cause. The term "for cause" means that the Contractor failed to meet the terms, conditions, and/or responsibilities of the Contract. State shall provide the Contractor with written notice of the termination, including the effective date and reason for the termination. The termination of the Contract shall be effective as of the date indicated in the written notice.

3. The following additional provisions regarding termination apply only to Exhibit D of this Contract:

   (a) In the event the federal Department of Health and Human Services (hereinafter referred to as DHHS), or State determines Contractor does not meet the requirements for participation in the DMC Treatment Program, State will terminate payments for services provided pursuant to Exhibit D of this Contract for cause.

   (b) All obligations to provide covered services under this Contract will automatically terminate on the effective date of any termination of this Contract. Contractor will be responsible for providing or arranging for covered services to beneficiaries until the effective date of termination or expiration of the Contract.

   Contractor will remain liable for processing and paying invoices and statements for covered services and utilization review requirements prior to the expiration or termination until all obligations have been met.

   (c) In the event Exhibit D of this Contract is nullified, Contractor shall refer DMC clients to providers who are certified to provide the type(s) of services the client ~~has been receiving.~~

E. Use of State Funds

1. State General Fund (SGF) provided by the State California Department of Corrections and Rehabilitation (CDCR) through an interagency agreement with ADP shall be subject to specific expenditure requirements as stated in the "Services to California Department of Corrections and Rehabilitation Parolee Services Network," as identified in Document 1D(a) of Exhibit C, which is incorporated by this reference.

F. Contract Amendments

1. Both the Contractor and the State may agree to amend or renegotiate the Contract.

2. Contract amendments will be required to change encumbered amounts for each year of a multi-year contract period, of which the first amendment will be based on the Governor's Budget Act allocation of that specific fiscal year. The signed contract from the Contractor will be due to the Department of Alcohol and Drug Programs within 90 days from the issuance to the County. If the signed Contract from the Contractor is not received within 90 days from the issuance to the County, ADP may withhold all non-DMC payments under Exhibit C of this Contract until the required amendment is received by the State.

3. Contract amendments may be requested by the Contractor until May 1 of each of the contract's fiscal years. An amendment proposed by either the Contractor or the State shall be forwarded in writing to the other party.

   (a) The proposed amendment submitted by Contractor shall include the proposed changes, and a statement of the reason and basis for the proposed change.

   (b) Amendments shall be duly approved by the County Board of Supervisors or its authorized designee, and signed by a duly authorized representative.

4. No amendment or variation of the terms of this Contract shall be valid unless made in writing, signed by the parties and approved as required. No oral understanding or agreement not incorporated in the Contract is binding on any of the parties.

5. Contractor acknowledges that any newly allocated funds that are in excess of ~~the initial amount for~~ each fiscal year may be forfeited if ADP does not receive a fully executable contract amendment on or before June 30, 2013.

GENERAL TERMS AND CONDITIONS

A. Contract Exhibits

This Contract between the State with both the Department of Alcohol and Drug Programs (ADP) and the Department of Health Care Services (DHCS) and the county named in the Standard Agreement attached hereto (Contractor) consists of the Standard Agreement; Exhibit A1's listing ADP's and DHCS's allocated funding sources; Exhibit B, entitled "General Terms and Conditions," which contains Contract provisions applicable to all of the Contractors; Exhibit C, entitled "Non-Drug Medi-Cal Substance Abuse Treatment Services and Funding Conditions" which defines the rights and obligations of the parties regarding non-Drug Medi-Cal funds managed by ADP; and Exhibit D, entitled "Drug Medi-Cal Treatment Program and Funding Conditions" which defines the rights and obligations of the parties regarding Medicaid/Medi-Cal funds, as expended through the Drug Medi-Cal (DMC) Treatment Program, managed by DHCS.

B. Contract Term

The term of this Contract shall be from July 1, 2010, through June 30, 2014. . Except as provided in Exhibit C, Article III, Sections G and H, the expenditure period for the funds available hereunder shall be as stated on the Exhibit A1's. The State is under no obligation to extend or renew this Contract.

C. Nullification of Exhibit D (if applicable)

The parties agree that if the Contractor fails to comply with the provisions of Welfare and Institutions Code (W&I) Section 14124.24, Exhibit D shall be null and void and severed from the remainder of this Contract.

In the event Exhibit D becomes null and void, updated Exhibit A1's will take effect reflecting the removal of federal Medicaid funds from this Contract. Exhibit C of this Contract will remain in effect until amended or terminated.

D. Unenforceable Provisions

In the event any provision of this Contract is held invalid or unenforceable by any court of competent jurisdiction, the holding will not invalidate or render unenforceable any other provision hereof.

Standard Agreement Attachment for Counties

Contract Changes for Fiscal Year 2012-13

~~Document 2Y:~~ ~~Companion Guide for HIPAA 837P Transactions~~

~~http://wwwadp.ca.gov/hp/pdf/837P_Companion_Guide.pdf~~

~~Document 3P:~~ ~~Companion Guide for 835 HIPAA Transactions~~

~~http://www.adp.ca.gov/hp/pdf/835_Companion_Guide.pdf~~

~~Document 3Q:~~ ~~Companion Guide for 276 HIPAA Transactions~~

~~http://www.adp.ca.gov/hp/pdf/276_Companion_Guide.pdf~~

~~Document 3R:~~ ~~Companion Guide for 277 HIPAA Transactions~~

~~http://www.adp.ca.gov/hp/pdf/277_Companion_Guide.pdf~~

Document 3T: ADP/DHCS Local Assistance Funding Matrix – FY 2012-13

~~Document 3U:~~ ~~ADP Companion Guide for Appendix~~

~~http://www.adp.ca.gov/hp/pdf/ADP_Companion_Guide_Appendix_v4.4.pdf~~

Document 4A: Drug Medi-Cal Claim Submission Certification – County Contracted Provider – DHCS Form MC 8186 with Instructions

Document 4B: Drug Medi-Cal Claim Submission Certification – County Operated Provider – DHCS Form MC 8187 with Instructions

Document 4D: Drug Medi-Cal Certification for Federal Reimbursement (ADP 100224)

http://www.adp.ca.gov/adpltrs/doc/11-17exA.doc

Document 4E: Treatment Standards for Substance Use Diagnosis : A Guide for Services (Spring 2010)

http://www.adp.ca.gov/treatment/standards/pdf/treatment_standards_spring_2010.pdf

Document 3G:	California Code of Regulations, Title 9 – Rehabilitation and Developmental Services, Division 4 – Department of Alcohol and Drug Programs, Chapter 4 – Narcotic Treatment Programs http://www.calregs.com
Document 3H:	California Code of Regulations, Title 9 – Rehabilitation and Developmental Services, Division 4 – Department of Alcohol and Drug Programs, Chapter 8 – Certification of Alcohol and Other Drug Counselors http://www.calregs.com
Document 3J:	CalOMS Treatment Data Collection Guide http://www.adp.ca.gov/CalOMS/pdf/CalOMS_Data_Collection_Guide.pdf
Document 3K:	Privacy, Confidentiality and Information Security Provisions http://www.adp.ca.gov/NNA/files/Document_3K-Privacy,_Confidentiality_and_Information_Security_Provisions.doc
Document 3S	CalOMS Treatment Data Compliance Standards http://www.adp.ca.gov/CalOMS/pdf/CalOMS_Data_Compliance.pdf
Document 3T	Non-Drug Medi-Cal and Drug Medi-Cal Local Assistance Funding Matrix
Document 3V	Culturally and Linguistically Appropriate Services (CLAS) National Standards http://minorityhealth.hhs.gov/templates/browse.aspx?lvl=2&lvlID=15
Document 4A :	Drug Medi-Cal Claim Submission Certification – County Contracted Provider – DHCS Form MC 8186 with Instructions
Document 4B :	Drug Medi-Cal Claim Submission Certification – County Operated Provider – DHCS Form MC 8187 with Instructions
Document 4D :	Drug Medi-Cal Certification for Federal Reimbursement (ADP 100224) http://www.adp.ca.gov/adpltrs/doc/11-17exA.doc

Document 4E : Treatment Standards for Substance Use Diagnosis : A Guide for Services (Spring 2010)

http://www.adp.ca.gov/treatment/standards/pdf/treatment_standards_spring_2010.pdf

For Clerk's Use Only:
AGENDA NUMBER

10

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 – Behavioral Health

FOR THE BOARD MEETING OF: June 25, 2013

SUBJECT: Approval of the contract between County of Inyo Behavioral Health Mental Health Services Act (MHSA) and Jeanette Sprague, MFT.

DEPARTMENTAL RECOMMENDATION:
Request Board approve the contract between the County of Inyo and Jeanette Sprague, MFT for the provision of mental health services as part of the Mental Health Service Act (MHSA) Community Services and Supports (CSS) Plan in an amount not to exceed $25,000.00 for the period of July 1, 2013 to June 30, 2014, contingent upon Board's adoption of FY 2013/2014 Budget and authorize the Chairperson to sign.

CAO RECOMMENDATION:

SUMMARY DISCUSSION:
The MHSA CSS plan has included a contract position for a bilingual clinician. The Behavioral Health Division had generated a Request For Qualifications (RFQ) in order to award the contract. Ms. Sprague, MFT was the successful respondent to the RFQ. Ms. Sprague will continue to provide mental health outreach and engagement services, primarily to the un-serviced or underserved Hispanic population. These services will again include mental health presentations, wellness groups and counseling as well as other outreach activities as outlined in the CSS Plan. This year she has provided services to upwards of twenty five Spanish-speaking families in various capacities. She has also worked with the bi-lingual Health and Human Services Specialist to provide strategies and to look for ways to engage Latino families. She has provided weekly outreach contacts in the community, including the homes, and has continued to work to build trust with the Latino population. She has also continued to participate in the successful Parent Child Interactive Therapy (PCIT) training and supervision. This provides us with capability to continue to provide this intervention in Spanish where needed. Finally, Ms. Sprague participates in collaborative community meetings to represent the Behavioral Health Division on Latino issues. We are fortunate to have her work as part of these efforts.

ALTERNATIVES:
Your Board could choose not to approve this contract. This would severely impact a working relationship with a quality bilingual provider and limit access and availability to bilingual mental health services under MHSA.

OTHER AGENCY INVOLVEMENT:
The MHSA CSS Plan was developed with input from Consumers, Family Members, Agencies and other Community Stakeholders.

FINANCING:

MHSA funds and MediCal reimbursement, including EPSDT, where appropriate. This expense will be budgeted in Mental Health (045200) in Professional Services (5265). 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 6/14/2013 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: yes 6/13/13 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: ✓ 6/14/13 Date:

DEPARTMENT HEAD SIGNATURE:

(Not to be signed until all approvals are received) Jean Turner Date: 6-17-13

RECEIVED
JUN 2013
INYO COUNTY HHS
GROVE STREET

AGREEMENT BETWEEN COUNTY OF INYO
AND Jeanette Sprague, MFT
FOR THE PROVISION OF Mental Health **SERVICES**

INTRODUCTION

WHEREAS, the County of Inyo (hereinafter referred to as "County") may have the need for the Mental Health services of Jeanette Sprague, MFT of Bishop, 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 Gail Zwier, Ph.D. whose title is: Behavioral Health 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, 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 July 1, 2013 to June 30, 2014 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. County shall reimburse Contractor for 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 Gail Zwier, Ph.D. whose title is: Behavioral Health Director. Travel and per diem expenses will be reimbursed in the same amount and to the same extent as County reimburses its permanent status employees for such expenses. 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 to County's permanent status employees, 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 $25,000.00 (Twenty Five Thousand) 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 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. 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 **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
Behavioral Health _____ Department
162 J Grove Street _____ Street
Bishop, CA 93514 _____ City and State

Contractor:
Jeanette Sprague, MFT _____ Name
173 Hanby Ave. _____ Street
Bishop, CA 93514 _____ 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 Jeanette Sprague, MFT
FOR THE PROVISION OF Mental Health **SERVICES**

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

COUNTY OF INYO

By:_____

Dated: _____

CONTRACTOR

By: Jeanette Sprague MFT
Signature

Jeanette Sprague
Print or Type Name

Dated: 5/30/13

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:

M. Burke
_____
County Risk Manager

ATTACHMENT A

AGREEMENT BETWEEN COUNTY OF INYO
AND Jeanette Sprague
FOR THE PROVISION OF Mental Health **SERVICES**

TERM:

FROM: July 1, 2013 **TO:** June 30, 2014

SCOPE OF WORK:

Contractor shall provide up to the 10 (ten) hours per week of outreach and mental health services under the Mental Health Services Act (MHSA) and/or the California MediCal Programs directed by the Behavioral Health Director, her designee, and/or the MHSA Steering Committee. Such services will include community outreach, presentations, care coordination, assessment, individual or family counseling, group counseling and other related services in various settings as assigned. These settings could include the Wellness Centers, office, satellites office, homes, schools, primary care settings and other community settings. Contractor will maintain the appropriate timely documentation.

Services to be provided by Contractor are expected to conform with the best practices and industry standards in this area.

Services to be provided by Contractor are not limited in any way to County working hours, scheduling or holidays.

ATTACHMENT B

AGREEMENT BETWEEN COUNTY OF INYO
AND Jeanette Sprague, MFT
FOR THE PROVISION OF Mental Health **SERVICES**

TERM:

FROM: July 1, 2013 **TO:** June 30, 2014

SCHEDULE OF FEES:

The fee for authorized Services pursuant to this Agreement is payable at the rate of $60.00 per hour.

Contractor will be paid or reimbursed for authorized travel expenses and/or per diem including motel expenses at the rate established by the County.

ATTACHMENT C

AGREEMENT BETWEEN COUNTY OF INYO
AND Jeanette Sprague, MFT
FOR THE PROVISION OF Mental Health Services **SERVICES**

TERM:

FROM: July 1, 2013 **TO:** June 30, 2014

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 Jeanette Sprague, MFT
FOR THE PROVISION OF Mental Health Services **SERVICES**

TERM:

FROM: July 1, 2013 **TO:** June 30, 2014

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.

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 Dat***e 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.

Documentation Standards for Client Records

The documentation standards are described below under key topics related to client care. All standards shall be addressed in the client record; however, there is no requirement that the record have a specific document or section addressing these topics.

A. Assessments

1. **The following areas shall be included as appropriate as a part of a comprehensive client record:**

   a. **Relevant physical health conditions reported by the client shall be prominently identified and updated as appropriate.**

   b. **Presenting problems and relevant conditions affecting the client's physical health and mental health status shall be documented, for example: living situation, daily activities, and social support.**

   c. **Documentation shall describe client strengths in achieving client plan goals.**

   d. **Special status situations that present a risk to client or others shall be prominently documented and updated as appropriate.**

   e. **Documentation shall include medications that have been prescribed by mental health plan physicians, dosages of each medication, dates of initial prescriptions and refills, and documentation of informed consent for medications.**

   f. **Client self report of allergies and adverse reactions to medications, or lack of known allergies/sensitivities shall be clearly documented.**

   g. **A mental health history shall be documented, including: previous treatment dates, providers, therapeutic interventions and responses, sources of clinical data, relevant family information and relevant results of relevant lab tests and consultation reports.**

   h. **For children and adolescents, pre-natal and perinatal events and complete developmental history shall be documented.**

   i. **Documentation shall include past and present use of tobacco, alcohol, and caffeine, as well as illicit, prescribed and over the counter drugs.**

j. A relevant mental status examination shall be documented.

k. A five axis diagnosis from the most current DSM, or a diagnosis from the most current ICD, shall be documented, consistent with the presenting problems, history, mental status evaluation and/or other assessment data.

2. Timeliness/Frequency Standard for Assessment

The MHP shall establish standards for timeliness and frequency for the above-mentioned elements.

B. Client Plans

1. Client Plans Shall:

a. Have specific observable and/or specific quantifiable goals.

b. Identify the proposed type(s) of intervention.

c. Have a proposed duration of intervention(s).

d. 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 MHP providing services.

e. When the client plan is used to establish that services are provided under the direction of an approved category of staff, and if the above staff are not of the approved category,

i. A physician

ii. A licensed/ "waivered" psychologist

iii. A licensed/registered/waivered social worker

iv. A licensed/registered/waivered marriage and family therapist or

v. A registered nurse

f. Be consistent with the diagnoses, and the focus of intervention shall be consistent with the client plan goals, and there shall be documentation of the client's participation in and agreement with the plan. Examples of documentation include, but are not limited to, reference to the client's participation and agreement in the body of the plan, client signature on the plan, or a description of the client's participation and agreement in progress notes.

i. Client signature on the plan shall be used as the means by which the MHP documents the participation of the client,

1) When the client is a long term client as defined by the MHP, and

2) The Client is receiving more than one type of service from the MHP.

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

iii. The MHP shall give a copy of the client plan to the client on request.

2. Timeliness/Frequency of Client Plan

a. Shall be updated at least annually.

b. The MHP shall establish standards for timeliness and frequency for the individual elements of the client plan described in item 1.

C. Progress Notes

1. Items that shall be contained in the client record related to the client's progress in treatment include:

a. The client record shall provide timely documentation of relevant aspects of client care.

b. Mental Health staff/practitioners shall use client records to document client encounters, including relevant clinical decisions and interventions.

c. All entries in the client record shall include the signature of the person providing the service (or electronic equivalent); the person's professional degree, licensure or job title; and the relevant identification number, if applicable

d. All entries shall include the date services were provided.

e. The record shall be legible.

f. The client record shall document referrals to community resources and other agencies, when appropriate.

g. The client record shall document follow-up care, or as appropriate, a discharge summary.

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. Medical Support Services

   iii. Crisis Intervention

b. Daily

   i. Crisis Residential

   ii. Crisis Stabilization (1 x / 23hr)

   iii. Day Treatment intensive

c. Weekly

   i. Day Treatment Intensive: a 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 service.

ii. Day Rehabilitation

iii. Adult Residential

d. Other

i. Psychiatric health facility services: notes on each shift.

ii. Targeted Case Management: every service contact, daily or weekly summary.

iii. As determined by the MHP for other services.

AGENDA REQUEST FORM
BOARD OF SUPERVISORS
COUNTY OF INYO

For Clerk's use only:
AGENDA NUMBER
11

X Consent Departmental Correspondence Action Public Hearing

Scheduled Time for Closed Session Informational

FROM: HEALTH & HUMAN SERVICES: BEHAVIORAL HEALTH

FOR THE BOARD MEETING OF: June 25, 2013

SUBJECT: Approval of Contract between County of Inyo and Country Villa Merced Behavioral Health Center.

DEPARTMENTAL RECOMMENDATION:
Request Board approve the contract between County of Inyo and Country Villa Merced Behavioral Health Center for residential placement for adults in a locked facility in an amount not to exceed $35,000 for the period of July 1, 2013 to June 30, 2014; contingent upon Board's adoption of FY 2013/2014 Budget and authorize the Chairperson to sign.

CAO RECOMMENDATION:

SUMMARY DISCUSSION:
Inyo Mental Health has placed LPS conserved adult individuals in this facility for the last fifteen years. Country Villa Merced Behavioral Health Center provides specialized services that meet both the physical and emotional needs of these persons. In the past, thirteen persons placed at Country Villa Merced Behavioral Health Center have completed the treatment and have successfully "stepped down" intensity of treatment and eventually were terminated from conservatorship status to live independently or in a board and care facility in the community. Country Villa Merced Behavioral Health Center works closely with the deputy conservators and provides treatment updates and planning as appropriate.

ALTERNATIVES:
Country Villa Merced Behavioral Health Center has offered excellent treatment services for these vulnerable persons. They are committed to providing services in the least restrictive setting. Your Board could choose not to approve this contract. This would jeopardize the placement for the conservatee. Appropriate placements are often difficult to obtain and there is no guarantee that another facility that offers proper care will be found.

OTHER AGENCY INVOLVEMENT:
Inyo County Courts

FINANCING:
100% Mental Health Realignment Funds (clients partially reimburse with SSI payments). This expense will be budgeted in Mental Health (045200) in Support & Care (5508). 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 6/11/2013
AUDITOR/CONTROLLER:	ACCOUNTING/FINANCE AND RELATED ITEMS (M*ust be reviewed and approved by the auditor-controller prior to submission to the board clerk.)* Approved: yes Date 6/13/13
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 6/19/13

DEPARTMENT HEAD SIGNATURE:
(Not to be signed until all approvals are received) Jean Turner DE Date: 6/19/13

AGREEMENT BETWEEN COUNTY OF INYO
AND Country Villa Merced Behavioral Health
FOR THE PROVISION OF RESIDENTIAL TREATMENT SERVICES

INTRODUCTION

WHEREAS, the County of Inyo (hereinafter referred to as "County") may have the need for the Residential treatment services of Country Villa Merced Behavioral Health of Merced, 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 Gail Zwier, Ph.D., whose title is: Behavioral Health 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 July 1, 2013 to June 30, 2014 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 $35,000.00 (Thirty Five Thousand) 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, and municipal governments, for contractor to provide the services and work described in Attachment **A** must be procured by Contractor and be valid at the time Contractor enters into this Agreement. 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 Workers' 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, certification and licensing regulations, and directions. Records shall be permanent, either typewritten or legibly written in ink and shall be kept on all patients accepted for treatment. All health records of discharged patients shall be completed and filed within thirty (30) days after termination of each episode of treatment and such records shall be kept for a minimum of seven (7) years, except for minors whose records shall be kept at least until one (1) year after the minor has reached the age of 18, but in no case less than seven (7) years consistent with California Code of Regulations, Title 22 Section 75054, and 75343. All psychologist records shall also be maintained on each patient for seven years from the patient's discharge date, or in the case of a minor, seven years after the minor reaches 18 years of age consistent with California Business and Professions Code Section 2919.

B. Inspections and Audits. Any authorized representative of County shall have access to any books, documents, papers, records, including, but not limited to, financial records of Contractor, which County determines to be pertinent to this Agreement, for the purposes of making audit, evaluation, examination, excerpts, and transcripts during the period such records are to be maintained by Contractor.

Further, County has the right, at all reasonable times, to audit, inspect, or otherwise evaluate the work performed or being performed under this Agreement.

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, ancestry, gender, sexual orientation, age, national origin, or mental or physical handicap. Contractor and its agents, officers, and employees shall comply with the provisions of the Fair Employment and Housing Act (Government Code section 12900, et seq.), and the applicable regulations promulgated thereunder in the California Code of Regulations. Contractor shall also abide by the Federal Civil Rights Act of 1964 (P.L. 88-352) and all amendments thereto, and all administrative rules and regulations issued pursuant to said act.

14. PATIENTS RIGHTS.

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

15. 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.

16. 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.

17. 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.

18. WAIVER OF DEFAULT.

Waiver of any default by either party to this Agreement shall not be deemed to be waiver of any subsequent default. Waiver of any breach of any provision of this Agreement shall not be deemed to be a waiver of any other or subsequent breach, and shall not be construed to be a modification of the terms of this Agreement unless this Agreement is modified as provided in paragraph twenty-five (25) below.

19. 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.

20. 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.

21. 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.

22. 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.

23. 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-five (25) (Amendment).

24. 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.

25. 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.

26. 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 Behavioral Health	Department
162 J Grove Street	Street
Bishop, CA 93514	City and State
Contractor: Country Villa Merced Behavioral Health	Name
1255 B Street	Street
Merced, CA 95340	City and State

27. 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 Country Villa Merced Behavioral Health
FOR THE PROVISION OF RESIDENTIAL TREATMENT SERVICES

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

COUNTY OF INYO

By:_____

Dated: _____

CONTRACTOR

By:_____
Signature

Mark Beckel - General Counsel for Manager
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 Country Villa Merced Behavioral Health
FOR THE PROVISION OF RESIDENTIAL TREATMENT SERVICES

TERM:

FROM: July 1, 2013 **TO:** June 30, 1014

SCOPE OF WORK:

Residential care in a locked Psychiatric Skilled Nursing Facility provided by Country Villa Merced Behavioral Health Center. Facility shall maintain skilled nursing licensure and certification. Treatment services to include daily needs: food, bed monthly barber, hairstyling services, and basic hygiene products. Special needs to be provided: activities, nursing services, special treatment program to provide a structured educational living environment, which provides for each resident's psychosocial needs.

ATTACHMENT B

AGREEMENT BETWEEN COUNTY OF INYO
AND Country Villa Merced Behavioral Health
FOR THE PROVISION OF RESIDENTIAL TREATMENT SERVICES

TERM:

FROM: July 1, 2013 **TO:** June 30, 2014

SCHEDULE OF FEES:

TOTAL DAILY RATE	
Mental Health Rehabilitation Center/IMD Services (AB 360 rate)	$173.60
Special Treatment Program Patch	$5.72
TOTAL COST PER DAY WITH PATCH	$179.32

Daily Bed Hold Rate is $173.04

ATTACHMENT C

AGREEMENT BETWEEN COUNTY OF INYO
AND Country Villa Merced Behavioral Health
FOR THE PROVISION OF RESIDENTIAL TREATMENT SERVICES

TERM:

FROM: July 1, 2013 **TO:** June 30, 2014

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 Country Villa Merced Behavioral Health
FOR THE PROVISION OF RESIDENTIAL TREATMENT SERVICES

TERM:

FROM: July 1, 2013 **TO:** June 30, 2014

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.

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 Dat***e 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

12

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 – Behavioral Health

FOR THE BOARD MEETING OF: June 25, 2013

SUBJECT: Approval of ECHO Contract

DEPARTMENTAL RECOMMENDATION:
Request your Board approve the contract between the County of Inyo and the Echo Group for a total amount not to exceed $119,628.72 for the period of July 1, 2013 to June 30, 2014; contingent upon the Board's adoption of the FY13/14 budget, and authorize the Chairperson to sign the contract and the HIPPA Business Association Agreement.

CAO RECOMMENDATION:

SUMMARY DISCUSSION:
Behavioral Health began the implementation of the Echo Share Care product in April 2010 and has since implemented both the billing and the clinical portion for mental health and in the last six months has embarked on the implementation of the product for the Substance Use Disorders (SUD). Our fiscal staff members have continued to be fairly satisfied with the product and confident that we are making adequate progress in understanding and utilizing the product, knowing its strengths and challenges. The implementation of the SUD portion has taken place this year concurrent with our certification as a Drug Medi-Cal provider as well as a provider for County Medical Services Program (CMSP) and Path2Health and the related regulations and rules around billing. During this next fiscal year, we will be focused on the impact of Medi-Cal expansion on our Behavioral Health programs.

We have now completed our third full year of use of the electronic record portion by the mental health staff and have begun use of the electronic record portion by our SUD staff. We have continued to be successful in entering all progress notes, assessments and treatment plans. We are now using data in the record to also track quality issues such as timeliness of access to services. We are also continuing to implement the "Doctors First" portion of the record to track prescriptions and current medication information. This is a rather arduous task to complete but this will be important for use as we move further into bidirectional care with our partners in physical or primary heath. On the SUD side, we have been challenged with the transfer of the admission data needed by the State to track outcomes.

There have continued to be certain problems inherent in the product that have caused challenges and difficulties. For instance, the product still does not allow for consumer signing of the treatment plans into the product. In order to meet Medi-Cal compliance standards, we must continue to have both a paper-based product as well as the electronic version. This is inefficient and frustrating to staff. We continue to need to use some "work arounds" as we use the product. We remain in close contact with the Share Care staff and with our IS department to advocate for our needs. We have also joined a Share Care user's group with other counties. Six other small to medium/large counties have implemented Share Care and this is a way to work with these counties to voice our needs.

We are still exploring the implementation of an updated Virtual Health Record (VHR) product that also meets "meaningful use" criteria established by the federal government to ensure that health care providers nationwide implement compatible electronic health records. We will move forward with bringing this before your Board as we

feel comfortable in evaluating its use.

ALTERNATIVES:

Your Board could deny approval of this contract. This would result in an inability to produce a claim to draw down Medi-Cal funds. The Division would need to identify a viable alternative and implement.

OTHER AGENCY INVOLVEMENT:

California Department of Health Care Services, Medi-Cal and Medicare programs.

FINANCING:

MHSA IT funds, Medi-Cal Administrative funds and Mental Health Realignment. This expense will be budgeted in Mental Health (045200) in Professional & Specialized Services (5265). 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: 6/11/2013
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: 6/13/13
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: 6/19/13
INFORMATION SERVICES DIRECTOR:	**INFORMATION SERVICES AND RELATED ITEMS** *(Must be reviewed and approved by the Director of Information Services prior to submission to the Board Clerk.)* Approved: yes Date: 6/14/13

DEPARTMENT HEAD SIGNATURE:

(Not to be signed until all approvals are received) Jean Turner DE Date: 6/19/13

RECEIVED
MAY 2013
INYO COUNTY HHS
GROVE STREET
BISHOP, CA 93514

AGREEMENT BETWEEN COUNTY OF INYO
AND The ECHO Group
FOR THE PROVISION OF Information Technology **SERVICES**

INTRODUCTION

WHEREAS, the County of Inyo (hereinafter referred to as "County") may have the need for the Information Technology services of The ECHO Group of Conway, New Hampshire (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 Gail Zwier, Ph.D., whose title is: Behavioral Health. Requests to the Contractor for work or services to be performed under this Agreement will be based upon the County's need for such services. The County makes no guarantee or warranty, of any nature, that any minimum level or amount of services or work will be requested of the Contractor by the County under this Agreement. County by this Agreement incurs no obligation or requirement to request from Contractor the performance of any services or work at all, even if County should have some need for such services or work during the term of this Agreement.

Services and work provided by the Contractor at the County's request under this Agreement will be performed in a manner consistent with the requirements and standards established by applicable federal, state, 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 July 1, 2013 to June 30, 2014 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 $119,628.72 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	
Behavioral Health	Department
162 J Grove Street	Street
Bishop, CA 93514	City and State

Contractor:	
The ECHO Group	Name
15 Washington Street	Street
Conway, New Hampshire 03818	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 ECHO Group
FOR THE PROVISION OF Information Technology **SERVICES**

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

COUNTY OF INYO

By: _____

Dated: _____

CONTRACTOR

By: Debbie Angelico
Signature

Debbie Angelico
Print or Type Name

Dated: 5/17/13

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 ECHO Group
FOR THE PROVISION OF Information Technology **SERVICES**

TERM:

FROM: July 1, 2013 **TO:** June 30, 2014

SCOPE OF WORK:

Paragraphs 1. Support Services, 2. Software Updates, and 3. Hosting Services, from the Software Support and Maintenance Agreement attached.

CONSIDERATION:
Notwithstanding the terms of Paragraph 3. B Travel and per diem - Contractor shall be reimbursed for travel and per diem in the event that additional training or on-site services are requested and approved under separate work order by County while Contractor is providing the services outlined in the 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 Gail Zwier, Ph.D. whose title is Behavioral Health Director. Travel and per diem expenses will be reimbursed in the same amount and to the same extent as County reimburses its permanent status employees for such expenses.

Notwithstanding the terms of Paragraph 3. E Billing and payment - Contractor shall submit to the County an annual invoice under this Agreement.

CANCELLATION:
Notwithstanding the terms of Paragraph 14. CANCELLATION - Maintenance Fees will not be refunded to the County in the event County cancels the Agreement without cause. In the event the provisions of Paragraph 22. FUNDING LIMITATIONS, apply, prorated maintenance fees will be refunded to the County. In the event Contractor cancels this Agreement for any reason whatsoever, prorated maintenance fees will be refunded to the County.

ASSIGNMENT:
Notwithstanding Paragraph 15. ASSIGNMENT - County will not unreasonably withhold written consent to assign monies due under this Agreement.

The work under this contract shall be quality and quantity that is acceptable to the County. Contractor is required to enter into a HIPAA Business Associate Agreement incorporated herein as Attachment E.

1. **Support Services**

A. ECHO shall provide telephone support for the ECHO products as listed in Attachment B of this Agreement. Telephone support services will include assistance related to routine questions regarding use of the products, assistance in identifying and verifying the causes or suspected errors or malfunctions in the products, advice on detours for identified errors or malfunctions, where reasonably available, and advice on the best means for correcting operator error. Telephone support does not include Implementation or Training services or the development of new programs by COUNTY. ECHO will make a good faith effort to respond to COUNTY requests for telephone support between the hours of 8:30 a.m. to 5:30 p.m. P.T. Monday through Friday within two hours, except for ECHO holidays. ShareCare Support can be reached by e-mail at sharecaresupport@echoman.com or by phone at (510)238-2727.

*B. **Telephone support specifically excludes any questions arising from:***

1. Modifications to software by persons other than ECHO personnel
2. Products not listed in Attachment B of this Agreement.
3. Correction of operator error. ECHO will answer questions resulting from operator error; however, corrections made by ECHO to COUNTY database as a result of operator error are not included.
4. COUNTY operating system, telecommunications and/or hardware products
5. Third-party software products including but not limited to Delphi™, Cold Fusion™, any SQL engines and Crystal Reports ™.

C. In the event that the resolution of a support case involves ECHO's correction of a COUNTY data error, ECHO will provide written documentation of the error identified and the script or other method used to correct the data. No data will be adjusted without the prior written consent of authorized COUNTY personnel.

D. The COUNTY agrees to assume responsibility for installation and maintenance of an Internet connection with a reliable connection speed as identified by ECHO to enable access to your hardware configuration for purposes of remote support. An email address is also required for the purpose of upgrades and updates.

E. ECHO reserves the right to refuse requests for support made by customers without a current agreement or with an undisputed receivable balance due to ECHO in excess of thirty (30) days overdue.

F. **Priorities and Escalation** ECHO prioritizes its support requests and responds to those requests in the following fashion:

1. A Priority **1** issue begins when the one of the following occur as a result of an ECHO system failure to perform in accordance with its Software Documentation:

   a) COUNTY formally reports that the COUNTY's system is down and inaccessible to all or a majority of COUNTY personnel. This may take the format of an email or other written communication.

   b) COUNTY is unable to produce bills or create charges, or

   c) COUNTY is unable to post payments

2. These issues will receive immediate attention from support department management and the COUNTY's business analyst during the hours specified in paragraph 1 listed above. Both will coordinate a plan of action as soon as practicable, and will provide regular updates to COUNTY personnel on the status and resolution of the issue. The Chief Executive Officer and / or the Director of Engineering will be notified if the issue is not resolved within four hours.

3. a It is understood that at the COUNTY's discretion, the COUNTY may be entitled to claim against the maintenance fees paid during the applicable year in the event a Priority 1 issue results in downtime exceeding three business days. Such claim would be calculated as one-fifty-second of the annual software support and maintenance fee for each three days that the system is down (no proration) up to the total software support and maintenance fee paid for that specific year.

4. All other support issues are identified as Priority 2 issues. Each support case under this category is assigned to a Support Department Specialist and if the specialist is unable to provide an immediate resolution to the issue, they will involve other support, quality assurance and development personnel as required.

2. **Software Updates**

A. ECHO will provide the COUNTY with updated, enhanced versions of all ECHO products described in Attachment B of this Agreement. The interval of updates and new features of updates will be at ECHO'S sole discretion, but will include consideration of all COUNTY requests. Funding source or COUNTY specific enhancements will be done only at standard ECHO rates, as will the cost of incorporating enhancements into funding source or COUNTY specific software.

B. Shipment of updates, corrections, or other software by ECHO will be by lowest cost carrier. Request by the COUNTY for faster shipment will result in all shipping costs being borne by the COUNTY.

3. **Hosting Services**

A. ECHO Responsibilities

ECHO will maintain application, database, and communications servers adequate for COUNTY to operate the software defined in Attachment B. Hosting will include:

1. Installation of all application software defined in Attachment B.
2. Installation of all operating system and communications software necessary on the server to operate the software and number of users defined in Attachment B.
3. Creation of the initial database necessary for the operation of the application software
4. Maintenance of the application database, including indexes, stored procedures and triggers
5. TCP/IP communications linkages accessible to COUNTY via the Internet
6. Adequate data storage capacity for application software operation
7. Network Monitoring
8. A full database back-up will be executed nightly, without interruption of system operation. In addition, at least four (4) times during each ECHO workday, a complete transaction log back-up will be made. Verification of successfully completed backup processes is included
9. Monitoring of key system metrics including: Threshold based monitoring of CPU utilization, file systems space utilization, and memory utilization

10. Network/firewall monitoring
11. Server Redundancy: In order to maximize system availability, server redundancy will be maintained, including web server and application server, as well as industry standard RAID data storage configuration. In addition, Internet connectivity will have multiple broadband or faster connections.
12. Security / Encryption: ECHO will utilize industry standard digital certificates that provide a minimum of 128-bit encryption through Secure Socket Layer (SSL) technology to manage server-based security of COUNTY data and data communications.
13. Updates and System Maintenance
14. Database and operating system software will be installed and maintained in operating order
15. ECHO will provide updated versions of application, database and operating system software at intervals determined by ECHO
16. ECHO will establish maintenance timeframe windows with COUNTY for required updates and general system maintenance that will limit access to the system.

B. COUNTY Responsibilities

System Support

1. COUNTY shall provide all of the local equipment and operating systems necessary for operation of the products.

2. COUNTY shall install and pay the cost of the high speed communication interface with the Internet with which the products will operate

3. From time to time, ECHO may need the assistance of the COUNTY in diagnosing a support issue. The COUNTY will assist ECHO in performing diagnostic activities in connection with a request for services under this Agreement

ATTACHMENT B

AGREEMENT BETWEEN COUNTY OF INYO
AND The ECHO Group
FOR THE PROVISION OF Information Technology **SERVICES**

TERM:

FROM: July 1, 2013 **TO:** June 30, 2014

SCHEDULE OF FEES:

B.2 Payment Grid attached.

B.2 PAYMENT GRID.

Program/Service Description	Unit Type	Rate	Total # Units	Maximum Contract Amt
Support, Maintenance and Hosting Services Fee for – 24 Concurrent Echo Software Users (15 ShareCare Clinical & 9 ShareCare Administrative and Billing)	Year	$93,538.72 Annually	1	$93,538.72
Subscription License: DrFirst ePrescribing Software	Each	$600.00	1	$600.00
Support, Maintenance and Hosting Services Fee for Data Junction Lite Maintenance	Each	$500.00	1	$500.00
Support, Maintenance and Hosting Services Fee for Rapid Insight Lite Maintenance – 3 Users (1 at N/C)	Each	$995.00	2	$1,990.00
Support, Maintenance and Hosting Services Fee for Database Replication Services	Month	$250.00	12	$3,000.00
Development, Implementation, Support and Maintenance for California Mandates	Hours	$225.00	44.4 HRS as needed and approved	Not to exceed $10,000.00 per year
Contingent Professional Services	Hours	$225.00	44.4 HRS as needed and approved	Not to exceed $10,000.00 per year
			MAXIMUM CONTRACT AMOUNT*	**$119,628.72****

* Any services needed that exceed the Maximum Contract Amount must be authorized by an Amendment executed by both parties.
** Contingent upon the availability of funds and approval of the Board of Supervisors.

END OF ATTACHMENT B

ATTACHMENT C

AGREEMENT BETWEEN COUNTY OF INYO
AND The ECHO Group
FOR THE PROVISION OF Information Technology **SERVICES**

TERM:

FROM: July 1, 2013 **TO:** June 30, 2014

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 ECHO Group
FOR THE PROVISION OF Information Technology **SERVICES**

TERM:

FROM: July 1, 2013 **TO:** June 30, 2014

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.

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 Dat***e 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.

ATTACHMENT E

AGREEMENT BETWEEN COUNTY OF INYO

AND The ECHO Group

FOR THE PROVISION OF Information Technology **SERVICES**

TERM:

FROM: July 1, 2013 **TO:** June 30, 2014

SEE ATTACHED HIPPA BUSINESS ASSOCIATE AGREEMENT

COUNTY OF INYO
HIPAA BUSINESS ASSOCIATE AGREEMENT

This Business Associate Agreement ("Agreement") supplements and is made a part of the contract ("Contract") by and between the Health and Human Services _____ division, referred to herein as Covered Entity ("CE"), and _____, referred to herein as Business Associate ("BA"). This Agreement is effective as of _____(the "Agreement Effective Date").

RECITALS

CE wishes to disclose certain information to BA pursuant to the terms of the Contract, some of which may constitute Protected Health Information ("PHI) (defined below).

CE and BA intend to protect the privacy and provide for the security of PHI disclosed to BA pursuant to the Contract in compliance with the Health Insurance Portability and Accountability Act of 1996, Public Law 104-191 ("HIPAA"), the Health Information Technology for Economic and Clinical Health Act, Public Law 111-005 ("the HITECH Act"), and regulations promulgated thereunder by the U.S. Department of Health and Human Services (the "HIPAA Regulations") and other applicable laws.

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

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

1. Definitions

a. **Breach** shall have the meaning given to such term under the HITECH Act [42 U.S.C. Section 17921].

b. **Business Associate** shall have the meaning given to such term under the Privacy Rule, the Security Rule, and the HITECH Act, including but not limited to, 42 U.S.C. Section 17938 and 45 C.F.R. Section 160.103.

c. **Covered Entity** shall have the meaning given to such term under the Privacy Rule and the Security Rule, including, but not limited to, 45 C.F.R. Section 160.103.

d. **Data Aggregation** shall have the meaning given to such term under the Privacy Rule, including, but not limited to, 45 C.F.R. Section 164.501.

e. **Designated Record Set** shall have the meaning given to such term under the Privacy Rule, including, but not limited to, 45 C.F.R. Section 164.501.

f. **Electronic Protected Health Information** means Protected Health Information that is maintained in or transmitted by electronic media.

g. **Electronic Health Record** shall have the meaning given to such term in the HITECT Act, including, but not limited to, 42 U.S.C. Section 17921.

h. **Health Care Operations** shall have the meaning given to such term under the Privacy Rule, including, but not limited to, 45 C.F.R. Section 164.501.

i. **Privacy Rule** shall mean the HIPAA Regulation that is codified at 45 C.F.R. Parts 160 and 164, Subparts A and E.

j. **Protected Health Information or PHI** means any information, whether oral or recorded in any form or medium: (i) that relates to the past, present or future physical or mental condition of an individual; the provision of health care to an individual; or the past, present or future payment for the provision of health care to an individual; and (ii) that identifies the individual or with respect to which there is a reasonable basis to believe the information can be used to identify the individual, and shall have the meaning given to such term under the Privacy Rule, including, but not limited to, 45 C.F.R. Section 164.501. Protected Health Information includes Electronic Protected Health Information [45 C.F.R. Sections 160.103, 164.501].

k. **Protected Information** shall mean PHI provided by CE to BA or created or received by BA on CE's behalf.

l. **Security Rule** shall mean the HIPAA Regulation that is codified at 45 C.F.R. Parts 160 and 164, Subparts A and C.

m. **Unsecured PHI** shall have the meaning given to such term under the HITECH Act and any guidance issued pursuant to such Act including, but not limited to, 42 U.S.C. Section 17932(h).

2. **Obligations of Business Associate**

a. **Permitted Uses.** BA shall not use Protected Information except for the purpose of performing BA's obligations under the Contract and as permitted under the Contract and Agreement. Further, BA shall not use Protected Information in any manner that would constitute a violation of the Privacy Rule or the HITECH Act if so used by CE. However, BA may use Protected Information (i) for the proper management and administration of BA, (ii) to carry out the legal responsibilities of BA, or (iii) for Data Aggregation purposes for the Health Care Operations of CE [45 C.F.R. Sections 164.504(e)(2)(ii)(A) and 164.504(e)(4)(i)].

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

c. **Prohibited Uses and Disclosures.** BA shall not use or disclose Protected Information for fundraising or marketing purposes. BA shall not disclose Protected Information to a health plan for payment or health care operations purposes if the patient has requested this special restriction, and has paid out of pocket in full for the health care item or service to which the PHI solely

relates [42 U.S.C. Section 17935(a)]. BA shall not directly or indirectly receive remuneration in exchange for Protected Information, except with the prior written consent of CE and as permitted by the HITECH Act, 42 U.S.C. section 17935(d)(2); however, this prohibition shall not affect payment by CE to BA for services provided pursuant to the Contract.

d. **Appropriate Safeguards.** BA shall implement appropriate safeguards as are necessary to prevent the use or disclosure of Protected Information otherwise than as permitted by the Contract that reasonably and appropriately protect the confidentiality, integrity and availability of the Protected Information, in accordance with 45 C.F.R. Sections 164.308, 164.310, and 164.312. [45 C.F.R. Section 164.504(e)(2)(ii)(B); 45 C.F.R. Section 164.308(b)]. BA shall comply with the policies and procedures and documentation requirements of the HIPAA Security Rule, including, but not limited to, 45 C.F.R. Section 164.316. [42 U.S.C. Section 17931].

e. **Reporting of Improper Access, Use or Disclosure.** BA shall report to CE in writing of any access, use or disclosure of Protected Information not permitted by the Contract and Agreement, and any Breach of Unsecured PHI of which it becomes aware without unreasonable delay and in no case later than ten (10) calendar days after discovery [42 U.S.C. Section 17921; 45 C.F.R. Section 164.504(e)(2)(ii)(C); 45 C.F.R. Section 164.308(b)].

f. **Business Associate's Agents.** BA shall ensure that any agents, including subcontractors, to whom it provides Protected Information, agree in writing to the same restrictions and conditions that apply to BA with respect to such PHI and implement the safeguards required by paragraph c above with respect to Electronic PHI [45 C.F.R. Section 164.504(e)(2)(ii)(D); 45 C.F.R. Section 164.308(b)]. BA shall implement and maintain sanctions against agents and subcontractors that violate such restrictions and conditions and shall mitigate the effects of any such violation (see 45 C.F.R. Sections 164.530(f) and 164.530(e)(1)).

g. **Access to Protected Information.** BA shall make Protected Information maintained by BA or its agents or subcontractors in Designated Record Sets available to CE for inspection and copying within ten (10) days of a request by CE to enable CE to fulfill its obligations under the Privacy Rule, including, but not limited to, 45 C.F.R. Section 164.524 [45 CF.R. Section 164.504(e)(2)(ii)(E)]. If BA maintains an Electronic Health Record, BA shall provide such information in electronic format to enable CE to fulfill its obligations under the HITECH Act, including, but not limited to, 42 U.S.C. Section 17935(e).

h. **Amendment of PHI.** Within ten (10) days of receipt of a request from CE for an amendment of Protected Information or a record about an individual contained in a Designated Record Set, BA or its agents or subcontractors shall make such Protected Information available to CE for amendment and incorporate any such amendment to enable CE to fulfill its obligations under the Privacy Rule, including, but not limited to, 45 C.F.R. Section 164.526. If any individual requests an amendment of Protected Information directly from BA or its agents or subcontractors, BA must notify CE in writing within five (5) days of the request. Any approval or denial of amendment of Protected Information maintained by BA or its agents or subcontractors shall be the responsibility of CE [45 C.F.R. Section 164.504(e)(2)(ii)(F)].

i. **Accounting Rights.** Within ten (10) days of notice by CE of a request for an accounting of disclosures of Protected Information, BA and its agents or subcontractors shall make available to CE the information required to provide an accounting of disclosures to enable CE to fulfill its obligations under the Privacy Rule, including, but not limited to, 45 C.F.R. Section 164.528, and the HITECH Act, including but not limited to 42 U.S.C. Section 17935(c), as determined by CE. BA agrees to implement a process that allows for an accounting to be collected and maintained by BA and its agents or subcontractors for at least six (6) years prior to the request. However, accounting of disclosures from an Electronic Health Record for treatment, payment or health care

operations purposes are required to be collected and maintained for only three (3) years prior to the request, and only to the extent that BA maintains an electronic health record and is subject to this requirement. At a minimum, the information collected and maintained shall include: (i) the date of disclosure; (ii) the name of the entity or person who received Protected Information and, if known, the address of the entity or person; (iii) a brief description of Protected Information disclosed and (iv) a brief statement of purpose of the disclosure that reasonably informs the individual of the basis for the disclosure, or a copy of the individuals' authorization, or a copy of the written request for disclosure. In the event that the request for an accounting is delivered directly to BA or its agents or subcontractors, BA shall within five (5) days of a request forward it to CE in writing. It shall be CE's responsibility to prepare and deliver any such accounting requested. BA shall not disclose any Protected Information except as set forth in Sections 2.b. of this Agreement [45 C.F.R. Sections 164.504(e)(2)(ii)(G) and 165.528].

j. **Governmental Access to Records.** BA shall make its internal practices, books and records relating to the use and disclosure of Protected Information available to CE and to the Secretary of the U.S. Department of Health and Human Services (the "Secretary") for purposes of determining BA's compliance with the Privacy Rule [45 C.F.R. Section 164.504(e)(2)(ii)(H)]. BA shall provide to CE a copy of any Protected Information that BA provides to the Secretary concurrently with providing such Protected Information to the Secretary.

k. **Minimum Necessary.** BA (and its agents or subcontractors) shall request, use and disclose only the minimum amount of Protected Information necessary to accomplish the purpose of the request, use, or disclosure. [42 U.S.C. Section 17935(b); 45 C.F.R. Section 164.514(d)(3)] BA understands and agrees that the definition of "minimum necessary" is in flux and shall keep itself informed of guidance issued by the Secretary with respect to what constitutes "minimum necessary."

l. **Data Ownership.** BA acknowledges that BA has no ownership rights with respect to the Protected Information.

m. **Notification of Breach.** During the term of the Contract, BA shall notify CE within twenty-four (24) hours of any suspected or actual breach of security, intrusion or unauthorized use or disclosure of PHI of which BA becomes aware and/or any actual or suspected use or disclosure of data in violation of any applicable federal or state laws or regulations. BA shall take (i) prompt corrective action to cure any such deficiencies and (ii) any action pertaining to such unauthorized disclosure required by applicable federal and state laws and regulations.

n. **Breach Pattern or Practice by Covered Entity.** Pursuant to 42 U.S.C. Section 17934(b), if the BA knows of a pattern of activity or practice of the CE that constitutes a material breach or violation of the CE's obligations under the Contract or Agreement or other arrangement, the BA must take reasonable steps to cure the breach or end the violation. If the steps are unsuccessful, the BA must terminate the Contract or other arrangement if feasible, or if termination is not feasible, report the problem to the Secretary of DHHS. BA shall provide written notice to CE of any pattern of activity or practice of the CE that BA believes constitutes a material breach or violation of the CE's obligations under the Contract or Agreement or other arrangement within five (5) days of discovery and shall meet with CE to discuss and attempt to resolve the problem as one of the reasonable steps to cure the breach or end the violation.

o. **Audits, Inspection and Enforcement.** Within ten (10) days of a written request by CE, BA and its agents or subcontractors shall allow CE to conduct a reasonable inspection of the facilities, systems, books, records, agreements, policies and procedures relating to the use or disclosure of Protected Information pursuant to this Agreement for the purpose of determining whether BA has complied with this Agreement; provided, however, that (i) BA and CE shall mutually agree in

advance upon the scope, timing and location of such an inspection, and (ii) CE shall protect the confidentiality of all confidential and proprietary information of BA to which CE has access during the course of such inspection. The fact that CE inspects, or fails to inspect, or has the right to inspect, BA's facilities, systems, books, records, agreements, policies and procedures does not relieve BA of its responsibility to comply with this Agreement, nor does CE's (i) failure to detect or (ii) detection, but failure to notify BA or require BA's remediation of any unsatisfactory practices, constitute acceptance of such practice or a waiver of CE's enforcement rights under the Contract or Agreement. BA shall notify CE within ten (10) days of learning that BA has become the subject of an audit, compliance review, or complaint investigation by the Office for Civil Rights.

3. **Termination**

a. **Material Breach.** A breach by BA of any provision of this Agreement, as determined by CE, shall constitute a material breach of the Contract and shall provide grounds for immediate termination of the Contract, any provision in the Contract to the contrary notwithstanding. [45 C.F.R. Section 164.504(e)(2)(iii)].

b. **Judicial or Administrative Proceedings.** CE may terminate the Contract, effective immediately, if (i) BA is named as a defendant in a criminal proceeding for a violation of HIPAA, the HITECH Act, the HIPAA Regulations or other security or privacy laws or (ii) a finding or stipulation that the BA has violated any standard or requirement of HIPAA, the HITECH Act, the HIPAA Regulations or other security or privacy laws is made in any administrative or civil proceeding in which the party has been joined.

c. **Effect of Termination.** Upon termination of the Contract for any reason, BA shall, at the option of CE, return or destroy all Protected Information that BA or its agents or subcontractors still maintain in any form, and shall retain no copies of such Protected Information. If return or destruction is not feasible, as determined by CE, BA shall continue to extend the protections of Section 2 of this Agreement to such information, and limit further use of such PHI to those purposes that make the return or destruction of such PHI infeasible. [45 C.F.R. Section 164.504(e)(ii)(2(I)]. If CE elects destruction of the PHI, BA shall certify in writing to CE that such PHI has been destroyed.

4. **Disclaimer**

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

5. **Amendment**

The parties acknowledge that state and federal laws relating to data security and privacy are rapidly evolving and that amendment of the Contract of Agreement may be required to provide for procedures to ensure compliance with such developments. The parties specifically agree to take such action as is necessary to implement the standards and requirements of HIPAA, the HITECH Act, the Privacy Rule, the Security Rule, and other applicable laws relating to the security or confidentiality of PHI. The parties understand ad agree that CE must receive satisfactory written assurance from BA that BA will adequately safeguard all Protected Information. Upon the request of either party, the other party agrees to promptly enter into negotiations concerning the terms of an amendment to this Agreement embodying written assurances consistent with the standards and requirements of HIPAA, the HITECH Act, the Privacy Rule, the Security Rule or other applicable laws. CE may terminate the Contract upon thirty (30) days written notice in the event (i) BA does not promptly enter into negotiations to amend the Contract or Agreement

when requested by CE pursuant to this Section or (ii) BA does not enter not enter into an amendment to the Contract or Agreement providing assurances regarding the safeguarding of PHI that CE, in its sole discretion, deems sufficient to satisfy the standards and requirements of applicable laws.

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

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

7. **No Third-Party Beneficiaries**

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

8. **Effect on Contract**

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

9. **Interpretation**

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

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

COVERED ENTITY	BUSINESS ASSOCIATE
County of Inyo	The Echo Group
By: _____	By: Debbie Angelico
Print Name: _____	Print Name: Debbie Angelico
Title: _____	Title: CFO
Date: _____	Date: 5/17/13

For Clerk's Use Only:
AGENDA NUMBER

13

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 - Social Services

FOR THE BOARD MEETING OF: June 25, 2013

SUBJECT: Contract with Inyo County Superintendent of Schools for Stage I CalWORKs Child Care Services.

DEPARTMENTAL RECOMMENDATION:

Request your Board approve the contract between the County of Inyo and the Inyo County Superintendent of Schools for the provision of Stage I Child Care Services, in an amount not to exceed $125,000.00, for the period of July 1, 2013, through June 30, 2014, contingent upon the Board's adoption of FY 2013/2014, budget, and authorize Chairperson to sign.

CAO RECOMMENDATION:

SUMMARY DISCUSSION:

The County of Inyo has successfully contracted with the Inyo County Superintendent of Schools for the services provided through Child Care Connection for over fifteen years. The Contractor takes referrals for child care on behalf of parents who are participating in CalWORKs, assists in finding child care if needed, helps develop high quality child care, and pays the authorized provider. This program also assists newly employed parents to keep their child care relationship as long as they are eligible, and then move them to other funding sources as possible. We wish to continue this contract relationship for the 2013/2014 year.

ALTERNATIVES:

Your Board could decline to support this contract, which would mandate that services be provided within the Health and Human Services department. We do not have sufficient staff to add these tasks and would need to hire two persons to duplicate the services being provided at Child Care Connection. We would lose the easy integration of funding sources for Child Care Connection for persons using childcare who have increased their earned income.

OTHER AGENCY INVOLVEMENT:

The Child Care Planning Council advises the Contractor and the County about current programs and needs.

FINANCING:

The funding allocation is 100% State and Federal funds. This contract is budgeted in Social Services (055800) in Professional Services (5265). 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: 6/4/2013
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: 6/6/13
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: 6/7/13

DEPARTMENT HEAD SIGNATURE:
(Not to be signed until all approvals are received) Jean Turner DC Date: 6/13/13

AGREEMENT BETWEEN COUNTY OF INYO
AND Inyo County Superintendent of Schools
FOR THE PROVISION OF Stage 1 Child Care **SERVICES**

INTRODUCTION

WHEREAS, the County of Inyo (hereinafter referred to as "County") may have the need for the Stage 1 Child Care services of Inyo County Superintendent of Schools of Independence, CA (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: HHS 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, 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 July 1, 2013 to June 30, 2014 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 $125,000.00 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	
Health & Human Services	Department
Drawer A	Street
Independence, CA 93526	City and State

Contractor:	
Inyo County Superintendent of Schools	Name
Drawer G	Street
Independence, CA 93526	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 Inyo County Superintendent of Schools
FOR THE PROVISION OF Stage 1 Child Care **SERVICES**

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

COUNTY OF INYO

By:_____

Dated: _____

CONTRACTOR

By:_____
Signature

Dr. Terence K. McAteer
Print or Type Name

Dated: 5/15/2013

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 Inyo County Superintendent of Schools
FOR THE PROVISION OF Stage 1 Child Care **SERVICES**

TERM:

FROM: July 1, 2013 **TO:** June 30, 2014

SCOPE OF WORK:

The Inyo County Superintendent of Schools (ICSOS) shall provide the following childcare services for the consideration set forth in Attachment B:

1. Fulfill all requirements for the provision of Child Care set forth in AB 1542 (stats. 1997, c.270) and SB-70 and added to the Education Code as Title I, Division I, Part 6, Chapter 2, Article 15.5 (commencing with section 8350, and such guidelines and regulations as set forth in California Code of Regulations, Title 5, Division I, Chapters 19 and 19.5, DSS ACL 97-73 and ACL 11-38, and hereby incorporated in to this agreement by reference, except those duties specifically assigned to the local Health and Human Services (HHS) Department in this agreement.

2. Accept Referrals for child care from HHS on a daily basis and provide services to families in an expedited manner. HHS and ICSOS will agree on a mutually acceptable process for assurance of eligibility of clients for both services and hours.

3. Designated staff from both agencies shall set up regular meetings to evaluate process and procedures and assure the best service possible to families. These meetings will include mutual education concerning the two agencies.

4. ICSOS and the County will work together to recruit licensed child care providers and to encourage quality improvement in license-exempt child care arrangements.

ATTACHMENT B

AGREEMENT BETWEEN COUNTY OF INYO
AND Inyo County Superintendent of Schools
FOR THE PROVISION OF Stage 1 Child Care **SERVICES**

TERM:

FROM: July 1, 2013 **TO:** June 30, 2014

SCHEDULE OF FEES:

1. COUNTY will pay direct costs of the child care services provided. These costs must be invoiced for all children enrolled in the Stage 1 Child Care Program and be based upon the services listed in the Scope of Work.

2. COUNTY will pay Administrative/Indirect Costs, which must not be more than 15% of the actual invoiced costs.

3. Notwithstanding Paragraph 3.E. Billing and payment, invoices will be billed quarterly on or before the following dates:

    - October 15, 2013
    - January 15, 2014
    - April 15, 2014
    - July 15, 2014

ATTACHMENT C

AGREEMENT BETWEEN COUNTY OF INYO
AND Inyo County Superintendent of Schools
FOR THE PROVISION OF Stage 1 Child Care **SERVICES**

TERM:

FROM: July 1, 2013 **TO:** June 30, 2014

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 Inyo County Superintendent of Schools
FOR THE PROVISION OF Stage 1 Child Care **SERVICES**

TERM:

FROM: July 1, 2013 **TO:** June 30, 2014

SEE ATTACHED INSURANCE PROVISIONS

Specifications 1

Insurance Requirements for Most Contracts

(Not for Professional Services or Construction Contracts)

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

MINIMUM SCOPE AND LIMIT OF INSURANCE

Coverage shall be at least as broad as:

1. **Commercial General Liability (CGL)**: Insurance Services Office (ISO) Form CG 00 01 12 07 covering CGL on an "occurrence" basis, including products-completed operations, personal & advertising injury, with limits no less than **$1,000,000** per occurrence. If a general aggregate limit applies, either the general aggregate limit shall apply separately to this project/location or the general aggregate limit shall be twice the required occurrence limit.
2. **Automobile Liability:** ISO Form Number CA 00 01 covering any auto (Code 1), or if Contractor has no owned autos, hired, (Code 8) and non-owned autos (Code 9), with limit no less than **$500,000** per accident for bodily injury and property damage.
3. **Workers' Compensation:** as required by the State of California, with Statutory Limits, and Employer's Liability Insurance with limit of no less than **$1,000,000** per accident for bodily injury or disease.

If the contractor 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 CGL policy with respect to liability arising out of work or operations performed by or on behalf of the Contractor including materials, parts, or equipment furnished in connection with such work or operations. General liability coverage can be provided in the form of an endorsement to the Contractor's insurance at least as broad as ISO Form CG 20 10 11 85 or if not available, through the addition of both CG 20 10 and CG 20 37 if a later edition is used).

Primary Coverage

For any claims related to this contract, the Contractor's insurance coverage shall be primary 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 Contractor's insurance and shall not contribute with it.

Notice of Cancellation

Each insurance policy required above shall provide that coverage shall not be canceled, except with notice to the Entity.

Waiver of Subrogation

Contractor hereby grants to Entity a waiver of any right to subrogation which any insurer of said Contractor may acquire against the Entity by virtue of the payment of any loss under such insurance. Contractor 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 Contractor to purchase coverage with a lower deductible or retention or 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.

Verification of Coverage

Contractor 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 Contractor'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.

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

14

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

FOR THE BOARD MEETING OF: June 25, 2013

SUBJECT: Local Provider Requests for EMS Funds

DEPARTMENTAL RECOMMENDATION:
Request your Board approve the following five (5) contracts for projects to be funded from the Emergency Medical Services Trust Fund #505107 in amounts designated as follows: 1) Independence Volunteer Fire Department = $5,667 for the purchase of emergency response and training equipment; 2) Olancha Cartago Fire Department = $11,025 for the purchase of emergency response equipment; 3) Lone Pine Volunteer Fire Department = $11,026.80 for the purchase of emergency response and training equipment; 4) Big Pine Volunteer Fire Department = $9,999.48 for the purchase of emergency response and training equipment; and 5) Southern Inyo Fire Protection District = $11,388 for training and equipment, for a total combined amount of the five (5) contracts not to exceed $49,106.28 for the period of July 1, 2013 through December 31, 2013; and authorize the Chairperson to sign the contracts.

CAO RECOMMENDATION:

SUMMARY DISCUSSION:
The Emergency Medical Services (EMS) funds are collected from traffic fines in varying amounts per year. The disbursement of the funds is designated by Health and Safety Code Section 1797.98a and requires the monies be distributed as follows: (25%) goes to hospitals, (58%) goes to emergency room physicians, and (17%) goes to local emergency medical services-related discretionary purposes. Health and Human Services solicits requests annually in the spring for first responders to submit funding proposals to be funded from the discretionary (17%) portion of the fund, per county ordinance. This year five (5) entities submitted requests totaling $49,106.28. The HHS guidelines for funding included: 1) priority is given to volunteer entities; 2) effort made to keep each community equipped with viable ambulance and related equipment; 3) computer equipment was disallowed, per recent State audits; and 4) equipment purchases available through disaster/bioterrorism funds were not recommended for EMS funding.

ALTERNATIVES:
Not approving this contract would result in local EMS responders operating with existing equipment. By ordinance, this money can be spent only on local ambulance providers.

OTHER AGENCY INVOLVEMENT:
All eligible emergency service entities were notified of this process and were given the opportunity to submit requests for funding.

FINANCING:
100% Emergency Medical Trust Fund #505107, regulated by legislation. 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: _____ Date: 6/4/2013
AUDITOR/CONTROLLER:	**ACCOUNTING/FINANCE AND RELATED ITEMS** *(Must be reviewed and approved by the Auditor/Controller prior to submission to the Board Clerk.)* Approved: _____ Date: 6/6/13
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: _____

DEPARTMENT HEAD SIGNATURE:
(Not to be signed until all approvals are received) Jean Turner DE Date: 6/13/13

AGREEMENT BETWEEN COUNTY OF INYO
AND Independence Volunteer Fire Department
FOR PROVISION OF MADDY EMERGENCY MEDICAL SERVICES FUNDS

INTRODUCTION

This Agreement is entered into this 1st day of July 2013, by and between the County of Inyo, hereinafter referred to as "County", and Independence Volunteer Fire Department, hereinafter referred to as "Applicant".

WHEREAS, Health and Safety Code Section 1797.98a et seq. authorizes the establishment of an emergency medical services fund by the County; and

WHEREAS, the County has established such fund, commonly referred to as the "Maddy Fund"; and

WHEREAS, a certain percentage of the Maddy Fund administered by the County is specifically designated for distribution for local emergency medical services; and

WHEREAS, the County has established criteria and priorities for entities and agencies providing emergency medical services in Inyo County to request distributions from the Maddy Fund; and

WHEREAS, Applicant has requested distribution from the Maddy Fund for the purpose or activity set forth in Attachment **A**; and

WHEREAS, said purpose or activity meets the funding criteria set forth in Health and Safety Code Section 1797.98a et seq. and the criteria and priorities established by the County;

NOW, THEREFORE, County and Applicant, in consideration of the mutual benefits, promises, covenants, terms, and conditions hereinafter contained, do agree as follows:

TERMS AND CONDITIONS

1. SCOPE OF SERVICES/SUPPORT.

The Applicant will utilize the Maddy Funds in the matter specified in Attachment "**A**", (herein after referred to as "Project") attached hereto and by reference incorporated herein.

The Applicant will use the Maddy Funds distributed under the terms of this Agreement in the manner and by the means set forth in Attachment **A**, and in a manner consistent with the requirements and standards established by applicable federal, state, and County laws, ordinances, regulations, and resolutions, including but not limited to Health and Safety Code Section 1797.98a et seq. Such laws, ordinances, regulations, and resolutions include, but are not limited to, those which are referred to in this Agreement, including any Attachments thereto.

Applicant agrees to diligently and promptly pursue the completion of the Project, and to complete the Project within one year from the date of this Agreement.

2. LIMITATIONS ON USE OF FUNDS.

Prohibition against Lobbying and Campaigning. None of the funds provided by the County to Applicant under this Agreement may be used , directly or indirectly, by Applicant, any of its agents, officers, or employees to lobby any Federal officer or employee, member of Congress, State officer or employee, member of the State Legislature, any officer, employee or member of any governing or advisory body of any county, city, or special district within the State of California or any other state on any issue whatsoever. Further, none of the funds provided by the County to Applicant under this Agreement may be used, directly or indirectly, by Applicant, any of its agents, officers or employees to campaign for or against any candidate for any federal, state, or local office, or to campaign for or against any measure appearing on any state or local ballot.

3. TERM.

The term of this Agreement shall be from July 1, 2013 to December 31, 2013, unless sooner terminated as provided below.

4. CONSIDERATION.

A. Compensation. County agrees to pay, as set forth below, a sum not to exceed $5,667.00, to Applicant for the purpose of funding the aforesaid Project as allowable under the Maddy Fund in accordance with the Schedule of Fees (set forth in Attachment B).

B. No Additional Consideration. Except as expressly provided in this Agreement, Applicant 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, Applicant shall not be entitled, by virtue of this Agreement, to consideration in the form of overtime, health insurance benefits, retirement benefits, disability retirement benefits, sick leave, vacation time, paid holidays, or other paid leaves of absence of any type or kind whatsoever.

C. Limit Upon Amount Payable Under Agreement. The total sum of all payments made by the County to Applicant under this Agreement shall not exceed $5,667.00 (hereinafter referred to as "contract limit"). County expressly reserves the right to deny any payment or reimbursement requested by Applicant which is in excess of the contract limit.

D. Billing and Payment. Applicant shall submit to the County an itemized statement of all services, work, or purchases made in connection with the Project as set forth in Attachment **A**. This statement will be submitted to the County not later than thirty (30) days after completing the services, work, or purchases. This statement will identify the date on which the services, work, or purchases were performed and describe the nature of the services, work, or purchases. The County shall make payment to Applicant within thirty (30) days of its receipt of the statement.

E. Federal and State Taxes.

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

(2) County will withhold California State income taxes from payments made under this Agreement to a non-California resident Applicant when it is anticipated that total annual payments to Applicant 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 Applicant under this Agreement. Payment of all taxes and other assessments on such sums is the sole responsibility of Applicant. County has no responsibility or liability for payment of Applicant's taxes or assessments.

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

5. REQUIRED LICENSES, CERTIFICATES, AND PERMITS.

A. Any licenses, certificates, or permits required by the federal, state, county, or municipal governments for Applicant to conduct the Project described in this Agreement must be procured by Applicant and be valid at the time Applicant enters into this Agreement. Further, during the term of this Agreement, Applicant 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 license, professional licenses or certificates, and business licenses. Such licenses, certificates, and permits will be procured and maintained in force by Applicant at no expense to the County. Applicant will provide County, upon execution of this Agreement, with evidence of current and valid licenses, certificates and permits which are required to conduct the Project identified in Attachment **A**. Where there is a dispute between Applicant and County as to what licenses, certificates, and permits are required to conduct the Project 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.

Applicant shall provide such office space, supplies, equipment, vehicles, reference materials, and telephone service as is necessary for Applicant to conduct the Project identified in Attachment **A** to this Agreement. Unless expressly provided for the Scope of Work and Budget (Attachment **A**), County is not obligated to reimburse or pay Applicant for any expense or cost incurred by Applicant in procuring or maintaining such items. Unless expressly provided in the Scope of Work and Budget (Attachment **A**), responsibility for the costs and expenses incurred by Applicant in providing and maintaining such items is the sole responsibility and obligation of Applicant. Any supplies, equipment, vehicles, materials, etc., paid for by County under this Agreement are the personal property of County.

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 Applicant by County pursuant to this Agreement are, and at the termination of this Agreement remain, the sole and exclusive property of County. Applicant will use reasonable care to protect, safeguard and maintain such items while they are in Applicant's possession. Applicant will be financially responsible for any loss or damage to such items, partial or total, which is the result of Applicant's negligence. Personal property subject to this provision does not include personal property purchased by Applicant with any Maddy Funds distributed under the terms of this Agreement or any previous agreement between the County and Applicant.

B. Products of Applicant'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, Applicant's services or work under this Agreement remain, the sole and exclusive property of the County. At the termination of the Agreement, Applicant will convey possession and title to all such properties to County.

8. WORKERS' COMPENSATION.

Applicant 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 APPLICANT.

All acts of Applicant, its agents, officers, employees and volunteers, relating to the performance of this Agreement, shall be performed as independent contractors, and not as agents, officers, or employees of County.

Applicant, 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**, Applicant 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 Applicant. It is understood by both Applicant 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. Applicant shall determine the method, details, and means of conducting the Project described in Attachment **A**.

B. Applicant 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 Applicant in fulfillment of this Agreement.

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

11. DEFENSE AND INDEMNIFICATION.

Applicant 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 Applicant, or Applicant's agents, officers, employees, or volunteers. Applicant'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. Applicant'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 Applicant, its agents, employees, volunteers, 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.

Applicant'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 Applicant to procure and maintain a policy of insurance.

To the extent permitted by law, County shall defend, indemnify, and hold harmless Applicant, 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. Applicant shall prepare and maintain all records required by the various provisions of this Agreement, federal, state, and municipal law, ordinances, regulations, and directions. Applicant shall maintain these records for a minimum of four (4) years from the termination or completion of this Agreement. Applicant 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 Applicant, 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 Applicant. Further, County has the right, at all reasonable times, to audit, inspect, or otherwise evaluate the work performed or being performed under this Agreement and further, to submit to the County Administrative Officer a written report upon completion of the Project detailing the record of expenditures under this Agreement.

C. Records. Applicant agrees to provide to the Inyo County Board of Supervisors a mid-year progress report as well as a final year-end report. Both the mid-year and final reports will provide the information set forth in the GIS Program Report Format Guidelines.

13. NONDISCRIMINATION.

During the performance of this Agreement, Applicant, its agents, officers, employees and volunteers 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. Applicant and its agents, officers, employees and volunteers 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. ASSIGNMENT.

This is an agreement for the services of Applicant. County has relied upon the skills, knowledge, experience, and training of Applicant as an inducement to enter into this Agreement. Applicant shall not

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

15. DEFAULT.

If the Applicant abandons the Project, or fails to proceed with the Project in a timely manner, or fails in any way as required to conduct the Project as required, County may declare the Applicant in default and terminate this Agreement upon five (5) days written notice to Applicant. Upon such termination County will pay to Applicant all sums owed it for services and work authorized in the Scope of Work and Budget (Attachment **A**) which were satisfactorily performed before the date of termination.

16. WAIVER OF DEFAULT.

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

17. CONFIDENTIALITY.

Applicant 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 Applicant in the course of providing services and work under this Agreement, shall be privileged, restricted, or confidential. Applicant agrees to keep confidential all such information and records. Disclosure of such confidential, privileged, or protected information shall be made by Applicant only with the express written consent of the County.

18. CONFLICTS.

Applicant agrees that it has no interest, and shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with its performance of the Project as described in this Agreement.

19. POST AGREEMENT COVENANT.

Applicant agrees not to use any confidential, protected, or privileged information which is gained from the County under this Agreement, for any personal benefit, gain, or enhancement. Further, Applicant 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, and concerning such, Applicant by virtue of this Agreement has gained access to the County's confidential, privileged, protected, or proprietary information.

20. SEVERABILITY.

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

21. FUNDING LIMITATION.

The ability of County to enter this Agreement is based upon available funding from various sources. In the event that such funding fails, is reduced, or is modified, from one or more sources, County has the option to cancel, reduce, or modify this Agreement, or any of its terms within ten (10) days of its notifying Applicant 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).
Three (23)

22. 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.

23. AMENDMENT.

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

24. NOTICE.

Any notice, communication, amendments, additions, or deletions to this Agreement, including change of address of either party during the terms of this Agreement, which Applicant 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 and Human Services — Department
P.O. Drawer H — Address
Independence, CA 93526 — City and State

Applicant:
Independence Volunteer Fire Department — Name
Drawer B — Address
Independence, CA 93526 — City and State

25. ENTIRE AGREEMENT.

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

AGREEMENT BETWEEN COUNTY OF INYO
AND Independence Volunteer Fire Department
FOR PROVISION OF MADDY EMERGENCY MEDICAL SERVICES FUNDS

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

COUNTY OF INYO

By:_____

Dated:_____

APPLICANT

By: Joe Cappello
Signature

Joe Cappello
Type or Print Name

Dated: 5-29-13

APPROVED AS TO FORM AND LEGALITY:

_____
County Counsel

APPROVED AS TO ACCOUNTING FORM:

_____
County Auditor

APPROVED AS TO INSURANCE REQUIREMENTS:

_____
County Risk Manager

ATTACHMENT A

AGREEMENT BETWEEN COUNTY OF INYO
AND Independence Volunteer Fire Department
FOR PROVISION OF MADDY EMERGENCY MEDICAL SERVICES FUNDS

TERM:

FROM: July 1, 2013 **TO:** December 31, 2013

MADDY FUND PROPOSED USAGE:

1. **Funded Activities/Service:**

a. (List the items to be purchased)

ITEM(S)	QUANITITY		COST
NASCO AIRWAY LARRY AIRWAY MANAGEMENT TRAINER	1	$	1,285.00
CHILD CPR/AIRWAY MANAGEMENT TORSO	1	$	1,183.00
TRAVERSE ADVANTAGE LITTER	1	$	799.00
FIRST RESPONDER 02 KITS	8	$	2,400.00
TOTAL		$	5,667.00

ATTACHMENT B

AGREEMENT BETWEEN COUNTY OF INYO
AND Independence Volunteer Fire Department
FOR PROVISION OF MADDY EMERGENCY MEDICAL SERVICES FUNDS

TERM:

FROM: July 1, 2013 **TO:** December 31, 2013

SCHEDULE OF FEES:

County will provide Applicant with $5,667.00, in advance, for the purchase of items specified in Attachment A. Applicant shall provide County copies of receipts for such purchases within thirty (30) days of purchase. Funds that are not expended by the end of the contract period shall be returned to the County.

ATTACHMENT C

AGREEMENT BETWEEN COUNTY OF INYO
AND Independence Volunteer Fire Department
FOR PROVISION OF MADDY EMERGENCY MEDICAL SERVICES FUNDS

TERM:

FROM: July 1, 2013 **TO:** December 31, 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 Independence Volunteer Fire Department
FOR PROVISION OF MADDY EMERGENCY MEDICAL SERVICES FUNDS

TERM:

FROM: July 1, 2013 **TO:** December 31, 2013

See Attached Insurance Provisions

Specifications 1

Insurance Requirements for Most Contracts

(Not for Professional Services or Construction Contracts)

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

MINIMUM SCOPE AND LIMIT OF INSURANCE

Coverage shall be at least as broad as:

1. **Commercial General Liability (CGL):** Insurance Services Office (ISO) Form CG 00 01 12 07 covering CGL on an "occurrence" basis, including products-completed operations, personal & advertising injury, with limits no less than **$1,000,000** per occurrence. If a general aggregate limit applies, either the general aggregate limit shall apply separately to this project/location or the general aggregate limit shall be twice the required occurrence limit.
2. **Automobile Liability:** ISO Form Number CA 00 01 covering any auto (Code 1), or if Contractor has no owned autos, hired, (Code 8) and non-owned autos (Code 9), with limit no less than **$500,000** per accident for bodily injury and property damage.
3. **Workers' Compensation:** as required by the State of California, with Statutory Limits, and Employer's Liability Insurance with limit of no less than **$1,000,000** per accident for bodily injury or disease.

If the contractor 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 CGL policy with respect to liability arising out of work or operations performed by or on behalf of the Contractor including materials, parts, or equipment furnished in connection with such work or operations. General liability coverage can be provided in the form of an endorsement to the Contractor's insurance at least as broad as ISO Form CG 20 10 11 85 or if not available, through the addition of both CG 20 10 and CG 20 37 if a later edition is used).

Primary Coverage

For any claims related to this contract, the Contractor's insurance coverage shall be primary 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 Contractor's insurance and shall not contribute with it.

Notice of Cancellation

Each insurance policy required above shall provide that coverage shall not be canceled, except with notice to the Entity.

Waiver of Subrogation

Contractor hereby grants to Entity a waiver of any right to subrogation which any insurer of said Contractor may acquire against the Entity by virtue of the payment of any loss under such insurance. Contractor 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 Contractor to purchase coverage with a lower deductible or retention or 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.

Verification of Coverage

Contractor 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 Contractor'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.

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.

AGREEMENT BETWEEN COUNTY OF INYO
AND Olancha Cartago Fire Department
FOR PROVISION OF MADDY EMERGENCY MEDICAL SERVICES FUNDS

INTRODUCTION

This Agreement is entered into this 1st day of July 2013, by and between the County of Inyo, hereinafter referred to as "County", and Olancha Cartago Fire Department, hereinafter referred to as "Applicant".

WHEREAS, Health and Safety Code Section 1797.98a et seq. authorizes the establishment of an emergency medical services fund by the County; and

WHEREAS, the County has established such fund, commonly referred to as the "Maddy Fund"; and

WHEREAS, a certain percentage of the Maddy Fund administered by the County is specifically designated for distribution for local emergency medical services; and

WHEREAS, the County has established criteria and priorities for entities and agencies providing emergency medical services in Inyo County to request distributions from the Maddy Fund; and

WHEREAS, Applicant has requested distribution from the Maddy Fund for the purpose or activity set forth in Attachment **A**; and

WHEREAS, said purpose or activity meets the funding criteria set forth in Health and Safety Code Section 1797.98a et seq. and the criteria and priorities established by the County;

NOW, THEREFORE, County and Applicant, in consideration of the mutual benefits, promises, covenants, terms, and conditions hereinafter contained, do agree as follows:

TERMS AND CONDITIONS

1. SCOPE OF SERVICES/SUPPORT.

The Applicant will utilize the Maddy Funds in the matter specified in Attachment "**A**", (herein after referred to as "Project") attached hereto and by reference incorporated herein.

The Applicant will use the Maddy Funds distributed under the terms of this Agreement in the manner and by the means set forth in Attachment **A**, and in a manner consistent with the requirements and standards established by applicable federal, state, and County laws, ordinances, regulations, and resolutions, including but not limited to Health and Safety Code Section 1797.98a et seq. Such laws, ordinances, regulations, and resolutions include, but are not limited to, those which are referred to in this Agreement, including any Attachments thereto.

Applicant agrees to diligently and promptly pursue the completion of the Project, and to complete the Project within one year from the date of this Agreement.

2. LIMITATIONS ON USE OF FUNDS.

Prohibition against Lobbying and Campaigning. None of the funds provided by the County to Applicant under this Agreement may be used , directly or indirectly, by Applicant, any of its agents, officers, or employees to lobby any Federal officer or employee, member of Congress, State officer or employee, member of the State Legislature, any officer, employee or member of any governing or advisory body of any county, city, or special district within the State of California or any other state on any issue whatsoever. Further, none of the funds provided by the County to Applicant under this Agreement may be used, directly or indirectly, by Applicant, any of its agents, officers or employees to campaign for or against any candidate for any federal, state, or local office, or to campaign for or against any measure appearing on any state or local ballot.

3. TERM.

The term of this Agreement shall be from July 1, 2013 to December 31, 2013, unless sooner terminated as provided below.

4. CONSIDERATION.

A. Compensation. County agrees to pay, as set forth below, a sum not to exceed $ 11,025.00, to Applicant for the purpose of funding the aforesaid Project as allowable under the Maddy Fund in accordance with the Schedule of Fees (set forth in Attachment B).

B. No Additional Consideration. Except as expressly provided in this Agreement, Applicant 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, Applicant shall not be entitled, by virtue of this Agreement, to consideration in the form of overtime, health insurance benefits, retirement benefits, disability retirement benefits, sick leave, vacation time, paid holidays, or other paid leaves of absence of any type or kind whatsoever.

C. Limit Upon Amount Payable Under Agreement. The total sum of all payments made by the County to Applicant under this Agreement shall not exceed $ 11,025.00 (hereinafter referred to as "contract limit"). County expressly reserves the right to deny any payment or reimbursement requested by Applicant which is in excess of the contract limit.

D. Billing and Payment. Applicant shall submit to the County an itemized statement of all services, work, or purchases made in connection with the Project as set forth in Attachment **A**. This statement will be submitted to the County not later than thirty (30) days after completing the services, work, or purchases. This statement will identify the date on which the services, work, or purchases were performed and describe the nature of the services, work, or purchases. The County shall make payment to Applicant within thirty (30) days of its receipt of the statement.

E. Federal and State Taxes.

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

(2) County will withhold California State income taxes from payments made under this Agreement to a non-California resident Applicant when it is anticipated that total annual payments to Applicant 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 Applicant under this Agreement. Payment of all taxes and other assessments on such sums is the sole responsibility of Applicant. County has no responsibility or liability for payment of Applicant's taxes or assessments.

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

5. REQUIRED LICENSES, CERTIFICATES, AND PERMITS.

A. Any licenses, certificates, or permits required by the federal, state, county, or municipal governments for Applicant to conduct the Project described in this Agreement must be procured by Applicant and be valid at the time Applicant enters into this Agreement. Further, during the term of this Agreement, Applicant 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 license, professional licenses or certificates, and business licenses. Such licenses, certificates, and permits will be procured and maintained in force by Applicant at no expense to the County. Applicant will provide County, upon execution of this Agreement, with evidence of current and valid licenses, certificates and permits which are required to conduct the Project identified in Attachment **A**. Where there is a dispute between Applicant and County as to what licenses, certificates, and permits are required to conduct the Project 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.

Applicant shall provide such office space, supplies, equipment, vehicles, reference materials, and telephone service as is necessary for Applicant to conduct the Project identified in Attachment **A** to this Agreement. Unless expressly provided for the Scope of Work and Budget (Attachment **A**), County is not obligated to reimburse or pay Applicant for any expense or cost incurred by Applicant in procuring or maintaining such items. Unless expressly provided in the Scope of Work and Budget (Attachment **A**), responsibility for the costs and expenses incurred by Applicant in providing and maintaining such items is the sole responsibility and obligation of Applicant. Any supplies, equipment, vehicles, materials, etc., paid for by County under this Agreement are the personal property of County.

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 Applicant by County pursuant to this Agreement are, and at the termination of this Agreement remain, the sole and exclusive property of County. Applicant will use reasonable care to protect, safeguard and maintain such items while they are in Applicant's possession. Applicant will be financially responsible for any loss or damage to such items, partial or total, which is the result of Applicant's negligence. Personal property subject to this provision does not include personal property purchased by Applicant with any Maddy Funds distributed under the terms of this Agreement or any previous agreement between the County and Applicant.

B. Products of Applicant'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, Applicant's services or work under this Agreement remain, the sole and exclusive property of the County. At the termination of the Agreement, Applicant will convey possession and title to all such properties to County.

8. WORKERS' COMPENSATION.

Applicant 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 APPLICANT.

All acts of Applicant, its agents, officers, employees and volunteers, relating to the performance of this Agreement, shall be performed as independent contractors, and not as agents, officers, or employees of County.

Applicant, 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**, Applicant 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 Applicant. It is understood by both Applicant 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. Applicant shall determine the method, details, and means of conducting the Project described in Attachment **A**.

B. Applicant 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 Applicant in fulfillment of this Agreement.

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

11. DEFENSE AND INDEMNIFICATION.

Applicant 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 Applicant, or Applicant's agents, officers, employees, or volunteers. Applicant'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. Applicant'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 Applicant, its agents, employees, volunteers, 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.

Applicant'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 Applicant to procure and maintain a policy of insurance.

To the extent permitted by law, County shall defend, indemnify, and hold harmless Applicant, 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. Applicant shall prepare and maintain all records required by the various provisions of this Agreement, federal, state, and municipal law, ordinances, regulations, and directions. Applicant shall maintain these records for a minimum of four (4) years from the termination or completion of this Agreement. Applicant 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 Applicant, 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 Applicant. Further, County has the right, at all reasonable times, to audit, inspect, or otherwise evaluate the work performed or being performed under this Agreement and further, to submit to the County Administrative Officer a written report upon completion of the Project detailing the record of expenditures under this Agreement.

C. Records. Applicant agrees to provide to the Inyo County Board of Supervisors a mid-year progress report as well as a final year-end report. Both the mid-year and final reports will provide the information set forth in the GIS Program Report Format Guidelines.

13. NONDISCRIMINATION.

During the performance of this Agreement, Applicant, its agents, officers, employees and volunteers 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. Applicant and its agents, officers, employees and volunteers 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. ASSIGNMENT.

This is an agreement for the services of Applicant. County has relied upon the skills, knowledge, experience, and training of Applicant as an inducement to enter into this Agreement. Applicant shall not

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

15. DEFAULT.

If the Applicant abandons the Project, or fails to proceed with the Project in a timely manner, or fails in any way as required to conduct the Project as required, County may declare the Applicant in default and terminate this Agreement upon five (5) days written notice to Applicant. Upon such termination County will pay to Applicant all sums owed it for services and work authorized in the Scope of Work and Budget (Attachment **A**) which were satisfactorily performed before the date of termination.

16. WAIVER OF DEFAULT.

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

17. CONFIDENTIALITY.

Applicant 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 Applicant in the course of providing services and work under this Agreement, shall be privileged, restricted, or confidential. Applicant agrees to keep confidential all such information and records. Disclosure of such confidential, privileged, or protected information shall be made by Applicant only with the express written consent of the County.

18. CONFLICTS.

Applicant agrees that it has no interest, and shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with its performance of the Project as described in this Agreement.

19. POST AGREEMENT COVENANT.

Applicant agrees not to use any confidential, protected, or privileged information which is gained from the County under this Agreement, for any personal benefit, gain, or enhancement. Further, Applicant 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, and concerning such, Applicant by virtue of this Agreement has gained access to the County's confidential, privileged, protected, or proprietary information.

20. SEVERABILITY.

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

21. FUNDING LIMITATION.

The ability of County to enter this Agreement is based upon available funding from various sources. In the event that such funding fails, is reduced, or is modified, from one or more sources, County has the option to cancel, reduce, or modify this Agreement, or any of its terms within ten (10) days of its notifying Applicant 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).

Three (23)

22. 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.

23. AMENDMENT.

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

24. NOTICE.

Any notice, communication, amendments, additions, or deletions to this Agreement, including change of address of either party during the terms of this Agreement, which Applicant 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 and Human Services — Department
P.O. Drawer H — Address
Independence, CA 93526 — City and State

Applicant:
Olancha Cartago Fire Department — Name
689 Shop Street — Address
Olancha, CA 93549-0064 — City and State

25. ENTIRE AGREEMENT.

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

AGREEMENT BETWEEN COUNTY OF INYO
AND Olancha Cartago Fire Department
FOR PROVISION OF MADDY EMERGENCY MEDICAL SERVICES FUNDS

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

COUNTY OF INYO

By:_____

Dated:_____

APPLICANT

By:_____
Signature

Steve Davis as Fire Chief
Type or Print Name

Dated: 05/15/2013

APPROVED AS TO FORM AND LEGALITY:

_____
County Counsel

APPROVED AS TO ACCOUNTING FORM:

_____
County Auditor

APPROVED AS TO INSURANCE REQUIREMENTS:

_____
County Risk Manager

ATTACHMENT A

AGREEMENT BETWEEN COUNTY OF INYO
AND Olancha Cartago Fire Department
FOR PROVISION OF MADDY EMERGENCY MEDICAL SERVICES FUNDS

TERM:

FROM: July 1, 2013 **TO:** December 31, 2013

MADDY FUND PROPOSED USAGE:

1. **Funded Activities/Service:**

a. (List the items to be purchased)

ITEM(S)	QUANITITY		COST
VITAL SIGN MONITORS	3	$	6,900.00
PORTABLE SUCTION UNITS	3	$	1,125.00
BACK BOARDS, C-COLLARS, OXYGEN EQUIPMENT		$	3,000.00
TOTAL		$	11,025.00

ATTACHMENT B

AGREEMENT BETWEEN COUNTY OF INYO
AND Olancha Cartago Fire Department
FOR PROVISION OF MADDY EMERGENCY MEDICAL SERVICES FUNDS

TERM:

FROM: July 1, 2013 **TO:** December 31, 2013

SCHEDULE OF FEES:

County will provide Applicant with $11,025.00, in advance, for the purchase of items specified in Attachment A. Applicant shall provide County copies of receipts for such purchases within thirty (30) days of purchase. Funds that are not expended by the end of the contract period shall be returned to the County.

Specifications 1

Insurance Requirements for Most Contracts

(Not for Professional Services or Construction Contracts)

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

MINIMUM SCOPE AND LIMIT OF INSURANCE

Coverage shall be at least as broad as:

1. **Commercial General Liability (CGL)**: Insurance Services Office (ISO) Form CG 00 01 12 07 covering CGL on an "occurrence" basis, including products-completed operations, personal & advertising injury, with limits no less than **$1,000,000** per occurrence. If a general aggregate limit applies, either the general aggregate limit shall apply separately to this project/location or the general aggregate limit shall be twice the required occurrence limit.
2. **Automobile Liability:** ISO Form Number CA 00 01 covering any auto (Code 1), or if Contractor has no owned autos, hired, (Code 8) and non-owned autos (Code 9), with limit no less than **$500,000** per accident for bodily injury and property damage.
3. **Workers' Compensation:** as required by the State of California, with Statutory Limits, and Employer's Liability Insurance with limit of no less than **$1,000,000** per accident for bodily injury or disease.

If the contractor 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 CGL policy with respect to liability arising out of work or operations performed by or on behalf of the Contractor including materials, parts, or equipment furnished in connection with such work or operations. General liability coverage can be provided in the form of an endorsement to the Contractor's insurance at least as broad as ISO Form CG 20 10 11 85 or if not available, through the addition of both CG 20 10 and CG 20 37 if a later edition is used).

ATTACHMENT C

AGREEMENT BETWEEN COUNTY OF INYO
AND Olancha Cartago Fire Department
FOR PROVISION OF MADDY EMERGENCY MEDICAL SERVICES FUNDS

TERM:

FROM: July 1, 2013 **TO:** December 31, 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 Olancha Cartago Fire Department
FOR PROVISION OF MADDY EMERGENCY MEDICAL SERVICES FUNDS

TERM:

FROM: July 1, 2013 **TO:** December 31, 2013

See Attached Insurance Provisions

Primary Coverage

For any claims related to this contract, the Contractor'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 Contractor's insurance and shall not contribute with it.

Notice of Cancellation

Each insurance policy required above shall provide that coverage shall not be canceled, except with notice to the Entity.

Waiver of Subrogation

Contractor hereby grants to Entity a waiver of any right to subrogation which any insurer of said Contractor may acquire against the Entity by virtue of the payment of any loss under such insurance. Contractor 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 Contractor to purchase coverage with a lower deductible or retention or 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.

Verification of Coverage

Contractor 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 Contractor'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.

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.

AGREEMENT BETWEEN COUNTY OF INYO
AND Lone Pine Volunteer Fire Department
FOR PROVISION OF MADDY EMERGENCY MEDICAL SERVICES FUNDS

INTRODUCTION

This Agreement is entered into this 1st day of July 2013, by and between the County of Inyo, hereinafter referred to as "County", and Lone Pine Volunteer Fire Department, hereinafter referred to as "Applicant".

WHEREAS, Health and Safety Code Section 1797.98a et seq. authorizes the establishment of an emergency medical services fund by the County; and

WHEREAS, the County has established such fund, commonly referred to as the "Maddy Fund"; and

WHEREAS, a certain percentage of the Maddy Fund administered by the County is specifically designated for distribution for local emergency medical services; and

WHEREAS, the County has established criteria and priorities for entities and agencies providing emergency medical services in Inyo County to request distributions from the Maddy Fund; and

WHEREAS, Applicant has requested distribution from the Maddy Fund for the purpose or activity set forth in Attachment **A**; and

WHEREAS, said purpose or activity meets the funding criteria set forth in Health and Safety Code Section 1797.98a et seq. and the criteria and priorities established by the County;

NOW, THEREFORE, County and Applicant, in consideration of the mutual benefits, promises, covenants, terms, and conditions hereinafter contained, do agree as follows:

TERMS AND CONDITIONS

1. SCOPE OF SERVICES/SUPPORT.

The Applicant will utilize the Maddy Funds in the matter specified in Attachment "**A**", (herein after referred to as "Project") attached hereto and by reference incorporated herein.

The Applicant will use the Maddy Funds distributed under the terms of this Agreement in the manner and by the means set forth in Attachment **A**, and in a manner consistent with the requirements and standards established by applicable federal, state, and County laws, ordinances, regulations, and resolutions, including but not limited to Health and Safety Code Section 1797.98a et seq. Such laws, ordinances, regulations, and resolutions include, but are not limited to, those which are referred to in this Agreement, including any Attachments thereto.

Applicant agrees to diligently and promptly pursue the completion of the Project, and to complete the Project within one year from the date of this Agreement.

2. LIMITATIONS ON USE OF FUNDS.

Prohibition against Lobbying and Campaigning. None of the funds provided by the County to Applicant under this Agreement may be used , directly or indirectly, by Applicant, any of its agents, officers, or employees to lobby any Federal officer or employee, member of Congress, State officer or employee, member of the State Legislature, any officer, employee or member of any governing or advisory body of any county, city, or special district within the State of California or any other state on any issue whatsoever. Further, none of the funds provided by the County to Applicant under this Agreement may be used, directly or indirectly, by Applicant, any of its agents, officers or employees to campaign for or against any candidate for any federal, state, or local office, or to campaign for or against any measure appearing on any state or local ballot.

3. TERM.

The term of this Agreement shall be from July 1, 2013 to December 31, 2013, unless sooner terminated as provided below.

4. CONSIDERATION.

A. Compensation. County agrees to pay, as set forth below, a sum not to exceed $ 11,026.80, to Applicant for the purpose of funding the aforesaid Project as allowable under the Maddy Fund in accordance with the Schedule of Fees (set forth in Attachment B).

B. No Additional Consideration. Except as expressly provided in this Agreement, Applicant 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, Applicant shall not be entitled, by virtue of this Agreement, to consideration in the form of overtime, health insurance benefits, retirement benefits, disability retirement benefits, sick leave, vacation time, paid holidays, or other paid leaves of absence of any type or kind whatsoever.

C. Limit Upon Amount Payable Under Agreement. The total sum of all payments made by the County to Applicant under this Agreement shall not exceed $ 11,026.80 (hereinafter referred to as "contract limit"). County expressly reserves the right to deny any payment or reimbursement requested by Applicant which is in excess of the contract limit.

D. Billing and Payment. Applicant shall submit to the County an itemized statement of all services, work, or purchases made in connection with the Project as set forth in Attachment **A**. This statement will be submitted to the County not later than thirty (30) days after completing the services, work, or purchases. This statement will identify the date on which the services, work, or purchases were performed and describe the nature of the services, work, or purchases. The County shall make payment to Applicant within thirty (30) days of its receipt of the statement.

E. Federal and State Taxes.

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

(2) County will withhold California State income taxes from payments made under this Agreement to a non-California resident Applicant when it is anticipated that total annual payments to Applicant 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 Applicant under this Agreement. Payment of all taxes and other assessments on such sums is the sole responsibility of Applicant. County has no responsibility or liability for payment of Applicant's taxes or assessments.

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

5. REQUIRED LICENSES, CERTIFICATES, AND PERMITS.

A. Any licenses, certificates, or permits required by the federal, state, county, or municipal governments for Applicant to conduct the Project described in this Agreement must be procured by Applicant and be valid at the time Applicant enters into this Agreement. Further, during the term of this Agreement, Applicant 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 license, professional licenses or certificates, and business licenses. Such licenses, certificates, and permits will be procured and maintained in force by Applicant at no expense to the County. Applicant will provide County, upon execution of this Agreement, with evidence of current and valid licenses, certificates and permits which are required to conduct the Project identified in Attachment **A**. Where there is a dispute between Applicant and County as to what licenses, certificates, and permits are required to conduct the Project 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.

Applicant shall provide such office space, supplies, equipment, vehicles, reference materials, and telephone service as is necessary for Applicant to conduct the Project identified in Attachment **A** to this Agreement. Unless expressly provided for the Scope of Work and Budget (Attachment **A**), County is not obligated to reimburse or pay Applicant for any expense or cost incurred by Applicant in procuring or maintaining such items. Unless expressly provided in the Scope of Work and Budget (Attachment **A**), responsibility for the costs and expenses incurred by Applicant in providing and maintaining such items is the sole responsibility and obligation of Applicant. Any supplies, equipment, vehicles, materials, etc., paid for by County under this Agreement are the personal property of County.

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 Applicant by County pursuant to this Agreement are, and at the termination of this Agreement remain, the sole and exclusive property of County. Applicant will use reasonable care to protect, safeguard and maintain such items while they are in Applicant's possession. Applicant will be financially responsible for any loss or damage to such items, partial or total, which is the result of Applicant's negligence. Personal property subject to this provision does not include personal property purchased by Applicant with any Maddy Funds distributed under the terms of this Agreement or any previous agreement between the County and Applicant.

B. Products of Applicant'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, Applicant's services or work under this Agreement remain, the sole and exclusive property of the County. At the termination of the Agreement, Applicant will convey possession and title to all such properties to County.

8. WORKERS' COMPENSATION.

Applicant 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 APPLICANT.

All acts of Applicant, its agents, officers, employees and volunteers, relating to the performance of this Agreement, shall be performed as independent contractors, and not as agents, officers, or employees of County.

Applicant, 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**, Applicant 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 Applicant. It is understood by both Applicant 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. Applicant shall determine the method, details, and means of conducting the Project described in Attachment **A**.

B. Applicant 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 Applicant in fulfillment of this Agreement.

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

11. DEFENSE AND INDEMNIFICATION.

Applicant 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 Applicant, or Applicant's agents, officers, employees, or volunteers. Applicant'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. Applicant'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 Applicant, its agents, employees, volunteers, 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.

Applicant'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 Applicant to procure and maintain a policy of insurance.

To the extent permitted by law, County shall defend, indemnify, and hold harmless Applicant, 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. Applicant shall prepare and maintain all records required by the various provisions of this Agreement, federal, state, and municipal law, ordinances, regulations, and directions. Applicant shall maintain these records for a minimum of four (4) years from the termination or completion of this Agreement. Applicant 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 Applicant, 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 Applicant. Further, County has the right, at all reasonable times, to audit, inspect, or otherwise evaluate the work performed or being performed under this Agreement and further, to submit to the County Administrative Officer a written report upon completion of the Project detailing the record of expenditures under this Agreement.

C. Records. Applicant agrees to provide to the Inyo County Board of Supervisors a mid-year progress report as well as a final year-end report. Both the mid-year and final reports will provide the information set forth in the GIS Program Report Format Guidelines.

13. NONDISCRIMINATION.

During the performance of this Agreement, Applicant, its agents, officers, employees and volunteers 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. Applicant and its agents, officers, employees and volunteers 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. ASSIGNMENT.

This is an agreement for the services of Applicant. County has relied upon the skills, knowledge, experience, and training of Applicant as an inducement to enter into this Agreement. Applicant shall not

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

15. DEFAULT.

If the Applicant abandons the Project, or fails to proceed with the Project in a timely manner, or fails in any way as required to conduct the Project as required, County may declare the Applicant in default and terminate this Agreement upon five (5) days written notice to Applicant. Upon such termination County will pay to Applicant all sums owed it for services and work authorized in the Scope of Work and Budget (Attachment **A**) which were satisfactorily performed before the date of termination.

16. WAIVER OF DEFAULT.

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

17. CONFIDENTIALITY.

Applicant 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 Applicant in the course of providing services and work under this Agreement, shall be privileged, restricted, or confidential. Applicant agrees to keep confidential all such information and records. Disclosure of such confidential, privileged, or protected information shall be made by Applicant only with the express written consent of the County.

18. CONFLICTS.

Applicant agrees that it has no interest, and shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with its performance of the Project as described in this Agreement.

19. POST AGREEMENT COVENANT.

Applicant agrees not to use any confidential, protected, or privileged information which is gained from the County under this Agreement, for any personal benefit, gain, or enhancement. Further, Applicant 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, and concerning such, Applicant by virtue of this Agreement has gained access to the County's confidential, privileged, protected, or proprietary information.

20. SEVERABILITY.

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

21. FUNDING LIMITATION.

The ability of County to enter this Agreement is based upon available funding from various sources. In the event that such funding fails, is reduced, or is modified, from one or more sources, County has the option to cancel, reduce, or modify this Agreement, or any of its terms within ten (10) days of its notifying Applicant 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).

Three (23)

22. 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.

23. AMENDMENT.

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

24. NOTICE.

Any notice, communication, amendments, additions, or deletions to this Agreement, including change of address of either party during the terms of this Agreement, which Applicant 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 and Human Services — Department
P.O. Drawer H — Address
Independence, CA 93526 — City and State

Applicant:
Lone Pine Volunteer Fire Department — Name
P.O. Box 1007 — Address
Lone Pine, CA 93545 — City and State

25. ENTIRE AGREEMENT.

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

AGREEMENT BETWEEN COUNTY OF INYO
AND Lone Pine Volunteer Fire Department
FOR PROVISION OF MADDY EMERGENCY MEDICAL SERVICES FUNDS

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

COUNTY OF INYO

By:_____

Dated:_____

APPLICANT

By:_____
Signature

_____
Type or Print Name

Dated:_____

APPROVED AS TO FORM AND LEGALITY:

_____
County Counsel

APPROVED AS TO ACCOUNTING FORM:

_____
County Auditor

APPROVED AS TO INSURANCE REQUIREMENTS:

_____
County Risk Manager

ATTACHMENT A

AGREEMENT BETWEEN COUNTY OF INYO
AND Lone Pine Volunteer Fire Department
FOR PROVISION OF MADDY EMERGENCY MEDICAL SERVICES FUNDS

TERM:

FROM: July 1, 2013 **TO:** December 31, 2013

MADDY FUND PROPOSED USAGE:

1. **Funded Activities/Service:**

a. (List the items to be purchased)

ITEM(S)	QUANITITY		COST
VITAL SIGN MONITORS	3	$	6,900.00
PORTABLE SUCTION UNITS	3	$	1,125.00
INTRAOSSEOUS SIMULATOR	1	$	575.00
PRES ADT MAN W CPR 4	1	$	570.00
BACK BOARD	10	$	1,040.00
SUBTOTAL		$	10,210.00
SALES TAX		$	816.80
GRAND TOTAL		$	11,026.80

ATTACHMENT B

AGREEMENT BETWEEN COUNTY OF INYO
AND Lone Pine Volunteer Fire Department
FOR PROVISION OF MADDY EMERGENCY MEDICAL SERVICES FUNDS

TERM:

FROM: July 1, 2013 **TO:** December 31, 2013

SCHEDULE OF FEES:

County will provide Applicant with $11,026.80, in advance, for the purchase of items specified in Attachment A. Applicant shall provide County copies of receipts for such purchases within thirty (30) days of purchase. Funds that are not expended by the end of the contract period shall be returned to the County.

ATTACHMENT C

AGREEMENT BETWEEN COUNTY OF INYO
AND Lone Pine Volunteer Fire Department
FOR PROVISION OF MADDY EMERGENCY MEDICAL SERVICES FUNDS

TERM:

FROM: July 1, 2013 **TO:** December 31, 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 Lone Pine Volunteer Fire Department
FOR PROVISION OF MADDY EMERGENCY MEDICAL SERVICES FUNDS

TERM:

FROM: July 1, 2013 **TO:** December 31, 2013

See Attached Insurance Provisions

Specifications 1

Insurance Requirements for Most Contracts

(Not for Professional Services or Construction Contracts)

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

MINIMUM SCOPE AND LIMIT OF INSURANCE

Coverage shall be at least as broad as:

1. **Commercial General Liability (CGL)**: Insurance Services Office (ISO) Form CG 00 01 12 07 covering CGL on an "occurrence" basis, including products-completed operations, personal & advertising injury, with limits no less than **$1,000,000** per occurrence. If a general aggregate limit applies, either the general aggregate limit shall apply separately to this project/location or the general aggregate limit shall be twice the required occurrence limit.
2. **Automobile Liability:** ISO Form Number CA 00 01 covering any auto (Code 1), or if Contractor has no owned autos, hired, (Code 8) and non-owned autos (Code 9), with limit no less than **$500,000** per accident for bodily injury and property damage.
3. **Workers' Compensation:** as required by the State of California, with Statutory Limits, and Employer's Liability Insurance with limit of no less than **$1,000,000** per accident for bodily injury or disease.

If the contractor 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 CGL policy with respect to liability arising out of work or operations performed by or on behalf of the Contractor including materials, parts, or equipment furnished in connection with such work or operations. General liability coverage can be provided in the form of an endorsement to the Contractor's insurance at least as broad as ISO Form CG 20 10 11 85 or if not available, through the addition of both CG 20 10 and CG 20 37 if a later edition is used).

Primary Coverage

For any claims related to this contract, the Contractor's insurance coverage shall be primary 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 Contractor's insurance and shall not contribute with it.

Notice of Cancellation

Each insurance policy required above shall provide that coverage shall not be canceled, except with notice to the Entity.

Waiver of Subrogation

Contractor hereby grants to Entity a waiver of any right to subrogation which any insurer of said Contractor may acquire against the Entity by virtue of the payment of any loss under such insurance. Contractor 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 Contractor to purchase coverage with a lower deductible or retention or 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.

Verification of Coverage

Contractor 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 Contractor'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.

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.

AGREEMENT BETWEEN COUNTY OF INYO
AND Big Pine Fire Protection District
FOR PROVISION OF MADDY EMERGENCY MEDICAL SERVICES FUNDS

INTRODUCTION

This Agreement is entered into this 1st day of July 2013, by and between the County of Inyo, hereinafter referred to as "County", and Big Pine Fire Protection District, hereinafter referred to as "Applicant".

WHEREAS, Health and Safety Code Section 1797.98a et seq. authorizes the establishment of an emergency medical services fund by the County; and

WHEREAS, the County has established such fund, commonly referred to as the "Maddy Fund"; and

WHEREAS, a certain percentage of the Maddy Fund administered by the County is specifically designated for distribution for local emergency medical services; and

WHEREAS, the County has established criteria and priorities for entities and agencies providing emergency medical services in Inyo County to request distributions from the Maddy Fund; and

WHEREAS, Applicant has requested distribution from the Maddy Fund for the purpose or activity set forth in Attachment **A**; and

WHEREAS, said purpose or activity meets the funding criteria set forth in Health and Safety Code Section 1797.98a et seq. and the criteria and priorities established by the County;

NOW, THEREFORE, County and Applicant, in consideration of the mutual benefits, promises, covenants, terms, and conditions hereinafter contained, do agree as follows:

TERMS AND CONDITIONS

1. SCOPE OF SERVICES/SUPPORT.

The Applicant will utilize the Maddy Funds in the matter specified in Attachment "**A**", (herein after referred to as "Project") attached hereto and by reference incorporated herein.

The Applicant will use the Maddy Funds distributed under the terms of this Agreement in the manner and by the means set forth in Attachment **A**, and in a manner consistent with the requirements and standards established by applicable federal, state, and County laws, ordinances, regulations, and resolutions, including but not limited to Health and Safety Code Section 1797.98a et seq. Such laws, ordinances, regulations, and resolutions include, but are not limited to, those which are referred to in this Agreement, including any Attachments thereto.

Applicant agrees to diligently and promptly pursue the completion of the Project, and to complete the Project within one year from the date of this Agreement.

2. LIMITATIONS ON USE OF FUNDS.

Prohibition against Lobbying and Campaigning. None of the funds provided by the County to Applicant under this Agreement may be used , directly or indirectly, by Applicant, any of its agents, officers, or employees to lobby any Federal officer or employee, member of Congress, State officer or employee, member of the State Legislature, any officer, employee or member of any governing or advisory body of any county, city, or special district within the State of California or any other state on any issue whatsoever. Further, none of the funds provided by the County to Applicant under this Agreement may be used, directly or indirectly, by Applicant, any of its agents, officers or employees to campaign for or against any candidate for any federal, state, or local office, or to campaign for or against any measure appearing on any state or local ballot.

3. TERM.

The term of this Agreement shall be from July 1, 2013 to December 31, 2013, unless sooner terminated as provided below.

4. CONSIDERATION.

A. Compensation. County agrees to pay, as set forth below, a sum not to exceed $ 9,999.48, to Applicant for the purpose of funding the aforesaid Project as allowable under the Maddy Fund in accordance with the Schedule of Fees (set forth in Attachment B).

B. No Additional Consideration. Except as expressly provided in this Agreement, Applicant 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, Applicant shall not be entitled, by virtue of this Agreement, to consideration in the form of overtime, health insurance benefits, retirement benefits, disability retirement benefits, sick leave, vacation time, paid holidays, or other paid leaves of absence of any type or kind whatsoever.

C. Limit Upon Amount Payable Under Agreement. The total sum of all payments made by the County to Applicant under this Agreement shall not exceed $ 9,999.48 (hereinafter referred to as "contract limit"). County expressly reserves the right to deny any payment or reimbursement requested by Applicant which is in excess of the contract limit.

D. Billing and Payment. Applicant shall submit to the County an itemized statement of all services, work, or purchases made in connection with the Project as set forth in Attachment **A**. This statement will be submitted to the County not later than thirty (30) days after completing the services, work, or purchases. This statement will identify the date on which the services, work, or purchases were performed and describe the nature of the services, work, or purchases. The County shall make payment to Applicant within thirty (30) days of its receipt of the statement.

E. Federal and State Taxes.

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

(2) County will withhold California State income taxes from payments made under this Agreement to a non-California resident Applicant when it is anticipated that total annual payments to Applicant 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 Applicant under this Agreement. Payment of all taxes and other assessments on such sums is the sole responsibility of Applicant. County has no responsibility or liability for payment of Applicant's taxes or assessments.

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

5. REQUIRED LICENSES, CERTIFICATES, AND PERMITS.

A. Any licenses, certificates, or permits required by the federal, state, county, or municipal governments for Applicant to conduct the Project described in this Agreement must be procured by Applicant and be valid at the time Applicant enters into this Agreement. Further, during the term of this Agreement, Applicant 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 license, professional licenses or certificates, and business licenses. Such licenses, certificates, and permits will be procured and maintained in force by Applicant at no expense to the County. Applicant will provide County, upon execution of this Agreement, with evidence of current and valid licenses, certificates and permits which are required to conduct the Project identified in Attachment **A**. Where there is a dispute between Applicant and County as to what licenses, certificates, and permits are required to conduct the Project 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.

Applicant shall provide such office space, supplies, equipment, vehicles, reference materials, and telephone service as is necessary for Applicant to conduct the Project identified in Attachment **A** to this Agreement. Unless expressly provided for the Scope of Work and Budget (Attachment **A**), County is not obligated to reimburse or pay Applicant for any expense or cost incurred by Applicant in procuring or maintaining such items. Unless expressly provided in the Scope of Work and Budget (Attachment **A**), responsibility for the costs and expenses incurred by Applicant in providing and maintaining such items is the sole responsibility and obligation of Applicant. Any supplies, equipment, vehicles, materials, etc., paid for by County under this Agreement are the personal property of County.

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 Applicant by County pursuant to this Agreement are, and at the termination of this Agreement remain, the sole and exclusive property of County. Applicant will use reasonable care to protect, safeguard and maintain such items while they are in Applicant's possession. Applicant will be financially responsible for any loss or damage to such items, partial or total, which is the result of Applicant's negligence. Personal property subject to this provision does not include personal property purchased by Applicant with any Maddy Funds distributed under the terms of this Agreement or any previous agreement between the County and Applicant.

B. Products of Applicant'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, Applicant's services or work under this Agreement remain, the sole and exclusive property of the County. At the termination of the Agreement, Applicant will convey possession and title to all such properties to County.

8. WORKERS' COMPENSATION.

Applicant 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 APPLICANT.

All acts of Applicant, its agents, officers, employees and volunteers, relating to the performance of this Agreement, shall be performed as independent contractors, and not as agents, officers, or employees of County.

Applicant, 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**, Applicant 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 Applicant. It is understood by both Applicant 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. Applicant shall determine the method, details, and means of conducting the Project described in Attachment **A**.

B. Applicant 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 Applicant in fulfillment of this Agreement.

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

11. DEFENSE AND INDEMNIFICATION.

Applicant 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 Applicant, or Applicant's agents, officers, employees, or volunteers. Applicant'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. Applicant'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 Applicant, its agents, employees, volunteers, 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.

Applicant'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 Applicant to procure and maintain a policy of insurance.

To the extent permitted by law, County shall defend, indemnify, and hold harmless Applicant, 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. Applicant shall prepare and maintain all records required by the various provisions of this Agreement, federal, state, and municipal law, ordinances, regulations, and directions. Applicant shall maintain these records for a minimum of four (4) years from the termination or completion of this Agreement. Applicant 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 Applicant, 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 Applicant. Further, County has the right, at all reasonable times, to audit, inspect, or otherwise evaluate the work performed or being performed under this Agreement and further, to submit to the County Administrative Officer a written report upon completion of the Project detailing the record of expenditures under this Agreement.

C. Records. Applicant agrees to provide to the Inyo County Board of Supervisors a mid-year progress report as well as a final year-end report. Both the mid-year and final reports will provide the information set forth in the GIS Program Report Format Guidelines.

13. NONDISCRIMINATION.

During the performance of this Agreement, Applicant, its agents, officers, employees and volunteers 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. Applicant and its agents, officers, employees and volunteers 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. ASSIGNMENT.

This is an agreement for the services of Applicant. County has relied upon the skills, knowledge, experience, and training of Applicant as an inducement to enter into this Agreement. Applicant shall not

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

15. DEFAULT.

If the Applicant abandons the Project, or fails to proceed with the Project in a timely manner, or fails in any way as required to conduct the Project as required, County may declare the Applicant in default and terminate this Agreement upon five (5) days written notice to Applicant. Upon such termination County will pay to Applicant all sums owed it for services and work authorized in the Scope of Work and Budget (Attachment **A**) which were satisfactorily performed before the date of termination.

16. WAIVER OF DEFAULT.

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

17. CONFIDENTIALITY.

Applicant 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 Applicant in the course of providing services and work under this Agreement, shall be privileged, restricted, or confidential. Applicant agrees to keep confidential all such information and records. Disclosure of such confidential, privileged, or protected information shall be made by Applicant only with the express written consent of the County.

18. CONFLICTS.

Applicant agrees that it has no interest, and shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with its performance of the Project as described in this Agreement.

19. POST AGREEMENT COVENANT.

Applicant agrees not to use any confidential, protected, or privileged information which is gained from the County under this Agreement, for any personal benefit, gain, or enhancement. Further, Applicant 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, and concerning such, Applicant by virtue of this Agreement has gained access to the County's confidential, privileged, protected, or proprietary information.

20. SEVERABILITY.

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

21. FUNDING LIMITATION.

The ability of County to enter this Agreement is based upon available funding from various sources. In the event that such funding fails, is reduced, or is modified, from one or more sources, County has the option to cancel, reduce, or modify this Agreement, or any of its terms within ten (10) days of its notifying Applicant 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).

Three (23) 22. 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.

23. AMENDMENT.

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

24. NOTICE.

Any notice, communication, amendments, additions, or deletions to this Agreement, including change of address of either party during the terms of this Agreement, which Applicant 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 and Human Services — Department
P.O. Drawer H — Address
Independence, CA 93526 — City and State

Applicant:
Big Pine Fire Protection District — Name
P.O. Box 382 — Address
Big Pine, CA 93513 — City and State

25. ENTIRE AGREEMENT.

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

AGREEMENT BETWEEN COUNTY OF INYO
AND Big Pine Fire Protection District
FOR PROVISION OF MADDY EMERGENCY MEDICAL SERVICES FUNDS

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

COUNTY OF INYO

By: _____

Dated: _____

APPLICANT

By: _____
Signature

Damon Carrington
Type or Print Name

Dated: 5/20/13

APPROVED AS TO FORM AND LEGALITY:

_____
County Counsel

APPROVED AS TO ACCOUNTING FORM:

_____
County Auditor

APPROVED AS TO INSURANCE REQUIREMENTS:

M. Baker
_____
County Risk Manager

ATTACHMENT A

AGREEMENT BETWEEN COUNTY OF INYO
AND Big Pine Fire Protection District
FOR PROVISION OF MADDY EMERGENCY MEDICAL SERVICES FUNDS

TERM:

FROM: July 1, 2013 **TO:** December 31, 2013

MADDY FUND PROPOSED USAGE:

1. **Funded Activities/Service:**

a. (List the items to be purchased)

ITEM(S)	QUANITITY	COST
AED	1	$ 784.82
BATTERY SYSTEM FOR STRYKER GURNEY'S	2	$ 972.00
HANDHELD RADIO'S	4	$ 2,687.00
1-YEAR SUBSCRIPTION CELLULAR DISPATCH		$ 1,147.00
COMPUTER FOR TRAINING	1	$ 2,825.00
AIRWAY MANIKIN TRAINER	1	$ 1,154.66
ARM & HAND IV TRAINERS	1	$ 429.00
TOTAL		$ 9,999.48

ATTACHMENT B

AGREEMENT BETWEEN COUNTY OF INYO
AND Big Pine Fire Protection District
FOR PROVISION OF MADDY EMERGENCY MEDICAL SERVICES FUNDS

TERM:

FROM: July 1, 2013 **TO:** December 31, 2013

SCHEDULE OF FEES:

County will provide Applicant with $9,999.48, in advance, for the purchase of items specified in Attachment A. Applicant shall provide County copies of receipts for such purchases within thirty (30) days of purchase. Funds that are not expended by the end of the contract period shall be returned to the County.

ATTACHMENT C

AGREEMENT BETWEEN COUNTY OF INYO
AND Big Pine Fire Protection District
FOR PROVISION OF MADDY EMERGENCY MEDICAL SERVICES FUNDS

TERM:

FROM: July 1, 2013 **TO:** December 31, 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 Big Pine Fire Protection District
FOR PROVISION OF MADDY EMERGENCY MEDICAL SERVICES FUNDS

TERM:

FROM: July 1, 2013 **TO:** December 31, 2013

See Attached Insurance Provisions

Specifications 1

Insurance Requirements for Most Contracts

(Not for Professional Services or Construction Contracts)

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

MINIMUM SCOPE AND LIMIT OF INSURANCE

Coverage shall be at least as broad as:

1. **Commercial General Liability (CGL)**: Insurance Services Office (ISO) Form CG 00 01 12 07 covering CGL on an "occurrence" basis, including products-completed operations, personal & advertising injury, with limits no less than **$1,000,000** per occurrence. If a general aggregate limit applies, either the general aggregate limit shall apply separately to this project/location or the general aggregate limit shall be twice the required occurrence limit.
2. **Automobile Liability:** ISO Form Number CA 00 01 covering any auto (Code 1), or if Contractor has no owned autos, hired, (Code 8) and non-owned autos (Code 9), with limit no less than **$500,000** per accident for bodily injury and property damage.
3. **Workers' Compensation:** as required by the State of California, with Statutory Limits, and Employer's Liability Insurance with limit of no less than **$1,000,000** per accident for bodily injury or disease.

If the contractor 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 CGL policy with respect to liability arising out of work or operations performed by or on behalf of the Contractor including materials, parts, or equipment furnished in connection with such work or operations. General liability coverage can be provided in the form of an endorsement to the Contractor's insurance at least as broad as ISO Form CG 20 10 11 85 or if not available, through the addition of both CG 20 10 and CG 20 37 if a later edition is used).

Primary Coverage

For any claims related to this contract, the Contractor's insurance coverage shall be primary 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 Contractor's insurance and shall not contribute with it.

Notice of Cancellation

Each insurance policy required above shall provide that coverage shall not be canceled, except with notice to the Entity.

Waiver of Subrogation

Contractor hereby grants to Entity a waiver of any right to subrogation which any insurer of said Contractor may acquire against the Entity by virtue of the payment of any loss under such insurance. Contractor 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 Contractor to purchase coverage with a lower deductible or retention or 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.

Verification of Coverage

Contractor 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 Contractor'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.

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.

AGREEMENT BETWEEN COUNTY OF INYO
AND Southern Inyo Fire Protection District
FOR PROVISION OF MADDY EMERGENCY MEDICAL SERVICES FUNDS

INTRODUCTION

This Agreement is entered into this 1st day of July 2013, by and between the County of Inyo, hereinafter referred to as "County", and Southern Inyo Fire Protection District, hereinafter referred to as "Applicant".

WHEREAS, Health and Safety Code Section 1797.98a et seq. authorizes the establishment of an emergency medical services fund by the County; and

WHEREAS, the County has established such fund, commonly referred to as the "Maddy Fund"; and

WHEREAS, a certain percentage of the Maddy Fund administered by the County is specifically designated for distribution for local emergency medical services; and

WHEREAS, the County has established criteria and priorities for entities and agencies providing emergency medical services in Inyo County to request distributions from the Maddy Fund; and

WHEREAS, Applicant has requested distribution from the Maddy Fund for the purpose or activity set forth in Attachment **A**; and

WHEREAS, said purpose or activity meets the funding criteria set forth in Health and Safety Code Section 1797.98a et seq. and the criteria and priorities established by the County;

NOW, THEREFORE, County and Applicant, in consideration of the mutual benefits, promises, covenants, terms, and conditions hereinafter contained, do agree as follows:

TERMS AND CONDITIONS

1. SCOPE OF SERVICES/SUPPORT.

The Applicant will utilize the Maddy Funds in the matter specified in Attachment "**A**", (herein after referred to as "Project") attached hereto and by reference incorporated herein.

The Applicant will use the Maddy Funds distributed under the terms of this Agreement in the manner and by the means set forth in Attachment **A**, and in a manner consistent with the requirements and standards established by applicable federal, state, and County laws, ordinances, regulations, and resolutions, including but not limited to Health and Safety Code Section 1797.98a et seq. Such laws, ordinances, regulations, and resolutions include, but are not limited to, those which are referred to in this Agreement, including any Attachments thereto.

Applicant agrees to diligently and promptly pursue the completion of the Project, and to complete the Project within one year from the date of this Agreement.

2. LIMITATIONS ON USE OF FUNDS.

Prohibition against Lobbying and Campaigning. None of the funds provided by the County to Applicant under this Agreement may be used , directly or indirectly, by Applicant, any of its agents, officers, or employees to lobby any Federal officer or employee, member of Congress, State officer or employee, member of the State Legislature, any officer, employee or member of any governing or advisory body of any county, city, or special district within the State of California or any other state on any issue whatsoever. Further, none of the funds provided by the County to Applicant under this Agreement may be used, directly or indirectly, by Applicant, any of its agents, officers or employees to campaign for or against any candidate for any federal, state, or local office, or to campaign for or against any measure appearing on any state or local ballot.

3. TERM.

The term of this Agreement shall be from July 1, 2013 to December 31, 2013, unless sooner terminated as provided below.

4. CONSIDERATION.

A. Compensation. County agrees to pay, as set forth below, a sum not to exceed $ 11,388.00, to Applicant for the purpose of funding the aforesaid Project as allowable under the Maddy Fund in accordance with the Schedule of Fees (set forth in Attachment B).

B. No Additional Consideration. Except as expressly provided in this Agreement, Applicant 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, Applicant shall not be entitled, by virtue of this Agreement, to consideration in the form of overtime, health insurance benefits, retirement benefits, disability retirement benefits, sick leave, vacation time, paid holidays, or other paid leaves of absence of any type or kind whatsoever.

C. Limit Upon Amount Payable Under Agreement. The total sum of all payments made by the County to Applicant under this Agreement shall not exceed $ 11,388.00 (hereinafter referred to as "contract limit"). County expressly reserves the right to deny any payment or reimbursement requested by Applicant which is in excess of the contract limit.

D. Billing and Payment. Applicant shall submit to the County an itemized statement of all services, work, or purchases made in connection with the Project as set forth in Attachment **A**. This statement will be submitted to the County not later than thirty (30) days after completing the services, work, or purchases. This statement will identify the date on which the services, work, or purchases were performed and describe the nature of the services, work, or purchases. The County shall make payment to Applicant within thirty (30) days of its receipt of the statement.

E. Federal and State Taxes.

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

(2) County will withhold California State income taxes from payments made under this Agreement to a non-California resident Applicant when it is anticipated that total annual payments to Applicant 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 Applicant under this Agreement. Payment of all taxes and other assessments on such sums is the sole responsibility of Applicant. County has no responsibility or liability for payment of Applicant's taxes or assessments.

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

5. REQUIRED LICENSES, CERTIFICATES, AND PERMITS.

A. Any licenses, certificates, or permits required by the federal, state, county, or municipal governments for Applicant to conduct the Project described in this Agreement must be procured by Applicant and be valid at the time Applicant enters into this Agreement. Further, during the term of this Agreement, Applicant 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 license, professional licenses or certificates, and business licenses. Such licenses, certificates, and permits will be procured and maintained in force by Applicant at no expense to the County. Applicant will provide County, upon execution of this Agreement, with evidence of current and valid licenses, certificates and permits which are required to conduct the Project identified in Attachment **A**. Where there is a dispute between Applicant and County as to what licenses, certificates, and permits are required to conduct the Project 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.

Applicant shall provide such office space, supplies, equipment, vehicles, reference materials, and telephone service as is necessary for Applicant to conduct the Project identified in Attachment **A** to this Agreement. Unless expressly provided for the Scope of Work and Budget (Attachment **A**), County is not obligated to reimburse or pay Applicant for any expense or cost incurred by Applicant in procuring or maintaining such items. Unless expressly provided in the Scope of Work and Budget (Attachment **A**), responsibility for the costs and expenses incurred by Applicant in providing and maintaining such items is the sole responsibility and obligation of Applicant. Any supplies, equipment, vehicles, materials, etc., paid for by County under this Agreement are the personal property of County.

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 Applicant by County pursuant to this Agreement are, and at the termination of this Agreement remain, the sole and exclusive property of County. Applicant will use reasonable care to protect, safeguard and maintain such items while they are in Applicant's possession. Applicant will be financially responsible for any loss or damage to such items, partial or total, which is the result of Applicant's negligence. Personal property subject to this provision does not include personal property purchased by Applicant with any Maddy Funds distributed under the terms of this Agreement or any previous agreement between the County and Applicant.

B. Products of Applicant'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, Applicant's services or work under this Agreement remain, the sole and exclusive property of the County. At the termination of the Agreement, Applicant will convey possession and title to all such properties to County.

8. WORKERS' COMPENSATION.

Applicant 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 APPLICANT.

All acts of Applicant, its agents, officers, employees and volunteers, relating to the performance of this Agreement, shall be performed as independent contractors, and not as agents, officers, or employees of County.

Applicant, 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**, Applicant 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 Applicant. It is understood by both Applicant 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. Applicant shall determine the method, details, and means of conducting the Project described in Attachment **A**.

B. Applicant 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 Applicant in fulfillment of this Agreement.

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

11. DEFENSE AND INDEMNIFICATION.

Applicant 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 Applicant, or Applicant's agents, officers, employees, or volunteers. Applicant'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. Applicant'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 Applicant, its agents, employees, volunteers, 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.

Applicant'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 Applicant to procure and maintain a policy of insurance.

To the extent permitted by law, County shall defend, indemnify, and hold harmless Applicant, 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. Applicant shall prepare and maintain all records required by the various provisions of this Agreement, federal, state, and municipal law, ordinances, regulations, and directions. Applicant shall maintain these records for a minimum of four (4) years from the termination or completion of this Agreement. Applicant 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 Applicant, 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 Applicant. Further, County has the right, at all reasonable times, to audit, inspect, or otherwise evaluate the work performed or being performed under this Agreement and further, to submit to the County Administrative Officer a written report upon completion of the Project detailing the record of expenditures under this Agreement.

C. Records. Applicant agrees to provide to the Inyo County Board of Supervisors a mid-year progress report as well as a final year-end report. Both the mid-year and final reports will provide the information set forth in the GIS Program Report Format Guidelines.

13. NONDISCRIMINATION.

During the performance of this Agreement, Applicant, its agents, officers, employees and volunteers 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. Applicant and its agents, officers, employees and volunteers 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. ASSIGNMENT.

This is an agreement for the services of Applicant. County has relied upon the skills, knowledge, experience, and training of Applicant as an inducement to enter into this Agreement. Applicant shall not

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

15. DEFAULT.

If the Applicant abandons the Project, or fails to proceed with the Project in a timely manner, or fails in any way as required to conduct the Project as required, County may declare the Applicant in default and terminate this Agreement upon five (5) days written notice to Applicant. Upon such termination County will pay to Applicant all sums owed it for services and work authorized in the Scope of Work and Budget (Attachment **A**) which were satisfactorily performed before the date of termination.

16. WAIVER OF DEFAULT.

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

17. CONFIDENTIALITY.

Applicant 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 Applicant in the course of providing services and work under this Agreement, shall be privileged, restricted, or confidential. Applicant agrees to keep confidential all such information and records. Disclosure of such confidential, privileged, or protected information shall be made by Applicant only with the express written consent of the County.

18. CONFLICTS.

Applicant agrees that it has no interest, and shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with its performance of the Project as described in this Agreement.

19. POST AGREEMENT COVENANT.

Applicant agrees not to use any confidential, protected, or privileged information which is gained from the County under this Agreement, for any personal benefit, gain, or enhancement. Further, Applicant 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, and concerning such, Applicant by virtue of this Agreement has gained access to the County's confidential, privileged, protected, or proprietary information.

20. SEVERABILITY.

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

21. FUNDING LIMITATION.

The ability of County to enter this Agreement is based upon available funding from various sources. In the event that such funding fails, is reduced, or is modified, from one or more sources, County has the option to cancel, reduce, or modify this Agreement, or any of its terms within ten (10) days of its notifying Applicant 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).

Three (23)

22. 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.

23. AMENDMENT.

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

24. NOTICE.

Any notice, communication, amendments, additions, or deletions to this Agreement, including change of address of either party during the terms of this Agreement, which Applicant 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 and Human Services Department
P.O. Drawer H Address
Independence, CA 93526 City and State

Applicant:
Southern Inyo Fire Protection District Name
P.O. Box 51 Address
Tecopa, CA 92389 City and State

25. ENTIRE AGREEMENT.

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

AGREEMENT BETWEEN COUNTY OF INYO
AND Southern Inyo Fire Protection District
FOR PROVISION OF MADDY EMERGENCY MEDICAL SERVICES FUNDS

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

COUNTY OF INYO

By:_____

Dated:_____

APPLICANT

By:_____
Signature

Carl R. Oennett
Type or Print Name

Dated: 05/15/2013

APPROVED AS TO FORM AND LEGALITY:

_____
County Counsel

APPROVED AS TO ACCOUNTING FORM:

_____
County Auditor

APPROVED AS TO INSURANCE REQUIREMENTS:

_____
County Risk Manager

ATTACHMENT A

AGREEMENT BETWEEN COUNTY OF INYO
AND Southern Inyo Fire Protection District
FOR PROVISION OF MADDY EMERGENCY MEDICAL SERVICES FUNDS

TERM:

FROM: July 1, 2013 **TO:** December 31, 2013

MADDY FUND PROPOSED USAGE:

1. **Funded Activities/Service:**

a. (List the items to be purchased)

ITEM(S)	QUANITITY	COST
TUITION TO UNITECH EMT 14 DAY BOOT CAMP + BOOKS & FUEL	2	$ 8,110.00
SIMULAIDS, INC. TEACHING AIDS		$ 3,278.00
TOTAL		$ 11,388.00

ATTACHMENT B

AGREEMENT BETWEEN COUNTY OF INYO
AND Southern Inyo Fire Protection District
FOR PROVISION OF MADDY EMERGENCY MEDICAL SERVICES FUNDS

TERM:

FROM: July 1, 2013 **TO:** December 31, 2013

SCHEDULE OF FEES:

County will provide Applicant with $11,388.00, in advance, for the purchase of items specified in Attachment A. Applicant shall provide County copies of receipts for such purchases within thirty (30) days of purchase. Funds that are not expended by the end of the contract period shall be returned to the County.

ATTACHMENT C

AGREEMENT BETWEEN COUNTY OF INYO
AND Southern Inyo Fire Protection District
FOR PROVISION OF MADDY EMERGENCY MEDICAL SERVICES FUNDS

TERM:

FROM: July 1, 2013 **TO:** December 31, 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 Southern Inyo Fire Protection District
FOR PROVISION OF MADDY EMERGENCY MEDICAL SERVICES FUNDS

TERM:

FROM: July 1, 2013 **TO:** December 31, 2013

See Attached Insurance Provisions

Specifications 1

Insurance Requirements for Most Contracts

(Not for Professional Services or Construction Contracts)

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

MINIMUM SCOPE AND LIMIT OF INSURANCE

Coverage shall be at least as broad as:

1. **Commercial General Liability (CGL):** Insurance Services Office (ISO) Form CG 00 01 12 07 covering CGL on an "occurrence" basis, including products-completed operations, personal & advertising injury, with limits no less than **$1,000,000** per occurrence. If a general aggregate limit applies, either the general aggregate limit shall apply separately to this project/location or the general aggregate limit shall be twice the required occurrence limit.
2. **Automobile Liability:** ISO Form Number CA 00 01 covering any auto (Code 1), or if Contractor has no owned autos, hired, (Code 8) and non-owned autos (Code 9), with limit no less than **$500,000** per accident for bodily injury and property damage.
3. **Workers' Compensation:** as required by the State of California, with Statutory Limits, and Employer's Liability Insurance with limit of no less than **$1,000,000** per accident for bodily injury or disease.

If the contractor 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 CGL policy with respect to liability arising out of work or operations performed by or on behalf of the Contractor including materials, parts, or equipment furnished in connection with such work or operations. General liability coverage can be provided in the form of an endorsement to the Contractor's insurance at least as broad as ISO Form CG 20 10 11 85 or if not available, through the addition of both CG 20 10 and CG 20 37 if a later edition is used).

Primary Coverage

For any claims related to this contract, the Contractor's insurance coverage shall be primary 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 Contractor's insurance and shall not contribute with it.

Notice of Cancellation

Each insurance policy required above shall provide that coverage shall not be canceled, except with notice to the Entity.

Waiver of Subrogation

Contractor hereby grants to Entity a waiver of any right to subrogation which any insurer of said Contractor may acquire against the Entity by virtue of the payment of any loss under such insurance. Contractor 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 Contractor to purchase coverage with a lower deductible or retention or 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.

Verification of Coverage

Contractor 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 Contractor'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.

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

15

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 – First 5 Inyo County

FOR THE BOARD MEETING OF: June 25, 2013

SUBJECT: Request approval of contract between Toiyabe Indian Health Project, Inc. and the County of Inyo.

DEPARTMENTAL RECOMMENDATION:

Request Board of Supervisors approve the contract between Toiyabe Indian Health Project, Inc. and the County of Inyo for the provision of Child Health services from July 1, 2013 to June 30, 2014 in an amount not to exceed $45,000 contingent upon the Board's adoption of FY 2013/2014 Budget, and authorize the Chairperson to sign.

CAO RECOMMENDATION:

SUMMARY DISCUSSION:

The First 5 Inyo Commission voted to fund a contract for Pediatric Dental services again because there is an ongoing need in our region for local access to early pediatric oral care. Under this contract, pediatric oral care will be provided monthly within Inyo County during weekend hours. This project helps parents who can't afford to travel outside the county for their children's urgent and complicated dental treatments. Offering the service locally reduces the travel costs and amount of time parents miss work and children miss school when traveling to Mammoth, Ridgecrest or often Loma Linda to access dental care.

Toiyabe and their contracting pediatric dentist have also enriched this program by offering a free annual oral health exam to all Inyo County children ages 1 to 18 whose parents make an appointment for them to be screened by the visiting team. Toiyabe is then set to serve as their dental home should they require treatment, as Toiyabe is the only Denti-Cal service provider in Inyo County.

ALTERNATIVES:

Without this service fewer Inyo children will be screened for oral health issues or receive urgent oral care.

OTHER AGENCY INVOLVEMENT:

None

FINANCING:

100% State funding. This expense will be budgeted in First 5 (643000) in Professional Services (5265).

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 6/11/2013 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: yes 6/13/13 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: ✓ 6/14/13 Date:

DEPARTMENT HEAD SIGNATURE:
(Not to be signed until all approvals are received) Jean Turner Date: 6-17-13

AGREEMENT BETWEEN COUNTY OF INYO
AND Toiyabe Indian Health Project, Inc.
FOR THE PROVISION OF Oral Health **SERVICES**

INTRODUCTION

WHEREAS, the County of Inyo (hereinafter referred to as "County") may have the need for the Oral Health services of Toiyabe Indian Health Project, Inc. of the Eastern Sierra (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 of Inyo HHS. 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 July 1, 2013 to June 30, 2014 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 $45,000 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
First 5 Inyo County HHS _____ Department
568 W. Line Street _____ Street
Bishop, CA 93514 _____ City and State

Contractor:
Toiyabe Indian Health Project, Inc. _____ Name
52 Tu Su Lane _____ Street
Bishop, CA 93514 _____ 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 Toiyabe Indian Health Project, Inc.
FOR THE PROVISION OF Oral Health **SERVICES**

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

COUNTY OF INYO

By: _____

Dated: _____

CONTRACTOR

By: _____
Signature

David J. Lent
Print or Type Name

Dated: 5-30-13

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 Toiyabe Indian Health Project, Inc.
FOR THE PROVISION OF Oral Health **SERVICES**

TERM:

FROM: July 1, 2013 **TO:** June 30, 2014

SCOPE OF WORK:

The Contractor shall provide oral health services in the county of Inyo as detailed in the attached Scope of Work, and incorporated into this contract. Contractor shall perform the tasks listed in this plan by June 30, 2014 including the provision of participant intake forms, fiscal reports, and evaluation materials listed in the SOW to the satisfaction of the First 5 Inyo County Commission.

All publicity and materials for the public produced pursuant to this agreement shall be submitted to first 5 Inyo County for approval , and shall include "Funded by First 5 Inyo County, a division of Inyo Health & Human Services" or the First 5 Inyo County logo.

The First 5 Inyo County Commission makes decisions based on program evaluation, so aid from partners who help us document and increase protective factors for families with children 0 to 5 in Inyo County will be taken into account as we discuss continued and new funding.

The major services this contract addresses are:

- Free oral exam screening for children ages 1 to 18 throughout Inyo County regardless of ethnicity or income

  - **Yellow Center Intake Form capturing child's name, age, ethnicity, and primary language for each screening day**

- Monthly Pediatric Dental visits to Inyo county so parents don't have to travel outside Inyo for urgent care cases and so they can access oral health care on the weekend, to avoid missing work.

  - **Yellow Center Intake Form capturing child's name, age, ethnicity, and primary language for each clinic weekend**
  - **1 yearly Purple Family Intake Form for each child ages 5 or younger receiving weekend pediatric dental services**

Toiyabe Oral Health 2013-14 Monthly Invoice Chart

GENERAL	BUDGET	JULY	AUGUST	SEPT.	OCT.	NOV.	DEC.	JAN.	FEB.	MARCH	APRIL	MAY	JUNE	TOTALS
PERSONNEL	**45,000**													
Pediatric Dentist Salary	45,000													
TRAINING	**0**													
CONFERENCE FEES	0													
COURSE MATERIALS	0													
SUPPLIES	**0**													
TRAVEL	**0**													
GAS & MILEAGE	0													
FOOD & LODGING	0													
INDIRECT (NOT TO EXCEED 15%)	**0**													
TOTALS	**45,000**													

Use this chart to keep a running total for FY 2013-14 expenditures. Attach G/L documentation along with each month's reporting checklist and eval materials for prompt reimbursement.

Invoice summary, copy of chart, and all evaluation materials listed in SOW due by the 7th day of each new quarter.

ATTACHMENT B

AGREEMENT BETWEEN COUNTY OF INYO
AND Toiyabe Indian Health Project, Inc.
FOR THE PROVISION OF Oral Health **SERVICES**

TERM:

FROM: July 1, 2013 **TO:** June 30, 2014

SCHEDULE OF FEES:

For services satisfactorily rendered the County agrees to compensate the Contractor for expenditures incurred from July 1, 2013 to June 30, 2014 in an amount not to exceed $45,000.

Notwithstanding paragraph 3.E Billing & Payment, actual program and equipment costs are to be invoiced to First 5 Inyo County after service delivery on a quarterly basis, and indirect costs are not to exceed 15% of the total contracted grant amount.

Quarterly invoices, with attached expenditure spreadsheets, and related evaluation materials should be received by First 5 Inyo no later than 7 days after the last day of the month. In the event that invoices or evaluation materials are not forthcoming in that time period, the First 5 Inyo County commission retains the right to withhold further payment until satisfactory receipt & review of those materials has taken place.

Also, contractors should be aware that the terms of this contract are contingent on continued state funding, and if state level cuts were to occur to our revenues the county may cancel this contract at will at any time with 30 days written notice of their intent to cancel.

QUARTERLY INVOICING	LATE AFTER
July 1 to Sept. 30, 2013	Oct. 7, 2013
Oct. 1 to Dec. 30, 2013	Jan. 7, 2014
Jan. 1 to Mar. 30, 2014	Apr. 7, 2014
Apr. 1 to Jun. 30, 2014	July 7, 2014

ATTACHMENT C

AGREEMENT BETWEEN COUNTY OF INYO
AND Toiyabe Indian Health Project, Inc.
FOR THE PROVISION OF Oral Health **SERVICES**

TERM:

FROM: July 1, 2013 **TO:** June 30, 2014

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 Toiyabe Indian Health Project, Inc.
FOR THE PROVISION OF Oral Health **SERVICES**

TERM:

FROM: July 1, 2013 **TO:** June 30, 2014

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.

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 Dat***e 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.

Submitted to First 5 Inyo County
By Toiyabe Indian Health Project
April 11, 2013
Special Grant Funding
"Pediatric Dentist for Inyo County Children"

CERTIFICATE OF INSURANCE

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 – First 5 Inyo County

FOR THE BOARD MEETING OF: June 25, 2013

SUBJECT: Request approval of contract between Toiyabe Indian Health Project, Inc. and the County of Inyo.

DEPARTMENTAL RECOMMENDATION:

Request Board of Supervisors approve the contract between Toiyabe Indian Health Project, Inc. and the County of Inyo for the provision of Child Health services from July 1, 2013 to June 30, 2014 in an amount not to exceed $45,000 contingent upon the Board's adoption of FY 2013/2014 Budget, and authorize the Chairperson to sign.

CAO RECOMMENDATION:

SUMMARY DISCUSSION:

The First 5 Inyo Commission voted to fund a contract for Pediatric Dental services again because there is an ongoing need in our region for local access to early pediatric oral care. Under this contract, pediatric oral care will be provided monthly within Inyo County during weekend hours. This project helps parents who can't afford to travel outside the county for their children's urgent and complicated dental treatments. Offering the service locally reduces the travel costs and amount of time parents miss work and children miss school when traveling to Mammoth, Ridgecrest or often Loma Linda to access dental care.

Toiyabe and their contracting pediatric dentist have also enriched this program by offering a free annual oral health exam to all Inyo County children ages 1 to 18 whose parents make an appointment for them to be screened by the visiting team. Toiyabe is then set to serve as their dental home should they require treatment, as Toiyabe is the only Denti-Cal service provider in Inyo County.

ALTERNATIVES:

Without this service fewer Inyo children will be screened for oral health issues or receive urgent oral care.

OTHER AGENCY INVOLVEMENT:

None

FINANCING:

100% State funding. This expense will be budgeted in First 5 (643000) in Professional Services (5265).

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 6/11/2013 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: yes 6/13/13 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: ✓ 6/14/13 Date:

DEPARTMENT HEAD SIGNATURE:
(Not to be signed until all approvals are received) Jean Turner Date: 6-17-13

ATTACHMENT A

AGREEMENT BETWEEN COUNTY OF INYO
AND Toiyabe Indian Health Project, Inc.
FOR THE PROVISION OF Oral Health **SERVICES**

TERM:

FROM: July 1, 2013 **TO:** June 30, 2014

SCOPE OF WORK:

The Contractor shall provide oral health services in the county of Inyo as detailed in the attached Scope of Work, and incorporated into this contract. Contractor shall perform the tasks listed in this plan by June 30, 2014 including the provision of participant intake forms, fiscal reports, and evaluation materials listed in the SOW to the satisfaction of the First 5 Inyo County Commission.

All publicity and materials for the public produced pursuant to this agreement shall be submitted to first 5 Inyo County for approval , and shall include "Funded by First 5 Inyo County, a division of Inyo Health & Human Services" or the First 5 Inyo County logo.

The First 5 Inyo County Commission makes decisions based on program evaluation, so aid from partners who help us document and increase protective factors for families with children 0 to 5 in Inyo County will be taken into account as we discuss continued and new funding.

The major services this contract addresses are:

- Free oral exam screening for children ages 1 to 18 throughout Inyo County regardless of ethnicity or income

  - **Yellow Center Intake Form capturing child's name, age, ethnicity, and primary language for each screening day**

- Monthly Pediatric Dental visits to Inyo county so parents don't have to travel outside Inyo for urgent care cases and so they can access oral health care on the weekend, to avoid missing work.

  - **Yellow Center Intake Form capturing child's name, age, ethnicity, and primary language for each clinic weekend**
  - **1 yearly Purple Family Intake Form for each child ages 5 or younger receiving weekend pediatric dental services**

ATTACHMENT B

AGREEMENT BETWEEN COUNTY OF INYO
AND Toiyabe Indian Health Project, Inc.
FOR THE PROVISION OF Oral Health **SERVICES**

TERM:

FROM: July 1, 2013 **TO:** June 30, 2014

SCHEDULE OF FEES:

For services satisfactorily rendered the County agrees to compensate the Contractor for expenditures incurred from July 1, 2013 to June 30, 2014 in an amount not to exceed $45,000.

Notwithstanding paragraph 3.E Billing & Payment, actual program and equipment costs are to be invoiced to First 5 Inyo County after service delivery on a quarterly basis, and indirect costs are not to exceed 15% of the total contracted grant amount.

Quarterly invoices, with attached expenditure spreadsheets, and related evaluation materials should be received by First 5 Inyo no later than 7 days after the last day of the month. In the event that invoices or evaluation materials are not forthcoming in that time period, the First 5 Inyo County commission retains the right to withhold further payment until satisfactory receipt & review of those materials has taken place.

Also, contractors should be aware that the terms of this contract are contingent on continued state funding, and if state level cuts were to occur to our revenues the county may cancel this contract at will at any time with 30 days written notice of their intent to cancel.

QUARTERLY INVOICING	LATE AFTER
July 1 to Sept. 30, 2013	Oct. 7, 2013
Oct. 1 to Dec. 30, 2013	Jan. 7, 2014
Jan. 1 to Mar. 30, 2014	Apr. 7, 2014
Apr. 1 to Jun. 30, 2014	July 7, 2014

For Clerk's Use Only:
AGENDA NUMBER

16

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 – First 5 Inyo County

FOR THE BOARD MEETING OF: June 25, 2013

SUBJECT: Request approval of contract between the Inyo County Superintendent of Schools Child Development Division (ICSOS) and the County of Inyo.

DEPARTMENTAL RECOMMENDATION:

Request Board of Supervisors approve the contract between Inyo County Superintendent of Schools Child Development Division and the County of Inyo for the provision of Child Development services from July 1, 2013 to June 30, 2014 in an amount not to exceed $25,200, contingent upon the Board's adoption of FY 2013/2014 Budget, and authorize the Chairperson to sign.

CAO RECOMMENDATION:

SUMMARY DISCUSSION:

The Inyo Superintendent of Schools Child Development Division has been approved by the First 5 Commission to pursue quality preschool & care provider professional development training, as well as to offer increased family literacy involvement activities at libraries across Inyo County. These services not only impact care providers by modeling developmental play techniques, but they also directly engage children and families in increased community activities that impact the development of executive functions and social-emotional competency in children age 5 and younger. The professional attainment of preschool teachers & caregivers, and being raised in a literacy rich environment, have both proven to be important indicators of children's preparedness to succeed in school. These are highly-researched evidence-based areas to invest in for optimal developmental outcomes.

ALTERNATIVES:

Without these programs fewer teacher and early care givers would study early childhood development and be able to implement important activities with the children growing up in their care. Also, we still need to engage between 20 to 50% of Inyo families with children 0 to 5 (different percentages based on community data) in reading daily to their child. Without this new literacy emphasis that ICSOS is linking to county libraries, we have less chance of making sure this Number 1 Indicator of whether a child will succeed in school and life is being carried out in our homes.

OTHER AGENCY INVOLVEMENT:

None

FINANCING:

100% State First 5 funding. This will be budgeted in First 5 (643000), in Professional Services (5265).

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 6/12/2013 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: yes 6/17/13 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: ✓ 6/19/13 Date:

DEPARTMENT HEAD SIGNATURE:
(Not to be signed until all approvals are received) Jean Turner DE Date: 6/19/13

AGREEMENT BETWEEN COUNTY OF INYO
AND Inyo County Superintendent of Schools
FOR THE PROVISION OF Child Development **SERVICES**

INTRODUCTION

WHEREAS, the County of Inyo (hereinafter referred to as "County") may have the need for the Child Development services of the Superintendent of Schools Child Development Division of Inyo County (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 of Inyo HHS. 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 July 1, 2013 to June 30, 2014 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 $25,200 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
First 5 Inyo County HHS _____ Department
568 W. Line Street _____ Street
Bishop, CA 93514 _____ City and State

Contractor:
Inyo County Superinendent of Schools, CDD _____ Name
164 Grandview Drive _____ Street
Bishop, CA 93514 _____ 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 Inyo County Superintendent of Schools
FOR THE PROVISION OF Child Development **SERVICES**

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

COUNTY OF INYO

By: _____

Dated: _____

CONTRACTOR

By: _____
Signature

TERENCE K. M'ATEER
Print or Type Name

Dated: 6/3/13

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 Inyo County Superintendent of Schools
FOR THE PROVISION OF Child Development **SERVICES**

TERM:

FROM: July 1, 2013 **TO:** June 30, 2014

SCOPE OF WORK:

The Contractor shall provide child development services in the county of Inyo as detailed in the attached Scope of Work, and incorporated into this contract. Contractor shall perform the tasks listed in this plan by June 30, 2014 including the provision of participant intake forms, fiscal reports, and evaluation materials listed in the SOW to the satisfaction of the First 5 Inyo County Commission.

All publicity and materials for the public produced pursuant to this agreement shall be submitted to first 5 Inyo County for approval , and shall include "Funded by First 5 Inyo County, a division of Inyo Health & Human Services" or the First 5 Inyo County logo.

The First 5 Inyo County Commission makes decisions based on program evaluation, so aid from partners who help us document and increase protective factors for families with children 0 to 5 in Inyo County will be taken into account as we discuss continued and new funding.

The major services this contract addresses are:

- CARES Plus matching funds to draw down money to train early childhood workers toward degrees.

  - **Yellow Center Intake Form capturing each CARES participant's current employment, ethnicity, and primary language**
  - **Post-survey or report detailing # of caregivers who report learning a new skill or behavior, # advanced toward a degree or certification, and # who completed non-smoking education component.**

- A minimum of 6 monthly Laugh & Learn Family Care Provider Modeling Visits to train home care providers throughout Inyo to incorporate healthy messages and literacy into developmental play for the children in their care.

  - **Yellow Center Intake Form capturing the children's ages, ethnicity, and primary language at each caregiver site**
  - **Post-survey of caregiver's detailing benefits: what they learned and implemented on their own from model visits**

- Monthly Bookalicious Library Events in branches countywide to increase family participation in literacy activities.

  - **Yellow Center Intake or Sign-in sheet detailing name, age, ethnicity, and primary language of children attending each event**
  - **Second semester post-survey of participant parents indicating any 1) social emotional or school readiness skill improvement; 2) increased interest in literacy; or 3) increased social connections with other families in their community**

ATTACHMENT B

AGREEMENT BETWEEN COUNTY OF INYO
AND Inyo County Superintendent of Schools
FOR THE PROVISION OF Child Development **SERVICES**

TERM:

FROM: July 1, 2013 **TO:** June 30, 2014

SCHEDULE OF FEES:

For services satisfactorily rendered, and upon receipt & approval of semester invoices as required, the County agrees to compensate the Contractor for expenditures incurred from July 1, 2013 to June 30, 2014 in an amount not to exceed $25,200.

Notwithstanding paragraph 3.E Billing & Payment, actual program and equipment costs are to be invoiced to First 5 Inyo County after service delivery on a semester basis, and indirect costs are not to exceed 15% of the total contracted grant amount.

Semester invoices, with attached expenditure spreadsheets, and related evaluation materials should be received by First 5 Inyo no later than 7 days after the last day of the month. In the event that invoices or evaluation materials are not forthcoming in that time period, the First 5 Inyo County commission retains the right to withhold further payment until satisfactory receipt & review of those materials has taken place.

Also, contractors should be aware that the terms of this contract are contingent on continued state funding, and if state level cuts were to occur to our revenues the county may cancel this contract at will at any time with 30 days written notice of their intent to cancel.

Semester Invoicing	Late After
July 1 to Dec. 30, 2013	January 7, 2014
Jan. 1 to Jun. 30, 2014	July 7, 201

ICSOS Child Dev. Division 2013-14 Monthly Invoice Chart

GENERAL	BUDGET	JULY	AUGUST	SEPT.	OCT.	NOV.	DEC.	JAN.	FEB.	MARCH	APRIL	MAY	JUNE	TOTALS
PERSONNEL	**14,200**													
Laugh & Learn	9,000													
Bookalicious Library Events	5,200													
SUPPLIES	**5,000**													
Instructional Materials	2,500													
Books	1,500													
Literacy Aids	1,000													
CARES MATCH	**5,000**													
13-14 Cares Match	5,000													
MISC.														
INDIRECT (NOT TO EXCEED 15%)	**1,000**													
TOTALS	**25,200**													

Use this chart to keep a running total for FY 2013-14 expenditures. Attach G/L documentation along with each semester's reporting checklist and eval materials for prompt reimbursement.

Invoice summary, copy of chart, and all evaluation materials listed in SOW due by the 7th day of each new semester.

ATTACHMENT C

AGREEMENT BETWEEN COUNTY OF INYO
AND Inyo County Superintendent of Schools
FOR THE PROVISION OF Child Development **SERVICES**

TERM:

FROM: July 1, 2013 **TO:** June 30, 2014

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 Inyo County Superintendent of Schools
FOR THE PROVISION OF Child Development **SERVICES**

TERM:

FROM: July 1, 2013 **TO:** June 30, 2014

SEE ATTACHED INSURANCE PROVISIONS

Specifications 1

Insurance Requirements for Most Contracts

(Not for Professional Services or Construction Contracts)

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

MINIMUM SCOPE AND LIMIT OF INSURANCE

Coverage shall be at least as broad as:

1. **Commercial General Liability (CGL)**: Insurance Services Office (ISO) Form CG 00 01 12 07 covering CGL on an "occurrence" basis, including products-completed operations, personal & advertising injury, with limits no less than **$1,000,000** per occurrence. If a general aggregate limit applies, either the general aggregate limit shall apply separately to this project/location or the general aggregate limit shall be twice the required occurrence limit.
2. **Automobile Liability:** ISO Form Number CA 00 01 covering any auto (Code 1), or if Contractor has no owned autos, hired, (Code 8) and non-owned autos (Code 9), with limit no less than **$500,000** per accident for bodily injury and property damage.
3. **Workers' Compensation:** as required by the State of California, with Statutory Limits, and Employer's Liability Insurance with limit of no less than **$1,000,000** per accident for bodily injury or disease.

If the contractor 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 CGL policy with respect to liability arising out of work or operations performed by or on behalf of the Contractor including materials, parts, or equipment furnished in connection with such work or operations. General liability coverage can be provided in the form of an endorsement to the Contractor's insurance at least as broad as ISO Form CG 20 10 11 85 or if not available, through the addition of both CG 20 10 and CG 20 37 if a later edition is used).

Primary Coverage

For any claims related to this contract, the Contractor's insurance coverage shall be primary 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 Contractor's insurance and shall not contribute with it.

Notice of Cancellation

Each insurance policy required above shall provide that coverage shall not be canceled, except with notice to the Entity.

Waiver of Subrogation

Contractor hereby grants to Entity a waiver of any right to subrogation which any insurer of said Contractor may acquire against the Entity by virtue of the payment of any loss under such insurance. Contractor 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 Contractor to purchase coverage with a lower deductible or retention or 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.

Verification of Coverage

Contractor 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 Contractor'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.

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

17

AGENDA REQUEST FORM

BOARD OF SUPERVISORS
COUNTY OF INYO

X Consent ☐ Departmental ☐ Correspondence Action ☐ Public Hearing

☐ Scheduled Time for ☐ Closed Session ☐ Informational

FROM: Health and Human Services/Public Health Division

FOR THE BOARD MEETING OF: **June 25, 2013**

SUBJECT: Contract with Southern Inyo Healthcare District for Jail and Juvenile Medical Provider services and On-Call nursing & nurse practitioner services

DEPARTMENTAL RECOMMENDATION:

Request Board approve the contract and Business Associate (BA) Agreement between County of Inyo and Southern Inyo Healthcare District for the period of July 1, 2013 through June 30, 2018, for Jail and Juvenile Medical Provider services and On-Call nursing & nurse practitioner services per the attached scope of work in an amount not to exceed $90,900 per year for a five year period for a total contract amount not to exceed $454,500.00, contingent upon Board approval of future budgets; and authorize the Chairperson to sign the contract and HIPAA Business Associate Agreement.

CAO RECOMMENDATION:

SUMMARY DISCUSSION:

Southern Inyo Healthcare District has been providing medical provider and on-call nursing services to the Jail and Juvenile Center since 2005. A Request for Qualifications (RFQ) was sent to appropriate Inyo County governmental agencies, District Hospitals, local medical providers and private non-profit and for profit entities including Northern Inyo Hospital, Southern Inyo Hospital, Toiyabe Indian Health Project and other medical provider practices. The RFQ was also published in legal notices three times.

In response to the RFQ, Southern Inyo Healthcare District was the only entity to respond. As they have been successfully providing this service to the county for several years, it is recommended that a five-year contract be approved.

ALTERNATIVES:

Your Board could deny approval for this contract and staff would either need to distribute a second RFQ or design another model for providing these essential services.

OTHER AGENCY INVOLVEMENT:

Sheriff's Department and Probation Department

FINANCING:

100% Health Realignment Funding. This contract will be budgeted in Health (045100) in Professional Services (5265).

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 6/12/2013
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 6/17/13
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 6/19/13

DEPARTMENT HEAD SIGNATURE:
(Not to be signed until all approvals are received) Jean Turner DC Date: 6/19/13

AGREEMENT BETWEEN COUNTY OF INYO
AND Southern Inyo Healthcare District
FOR THE PROVISION OF Jail and Juvenile Facility Medical Provider Services and on-call **SERVICES**
nursing & nurse practitioner (medical/ on-call/nurse practitioner)

INTRODUCTION

WHEREAS, the County of Inyo (hereinafter referred to as "County") may have the need for the medical/on-call/nurse pracitioner services of Southern Inyo Healthcare District of Lone Pine, 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 Tamara Cohn, whose title is: Clinical Services 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, 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 July 1, 2013 to June 30, 2018 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 $454,500.00 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
Health and Human Services _____ Department
P.O. Drawer H _____ Street
Independence, CA _____ City and State

Contractor:
Southern Inyo Healthcare District _____ Name
P.O. Box 1009 _____ Street
Lone Pine, CA 93545 _____ 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 Southern Inyo Healthcare District
FOR THE PROVISION OF medical/on-call/nurse practitioner **SERVICES**

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

COUNTY OF INYO

By: _____

Dated: _____

CONTRACTOR

By: Lee Barron
Signature

Lee Barron
Print or Type Name

Dated: 6/10/2013

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 Southern Inyo Healthcare District
FOR THE PROVISION OF medical/on-call/nurse practitioner **SERVICES**

TERM:

FROM: July 1, 2013 **TO:** June 30, 2018

SCOPE OF WORK:

Beginning July 1, 2013, CONTRACTOR shall provide medical provider and on-call nursing services to the Inyo County Jail and to the Inyo County Juvenile Center during the following time periods:

Medical provider:

Weekdays: Tuesday morning (or an agreed upon day) client sick call at the jail and juvenile center located in Independence. Consultation availability via telephone with the facility nurse or on-call nurse staff Monday through Friday.

Weekends: Consultation availability via telephone with the on-call nurse staff Friday 5:00 p.m. through Monday 9:00 a.m.

County Holidays: Consultation availability via telephone with the on-call nurse staff including New Year's Eve, New Year's Day, Lincoln's Birthday, President's Day, Memorial Day, Independence Day, Labor Day, Veteran's Day, Thanksgiving (2 days), Christmas Eve, and Christmas Day. Tuesday morning facility sick calls occurring on a county designated holiday will be rescheduled to an agreed upon day.

The medical provider service shall be provided by a family nurse practitioner (FNP) licensed to practice in the State of California or by a medical doctor (MD) licensed to practice in the State of California.

On-call Nurse:

Weekdays: Monday through Friday 5:00 p.m. through 8:00 a.m.

Weekends: From Friday 5:00 p.m. through Monday 9:00 a.m.

County Holidays: New Year's Eve, New Year's Day, Lincoln's Birthday, President's Day, Memorial Day, Independence Day, Labor Day, Veteran's Day, Thanksgiving (2 days), Christmas Eve, and Christmas Day.

Nursing services shall be provided by a nurse (RN) registered to practice nursing in the State of California.

The CONTRACTOR shall:

Medical Provider Services:

A. Function as the facility medical provider at the Jail or Juvenile Center by providing direct medical services during the designated weekly sick call. With the assistance of the facility nurse, inmates/minors identified through 1) nurse assessment & triage, 2) inmate/minor request, 3) facility staff request, 4) facility policy to establish medical clearance, and/or 5) ongoing treatment follow-up, will be appropriately evaluated by the medical provider.

The facility medical team of nurse, Clinical Services Director and medical provider will develop a medical treatment plan as indicated. Custody, security issues, and facility policies will be factored into the plan as appropriate.

Written documentation of client evaluation or treatment, consistent with established County documents will be completed by the end of the sick call and will be maintained with the client's complete record at the facility.

B. Provide telephone consultation with facility nurses during the county workday. After a nursing assessment of an inmate/minor or triage of information is provided by the authorized personnel from the facility, the facility nurse functioning as the care coordinator will have access to the physician to obtain direction on medical management of a new problem or continued care of an identified condition. The consultation may include the findings of the nurse assessment or a request to continue an established medication regimen. If a new prescription is ordered, the order will be signed at the next facility sick call.

C. Provide telephone consultation with on-call nurse staff during the non-county work day. After a nursing assessment of an inmate/minor or triage of information is provided by the authorized personnel from the facility, the on-call nurse will have access to the physician to obtain direction on medical management of a new "urgent" problem requiring attention or continued care of an identified condition that is unable to wait for the next county workday. The consultation may include findings of the nurse assessment or a request to continue an established medication regimen. If a new prescription is ordered, the order will be signed at the next facility sick call.

D. Provide own transportation including gas, auto supplies, auto maintenance, auto insurance, etc. to and from call-outs.

E. The provider must maintain client records consistent with established County policy.

On-Call Nursing Services:

A. Provide telephone consultation with authorized personnel from the Jail or Juvenile Detention Center by a qualified nurse. The on-call nurse will triage by telephone with the authorized Jail or Juvenile Center staff to determine, per established County protocols, whether or not one of the following is required:
   1. Face to Face nurse response to the Jail or Juvenile Center
   2. Consultation with facility medical provider
   3. The inmate or juvenile should be transported to the hospital emergency room.
B. Provide on-site nursing response to the Jail or the Juvenile Detention Center in any of the following situations:
   1. Urgent medical request requiring medical attention that, if not addressed will result in progressive worsening of the health of the identified patient inmate or juvenile.
   2. The setting up of inmate or juvenile medication, consistent with Inyo County HHS protocols.
   3. As directed by the Health and Human Services Clinic Director (HHS Clinical Services Director) when she determines such a situation exists.
C. The on-call nurse must maintain client records consistent with established County documents. In addition, a log of actual activities and time spent at activities will be maintained to tracking nursing services. The on-call nurse must report to the Inyo County jail and juvenile nurse after each on-call period to assure client follow-up.
D. Provide own transportation including gas, auto supplies, auto maintenance, auto insurance, etc. to and from call-outs.

The COUNTY shall:

A. Train the CONTRACTORS' employees on security priorities and procedures, medical/nursing assessments within a correction environment utilizing established protocols, and required documentation.
B. Review all medical response requests by the HHS Clinical Services Director prior to the provision of service for an introductory period during which the CONTRACTOR requires training and orientation to on-call nursing.
C. The County HHS Clinical Services Director will provide monitoring and facilitation of problem-solving between and among the identified contractor and the County departments of Health and Human Services, Probation and Sheriff.

Public Health Clinic Sites Nurse Practitioner Services:

A. Provides women's reproductive health care to focus on the delivery of the appropriate physical examinations for treatment of illness, prevention of disease and the promotion of health. Provide reproductive health counseling and methods and assist women into prenatal care or the appropriate women's health service and provide positive outcomes.
B. Provide screening examinations for women at risk for cervical and breast cancer and facilitate mammograms and referrals to surgeons as indicated.
C. Provide telephone consultation with public health nursing staff to address client needs, prescription refills and if necessary assists in the phone triage of clients presenting with medical problems. Provide consultation in the development of public health procedures to be utilized by the nurses in the management of clients.
D. The provider will be expected to maintain client records consistent with established County policy taking care to ensure confidentiality.

E. Provide supervising physician.

The COUNTY shall:

A. Training to the identified Contractor including introduction to clinic equipment, program specific criteria and available resources.
B. Provide training on all County policies relating to medical record retention and confidentiality.
C. Evaluate service delivery and audit the time frame of delivery. Function as an intermediary with any conflict issue or potential grievance.

The COUNTY and CONTRACTOR agree to review actual costs to provide services pursuant to this contract, at a mid-point in the contract term.

CONTRACTOR and COUNTY hereby enter into the HIPAA Business Associate Agreement, included as Attachment E.

ATTACHMENT B

AGREEMENT BETWEEN COUNTY OF INYO
AND Southern Inyo Healthcare District
FOR THE PROVISION OF medical/on-call/nurse practitioner **SERVICES**

TERM:

FROM: July 1, 2013 **TO:** June 30, 2018

SCHEDULE OF FEES:

The provision of medical provider and on-call services will be provided to the County by Contractor at a rate of $7,575.00 per month.

The contract amount shall not exceed $90,900 per year for a total of $454,500 for the five-year period.

Contractor shall invoice the County at the end of each month after services have been rendered.

ATTACHMENT E

AGREEMENT BETWEEN COUNTY OF INYO

AND Southern Inyo Healthcare District

FOR THE PROVISION OF medical/oncall/Nurse Practitioner **SERVICES**

TERM:

FROM: July 1, 2013 **TO:** June 30, 2018

SEE ATTACHED HIPPA BUSINESS ASSOCIATE AGREEMENT

COUNTY OF INYO
HIPAA BUSINESS ASSOCIATE AGREEMENT

This Business Associate Agreement ("Agreement") is made by and between the Inyo County Health and Human Services Behavioral Health Division, referred to herein as Covered Entity ("CE"), and Southern Inyo Healthcare District , referred to herein as Business Associate ("BA"). This Agreement is effective as of July 1, 2013 , (the "Agreement Effective Date").

RECITALS

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

CE and BA intend to protect the privacy and provide for the security of PHI disclosed to BA pursuant to the Contract in compliance with the Health Insurance Portability and Accountability Act of 1996, Public Law 104-191 ("HIPAA"), the Health Information Technology for Economic and Clinical Health Act, Public Law 111-005 ("the HITECH Act"), and regulations promulgated thereunder by the U.S. Department of Health and Human Services (the "HIPAA Regulations") and other applicable laws.

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

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

1. Definitions

a. **Breach** shall have the meaning given to such term under the HITECH Act [42 U.S.C. Section 17921].

b. **Business Associate** shall have the meaning given to such term under the Privacy Rule, the Security Rule, and the HITECH Act, including but not limited to, 42 U.S.C. Section 17938 and 45 C.F.R. Section 160.103.

c. **Covered Entity** shall have the meaning given to such term under the Privacy Rule and the Security Rule, including, but not limited to, 45 C.F.R. Section 160.103.

d. **Data Aggregation** shall have the meaning given to such term under the Privacy Rule, including, but not limited to, 45 C.F.R. Section 164.501.

e. **Designated Record Set** shall have the meaning given to such term under the Privacy Rule, including, but not limited to, 45 C.F.R. Section 164.501.

f. **Electronic Protected Health Information** means Protected Health Information that is maintained in or transmitted by electronic media.

g. **Electronic Health Record** shall have the meaning given to such term in the HITECT Act, including, but not limited to, 42 U.S.C. Section 17921.

h. **Health Care Operations** shall have the meaning given to such term under the Privacy Rule, including, but not limited to, 45 C.F.R. Section 164.501.

i. **Privacy Rule** shall mean the HIPAA Regulation that is codified at 45 C.F.R. Parts 160 and 164, Subparts A and E.

j. **Protected Health Information or PHI** means any information, whether oral or recorded in any form or medium: (i) that relates to the past, present or future physical or mental condition of an individual; the provision of health care to an individual; or the past, present or future payment for the provision of health care to an individual; and (ii) that identifies the individual or with respect to which there is a reasonable basis to believe the information can be used to identify the individual, and shall have the meaning given to such term under the Privacy Rule, including, but not limited to, 45 C.F.R. Section 164.501. Protected Health Information includes Electronic Protected Health Information [45 C.F.R. Sections 160.103, 164.501].

k. **Protected Information** shall mean PHI provided by CE to BA or created or received by BA on CE's behalf.

l. **Security Rule** shall mean the HIPAA Regulation that is codified at 45 C.F.R. Parts 160 and 164, Subparts A and C.

m. **Unsecured PHI** shall have the meaning given to such term under the HITECH Act and any guidance issued pursuant to such Act including, but not limited to, 42 U.S.C. Section 17932(h).

2. **Obligations of Business Associate**

a. **Permitted Uses.** BA shall not use Protected Information except for the purpose of performing BA's obligations under the Contract and as permitted under the Contract and Agreement. Further, BA shall not use Protected Information in any manner that would constitute a violation of the Privacy Rule or the HITECH Act if so used by CE. However, BA may use Protected Information (i) for the proper management and administration of BA, (ii) to carry out the legal responsibilities of BA, or (iii) for Data Aggregation purposes for the Health Care Operations of CE [45 C.F.R. Sections 164.504(e)(2)(ii)(A) and 164.504(e)(4)(i)].

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

c. **Prohibited Uses and Disclosures.** BA shall not use or disclose Protected Information for fundraising or marketing purposes. BA shall not disclose Protected Information to a health plan for payment or health care operations purposes if the patient has requested this special restriction, and has paid out of pocket in full for the health care item or service to which the PHI solely relates [42 U.S.C. Section 17935(a)]. BA shall not directly or indirectly receive remuneration in exchange for Protected Information, except with the prior written consent of CE and as permitted by the HITECH Act, 42 U.S.C. section 17935(d)(2); however, this prohibition shall not affect payment by CIMH to BA for services provided pursuant to the Contract.

d. **Appropriate Safeguards.** BA shall implement appropriate safeguards as are necessary to prevent the use or disclosure of Protected Information otherwise than as permitted by the Contract that reasonably and appropriately protect the confidentiality, integrity and availability of the Protected Information, in accordance with 45 C.F.R. Sections 164.308, 164.310, and 164.312. [45 C.F.R. Section 164.504(e)(2)(ii)(B); 45 C.F.R. Section 164.308(b)]. BA shall comply with the policies and procedures and documentation requirements of the HIPAA Security Rule, including, but not limited to, 45 C.F.R. Section 164.316. [42 U.S.C. Section 17931].

e. **Reporting of Improper Access, Use or Disclosure.** BA shall report to CE in writing of any access, use or disclosure of Protected Information not permitted by the Contract and Agreement, and any Breach of Unsecured PHI of which it becomes aware without unreasonable delay and in no case later than ten (10) calendar days after discovery [42 U.S.C. Section 17921; 45 C.F.R. Section 164.504(e)(2)(ii)(C); 45 C.F.R. Section 164.308(b)].

f. **Business Associate's Agents.** BA shall ensure that any agents, including subcontractors, to whom it provides Protected Information, agree in writing to the same restrictions and conditions that apply to BA with respect to such PHI and implement the safeguards required by paragraph c above with respect to Electronic PHI [45 C.F.R. Section 164.504(e)(2)(ii)(D); 45 C.F.R. Section 164.308(b)]. BA shall implement and maintain sanctions against agents and subcontractors that violate such restrictions and conditions and shall mitigate the effects of any such violation (see 45 C.F.R. Sections 164.530(f) and 164.530(e)(1)).

g. **Access to Protected Information.** BA shall make Protected Information maintained by BA or its agents or subcontractors in Designated Record Sets available to CE for inspection and copying within ten (10) days of a request by CE to enable CE to fulfill its obligations under the Privacy Rule, including, but not limited to, 45 C.F.R. Section 164.524 [45 CF.R. Section 164.504(e)(2)(ii)(E)]. If BA maintains an Electronic Health Record, BA shall provide such information in electronic format to enable CE to fulfill its obligations under the HITECH Act, including, but not limited to, 42 U.S.C. Section 17935(e).

h. **Amendment of PHI.** Within ten (10) days of receipt of a request from CE for an amendment of Protected Information or a record about an individual contained in a Designated Record Set, BA or its agents or subcontractors shall make such Protected Information available to CE for amendment and incorporate any such amendment to enable CE to fulfill its obligations under the Privacy Rule, including, but not limited to, 45 C.F.R. Section 164.526. If any individual requests an amendment of Protected Information directly from BA or its agents or subcontractors, BA must notify CE in writing within five (5) days of the request. Any approval or denial of amendment of Protected Information maintained by BA or its agents or subcontractors shall be the responsibility of CE [45 C.F.R. Section 164.504(e)(2)(ii)(F)].

i. **Accounting Rights.** Within ten (10) days of notice by CE of a request for an accounting of disclosures of Protected Information, BA and its agents or subcontractors shall make available to CE the information required to provide an accounting of disclosures to enable CE to fulfill its

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

j. **Governmental Access to Records.** BA shall make its internal practices, books and records relating to the use and disclosure of Protected Information available to CE and to the Secretary of the U.S. Department of Health and Human Services (the "Secretary") for purposes of determining BA's compliance with the Privacy Rule [45 C.F.R. Section 164.504(e)(2)(ii)(H)]. BA shall provide to CE a copy of any Protected Information that BA provides to the Secretary concurrently with providing such Protected Information to the Secretary.

k. **Minimum Necessary.** BA (and its agents or subcontractors) shall request, use and disclose only the minimum amount of Protected Information necessary to accomplish the purpose of the request, use, or disclosure. [42 U.S.C. Section 17935(b); 45 C.F.R. Section 164.514(d)(3)] BA understands and agrees that the definition of "minimum necessary" is in flux and shall keep itself informed of guidance issued by the Secretary with respect to what constitutes "minimum necessary."

l. **Data Ownership.** BA acknowledges that BA has no ownership rights with respect to the Protected Information.

m. **Notification of Breach.** During the term of the Contract, BA shall notify CE within twenty-four (24) hours of any suspected or actual breach of security, intrusion or unauthorized use or disclosure of PHI of which BA becomes aware and/or any actual or suspected use or disclosure of data in violation of any applicable federal or state laws or regulations. BA shall take (i) prompt corrective action to cure any such deficiencies and (ii) any action pertaining to such unauthorized disclosure required by applicable federal and state laws and regulations.

n. **Breach Pattern or Practice by Covered Entity.** Pursuant to 42 U.S.C. Section 17934(b), if the BA knows of a pattern of activity or practice of the CE that constitutes a material breach or violation of the CE's obligations under the Contract or Agreement or other arrangement, the BA must take reasonable steps to cure the breach or end the violation. If the steps are unsuccessful, the BA must terminate the Contract or other arrangement if feasible, or if termination is not feasible, report the problem to the Secretary of DHHS. BA shall provide written notice to CE of any pattern of activity or practice of the CE that BA believes constitutes a material breach or violation of the CE's obligations under the Contract or Agreement or other arrangement within five (5) days of discovery and shall meet with CE to discuss and attempt to resolve the problem as one of the reasonable steps to cure the breach or end the violation.

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

3. **Termination**

a. **Material Breach**. A breach by BA of any provision of this Agreement, as determined by CE, shall constitute a material breach of the Contract and shall provide grounds for immediate termination of the Contract, any provision in the Contract to the contrary notwithstanding. [45 C.F.R. Section 164.504(e)(2)(iii)].

b. **Judicial or Administrative Proceedings.** CE may terminate the Contract, effective immediately, if (i) BA is named as a defendant in a criminal proceeding for a violation of HIPAA, the HITECH Act, the HIPAA Regulations or other security or privacy laws or (ii) a finding or stipulation that the BA has violated any standard or requirement of HIPAA, the HITECH Act, the HIPAA Regulations or other security or privacy laws is made in any administrative or civil proceeding in which the party has been joined.

c. **Effect of Termination.** Upon termination of the Contract for any reason, BA shall, at the option of CE, return or destroy all Protected Information that BA or its agents or subcontractors still maintain in any form, and shall retain no copies of such Protected Information. If return or destruction is not feasible, as determined by CE, BA shall continue to extend the protections of Section 2 of this Agreement to such information, and limit further use of such PHI to those purposes that make the return or destruction of such PHI infeasible. [45 C.F.R. Section 164.504(e)(ii)(2(I)]. If CE elects destruction of the PHI, BA shall certify in writing to CE that such PHI has been destroyed.

4. **Disclaimer**

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

5. **Amendment**

The parties acknowledge that state and federal laws relating to data security and privacy are rapidly evolving and that amendment of the Contract of Agreement may be required to provide for procedures to ensure compliance with such developments. The parties specifically agree to take such action as is necessary to implement the standards and requirements of HIPAA, the HITECH Act, the Privacy Rule, the Security Rule, and other applicable laws relating to the security or confidentiality of PHI. The parties understand ad agree that CE must receive satisfactory written assurance from BA that BA will adequately

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

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

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

7. **No Third-Party Beneficiaries**

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

8. **Effect on Contract**

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

9. **Interpretation**

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

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

COVERED ENTITY	BUSINESS ASSOCIATE
County of Inyo	Southern Inyo Healthcare District
By: _____	By: Lee Barron
Print Name: _____	Print Name: Lee Barron
Title: _____	Title: CEO/CFO
Date: _____	Date: 6/10/2013

ATTACHMENT C

AGREEMENT BETWEEN COUNTY OF INYO
AND Southern Inyo Healthcare District
FOR THE PROVISION OF medical/on-call/nurse practitioner **SERVICES**

TERM:

FROM: July 1, 2013 **TO:** June 30, 2018

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 Southern Inyo Healthcare District
FOR THE PROVISION OF medical/on-call/nurse practitioner **SERVICES**

TERM:

FROM: July 1, 2013 **TO:** June 30, 2018

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.

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.

MEDICAL BOARD OF CALIFORNIA
LICENSE LOOKUP SYSTEM

License Information:

The following information is maintained by the Medical Board of California. For more information, click on the blue tabs above.

License:	**G 66604** Licensee may be a U.S. or Canadian medical school graduate whose pathway to licensure was based on the NBME examination.
License Type:	Physician and Surgeon
Name:	DENNIS JOHN SCHUMACHER, M.D.
Address of Record:	**PO BOX 340** **BIG PINE, CA 93513**
Address of Record County:	INYO
License Status:	**License Renewed & Current** Licensee meets requirements for the practice of medicine in California.
Public Record Action(s):	No Public Record Actions available
Original Issue Date:	August 7, 1989
Expiration Date:	April 30, 2015
School Name:	UNIVERSITY OF NEW MEXICO SCHOOL OF MEDICINE
Year Graduated:	1981

Survey Information:

The following information is self-reported by the licensee and has not been verified by the Board.

Activities In Medicine:	PATIENT CARE - 1 TO 9 HOURS ADMINISTRATION - 1 TO 9 HOURS
Primary Practice Location Zip Code:	93513
Board Certification(s):	No board certifications identified
Primary Practice Area(s):	GENERAL PRACTICE- PRIMARY
Secondary Practice Area(s):	No secondary practice areas identified
Post Graduate Training Years:	1 YEAR
Ethnic Background:	CAUCASIAN/WHITE/EUROPEAN/MIDDLE EASTERN
Foreign Language(s):	SPANISH
Gender:	Male

Public Record Action(s):

Please select the Public Record Documents tab to view the public document database. If information is posted in the Administrative Disciplinary Actions, Court Order, Administrative Citation Issued, or License Issued with Public Letter of Reprimand categories below, documents will be available for review. To confirm what information is available from the Board, please click here.

California law requires that information on action(s) displayed on the Web site shall remain posted for 10 years from the date the Board obtains the information and, at the end of that period, shall be removed from the Web site. Additional information that you may or may not find relevant about your doctor is available if you contact the Central File Room at Central.Fileroom@mbc.ca.gov or at (916) 263-2525. The Board encourages you to discuss with your physician any information the Board provides to you.

Administrative Disciplinary Actions:

The Medical Board's public disclosure screens are updated periodically as new information becomes available.

No Administrative Disciplinary Actions found.

Court Order:

This information would be provided if a physician's practice has been temporarily restricted or suspended pursuant to a court order.

No Court Orders found.

Administrative Action Taken by Other State or Federal Government:

This information is provided by another state/federal government agency. The Medical Board of California may take administrative action based on the action imposed by another state/federal government agency. For more information or verification, contact the agency listed below that imposed the action.

No Administrative Actions Taken by Other State or Federal Government found.

Felony Conviction:

The information provided only includes felony convictions that are known to the Board. All felony convictions known to the Board are reviewed and administrative action is taken only if it is determined that a violation of the Medical Practice Act occurred. For more information regarding felony convictions, contact the court of jurisdiction listed below.

No Felony Convictions found.

Misdemeanor Conviction:

California Business and Professions Code section 2027 (A)(7) states effective 1/1/07, any misdemeanor conviction that results in a disciplinary action or an accusation that is not subsequently withdrawn or dismissed shall be posted on the Internet. To see if a conviction has been expunged or dismissed, please contact the court below.

No Misdemeanor Convictions found.

For Clerk's Use Only:
AGENDA NUMBER

18

AGENDA REQUEST FORM

BOARD OF SUPERVISORS
COUNTY OF INYO

☒ Consent ☐ Departmental ☐ Correspondence Action ☐ Public Hearing

☐ Scheduled Time for ☐ Closed Session ☐ Informational

FROM: Water Department

FOR THE BOARD MEETING OF: June 25, 2013

SUBJECT: Approve Paul N. Bruce as Inyo County Mediator and Contract for His Services

DEPARTMENTAL RECOMMENDATION:

Request Board 1) select Paul N. Bruce as the mediator representing Inyo County in its dispute with the City of Los Angeles Department of Water and Power for the period from June 1, 2013 to May 31, 2014, and 2) approve the contract with Mr. Bruce in an amount not to exceed $20,000; contingent upon the Board's adoption of future budgets; and authorize the Chairperson to sign contingent on obtaining the appropriate signatures.

SUMMARY DISCUSSION:

On April 26, 2013, the County notified the Los Angeles/Inyo County Standing Committee that it requested resolution of its dispute regarding the impacts of pumping on the Blackrock 94 management area. The issue presented by Inyo County is:

> The County requests a determination by the mediators/temporary arbitrators that LADWP's groundwater pumping and reductions in surface water diversions in the Blackrock 94 area have caused a measurable and significant change in the vegetation conditions in violation of the provisions of the LTWA. The County further requests the Panel to order that, as required by section IV.A of the Water Agreement, reasonable and feasible mitigation of this significant impact be commenced within twelve (12) months of the determination by the mediators/temporary arbitrators that a significant effect on the environment has occurred at Blackrock 94.

This stage of the dispute resolution is conducted pursuant Section XXVI.C. (Mediation/Temporary Arbitration) of 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. Pursuant to that section, if the Standing Committee is unable to resolve a dispute, as is the case here, both Inyo County and Los Angeles select one mediator and those mediators select a third mediator. The three-member panel mediates the dispute. Mr. Bruce would be the County's selected mediator.

Pursuant to the attached contract, Mr. Bruce would be paid $180.00 per hour plus expenses for his services, with a contract limit of $20,000.

ALTERNATIVES:

Your Board could direct staff to search for another mediator or direct staff to contact a mediator of its choosing.

OTHER AGENCY INVOLVEMENT:

Inyo County Administrative Officer, Inyo County Water Department, LADWP

FINANCING:

Funding for the recommended Agreement of $20,000 with Mr. Paul N. Bruce will be from Water Department Budget Unit # 024102, Object Code 5265.

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 6-13-13
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 6/18/13
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: J Date 6/13/13

DEPARTMENT HEAD SIGNATURE: Date: 5/30/13
(Not to be signed until all approvals are received)
(The Original plus 20 copies of this document are required)

AGREEMENT BETWEEN COUNTY OF INYO
AND PAUL N. BRUCE
FOR THE PROVISION OF MEDIATION/ARBITRATION SERVICES

INTRODUCTION

WHEREAS, the County of Inyo (hereinafter referred to as "County") may have the need for the **Mediation/Arbitration** services of **Paul N. Bruce** of **Bishop, 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 **Bob Harrington**, whose title is: **Director Water Department**. 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 **June 1, 2013 to May 31, 2014** 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**.

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 **Bob Harrington**, whose title is: **Director Water Department**. 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. Incidental Expenses. Except as provided on the Schedule of Fees (Attachment **B**), Contractor shall not be entitled to nor shall receive from the County payment or reimbursement for Incidental Expenses.

D. 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.

E. 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 incidental expenses, if any, shall not exceed **$20,000.00** 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 incidental expenses which is in excess of the contract limit.

F. 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**. 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. All such statements shall show, in one-tenth (1/10) of an hour increments, the actual time spent in performing the described work. Contractor's statement to the County will also include an itemization of any incidental expenses for reimbursement incurred by Contractor during that period. Upon timely receipt of the statement by the fifth (5th) day of the month, County shall make payment to Contractor by the 20th of the month.

G. Federal and State Taxes.

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

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

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

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

4. WORK SCHEDULE.

Contractor's obligation is to perform, in a timely manner, those services and work identified in Attachment **A** which are requested by the County. It is understood by Contractor that the performance of these services and work will require a varied schedule. Contractor will arrange his/her own schedule, but will coordinate with County to 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.sam.gov.

6. OFFICE SPACE, SUPPLIES, EQUIPMENT, ETC.

Except as provided in Attachment **B**,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.

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. County specifically agrees to 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 and attorney's fees arising out of or resulting from Contractor's provisions the work and services set forth in Attachment **A**.

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, amendment, addition, or deletion 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	
Bob Harrington	Department
P.O. Box 337	Mailing Address
Independence, CA 93526	City and State
Contractor:	
Paul N. Bruce	Name
2510 Sunset Road	Address
Bishop, CA 93514	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 PAUL N. BRUCE
FOR THE PROVISION OF MEDIATION/ARBITRATION SERVICES

IN WITNESS THEREOF, THE PARTIES HERETO HAVE SET THEIR HANDS AND SEALS THIS _____ DAY OF_____, 2013.

COUNTY OF INYO

By:_____

Dated:_____

CONTRACTOR

By: Paul N. Bruce
Signature

Paul N. Bruce
Type or Print Name

Dated: June 10, 2013

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

dg/Contracts/MiscContracts/P.Bruce.116

ATTACHMENT A

AGREEMENT BETWEEN COUNTY OF INYO
AND PAUL N. BRUCE
FOR THE PROVISION OF MEDIATION/ARBITRATION SERVICES

TERM:

FROM: June 1, 2013 TO: May 31, 2014

SCOPE OF WORK:

To serve as the mediator/arbitrator appointed by the County of Inyo on a three member panel of mediators/arbitrators to mediate and/or arbitrate the disputed issue or issues regarding the Blackrock 94 management area as presented to the panel.

Contractor's performance of his responsibilities as an appointed mediator/arbitrator shall be in accordance with Section XVII.C of the Stipulation and Order for Judgment entered in Inyo County Superior Court Case No. 12908 ("Water Agreement) and other directions provided to the panel by the parties to the dispute through stipulation.

ATTACHMENT B

AGREEMENT BETWEEN COUNTY OF INYO
AND PAUL N. BRUCE
FOR THE PROVISION OF MEDIATION/ARBITRATION SERVICES

TERM:

FROM: June 1, 2013 TO: May 31, 2014

SCHEDULE OF FEES:

1. COMPENSATION:

County shall pay to Contractor for the work and services described in Attachment A which are performed by Contractor at County's request, at the rates set forth below:

a. Except as provided in subparagraph b. below, County will pay Contractor One Hundred Eighty Dollars ($180.00) per hour or increments thereof, for all work and services provided by Contractor to County under this Agreement.

b. Contractor will be paid for travel time at the rate of Fifty Dollars ($50.00) per hour or increments thereof, for all time Contractor spends traveling in the performance of this Agreement.

2. INCIDENTAL EXPENSES:

County shall reimburse Contractor at the costs set forth below for those incidental expenses which are necessarily incurred by Contractor in providing the services and work under this Agreement. Reimbursement for these incidental expenses will not exceed the costs set forth below:

Types of Expenses Cost:

Fax	Actual Costs
Postage	Actual Costs
Federal Express/UPS	Actual Costs
Express Mail	Actual Costs
Long Distance Calls	Actual Costs
Photocopying (not attorney service)	Actual Costs
Computer Assisted Research	Actual Costs
Service of Documents/Pleadings (attorney service)	Actual Costs
Document Production (attorney service)	Actual Costs

ATTACHMENT C

AGREEMENT BETWEEN COUNTY OF INYO
AND PAUL N. BRUCE
FOR THE PROVISION OF MEDIATION/ARBITRATION SERVICES

TERM:

FROM: June 1, 2013 TO: May 31, 2014

SCHEDULE OF TRAVEL AND PER DIEM PAYMENT

A. Contractor will be compensated for his travel time as set forth in the Schedule of Fees (Attachment B) above.

B. Where Contractor is providing work and services for County under this Agreement, Contractor will be reimbursed for his travel expenses and per diem at the same rate that County reimburses its permanent merit system employees for such expenses.

ATTACHMENT D

AGREEMENT BETWEEN COUNTY OF INYO
AND PAUL N. BRUCE
FOR THE PROVISION OF MEDIATION/ARBITRATION SERVICES

TERM:

FROM: June 1, 2013 TO: May 31, 2014

INSURANCE REQUIREMENTS

Automobile Liability: Insurance Services Office Form Number CA 0001 covering, Code 1 (any auto), or if Contractor has no owned autos, Code 8 (hired) and 9 (non-owned), with limit no less than **$300,000.00** per accident for bodily injury and property damage.

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 - Behavioral Health Division

FOR THE BOARD MEETING OF: June 25, 2013

SUBJECT: Request for authorization to hire one full time Residential Caregiver for Progress House in the Behavioral Health division.

DEPARTMENTAL RECOMMENDATION:

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

A. the availability of funding for the position of Residential Caretaker at Progress House exists in the Mental Health Budget, as certified by the Health and Human Services Director and concurred with by the 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 full time Residential Caretaker at Range 53 ($2,779 - $ 3,380); and
D. if an internal candidate is hired into the Residential Caretaker position, authorize HHS to backfill the resulting vacancy.

CAO RECOMMENDATION:

SUMMARY DISCUSSION:

Effective June 16, 2013, one of our full time Residential Caregivers at Progress House will leave his position to move out of the area, leaving a vacancy in an existing, budgeted position. Progress House is a 24-hour adult residential facility that serves adults with severe mental illness or adults who are experiencing psychiatric crisis. Progress House has an authorized strength of one Manager, five fulltime, and one part time Residential Caregiver positions. This allows for coverage of one staff for all shifts, some shift overlap time and some shifts with coverage by 2 staff. Staff members provide board and care services to consumers including supervision, monitoring and crisis intervention, medication assistance, assistance with access to physical and mental health treatment services, meal preparation, and housekeeping. Staff members also receive after-hours crisis calls to screen for further response. Progress House staff are an integral part of the Behavioral Health team and work closely with the clinic and wellness centers.

Staff members at Progress House provide this array of services to keep these consumers within our community and out of the hospital and to encourage wellness and recovery. Vacancies in these positions result in increased overtime costs for remaining staff, difficulty in accessing vacation benefit time and strain on staff to meet the challenges of their positions.

ALTERNATIVES:

Your Board could deny this request. This would impact our ability to serve persons with mental illness within our community and to respond to crisis and urgent situations.

OTHER AGENCY INVOLVEMENT:
Behavioral Health works closely with partners in law enforcement, probation, hospitals, and other community providers in work with adults and older adults.

FINANCING:
Mental Health Services Act funds, Medi-Cal reimbursement and Mental Health Realignment funds. This position is budgeted in Mental Health (045200) in the Salaries & Benefits object codes. No County General Fund.

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: 6/13/13
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: 6/10/13

DEPARTMENT HEAD SIGNATURE:
(Not to be signed until all approvals are received) Jean Turner DS Date: 6/13/13

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: Personnel/County Counsel

FOR THE BOARD MEETING OF: **June 25, 2012**

SUBJECT: Approval of Contract for Legal Services-General Labor and Employment Advice and Representation

DEPARTMENTAL RECOMMENDATION:

Approve the Contract with Atkinson, Andelson, Loya, Ruud & Romo for the provision of legal services in the area of general labor and employment advice and representation for the period from July 1, 2013 to June 30, 2014, with a contract limit of $100,000.00, at hourly rates varying from $115 to $265 dollars an hour, with travel time billed at $125.00 an hour; contingent upon the Board's adoption of the 2013-14 Budget, and authorize the Chairperson to sign on behalf of the County. (4/5s vote required).

CAO RECOMMENDATION:

SUMMARY DISCUSSION:

Recently, the County has been involved in employment related matters which will involve formal evidentiary hearings and proceedings before the California Department of Fair Employment and Housing, and potentially other related litigation. In order to provide the County with advice and representation in these specialized employment and labor law matters, it is recommended that the County contract with Atkinson, Andelson, Loya, Ruud & Romo for these legal services. The County previously had utilized the services of their partner Irma Rodriquez Moisa to provide advice and representation in other employment and labor law matters. Ms. Moisa and the firm that she is a part of specialize in representing California Public Entities in Employment and Labor Law matters.

ALTERNATIVES:

The County could decline to approve the Agreement with Atkinson, Andelson, Loya, Ruud & Romo and attempt to find other legal counsel to assist the County in these matters, or could seek to provide these services through its in-house lawyers. Neither alternative is recommended because of the specialized nature of the legal services required, the time in which the County must respond.

OTHER AGENCY INVOLVEMENT:

FINANCING:

Funding to be included in Personnel's Budget #010800 Object Code 5265 in the 2013/14 requested budget.

APPROVALS	
~~COUNTY COUNSEL~~: AUDITOR	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 6/18/13

~~AUDITOR/CONTROLLER:~~ County Counsel	ACCOUNTING/FINANCE AND RELATED ITEMS (*Must be reviewed and approved by the auditor-controller prior to submission to the board clerk.*) Approved: yes Date 6/18/13
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 6/17/13

DEPARTMENT HEAD SIGNATURE:
(Not to be signed until all approvals are received) Date: 6.18.13
(The Original plus 20 copies of this document are required)

AGREEMENT BETWEEN COUNTY OF INYO
AND ATKINSON, ANDELSON, LOYA, RUUD & ROMO
FOR THE PROVISION OF LEGAL SERVICES

INTRODUCTION

WHEREAS, the County of Inyo (hereinafter referred to as "County") may have the need for the legal services of **IRMA RODRIGUEZ MOISA** of **Atkinson, Andelson, Loya, Ruud & Romo** 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 the Office of County Counsel. 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 **July 1, 2013** to **June 30, 2014** 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. County shall reimburse Contractor for 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 the Office of County Counsel. 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 to under the rates set forth in Attachment **C**, or which are incurred by the Contractor without the prior approval of the County.

C. Incidental Expenses. County shall reimburse Contractor in accordance with the Schedule of Fees (Attachment **B**) for those Incidental Expenses which are specifically identified in the Schedule of Fees and which are necessarily incurred by the Contractor in providing the services and work requested by County under this Agreement. Reimbursement by County for such Incidental Expenses will be limited to Contractor's actual cost without regard to any administrative or overhead expenses incurred by Contractor in obtaining or utilizing such incidental services or supplies. Reimbursement for actual costs will not exceed the amounts set forth in the Schedule of Fees.

D. 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.

E. 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 **$100,000.00** 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.

F. 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 incidental expenses, or travel or per diem expenses which have been approved in advance by County, incurred by Contractor during that period. The itemized statement for incidental expenses, 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.

G. Federal and State taxes.

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

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

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

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

4. WORK SCHEDULE.

Contractor's obligation is to perform, in a timely manner, those services and work identified in Attachment A which are requested by the County. It is understood by Contractor that the performance of these services and work will require a varied schedule. Contractor will arrange his/her own schedule, but will coordinate with County to 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. Except for those incidental expenses specifically identified in the Schedule of Fees (Attachment), 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 items not specifically set forth in the Schedule of Fees (Attachment **B**), 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 REQUIREMENTS FOR PROFESSIONAL SERVICES.

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

A. 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 **$1,000,000.00** 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 Contractor has no owned autos, Code 8 (hired) and 9 (non-owned), with limit no less than **$500,000.00** 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 **$ N/A** per accident for bodily injury or disease.
(Not required if Contractor provides written verification it has no employees)

4. Professional Liability (Errors and Omissions) Insurance appropriates to the Contractor's profession, with limit no less than **$1,000,000.00** per occurrence or claim.

If the Contractor maintains higher limits than the minimums shown above, the County requires and shall be entitled to coverage for the higher limits maintained by the contractor.

B. Other Insurance Provisions. The insurance policies are to contain, or be endorsed to contain, the following provisions:

1. Additional Insured Status.

The County, its officers, officials, employees, and volunteers are to be covered as insureds on the auto policy with respect to liability arising out of automobiles owned, leased, hired or borrowed by or on behalf of the Contractor; and on the CGL policy with respect to liability arising out of work or operations performed by or on behalf of the Contractor including materials, parts, or equipment furnished in connection with such work or operations. General liability coverage can be provided in the form of an endorsement to the Contractor's insurance (at least as broad as ISO Form CG 20 10, 11 85 or both CG 20 10 and CG 23 37 forms if later revisions used).

2. Primary Coverage.

For any claims related to this contract, the Contractor's insurance coverage shall be primary insurance as respects the County, its officers, officials, employees, and volunteers. Any insurance or self-insurance maintained by the County, its officers, officials, employees, or volunteers shall be excess of the Contractor's insurance and shall not contribute with it.

3. Notice of Cancellation.

Each insurance policy required above shall state that coverage shall not be canceled, except after thirty (30) days' prior written notice (10 days for non-payment) has been given to the County.

4. Waiver of Subrogation.

Contractor hereby grants to County a waiver of any right to subrogation which any insurer of said Contractor may acquire against the County by virtue of the payment of any loss under such insurance. Contractor 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 County has received a waiver of subrogation endorsement from the insurer.

C. Deductibles and Self-Insured Retentions. Any deductibles or self-insured retentions must be declared to and approved by the County. The County may require the Contractor to provide proof of ability to pay losses and related investigations, claim administration, and defense expenses within the retention.

D. 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 County.

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

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

2. Insurance must be maintained and evidence of insurance must be provided for at least five (5) years after completion of the contract of work.

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

F. Verification of Coverage. Contractor shall furnish the County 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 County before work commences. However, failure to obtain the required documents prior to the work beginning shall not waive the Contractor's obligation to provide them. The County reserves the right to require complete, certified copies of all required insurance policies, including endorsements required by these specifications, at any time.

G. Subcontractors. Contractor shall require and verify that all subcontractors maintain insurance meeting all the requirements stated herein.

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

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:
OFFICE OF COUNTY COUNSEL Department
P.O. Box M Address
INDEPENDENCE, CA 93526 City and State

CONTRACTOR:
Atkinson, Andelson, Loya, Ruud & Romo Name
12800 Center Court Drive, Suite 300 Address
Cerritos, CA 90703 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 ATKINSON, ANDELSON, LOYA, RUUD & ROMO
FOR THE PROVISION OF LEGAL SERVICES

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

COUNTY OF INYO

By:_____

Dated:_____

CONTRACTOR

By:_____
Signature

Irma Rodriguez Moisa
Type or Print Name

Dated: **June 14, 2013**

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

dg/Contracts/MiscAgreements/IrmaRodriguezMoisa.123

ATTACHMENT A

AGREEMENT BETWEEN COUNTY OF INYO
AND ATKINSON, ANDELSON, LOYA, RUUD & ROMO
FOR THE PROVISION OF LEGAL SERVICES

TERM:

FROM: July 1, 2013 TO: June 30, 2014

SCOPE OF WORK:

Contractor shall provide general labor and employment advice and representation upon request of Client.

ATTACHMENT B

AGREEMENT BETWEEN COUNTY OF INYO
AND ATKINSON, ANDELSON, LOYA, RUUD & ROMO
FOR THE PROVISION OF LEGAL SERVICES

TERM:

FROM: July 1, 2013 TO: June 30, 2014

SCHEDULE OF FEES:

1. COMPENSATION

Partners:	$265
Sr. Associates:	$235
Associates:	$225
Paralegals:	$115
Travel @:	$125/hr.

Contractor shall reserve the right to increase these rates upon sixty (60) days' notice.

2. INCIDENTAL EXPENSES:

The Firm shall not be obligated to advance costs on behalf of Client; however, for the purposes of convenience and in order to expedite matters, the Firm reserves the right to advance costs on behalf of Client with Client's prior approval in the event a particular cost item exceeds $2,000.00 in amount and without the prior approval of Client in the event a particular cost item totals $2,000.00 or less. Typical cost items include, by way of example and not limitation, document preparation and work processing, long distance telephone charges, fax/telecopy charges (at $0.20 per page), appearance fees, messenger fees, travel costs, bonds, witness fees, deposition and court reporter fees, transcript costs, expert witness fees, investigative fees, etc.

ATTACHMENT C

AGREEMENT BETWEEN COUNTY OF INYO
AND ATKINSON, ANDELSON, LOYA, RUUD & ROMO
FOR THE PROVISION OF LEGAL SERVICES

TERM:

FROM: July 1, 2013 TO: June 30, 2014

SCHEDULE OF TRAVEL AND PER DIEM PAYMENT

Travel shall be at the county's request and will be billed at cost.

Per diem travel from portal to portal will be at the current IRS rate.

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: Personnel/County Counsel

FOR THE BOARD MEETING OF: June 25, 2012

SUBJECT: Approval of Contract for Legal Services-General Labor and Employment Advice and Representation

DEPARTMENTAL RECOMMENDATION: Approve the Contract with Liebert Cassidy Whitmore for the provision of legal services in the area of general labor and employment advice and representation for the period from July 1, 2013 to June 30, 2014, with a contract limit of $20,000.00, at hourly rates varying from $140 to $300 dollars an hour, with travel time billed at $125.00 an hour; contingent upon the Board's adoption of the 2013-14 Budget, and authorize the Chairperson to sign on behalf of the County. (4/5s vote required).

CAO RECOMMENDATION:

SUMMARY DISCUSSION: Recently, the County has been involved in training, investigation and other employment related matters. This contract would allow the County to access the specialized human resources knowledge of this firm, which is valuable assistance for both the County Counsel and Personnel Departments. The Contract would give us access to Liebert Cassidy Whitmore 's expertise as needed on short notice. Our previous experience with this firm has been positive, Liebert Cassidy Whitmore is a leading firm specializing in employment matters.

ALTERNATIVES: The County could decline to approve the Agreement with Liebert Cassidy Whitmore and attempt to find other legal counsel to assist the County in these matters, or could seek to provide these services through its in-house lawyers. Neither alternative is recommended because of the specialized nature of the legal services required, and the time in which the County must respond.

OTHER AGENCY INVOLVEMENT:

FINANCING: Funding will be included in Personnel's Budget 010800 Object Code 5265 in the 2013/14 requested 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 6/17/13
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 6/18/13
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 6/17/13

DEPARTMENT HEAD SIGNATURE:
(Not to be signed until all approvals are received) Date: 6.18.13
(The Original plus 20 copies of this document are required)

AGREEMENT BETWEEN COUNTY OF INYO
AND LIEBERT CASSIDY WHITMORE
FOR THE PROVISION OF LEGAL SERVICES

INTRODUCTION

WHEREAS, the County of Inyo (hereinafter referred to as "County") may have the need for the legal services of Gage Dungy of Liebert Cassidy Whitmore 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 the Office of County Counsel. 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 July 1, 2013 to June 30, 2014 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. County shall reimburse Contractor for 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 the Office of County Counsel. 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 to under the rates set forth in Attachment C, or which are incurred by the Contractor without the prior approval of the County.

C. Incidental Expenses. County shall reimburse Contractor in accordance with the Schedule of Fees (Attachment B) for those incidental Expenses which are specifically identified in the Schedule of Fees and which are necessarily incurred by the Contractor in providing the services and work requested by County under this Agreement. Reimbursement by County for such incidental Expenses will be limited to Contractor's actual cost without regard to any administrative or overhead expenses incurred by Contractor in obtaining or utilizing such incidental services or supplies. Reimbursement for actual costs will not exceed the amounts set forth in the Schedule of Fees.

D. 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.

E. 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 $ 20,000.00 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.

F. 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 incidental expenses, or travel or per diem expenses which have been approved in advance by County, incurred by Contractor during that period. The itemized statement for incidental expenses, 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.

G. 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) 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. Except for those incidental expenses specifically identified in the Schedule of Fees (Attachment B), 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 items not specifically set forth in the Schedule of Fees (Attachment B), 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 REQUIREMENTS FOR PROFESSIONAL SERVICES.

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

A. 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 **$1,000,000.00** 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 Contractor has no owned autos, Code 8 (hired) and 9 (non-owned), with limit no less than **$500,000.00** 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 **$ N/A** per accident for bodily injury or disease. *(Not required if Contractor provides written verification it has no employees)*

4. Professional Liability (Errors and Omissions) Insurance appropriates to the Contractor's profession, with limit no less than $1,000,000.00 per occurrence or claim.

If the Contractor maintains higher limits than the minimums shown above, the County requires and shall be entitled to coverage for the higher limits maintained by the contractor.

B. Other Insurance Provisions. The insurance policies are to contain, or be endorsed to contain, the following provisions:

1. Additional Insured Status.

The County, its officers, officials, employees, and volunteers are to be covered as insureds on the auto policy with respect to liability arising out of automobiles owned, leased, hired or borrowed by or on behalf of the Contractor; and on the CGL policy with respect to liability arising out of work or operations performed by or on behalf of the Contractor including materials, parts, or equipment furnished in connection with such work or operations. General liability coverage can be provided in the form of an endorsement to the Contractor's insurance (at least as broad as ISO Form CG 20 10, 11 85 or both CG 20 10 and CG 23 37 forms if later revisions used).

2. Primary Coverage.

For any claims related to this contract, the Contractor's insurance coverage shall be primary insurance as respects the County, its officers, officials, employees, and volunteers. Any insurance or self-insurance maintained by the County, its officers, officials, employees, or volunteers shall be excess of the Contractor's insurance and shall not contribute with it.

3. Notice of Cancellation.

Each insurance policy required above shall state that coverage shall not be canceled, except after thirty (30) days' prior written notice (10 days for non-payment) has been given to the County.

4. Waiver of Subrogation.

Contractor hereby grants to County a waiver of any right to subrogation which any insurer of said Contractor may acquire against the County by virtue of the payment of any loss under such insurance. Contractor 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 County has received a waiver of subrogation endorsement from the insurer.

C. Deductibles and Self-Insured Retentions. Any deductibles or self-insured retentions must be declared to and approved by the County. The County may require the Contractor to provide proof of ability to pay losses and related investigations, claim administration, and defense expenses within the retention.

D. 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 County.

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

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

2. Insurance must be maintained and evidence of insurance must be provided for at least five (5) years after completion of the contract of work.

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

F. Verification of Coverage. Contractor shall furnish the County 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 County before work commences. However, failure to obtain the required documents prior to the work beginning shall not waive the Contractor's obligation to provide them. The County reserves the right to require complete, certified copies of all required insurance policies, including endorsements required by these specifications, at any time.

G. Subcontractors. Contractor shall require and verify that all subcontractors maintain insurance meeting all the requirements stated herein.

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

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:

PERSONNEL	Department
P.O. Box 249	Address
INDEPENDENCE, CA 93526	City and State

CONTRACTOR:
LIEBERT CASSIDY WHITMORE Name
5250 N. Palm Avenue, Suite 310 Address
Fresno, CA 93711 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 LIEBERT CASSIDY WHITMORE
FOR THE PROVISION OF LEGAL SERVICES

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

COUNTY OF INYO

By:_____

Dated:_____

CONTRACTOR

By:_____
Signature

Shellie Bennett
Type or Print Name

Dated: 6-14-13

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

dg/Contracts/MiscContracts/LiebertCassidyWhitmore Dungy.123

ATTACHMENT A

AGREEMENT BETWEEN COUNTY OF INYO
AND LIEBERT CASSIDY WHITMORE
FOR THE PROVISION OF LEGAL SERVICES

TERM:

FROM: July 1, 2013 TO: June 30, 2014

SCOPE OF WORK:

Contractor shall provide general labor and employment advice, labor negotiations advice, personnel investigations and representation upon request of Client.

Contractor may submit the itemized statement required by Section 3(F) (Billing and Payment) by the tenth day of the month for payment on the last day of the month, notwithstanding the last sentence of Section 3(F).

The first paragraph of Section 11 (defense and indemnification) is deleted and replaced with the following:

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 conjunction with, any negligence, errors or omissions arising out of this Agreement by Contractor, or Contractor's agents, officers or employees, except such loss or damage which was caused by the sole negligence or willful misconduct of County, its officers, or employees.

ATTACHMENT B

AGREEMENT BETWEEN COUNTY OF INYO
AND LIEBERT CASSIDY WHITMORE
FOR THE PROVISION OF LEGAL SERVICES

TERM:

FROM: July 1, 2013 TO: June 30, 2014

SCHEDULE OF FEES:

1. COMPENSATION

Partners:	$300.00
Of Counsel:	$265.00
Associates:	$180.00 - $245.00/hour
Paralegals:	$105.00 - $140.00/hour
Travel:	$125.00/hour

Contractor shall reserve the right to increase these rates upon sixty (60) days' notice.

2. INCIDENTAL EXPENSES:

Types of Expenses	Maximum Cost:
Postage	Actual costs
Federal Express/UPS	Actual costs
Express Mail	Actual costs
Long Distance Calls	Actual costs
Photocopying (not attorney service)	Not to exceed $0.15 per page
Fax Copies	Not to exceed $0.50 per page
Computer Assisted Research	Actual costs
Service of Documents/Pleadings (attorney service)	Actual costs
Document Production (attorney service)	Actual costs
Filing Fees	Actual costs
Jury Fees	Actual costs
Court Reporter/Transcripts	Actual costs
Experts	Rate approved by County Counsel
Witness fees	Actual costs

ATTACHMENT C

AGREEMENT BETWEEN COUNTY OF INYO
AND LIEBERT CASSIDY WHITMORE
FOR THE PROVISION OF LEGAL SERVICES

TERM:

FROM: July 1, 2013 TO: June 30, 2014

SCHEDULE OF TRAVEL AND PER DIEM PAYMENT

Travel shall be at the county's request and will be billed at cost.

For Clerk's Use Only:
AGENDA NUMBER

22

AGENDA REQUEST FORM

BOARD OF SUPERVISORS
COUNTY OF INYO

☐ Consent XX Departmental ☐ Correspondence Action ☐ Public Hearing

☐ Scheduled Time for ☐ Closed Session ☐ Informational

FROM: COUNTY COUNSEL AND WATER DEPARTMENT

FOR THE BOARD MEETING OF: June 25, 2013

SUBJECT: APPROVAL OF CONTRACT WITH GREGORY L. JAMES, WATER/ENVIRONMENTAL ATTORNEY – WATER DEPARTMENT

DEPARTMENTAL RECOMMENDATION: Approve the Agreement between the County of Inyo and Gregory L. James, Attorney at Law, for the provision of Water/Environmental Attorney services to the Water Department for the period from July 1, 2013 through June 30, 2014, at the rate of One Hundred Fifty Five Dollars($155.00) for every hour of legal services except travel time which will be paid at Fifty Dollars ($50.00) an hour, and a contract limit of Sixty Thousand Dollars ($60,000.00); contingent upon the Board of Supervisors approving the 2013/14 Budget; and authorize the Chairperson to sign on behalf of the County. (4/5's vote required)

CAO RECOMMENDATION: n/a

SUMMARY DISCUSSION: As your Board is aware, Mr. James has represented Inyo County on water related matters for decades, as both a County employee and contractor. His expertise in water law in general, and more importantly in Inyo County water issues, has proved to be invaluable to this and the previous County Counsel. Such expertise would be difficult if not impossible to replace. The proposed contract rate of $155.00/hour for attorney time and $50.00/hour for travel time is below market rate for an attorney with his expertise.

Mr. James has demonstrated the ability to handle numerous assignments in the area of water/environmental law simultaneously, accepting the County's priority for each case or matter, managing his time effectively, and willingly adjusting his schedule to meet unforeseeable work load requirements. His excellent oral and written communication skills and amicable personality have allowed him to gain the trust and confidence of the Board of Supervisors, Department Heads, other County employees, and a variety of parties in various lawsuits. Overall, Mr. James has performed as a highly skilled and competent attorney in the area of Water/Environmental law and his services contribute significantly to the County's ability to successfully represent itself and its officers and employees in water and environmentally related litigation, including those involving the City of Los Angeles Department of Water and Power.

The rate in this contract is the same as in the previous contract. The proposed contract rate is $155.00/hour for attorney time and $50.00/hour for travel time. The proposed contract is for one year. The limit upon the amount payable under the contract is $60,000.00. Of course, there is no obligation to incur services up to the contract limit. Compensation under the contract is paid by hour of actual service. Mr. James' activities under his existing contract are, and will continue to be, monitored, directed, and supervised by the County Counsel in consultation with the Water Director to ensure that the legal services provided by Mr. James are necessary, cost effective, and in accordance with the Board of Supervisors direction. The County Counsel staff attorneys have and will continue to assist Mr. James to the extent possible in order to hold down the expenses incurred under Mr. James' Agreement.

ALTERNATIVES:

1. Decline to approve the Agreement with Gregory L. James as recommended, and direct that the office of County Counsel provide the County and its departments with legal services relating to Water and

Environmental matters with existing attorney staff. This option would result in significant delays in completing requests for legal services for all but the most critical matters; and would significantly reduce this office's ability to represent and defend the County and its officers in litigation as well as to direct and manage litigation involving the County that is handled by outside counsel.

2. Decline to approve the Agreement with Gregory L. James as recommended, and direct staff to circulate a Request for Qualifications for another attorney or law firm to provide these services.

OTHER AGENCY INVOLVEMENT: none

FINANCING: Funding will be included in Water Department's Budget 024102 Object Code 5265 in the 2013/14 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: — Date 5.30.13
AUDITOR/CONTROLLER:	ACCOUNTING/FINANCE AND RELATED ITEMS (M*ust be reviewed and approved by the auditor-controller prior to submission to the board clerk.)* Approved: yes Date 6/4/13
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: J Date 5/31/13

DEPARTMENT HEAD SIGNATURE:
(Not to be signed until all approvals are received) Date: 6/5/13

DEPARTMENT HEAD SIGNATURE:
(Not to be signed until all approvals are received) Date: 6.10.13

/s/ARF/GJamesWtr201213

AGREEMENT BETWEEN COUNTY OF INYO
AND GREGORY L. JAMES
FOR THE PROVISION OF LEGAL SERVICES
WATER/ENVIRONMENTAL ATTORNEY SERVICES
REGARDING WATER DEPARTMENT

INTRODUCTION

WHEREAS, the County of Inyo (hereinafter referred to as "County") has the need for the legal services of **Gregory L. James** of **Bishop, 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 the Office of County Counsel.

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 **July 1, 2013** to **June 30, 2014** 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**.

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 the Office of County Counsel. 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. Incidental Expenses. Except as provided on the Schedule of Fees (Attachment **B**), Contractor shall not be entitled to, nor shall receive from the County, payment or reimbursement for Incidental Expenses.

D. 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.

E. 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 incidental expenses, if any, shall not exceed **$60,000.00** 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 incidental expenses which is in excess of the contract limit.

F. 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**. 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. All such statements shall show, in one-tenth (1/10) of an hour increments, the actual time spent in performing the described work. Contractor's statement to the County will also include an itemization of any incidental expenses for reimbursement incurred by Contractor during that period. Upon timely receipt of the statement by the fifth (5th) day of the month, County shall make payment to Contractor by the 20th of the month.

G. Federal and State Taxes.

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

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

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

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

4. WORK SCHEDULE.

Contractor's obligation is to perform, in a timely manner, those services and work identified in Attachment **A** which are requested by the County. It is understood by Contractor that the performance of these services and work will require a varied schedule. Contractor will arrange his/her own schedule, but will coordinate with County to 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.

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 effective date of 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.

6. OFFICE SPACE, SUPPLIES, EQUIPMENT, ETC.

Except as provided in the Scope of Work (Attachment **A**), 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 items not specifically set forth in the Schedule of Fees (Attachment **B**), 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.

If required by law, 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 if coverage is required by law.

9. INSURANCE REQUIREMENTS FOR PROFESSIONAL SERVICES.

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

A. 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 **$1,000,000.00** 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 Contractor has no owned autos, Code 8 (hired) and 9 (non-owned), with limit no less than **$500,000.00** 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 **$ N/A** per accident for bodily injury or disease.
(Not required if Contractor provides written verification it has no employees)

4. Professional Liability (Errors and Omissions) Insurance appropriates to the Contractor's profession, with limit no less than **$ N/A** per occurrence or claim.

If the Contractor maintains higher limits than the minimums shown above, the County requires and shall be entitled to coverage for the higher limits maintained by the contractor.

B. Other Insurance Provisions. The insurance policies are to contain, or be endorsed to contain, the following provisions:

1. Additional Insured Status.

The County, its officers, officials, employees, and volunteers are to be covered as insured's on the auto policy with respect to liability arising out of automobiles owned, leased, hired or borrowed by or on behalf of the Contractor; and on the CGL policy with respect to liability arising out of work or operations performed by

or on behalf of the Contractor including materials, parts, or equipment furnished in connection with such work or operations. General liability coverage can be provided in the form of an endorsement to the Contractor's insurance (at least as broad as ISO Form CG 20 10, 11 85 or both CG 20 10 and CG 23 37 forms if later revisions used).

2. Primary Coverage.

For any claims related to this contract, the Contractor's insurance coverage shall be primary insurance as respects the County, its officers, officials, employees, and volunteers. Any insurance or self-insurance maintained by the County, its officers, officials, employees, or volunteers shall be excess of the Contractor's insurance and shall not contribute with it.

3. Notice of Cancellation.

Each insurance policy required above shall state that coverage shall not be canceled, except after thirty (30) days' prior written notice (10 days for non-payment) has been given to the County.

4. Waiver of Subrogation.

Contractor hereby grants to County a waiver of any right to subrogation which any insurer of said Contractor may acquire against the County by virtue of the payment of any loss under such insurance. Contractor 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 County has received a waiver of subrogation endorsement from the insurer.

C. Deductibles and Self-Insured Retentions. Any deductibles or self-insured retentions must be declared to and approved by the County. The County may require the Contractor to provide proof of ability to pay losses and related investigations, claim administration, and defense expenses within the retention.

D. 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 County.

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

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

2. Insurance must be maintained and evidence of insurance must be provided for at least five (5) years after completion of the contract of work.

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

F. Verification of Coverage. Contractor shall furnish the County 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 County before work commences. However, failure to obtain the required documents prior to the work beginning shall not waive the Contractor's obligation to provide them. The County reserves the right to require complete, certified copies of all required insurance policies, including endorsements required by these specifications, at any time.

G. Subcontractors. Contractor shall require and verify that all subcontractors maintain insurance meeting all the requirements stated herein.

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

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 ninety (90) days written notice of such intent to cancel. Contractor may cancel this Agreement without cause, and at will, for any reason whatsoever by giving ninety (90) 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 and its employees 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 fifteen (15) 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. Specifically, Contractor shall not accept other employment or be engaged in legal representation of any other client on a matter which will interfere or cause a conflict of interest with providing advice and representation to the County of Inyo, its agents, officers, and employees under this Agreement. Additionally, Contractor, during the term of this Agreement, agrees not to advise or represent any person, corporation, or entity with a claim or cause of action against the County of Inyo, its officers, agents or employees.

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 to the Inyo County Water Department or other 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 thirty (30) 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:

Office of County Counsel	**Department**
P.O. Box M	**Address**
Independence, CA 93526	**City and State**

CONTRACTOR:

Gregory L. James	**Name**
1839 Shoshone Drive	**Address**
Bishop, CA 93514	**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 GREGORY L. JAMES
FOR THE PROVISION OF LEGAL SERVICES
WATER/ENVIRONMENTAL ATTORNEY SERVICES
REGARDING WATER DEPARTMENT

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

COUNTY OF INYO

By:_____

Dated:_____

CONTRACTOR

By: Gregory L. James
(Type or Print Name)

Gregory L James
(Signature)

Dated: 5/30/2013

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 INSURANCE REQUIREMENTS:

_____
County Risk Manager

dg:Contracts\MiscConracts\Water/EnvironmentalAttorneyWtrDept.123.GJames

ATTACHMENT A

AGREEMENT BETWEEN COUNTY OF INYO
AND GREGORY L. JAMES
FOR THE PROVISION OF LEGAL SERVICES
WATER/ENVIRONMENTAL ATTORNEY SERVICES
REGARDING WATER DEPARTMENT

TERM:

FROM: July 1, 2013 TO: June 30, 2014

SCOPE OF WORK:

1. Contractor shall advise and represent Inyo County, its agents, officers and employees regarding all aspects of water and environmental law involving the operation and activities of the Inyo County Water Department. Specifically these responsibilities include:

- Advise concerning legal issues involved in the joint management of Owens Valley water resources with the City of Los Angeles Department of Water and Power (LADWP) under the Long Term Water Agreement (LTWA), entered as Stipulated Judgment in the Inyo County Superior Court;
- Advise regarding legal issues related to the implementation, oversight and enforcement of all activities and projects, including enhancement/mitigation projects, provided for in or arising from, the LTWA, the Final Environmental Impact Report (FEIR) for the LTWA, the Memorandum of Understanding (MOU) between the County, LADWP, the State Lands Commission, California Department of Fish and Game, the Sierra Club and the Owens Valley Committee, which resolves their concerns over the adequacy of the FEIR;
- Advise and provide guidance concerning anticipated litigation and/or Dispute Resolution arising from the LTWA, FEIR, and MOU;
- Advise the County Water Department concerning legal issues involved in monitoring the water and vegetation environment of the Owens Valley;
- Advise and assist in coordinating, developing, and preparing the County's position, and the evidence supporting it, for disputes under the (LTWA), and for other water related litigation;
- Advise the Board of Supervisors, Director of the Water Department, County Counsel and other County officers and employees concerning potential impacts of court decisions, activities, projects, legislation, and administrative actions on the County's water resources; and become involved as may be directed by the Board of Supervisors and/or the County Counsel, in such decisions, activities, projects, legislation and actions;
- Under the supervision and direction of the County Counsel, represent the County, its agents, officers and employees in water related litigation; and
- Make presentation on water and environmental related legal topics to the Board of Supervisors, County Water Commission, other County Officers and employees, federal and state agencies, citizens and residents of the County, environmental and other non-profit groups.

2. Contractor shall receive direction from the Inyo County Board of Supervisors and/or the County Counsel.

3. Contractor shall provide all secretarial and clerical support reasonably and customarily necessary to perform the services described in this Agreement.

ATTACHMENT A - Continued

AGREEMENT BETWEEN COUNTY OF INYO
AND GREGORY L. JAMES
FOR THE PROVISION OF LEGAL SERVICES
WATER/ENVIRONMENTAL ATTORNEY SERVICES
REGARDING WATER DEPARTMENT

TERM:

FROM: July 1, 2013 TO: June 30, 2014

SCOPE OF WORK:

4. Contractor shall maintain and retain files and materials on cases and other matters upon which he/she is working. Once completed, Contractor may deliver the files and materials to the Office of County Counsel for storage.

5. Contractor shall file and serve required pleadings, notices, discovery documents and other motions and materials on behalf of the County, its officers or employees. The Office of County Counsel will cooperate with Contractor with regard to filing and service in Inyo County.

6. Contractor may send to the Office of County Counsel, one copy of those pleadings, notices, discovery, motions, documents, and materials to be appropriately delivered to County officers and employees. The Office of County Counsel will then make necessary copies and deliver the pleadings, notices, discovery, documents and materials to the County officers and employees.

7. Contractor shall take the actions necessary to have all pleadings, notices, discovery, motions, documents, and materials, which are to be served upon the County or its officers and employees after their first general appearance, served upon both Contractor at his/her offices and the County Counsel at his Independence office. Contractor shall also provide to the County Counsel at his Independence office, one copy of all pleadings, notices, discovery, motions, notices, and other documents served and or filed by Contractor on behalf of the County, its officers or employees.

8. Contractor, shall not bill for attorney's time in performing work or services which would ordinarily and customarily be performed by a legal secretary or clerical support.

ATTACHMENT B

AGREEMENT BETWEEN COUNTY OF INYO
AND GREGORY L. JAMES
FOR THE PROVISION OF LEGAL SERVICES
WATER/ENVIRONMENTAL ATTORNEY SERVICES
REGARDING WATER DEPARTMENT

TERM:

FROM: July 1, 2013 TO: June 30, 2014

SCHEDULE OF FEES:

1. COMPENSATION:

County shall pay to Contractor for the work and services described in Attachment **A** which are performed by Contractor at County's request, at the rates set forth below:

a. Except as provided in subparagraph b. below, County will pay Contractor One Hundred Fifty Five Dollars ($155.00) per hour or increments thereof, for all work and services provided by Contractor to County under this Agreement.
b. Contractor will be paid for travel time at the rate of Fifty Dollars ($50.00) per hour or increments thereof, for all time Contractor spends traveling in the performance of this Agreement.

2. INCIDENTAL EXPENSES:

County shall reimburse Contractor at the costs set forth below for those incidental expenses which are necessarily incurred by Contractor in providing the services and work under this Agreement. Reimbursement for these incidental expenses will not exceed the costs set forth below:

Types of Expenses	Cost:
Fax	Actual Costs
Postage	Actual Costs
Federal Express/UPS	Actual Costs
Express Mail	Actual Costs
Long Distance Calls	Actual Costs
Photocopying (not attorney service)	Actual Costs
Computer Assisted Research	Actual Costs
Service of Documents/Pleadings (attorney service)	Actual Costs
Document Production (attorney service)	Actual Costs
Filing fees	Actual Costs
Jury fees	Actual Costs
Court Reporter/Transcripts	Actual Costs
Experts	Rate approved by County Counsel
Witness fees	Actual Costs

ATTACHMENT C

AGREEMENT BETWEEN COUNTY OF INYO
AND GREGORY L. JAMES
FOR THE PROVISION OF LEGAL SERVICES
WATER/ENVIRONMENTAL ATTORNEY SERVICES
REGARDING WATER DEPARTMENT

TERM:

FROM: July 1, 2013 TO: June 30, 2014

SCHEDULE OF TRAVEL AND PER DIEM PAYMENT

A. Contractor will be compensated for his travel time as set forth in the Schedule of Fees (Attachment B) above.

B. Where Contractor is providing work and services for County under this Agreement, Contractor will be reimbursed for his travel expenses and per diem at the same rate that County reimburses its permanent merit system employees for such expenses.

For Clerk's Use Only:
AGENDA NUMBER

23

AGENDA REQUEST FORM

BOARD OF SUPERVISORS
COUNTY OF INYO

☐ Consent XX Departmental ☐ Correspondence Action ☐ Public Hearing

☐ Scheduled Time for ☐ Closed Session ☐ Informational

FROM: COUNTY COUNSEL and PLANNING DEPARTMENT DEPARTMENT

FOR THE BOARD MEETING OF: **JUNE 25, 2013**

SUBJECT: **APPROVAL OF CONTRACT WITH GREGORY L. JAMES, WATER/ENVIRONMENTAL ATTORNEY – YUCCA MT. PROJECT**

DEPARTMENTAL RECOMMENDATION: Approve the Agreement between the County of Inyo and Gregory L. James, Attorney at Law, for the provision of legal services to the County related to the Yucca Mountain Repository Licensing Proceedings before the Nuclear Regulatory Commission, and related Court actions, for the period from July 1, 2013 through June 30, 2014, at a base rate of One Hundred Eighty Five Dollars ($185.00) per hour, as further set forth in Attachment B, with travel time paid at Fifty Dollars ($50.00) an hour, and a Contract Limit of Twenty Five Thousand Dollars ($25,000.00); contingent upon the Board of Supervisors approving the 2013/14 Budget; and authorize the Chairperson to sign on behalf of the County. (4/5 vote required)

SUMMARY DISCUSSION: As your Board is aware, Mr. James has extensive experience providing Inyo County with water and environmental related legal advice. Mr. James has represented the County on Yucca Mountain related matters since October of 2008. He was instrumental in inserting Inyo County into the licensing process in a professional manner with a good likelihood of success. As it was last year, it is fair to say that the licensing proceeding is in a state in flux if not moribund. However, there is an occasional need for Mr. James advice regarding the program.

Additionally, it will be important to stay abreast of the current litigation regarding withdrawal of the license and rejuvenated license proceedings, and of the regulations and guidance that would be issued by DOE regarding return or use of the funding that has been provided and equipment and evidence obtained as a result of federal funding. The continuity Mr. James provides will be valuable whether the licensing proceedings continue or the program comes to a halt.

The rate in this contract is the same as in the previous contract. The proposed contract rate is $185.00/hour for attorney time with an additional $40.00/hour if Mr. James spends more than 100 hours a month on Yucca Mountain matters and $50.00/hour for travel time. The proposed contract is for one year. The limit upon the amount payable under the contract is $25,000.00.

Mr. James' activities under this Agreement will continue to be monitored, directed, and supervised by the County Counsel in consultation with the Planning Director and other involved Department Heads, to ensure that the legal services undertaken to be provided by Mr. James are necessary, cost effective, and in accordance with the Board of Supervisors direction. The County Counsel staff attorneys have and will continue to assist Mr. James to the extent possible in order to hold down the expenses incurred under Mr. James' Agreement.

ALTERNATIVES:

1. Decline to approve the Agreement with Gregory L. James as recommended, and direct that the office of County Counsel provide the County and its departments with legal services relating to Yucca Mountain proceedings with existing attorney staff.

2. Decline to approve the Agreement with Gregory L. James as recommended, and direct staff to circulate a Request for Qualifications for another attorney or law firm to provide these services.

OTHER AGENCY INVOLVEMENT: none

FINANCING: Funding will be included in the Planning Yucca Mountain Department Budget 620605 Object Code 5265 in the 2013/14 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: ✓ Date 5.30.13
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 6/4/13
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 5/30/13

DEPARTMENT HEAD SIGNATURE:
(Not to be signed until all approvals are received) Joshua Hart Date: 6/4/13

DEPARTMENT HEAD SIGNATURE:
(Not to be signed until all approvals are received) Date: 6.5.13

/s/ARF/GJamesYucca201213

AGREEMENT BETWEEN COUNTY OF INYO
AND GREGORY L. JAMES
FOR THE PROVISION OF LEGAL SERVICES
YUCCA MOUNTAIN NUCLEAR REPOSITORY

INTRODUCTION

WHEREAS, the County of Inyo (hereinafter referred to as "County") has the need for the legal services of **Gregory L. James** of **Bishop, 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 the County Counsel.

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 **July 1, 2013** to **June 30, 2014** 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**.

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 the Office of County Counsel. 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. Incidental Expenses. Except as provided on the Schedule of Fees (Attachment **B**), Contractor shall not be entitled to, nor shall receive from the County, payment or reimbursement for Incidental Expenses.

D. 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.

E. 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 incidental expenses, if any, shall not exceed **$25,000.00** 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 incidental expenses which is in excess of the contract limit.

F. 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**. 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. All such statements shall show, in one-tenth (1/10) of an hour increments, the actual time spent in performing the described work. Contractor's statement to the County will also include an itemization of any incidental expenses for reimbursement incurred by Contractor during that period. Upon timely receipt of the statement by the fifth (5th) day of the month, County shall make payment to Contractor by the 20th of the month.

G. Federal and State Taxes.

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

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

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

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

4. WORK SCHEDULE.

Contractor's obligation is to perform, in a timely manner, those services and work identified in Attachment **A** which are requested by the County. It is understood by Contractor that the performance of

these services and work will require a varied schedule. Contractor will arrange his/her own schedule, but will coordinate with County to 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.

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 effective date of 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.

6. OFFICE SPACE, SUPPLIES, EQUIPMENT, ETC.

Except as provided in the Scope of Work (Attachment **A**), 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 items not specifically set forth in the Schedule of Fees (Attachment **B**), 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.

If required by law, 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 if coverage is required by law.

9. INSURANCE REQUIREMENTS FOR PROFESSIONAL SERVICES.

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

A. 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 **$1,000,000.00** 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 Contractor has no owned autos, Code 8 (hired) and 9 (non-owned), with limit no less than **$500,000.00** 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 **$ n/a** per accident for bodily injury or disease.
   (Not required if Contractor provides written verification it has no employees)

4. Professional Liability (Errors and Omissions) Insurance appropriates to the Contractor's profession, with limit no less than **$ N/A** per occurrence or claim.

If the Contractor maintains higher limits than the minimums shown above, the County requires and shall be entitled to coverage for the higher limits maintained by the contractor.

B. Other Insurance Provisions. The insurance policies are to contain, or be endorsed to contain, the following provisions:

1. Additional Insured Status.

   The County, its officers, officials, employees, and volunteers are to be covered as insureds on the auto policy with respect to liability arising out of automobiles owned, leased, hired or borrowed by or on behalf of the Contractor; and on the CGL policy with respect to liability arising out of work or operations performed by or on behalf of the Contractor including materials, parts, or equipment furnished in connection with such work or operations. General liability coverage can be provided in the form of an endorsement to the Contractor's insurance (at least as broad as ISO Form CG 20 10, 11 85 or both CG 20 10 and CG 23 37 forms if later revisions used).

2. Primary Coverage.

For any claims related to this contract, the Contractor's insurance coverage shall be primary insurance as respects the County, its officers, officials, employees, and volunteers. Any insurance or self-insurance maintained by the County, its officers, officials, employees, or volunteers shall be excess of the Contractor's insurance and shall not contribute with it.

3. Notice of Cancellation.

Each insurance policy required above shall state that coverage shall not be canceled, except after thirty (30) days' prior written notice (10 days for non-payment) has been given to the County.

4. Waiver of Subrogation.

Contractor hereby grants to County a waiver of any right to subrogation which any insurer of said Contractor may acquire against the County by virtue of the payment of any loss under such insurance. Contractor 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 County has received a waiver of subrogation endorsement from the insurer.

C. Deductibles and Self-Insured Retentions. Any deductibles or self-insured retentions must be declared to and approved by the County. The County may require the Contractor to provide proof of ability to pay losses and related investigations, claim administration, and defense expenses within the retention.

D. 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 County.

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

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

2. Insurance must be maintained and evidence of insurance must be provided for at least five (5) years after completion of the contract of work.

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

F. Verification of Coverage. Contractor shall furnish the County 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 County before work commences. However, failure to obtain the required documents prior to the work beginning shall not waive the Contractor's obligation to provide them. The County reserves the right to require complete, certified copies of all required insurance policies, including endorsements required by these specifications, at any time.

G. Subcontractors. Contractor shall require and verify that all subcontractors maintain insurance meeting all the requirements stated herein.

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

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 ninety (90) days written notice of such intent to cancel. Contractor may cancel this Agreement without cause, and at will, for any reason whatsoever by giving ninety (90) 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 and its employees 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 fifteen (15) 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. Specifically, Contractor shall not accept other employment or be engaged in legal representation of any other client on a matter which will interfere or cause a conflict of interest with providing advice and representation to the County of Inyo, its agents, officers, and employees under this Agreement. Additionally, Contractor, during the term of this Agreement, agrees not to advise or represent any person, corporation, or entity with a claim or cause of action against the County of Inyo, its officers, agents or employees.

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 to the Inyo County Yucca Mountain Repository Assessment Office or other 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 thirty (30) 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:

Office of County Counsel	**Department**
P.O. Box M	**Address**
Independence, CA 93526	**City and State**

CONTRACTOR:

Gregory L. James	**Name**
1839 Shoshone Drive	**Address**
Bishop, CA 93514	**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 GREGORY L. JAMES
FOR THE PROVISION OF LEGAL SERVICES
YUCCA MOUNTAIN NUCLEAR REPOSITORY

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

COUNTY OF INYO

By:_____

Dated:_____

CONTRACTOR

By: Gregory L. James
(Type or Print Name)

Gregory L James
(Signature)

Dated: 5/30/2013

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 INSURANCE REQUIREMENTS:

_____
County Risk Manager

dg:Contracts\MiscConracts\WaterEnvironmentalAttorneyYuccaMt.123. GJames

ATTACHMENT A

AGREEMENT BETWEEN COUNTY OF INYO
AND GREGORY L. JAMES
FOR THE PROVISION OF LEGAL SERVICES
YUCCA MOUNTAIN NUCLEAR REPOSITORY

TERM:

FROM: July 1, 2013 TO: June 30, 2014

SCOPE OF WORK:

1. Contractor shall advise and represent Inyo County, its agents, officers and employees regarding all aspects of the Yucca Mountain Nuclear Repository Licensing Proceedings conducted before the Nuclear Regulatory Commission, and any appeals arising therefrom to State or Federal Courts.

2. Contractor shall receive direction from the Inyo County Board of Supervisors and/or the County Counsel.

3. Contractor shall provide all secretarial and clerical support reasonably and customarily necessary to perform the services described in this Agreement.

4. Contractor shall maintain and retain files and materials on cases and other matters upon which he/she is working. Once completed, Contractor may deliver the files and materials to the Office of County Counsel for storage.

5. Contractor shall file and serve required pleadings, notices, discovery documents and other motions and materials on behalf of the County, its officers or employees. The Office of County Counsel will cooperate with Contractor with regard to filing and service in Inyo County.

6. Contractor may send to the Office of County Counsel, one copy of those pleadings, notices, discovery, motions, documents, and materials to be appropriately delivered to County officers and employees. The Office of County Counsel will then make necessary copies and deliver the pleadings, notices, discovery, documents and materials to the County officers and employees.

7. Contractor shall take the actions necessary to have all pleadings, notices, discovery, motions, documents, and materials, which are to be served upon the County or its officers and employees after their first general appearance, served upon both Contractor at his/her offices and the County Counsel at his Independence office. Contractor shall also provide to the County Counsel at his Independence office, one copy of all pleadings, notices, discovery, motions, notices, and other documents served and or filed by Contractor on behalf of the County, its officers or employees.

8. Contractor, shall not bill for attorney's time in performing work or services which would ordinarily and customarily be performed by a legal secretary or clerical support.

ATTACHMENT B

AGREEMENT BETWEEN COUNTY OF INYO
AND GREGORY L. JAMES
FOR THE PROVISION OF LEGAL SERVICES
YUCCA MOUNTAIN NUCLEAR REPOSITORY

TERM:

FROM: July 1, 2013 TO: June 30, 2014

SCHEDULE OF FEES:

1. COMPENSATION:

County shall pay to Contractor for the work and services described in Attachment **A** which are performed by Contractor at County's request, at the rates set forth below:

a. Except as provided in subparagraph b. and c. below, County will pay Contractor One Hundred Eighty Five Dollars ($185.00) per hour ("hourly rate") or increments thereof, for all work and services provided by Contractor to County under this Agreement.
b. For each hour worked under the provisions of this Agreement by the Contractor in excess of one hundred (100) hours in any calendar month, Contractor will be paid an additional premium of Forty Dollars ($40.00) per hour. This premium is in addition to the hourly rate set forth in paragraph a. above.
c. Contractor will be paid for travel time at the rate of Fifty Dollars ($50.00) per hour or increments thereof, for all time Contractor spends traveling in the performance of this Agreement.

2. INCIDENTAL EXPENSES:

County shall reimburse Contractor at the costs set forth below for those incidental expenses which are necessarily incurred by Contractor in providing the services and work under this Agreement. Reimbursement for these incidental expenses will not exceed the costs set forth below:

Types of Expenses	Cost:
Fax	Actual Costs
Postage	Actual Costs
Federal Express/UPS	Actual Costs
Express Mail	Actual Costs
Long Distance Calls	Actual Costs
Photocopying (not attorney service)	Actual Costs
Computer Assisted Research	Actual Costs
Service of Documents/Pleadings (attorney service)	Actual Costs
Document Production (attorney service)	Actual Costs

ATTACHMENT B - Continued

AGREEMENT BETWEEN COUNTY OF INYO
AND GREGORY L. JAMES
FOR THE PROVISION OF LEGAL SERVICES
YUCCA MOUNTAIN NUCLEAR REPOSITORY

TERM:

FROM: July 1, 2013 TO: June 30, 2014

SCHEDULE OF FEES:

Filing fees	Actual Costs
Jury fees	Actual Costs
Court Reporter/Transcripts	Actual Costs
Experts	Rate approved by County Counsel
Witness fees	Actual Costs

ATTACHMENT C

AGREEMENT BETWEEN COUNTY OF INYO
AND GREGORY L. JAMES
FOR THE PROVISION OF LEGAL SERVICES
YUCCA MOUNTAIN NUCLEAR REPOSITORY

TERM:

FROM: July 1, 2013 TO: June 30, 2014

SCHEDULE OF TRAVEL AND PER DIEM PAYMENT

A. Contractor will be compensated for his travel time as set forth in the Schedule of Fees (Attachment **B**) above.

B. Where Contractor is providing work and services for County under this Agreement, Contractor will be reimbursed for his travel expenses and per diem at the same rate that County reimburses its permanent merit system employees for such expenses.

For Clerk's Use Only:
AGENDA NUMBER

24

AGENDA REQUEST FORM

BOARD OF SUPERVISORS
COUNTY OF INYO

☐ Consent XX Departmental ☐Correspondence Action ☐ Public Hearing

☐ Scheduled Time for ☐Closed Session ☐ Informational

FROM: COUNTY COUNSEL AND CAO

FOR THE BOARD MEETING OF: June 25, 2013

SUBJECT: APPROVAL OF CONTRACT WITH GREGORY L. JAMES, WATER/ENVIRONMENTAL ATTORNEY – NATURAL RESOUCES

DEPARTMENTAL RECOMMENDATION: Approve the Agreement between the County of Inyo and Gregory L. James, Attorney at Law, for the provision of Environmental Attorney services to the County Administrator for the period from July 1, 2013 through June 30, 2014, at the rate of One Hundred Fifty Five Dollars($155.00) for every hour of legal services except travel time which will be paid at Fifty Dollars ($50.00) an hour, and a contract limit of Thirty Thousand Dollars ($30,000.00); contingent upon the Board of Supervisors approving the 2013/14 Budget; and authorize the Chairperson to sign on behalf of the County. (4/5's vote required)

CAO RECOMMENDATION:

SUMMARY DISCUSSION: Mr. James has represented Inyo County on water-related matters for decades, and currently also represents the County regarding issues raised by the proposed solar development in the County. The proposed contract rate of $155.00/hour for attorney time and $50.00/hour for travel time is below market rate for an attorney with his expertise.

Mr. James has demonstrated the ability to handle numerous assignments in the area of environmental law simultaneously, accepting the County's priority for each case or matter, managing his time effectively, and willingly adjusting his schedule to meet unforeseeable work load requirements. His excellent oral and written communication skills and amicable personality have allowed him to gain the trust and confidence of the Board of Supervisors, Department Heads, other County employees, and a variety of parties in various lawsuits. Overall, Mr. James has performed as a highly skilled and competent attorney in the area of Water/Environmental law and his services contribute significantly to the County's ability to successfully represent itself and its officers and employees in water and environmentally related litigation, including those involving the City of Los Angeles Department of Water and Power.

The rate in this contract is the same as in the previous contract. The proposed contract rate is $155.00/hour for attorney time and $50.00/hour for travel time. The proposed contract is for one year. The limit upon the amount payable under the contract is $30,000.00. Of course, there is no obligation to incur services up to the contract limit. Compensation under the contract is paid by hour of actual service. Mr. James' activities under his existing contract are, and will continue to be, monitored, directed, and supervised by the County Counsel in consultation with the County Administrator to ensure that the legal services provided by Mr. James are necessary, cost effective, and in accordance with the Board of Supervisors direction. The County Counsel staff attorneys have and will continue to assist Mr. James to the extent possible in order to hold down the expenses incurred under Mr. James' Agreement.

ALTERNATIVES:

1. Decline to approve the Agreement with Gregory L. James as recommended, and direct that the office of County Counsel provide the County and its departments with legal services relating to Water and Environmental matters with existing attorney staff. This option would result in significant delays in completing requests for legal services for all but the most critical matters; and would significantly reduce this office's ability

to represent and defend the County and its officers in litigation as well as to direct and manage litigation involving the County that is handled by outside counsel.

2. Decline to approve the Agreement with Gregory L. James as recommended, and direct staff to circulate a Request for Qualifications for another attorney or law firm to provide these services.

OTHER AGENCY INVOLVEMENT: none

FINANCING: Funding will be included in the CAO's Natural Resources Budget 010204 Object Code 5265 in the 2013/14 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: ✓ Date 5-30-13
AUDITOR/CONTROLLER:	ACCOUNTING/FINANCE AND RELATED ITEMS (M*ust be reviewed and approved by the auditor-controller prior to submission to the board clerk.)* Approved: Date 6/4/13
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: J Date 5/31/13

DEPARTMENT HEAD SIGNATURE:
(Not to be signed until all approvals are received) Date: 6-11-13

DEPARTMENT HEAD SIGNATURE:
(Not to be signed until all approvals are received) Date: 06-10-2013
/s/ARF/GJamesNtlRes201213

AGREEMENT BETWEEN COUNTY OF INYO
AND GREGORY L. JAMES
FOR THE PROVISION OF LEGAL SERVICES
WATER/ENVIRONMENTAL ATTORNEY SERVICES
REGARDING NATURAL RESOURCES

INTRODUCTION

WHEREAS, the County of Inyo (hereinafter referred to as "County") has the need for the legal services of **Gregory L. James** of **Bishop, 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 the County Counsel.

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 **July 1, 2013** to **June 30, 2014** 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**.

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 the Office of County Counsel. 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. Incidental Expenses. Except as provided on the Schedule of Fees (Attachment **B**), Contractor shall not be entitled to, nor shall receive from the County, payment or reimbursement for Incidental Expenses.

D. 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.

E. 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 incidental expenses, if any, shall not exceed **$30,000.00** 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 incidental expenses which is in excess of the contract limit.

F. 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**. 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. All such statements shall show, in one-tenth (1/10) of an hour increments, the actual time spent in performing the described work. Contractor's statement to the County will also include an itemization of any incidental expenses for reimbursement incurred by Contractor during that period. Upon timely receipt of the statement by the fifth (5th) day of the month, County shall make payment to Contractor by the 20th of the month.

G. Federal and State Taxes.

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

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

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

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

4. WORK SCHEDULE.

Contractor's obligation is to perform, in a timely manner, those services and work identified in Attachment A which are requested by the County. It is understood by Contractor that the performance of these services and work will require a varied schedule. Contractor will arrange his/her own schedule, but will coordinate with County to 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.

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 effective date of 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.

6. OFFICE SPACE, SUPPLIES, EQUIPMENT, ETC.

Except as provided in the Scope of Work (Attachment A), 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 items not specifically set forth in the Schedule of Fees (Attachment **B**), 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.

If required by law, 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 if coverage is required by law.

9. INSURANCE REQUIREMENTS FOR PROFESSIONAL SERVICES.

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

A. 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 **$1,000,000.00** 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 Contractor has no owned autos, Code 8 (hired) and 9 (non-owned), with limit no less than **$500,000.00** 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 **$ N/A** per accident for bodily injury or disease.
(Not required if Contractor provides written verification it has no employees)

4. Professional Liability (Errors and Omissions) Insurance appropriates to the Contractor's profession, with limit no less than **$ N/A** per occurrence or claim.

If the Contractor maintains higher limits than the minimums shown above, the County requires and shall be entitled to coverage for the higher limits maintained by the contractor.

B. Other Insurance Provisions. The insurance policies are to contain, or be endorsed to contain, the following provisions:

1. Additional Insured Status.

The County, its officers, officials, employees, and volunteers are to be covered as insured's on the auto policy with respect to liability arising out of automobiles owned, leased, hired or borrowed by or on behalf of the Contractor; and on the CGL policy with respect to liability arising out of work or operations performed by

or on behalf of the Contractor including materials, parts, or equipment furnished in connection with such work or operations. General liability coverage can be provided in the form of an endorsement to the Contractor's insurance (at least as broad as ISO Form CG 20 10, 11 85 or both CG 20 10 and CG 23 37 forms if later revisions used).

2. Primary Coverage.

For any claims related to this contract, the Contractor's insurance coverage shall be primary insurance as respects the County, its officers, officials, employees, and volunteers. Any insurance or self-insurance maintained by the County, its officers, officials, employees, or volunteers shall be excess of the Contractor's insurance and shall not contribute with it.

3. Notice of Cancellation.

Each insurance policy required above shall state that coverage shall not be canceled, except after thirty (30) days' prior written notice (10 days for non-payment) has been given to the County.

4. Waiver of Subrogation.

Contractor hereby grants to County a waiver of any right to subrogation which any insurer of said Contractor may acquire against the County by virtue of the payment of any loss under such insurance. Contractor 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 County has received a waiver of subrogation endorsement from the insurer.

C. Deductibles and Self-Insured Retentions. Any deductibles or self-insured retentions must be declared to and approved by the County. The County may require the Contractor to provide proof of ability to pay losses and related investigations, claim administration, and defense expenses within the retention.

D. 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 County.

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

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

2. Insurance must be maintained and evidence of insurance must be provided for at least five (5) years after completion of the contract of work.

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

F. Verification of Coverage. Contractor shall furnish the County 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 County before work commences. However, failure to obtain the required documents prior to the work beginning shall not waive the Contractor's obligation to provide them. The County reserves the right to require complete, certified copies of all required insurance policies, including endorsements required by these specifications, at any time.

G. Subcontractors. Contractor shall require and verify that all subcontractors maintain insurance meeting all the requirements stated herein.

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

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 ninety (90) days written notice of such intent to cancel. Contractor may cancel this Agreement without cause, and at will, for any reason whatsoever by giving ninety (90) 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 and its employees 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 fifteen (15) 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. Specifically, Contractor shall not accept other employment or be engaged in legal representation of any other client on a matter which will interfere or cause a conflict of interest with providing advice and representation to the County of Inyo, its agents, officers, and employees under this Agreement. Additionally, Contractor, during the term of this Agreement, agrees not to advise or represent any person, corporation, or entity with a claim or cause of action against the County of Inyo, its officers, agents or employees.

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 to the Inyo County Water Department or other 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 thirty (30) 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:

Office of County Counsel	**Department**
P.O. Box M	**Address**
Independence, CA 93526	**City and State**

CONTRACTOR:

Gregory L. James	**Name**
1839 Shoshone Drive	**Address**
Bishop, CA 93514	**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 GREGORY L. JAMES
FOR THE PROVISION OF LEGAL SERVICES
WATER/ENVIRONMENTAL ATTORNEY SERVICES
REGARDING NATURAL RESOURCES

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

COUNTY OF INYO

By:_____

Dated:_____

CONTRACTOR

By: Gregory L James
(Type or Print Name)

Gregory L James
(Signature)

Dated: 5/30/2013

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 INSURANCE REQUIREMENTS:

_____
County Risk Manager

dg:Contracts\MiscConracts\Water/EnvironmentalAttorneyCAO.123.GJames

ATTACHMENT A

AGREEMENT BETWEEN COUNTY OF INYO
AND GREGORY L. JAMES
FOR THE PROVISION OF LEGAL SERVICES
WATER/ENVIRONMENTAL ATTORNEY SERVICES
REGARDING NATURAL RESOURCES

TERM:

FROM: July 1, 2013 TO: June 30, 2014

SCOPE OF WORK:

1. Upon request, Contractor shall represent and advise County, its agents, officers and employees regarding all aspects of natural resources law, including but not limited to development of solar power facilities in the County.

2. Contractor shall receive direction from the Inyo County Board of Supervisors and/or the County Counsel.

3. Contractor shall provide all secretarial and clerical support reasonably and customarily necessary to perform the services described in this Agreement.

4. Contractor shall maintain and retain files and materials on cases and other matters upon which he/she is working. Once completed, Contractor may deliver the files and materials to the Office of County Counsel for storage.

5. Contractor shall file and serve required pleadings, notices, discovery documents and other motions and materials on behalf of the County, its officers or employees. The Office of County Counsel will cooperate with Contractor with regard to filing and service in Inyo County.

6. Contractor may send to the Office of County Counsel, one copy of those pleadings, notices, discovery, motions, documents, and materials to be appropriately delivered to County officers and employees. The Office of County Counsel will then make necessary copies and deliver the pleadings, notices, discovery, documents and materials to the County officers and employees.

7. Contractor shall take the actions necessary to have all pleadings, notices, discovery, motions, documents, and materials, which are to be served upon the County or its officers and employees after their first general appearance, served upon both Contractor at his/her offices and the County Counsel at his Independence office. Contractor shall also provide to the County Counsel at his Independence office, one copy of all pleadings, notices, discovery, motions, notices, and other documents served and or filed by Contractor on behalf of the County, its officers or employees.

8. Contractor, shall not bill for attorney's time in performing work or services which would ordinarily and customarily be performed by a legal secretary or clerical support.

9. Further, as may be agreed upon by County and Contractor, Contractor shall represent and advise the County, and such of its agents, officers, and employees that the County may designate, in pending and potential non-water related litigation or disputes before State and Federal courts, county, state and federal administrative agencies, arbitrations and/or mediation proceedings.

ATTACHMENT B

AGREEMENT BETWEEN COUNTY OF INYO
AND GREGORY L. JAMES
FOR THE PROVISION OF LEGAL SERVICES
WATER/ENVIRONMENTAL ATTORNEY SERVICES
REGARDING NATURAL RESOURCES

TERM:

FROM: July 1, 2013 TO: June 30, 2014

SCHEDULE OF FEES:

1. COMPENSATION:

County shall pay to Contractor for the work and services described in Attachment **A** which are performed by Contractor at County's request, at the rates set forth below:

a. Except as provided in subparagraph b. below, County will pay Contractor One Hundred Fifty Five Dollars ($155.00) per hour or increments thereof, for all work and services provided by Contractor to County under this Agreement.
b. Contractor will be paid for travel time at the rate of Fifty Dollars ($50.00) per hour or increments thereof, for all time Contractor spends traveling in the performance of this Agreement.

2. INCIDENTAL EXPENSES:

County shall reimburse Contractor at the costs set forth below for those incidental expenses which are necessarily incurred by Contractor in providing the services and work under this Agreement. Reimbursement for these incidental expenses will not exceed the costs set forth below:

Types of Expenses	Cost:
Fax	Actual Costs
Postage	Actual Costs
Federal Express/UPS	Actual Costs
Express Mail	Actual Costs
Long Distance Calls	Actual Costs
Photocopying (not attorney service)	Actual Costs
Computer Assisted Research	Actual Costs
Service of Documents/Pleadings (attorney service)	Actual Costs
Document Production (attorney service)	Actual Costs
Filing fees	Actual Costs
Jury fees	Actual Costs
Court Reporter/Transcripts	Actual Costs
Experts	Rate approved by County Counsel
Witness fees	Actual Costs

ATTACHMENT C

AGREEMENT BETWEEN COUNTY OF INYO
AND GREGORY L. JAMES
FOR THE PROVISION OF LEGAL SERVICES
WATER/ENVIRONMENTAL ATTORNEY SERVICES
REGARDING NATURAL RESOURCES

TERM:

FROM: July 1, 2013 TO: June 30, 2014

SCHEDULE OF TRAVEL AND PER DIEM PAYMENT

A. Contractor will be compensated for his travel time as set forth in the Schedule of Fees (Attachment B) above.

B. Where Contractor is providing work and services for County under this Agreement, Contractor will be reimbursed for his travel expenses and per diem at the same rate that County reimburses its permanent merit system employees for such expenses.

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
25

FROM: Public Works Department

FOR THE BOARD MEETING OF: June 25, 2013

SUBJECT: Approve Amendment #8, extending the contract term and amount with Owenyo Services for the operation and maintenance of the Independence, Lone Pine and Laws Town Water Systems.

DEPARTMENTAL RECOMMENDATIONS:

1. Approve Amendment #8 to the current Standard Contract #116 with Owenyo Services for the operation and maintenance of the Independence, Laws, and Lone Pine town water systems, extending the term through August 31, 2013 unless terminated earlier; and increasing the total contract amount not to exceed $1,996,952.52.
2. Authorize the Chairperson to sign the Amendment to the Contract contingent upon the appropriate signatures being obtained and contingent upon adoption of future budgets.

CAO RECOMMENDATION:

SUMMARY DISCUSSION:

Inyo County first entered into an agreement with Owenyo Services to provide operations and maintenance services for the Lone Pine, Independence and Laws water distribution systems on June 15, 1999. The current agreement with Owenyo Services was approved on June 26, 2007, and has been extended 7 times previously, most recently on October 30, 2012 for eight months to extend to June 30, 2013. That extension as well as the one being requested today, was to provide staff more time to evaluate the proposals and negotiate a contract for a longer term agreement for the operation and maintenance of the water systems.

The Public Works Department received proposals for the operation and maintenance of the three town water systems, and has been evaluating the responses. Staff has now received amendments to the proposals to include a lease, which was included in the original request for proposals. We were prepared to recommend a lease, but recent issues raised suggest that it is prudent to extend the current agreement one more time to assure an opportunity to address the additional issues raised. We are therefore requesting another extension to finalize the recommendation. Owenyo has agreed to continue to provide the services included in the contract for up to an additional two months at the same monthly cost as the existing contract ($26,985.83 per month).

ALTERNATIVES:

Your Board could deny the amendment to this contract and direct the Public Works Department to operate and maintain the system using county forces, however, that is not recommended as the Public Works Department does not have sufficient staffing or appropriate certificates to accomplish it.

Your Board could extend the current agreement for a shorter term. This is not recommended because the agreement can be terminated earlier if all the issues are resolved and staff is prepared to submit the recommendation earlier.

OTHER AGENCY INVOLVEMENT:
County Counsel
Auditor

FINANCING:
Financing for this contract is included in the Preliminary and Proposed 2013-2014 budgets for the Lone Pine, Independence, and Laws water systems (152101, 152201, and 152301), object code 5265, Professional& Special Services. The funding is generally from water user fees established by Inyo County Ordinance 1008.

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 6/20/13
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 6/20/13
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: 6/20/13

AMENDMENT NUMBER 8 TO
AGREEMENT BETWEEN THE COUNTY OF INYO AND
Owenyo Services

FOR THE PROVISION OF INDEPENDENT CONTRACTOR SERVICES

WHEREAS, the County of Inyo (hereinafter referred to as "County") and Owenyo Services of Lone Pine, CA (hereinafter referred to as "Contractor"), have entered into an Agreement for the provision of goods dated June 26, 2007, on County of Inyo Standard Contract No. 116, for the term from July 1, 2007 to June 30, 2010.

WHEREAS, County and Contractor 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 Contractor hereby amend such Agreement as follows:

Amend Section 2 TERM, to read as follows

2. TERM

The term of the agreement shall be from July 1, 2007 to August 31, 2013 unless terminated as provided below.

Amend Section 3, CONSIDERATION, D. to read as follows:

3. D. Limit upon the 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 $1, 996,952.52

The effective date of this amendment to the Agreement is June 25, 2012.

All other terms and conditions of the Agreement are unchanged and shall remain the same.

AMENDMENT NUMBER 8 TO
AGREEMENT BETWEEN THE COUNTY OF INYO AND
Owenyo Services
FOR THE PROVISION OF INDEPENDENT CONTRACTOR SERVICES

IN WITNESS THEREOF, THE PARTIES HERETO HAVE SET THEIR HANDS AND SEALS THIS 25th DAY OF June, 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

CONTRACTOR

By: _____

Dated: _____

Taxpayer's Identification Number:

_____

AMENDMENT NUMBER 8 TO
AGREEMENT BETWEEN THE COUNTY OF INYO AND
Owenyo Services

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COUNTY OF INYO

By: _____

Dated: _____

APPROVED AS TO FORM AND LEGALITY:

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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

CONTRACTOR

By: _____

Dated: _____

Taxpayer's Identification Number:

_____

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: Inyo County Planning Department

FOR THE BOARD MEETING OF: June 25, 2013

SUBJECT: U.S. Forest Service Environmental Assessment to Implement Restoration on 58 Unauthorized Routes in the White Mountains and John Muir Wilderness

RECOMMENDATION: Review the U.S. Forest Service's Environmental Assessment to Implement Restoration on 58 Unauthorized Routes in the White Mountains and John Muir Wilderness and authorize the Chair to sign correspondence in regards thereto.

SUMMARY DISCUSSION: The Inyo National Forest (INF) has issued and Environmental Assessment (EA) to implement restoration on 58 unauthorized routes in the White Mountains and John Muir Wildernesses (refer to Attachment 3).[1] The EA evaluates two alternatives: (1) No Action and (2) Modified Proposed Action. Under the action alternative, restoration activities would mostly be implemented on the portion of a route visible from the route closure point. On some routes, additional restoration activities would be implemented beyond the "line of sight", primarily to address ongoing soil erosion. Minimal impacts are identified.

The County previously submitted correspondence in response to the scoping notice (Attachment 2). According to the EA, the proposed action includes additions to the National Forest Transportation System and an adjustment to the location of the closure point for one trail to address concerns raised. Staff believes that information presented in the EA is also responsive to the County's requests to provide greater clarity regarding the scope of the project.

Staff has drafted correspondence for the Board's consideration in response to the EA (Attachments 1), primarily addressing the response to the County's previous input, and requested adaptive management during implementation to maximize access. Comments are due by around July 4, 2013.

ALTERNATIVES: The Board could direct changes to the correspondence, or not submit correspondence.

OTHER AGENCY INVOLVEMENT: Department of Agriculture, U.S. Forest Service; Mono County.

FINANCING: General fund resources are utilized to monitor planning work in the Forest.

---

1 Refer also the INF website for more information.

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: 6-17-13

Attachments:

1. Draft Correspondence
2. Previous Correspondence
3. Environmental Assessment Notice and Excerpts

June 25, 2013

Mt. Whitney Ranger Station
Attn.: Jeff Novak
PO Box 8
Lone Pine, CA 93545

Re: U.S. Forest Service Restoration on 58 Routes in the White Mountains and John Muir Wildernesses

To Whom It May Concern:

On behalf of the Inyo County Board of Supervisors, thank you for the opportunity to provide input regarding the proposal to restore 58 routes in the Inyo National Forest. We request that Forest Supervisor Armenta brief the Board regarding implementation of this and other projects on a regular basis.

As indicated in our response to your scoping request, we are deeply concerned about route closures and consider each and every impact to access significant. With this in mind, thank you for considering our scoping comments and addressing our concerns. In particular, the mapping efforts and Travel Management Plan consistency analyses were very helpful in understanding the proposal. We also are pleased that hiker and equestrian access will continue to be accommodated on several of the routes selected for restoration. To minimize impacts to access, we request that the adaptive management program be expanded to ensure that firewood gathering, trail access, vehicle turnarounds, and camping opportunities be considered during implementation to allow for flexibility in barrier location and restoration activities in cases where access to such resources are needed. As we requested in our February 26, 2013 correspondence, previous restoration projects have sometimes been implemented insensitively, resulting in unnecessary secondary resource damage; we continue to urge the Forest Service to take care to minimize its impacts when implementing the proposed restoration projects.

Thank you again for the opportunity to participate in this planning process. We appreciate your consideration of our earlier input. If you have any questions, please contact the County's Administrative Officer, Kevin Carunchio, at (760) 878-0292 or kcarunchio@inyocounty.us.

Sincerely,

Linda Arcularius, Chair
Inyo County Board of Supervisors

cc: Board of Supervisors
Kevin Carunchio, CAO
Randy Keller, County Counsel
Joshua Hart, Planning Director
Doug Wilson, Willdan
Ed Armenta, Inyo National Forest

Attachment 1

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
LINDA ARCULARIUS
JEFF GRIFFITHS
RICK PUCCI
MARK TILLEMANS
MATT KINGSLEY

KEVIN D. CARUNCHIO
Clerk of the Board

PATRICIA GUNSOLLEY
Assistant Clerk of the Board

February 26, 2013

Inyo National Forest Supervisors Office
Attn.: Todd Ellsworth
351 Pacu Lane
Bishop, CA 93514

Re: U.S. Forest Service Scoping for Proposal to Restore 209 Routes

To Whom It May Concern:

On behalf of the Inyo County Board of Supervisors, thank you for the opportunity to provide input regarding the proposal to restore 209 routes in the Inyo National Forest. We hope that Forest Supervisor Armenta plans to brief the Board regarding this project in the near future.

As you probably are aware, we consider most proposals to restore routes as really closing roads. Inyo County expressed its concerns regarding the Travel Management Plan (TMP) extensively in the past, and we incorporate this previous input by reference into our response to this scoping notice. We understand that the TMP is approved and being implemented, and we hope that the proposed restoration projects will each be analyzed for their necessity. We also appreciate that the Forest Service has been flexible and responsive to the public and will continue to be receptive to inputting their feedback. We believe that each and every road closure diminishes access to our public lands, and we consider each to be significant both singularly and cumulatively. We are pleased that the project includes reopening six routes that were closed through the TMP process, and we hope that the Forest Service will continue to implement these reopenings as directed by the TMP.

With this in mind, we expect that the Forest Service will analyze environmental consistency with the TMP for the proposed restoration projects in Inyo County. We also expect that if additional information has arisen regarding the specific route closures since approval of the TMP, that the Forest Service will consider alternatives to closing those routes and will continue public outreach to ascertain new information. We also request that the Forest Service provide maps that are easy to understand to allow the public to easily identify closed routes and that the integrity of the restoration work is upheld. We also request that barriers are not placed on closed routes within designated firewood gathering areas so that the Tribes and the public are not restricted from gathering firewood in these areas. On open routes that mitigation work is occurring on, we request that Forest Service provide updates to the work being done. Finally, previous restoration projects have sometimes been implemented insensitively, resulting in unnecessary secondary resource damage; we urge the Forest Service to take care to minimize its impacts when implementing the proposed restoration projects.

Thank you again for the opportunity to participate in this planning process. We look forward to your response to our concerns. If you have any questions, please contact the County's Administrative Officer, Kevin Carunchio, at (760) 878-0292 or kcarunchio@inyocounty.us.

Sincerely,

Linda Arcularius

Supervisor Linda Arcularius, Chairperson
Inyo County Board of Supervisors

cc: Board of Supervisors
Kevin Carunchio, CAO
Randy Keller, County Counsel
Joshua Hart, Planning Director
Doug Wilson, Willdan
Ed Armenta, Inyo National Forest

USDA United States Department of Agriculture | Forest Service | Inyo National Forest

White Mountain Ranger Station
798 North Main Street
Bishop, CA 93514
(760) 873-2500
(760) 873-2563 TDD

RECEIVED
JUN 2013
PLANNING DEP

File Code: 1950/2320
Date: June 4, 2013

Dear Interested Citizen,

The United States Department of Agriculture Forest Service, Inyo National Forest (Forest Service), has prepared an Environmental Assessment (EA) for a proposal to implement a restoration project on unauthorized routes in the White Mountains and John Muir Wildernesses. The Forest Service proposes to conduct restoration activities on fifty-eight unauthorized routes in a project area that includes eighty unauthorized routes. The unauthorized routes are either located in wilderness or were designated as unauthorized by the 2009 Travel Management Record of Decision. The EA 30-day public review and comment period is expected to begin on June 4, 2013.

The project has two primary purposes. The first purpose is to protect wilderness character by preventing illegal vehicle trespass into the two wilderness areas. The second purpose is to promote natural revegetation processes on the routes. The Forest Service has identified three objectives for the project: protect soil quality by stabilizing eroding sections of routes; promote the recovery of native vegetation cover and plant communities on route surfaces; protect the undeveloped quality of wilderness character in the White Mountains and John Muir Wildernesses.

Under the Modified Proposed Action, the Forest Service would conduct six types of restoration activities: de-compact surface soils on routes; reestablish natural contours on route surfaces by removing berms; install native vertical mulch; spread native ground mulch; install water bars or similar water diversion structures; and transplant/seed with native plants on the non-wilderness portion of routes. These project activities would enable the Forest Service to best meet the project's purpose and objectives.

The EA is available in hard copy format or can be viewed on the Inyo National Forest website at http://www.fs.usda.gov/detail/inyo/landmanagement/projects/?cid=stelprdb5407462. To obtain a copy of the EA please contact Project Leader Jeff Novak at 760-876-6231, jnovak@fs.fed.us, or PO Box 8, Lone Pine, CA, 93545.

Information about how to comment on the EA is provided below. Please contact Jeff Novak at the phone number or email address provided above if you have questions about the EA or commenting procedures.

Sincerely,

Margaret M. Wood

MARGARET WOOD
District Ranger, Mount Whitney and
White Mountain Ranger Districts

How to Comment on the EA

The comment period ends 30 days following the date of publication of the legal notice in the Inyo Register. Only those who provide comment or otherwise express interest in the proposed action during the comment period will be eligible to appeal the decision. Interest expressed or comments provided on this project prior to or after the close of this comment period will not constitute standing for appeal purposes.

Comments must meet the requirements of 36 CFR 215.6. Comments must be submitted to Jeff Novak, Wilderness Unauthorized Route Restoration Project Manager, White Mountain Ranger Station, 798 North Main Street, Bishop, CA, 93514, (760)876-6231, or fax 760-876-6202. Comments may also be submitted by email in word (.doc), rich text format (.rtf), text (.txt), and hypertext markup language (.html) to comments-pacificsouthwest-inyo@fs.fed.us. Comments may also be hand delivered weekdays 8:00 am - 4:30 pm at the above stated address. Contact Jeff Novak to make arrangements to provide oral comments.

To be eligible for appeal, each individual or representative from each organization submitting comments must either sign the comments or verify identity upon request. Names and addresses of commentors will become part of the public record.

The publication date of the legal notice in The Inyo Register is the exclusive means for calculating the time to submit comments on the proposed action. Those wishing to comment on this proposal should not rely upon dates or timeframes provided by any other source.

Environmental Assessment

Wilderness Unauthorized Route Restoration Project

USDA Forest Service, Inyo National Forest
White Mountain and Mount Whitney Ranger Districts

Inyo and Mono Counties, California

May 2013

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Chapter 1 Purpose and Need for Action

1.1 Summary of the Modified Proposed Action

The Inyo National Forest (Forest), White Mountain Ranger District, proposes to conduct a restoration project on unauthorized routes in the White Mountains and Mount Whitney Ranger Districts. The project area includes eighty unauthorized routes. Sixty-three unauthorized routes in the project area are located entirely within the White Mountains Wilderness or the 2009 additions to the John Muir Wilderness, where motorized vehicles are prohibited by law. Twelve unauthorized routes in the project area are partially within wilderness and partially on non-wilderness lands. Five unauthorized routes in the project area are entirely on non-wilderness lands. The unauthorized routes on non-wilderness lands were closed to motorized use by the 2009 Travel Management Record of Decision (Travel Management Decision).

In the Modified Proposed Action, the Forest proposes to conduct restoration activities on portions of fifty-eight unauthorized routes. Restoration activities are proposed for fifty-two of the seventy-five routes within wilderness, and twelve of seventeen routes on non-wilderness lands. Restoration activities would mostly be implemented on the portion of a route visible from the route closure point. On some routes, additional restoration activities would be implemented beyond the "line of sight", primarily to address ongoing soil erosion.

The Modified Proposed Action reflects an assessment by the Forest Service on the type and level of restoration work that can be accomplished with limited funding and personnel, yet still result in meaningful protections to wilderness character. Without these restoration actions there would likely be continual vehicle incursions into wilderness on some of the routes in the project area. The continual vehicle incursions would not allow natural processes to return the routes to a more natural condition.

The Forest intends to protect the wilderness character of the area and reduce resource impacts on non-wilderness routes in the project area through six types of activities: 1) installing native vertical mulch; 2) spreading native ground mulch and imbedding local rocks to provide sites favorable for plant growth; 3) stabilizing soils with water bars; 4) re-vegetating routes with native transplants or seeding; 5) decompacting soils; and 6) removing berms on the sides of the routes or raking to recontour a route surface to natural conditions.

The vehicle barriers and restoration actions would be the minimum necessary to decommission the routes, protect route surfaces from erosion, and allow natural revegetation processes to operate. All restoration activities would be implemented with traditional (non-motorized) hand tools.

The Forest's planning, environmental analysis and implementation activities for this project are funded through a California State Off Highway Vehicle grant. The earliest starting date for the project would be August 2013. The Forest would implement a portion of the project through the

end of October, 2013, when the state grant funds expire. The Forest would then continue restoration efforts as needed, as funds become available.

1.2 Document Structure

This document is a project level Environmental Assessment. The Forest Service has prepared this Environmental Assessment in compliance with the National Environmental Policy Act (NEPA) and other relevant Federal and State laws and regulations. This Environmental Assessment discloses the direct, indirect, and cumulative environmental impacts that would result from the Proposed Action and No Action alternatives. The document is organized into four Chapters:

1. Purpose and Need for Action: This section includes information on the project proposal, the purpose of and need for the project, and the agency's proposal for achieving that purpose and need. This section also details how the Forest Service informed the public of the proposal and how the public responded.

2. Description of the Two Alternatives: This section provides a description of the agency's Proposed Action for achieving the project's purpose, and the No Action Alternative. This section also provides a table that summarizes how well each alternative meets project objectives.

3. Environmental Consequences: This section describes the environmental effects of implementing the Proposed Action and No Action Alternatives. This analysis is organized by the two alternatives, and discusses each alternative's effects to soils, vegetation, and wilderness character. The existing conditions in the project area are summarized first, followed by a description of the effects on the resource under each alternative.

4. List of Persons Consulted: This section provides a list of Forest Service staff who prepared the environmental assessment.

5. Appendices: Appendix A contains detailed maps that depict of the locations of the routes in the project area. Appendix B is a table with the type of restoration treatments that would occur on each route, and the length of treatments for each route, if the Modified Proposed Action were selected.

Additional documentation, including more detailed analyses of project-area resources, may be found in the project planning record located at the Mount Whitney Ranger District Office in Lone Pine, California.

1.3 Description of project area

The project area includes eighty unauthorized routes in White Mountain and Mt. Whitney Ranger Districts. The eighty routes have a total distance of 29.2 miles.

- Sixty-three of the unauthorized routes are located entirely within National Wilderness Preservation System lands designated by the 2009 Omnibus Public Lands Management Act: fifty-two routes are in the White Mountains Wilderness; and eleven routes are in the John Muir Wilderness Additions.
- Eight routes are partially located within the White Mountains Wilderness and partially on non-wilderness lands. Four routes are partially located within the John Muir Wilderness and partially on non-wilderness lands. The non-wilderness portions these eight twelve routes were designated as unauthorized routes by the 2009 Inyo National Forest Travel Management Decision (Travel Management Decision).
- Five routes in the project area are located entirely outside of wilderness. These routes were designated as unauthorized routes by the Travel Management Decision.
- The majority of the routes (sixty-three) had been constructed roads at some point in the past, or four wheel drive routes with two wheel tracks, and each route is approximately 12 feet wide. Fifteen of the routes were motorcycle single tracks. Two routes have a portion that is four wheel drive width and a portion that is motorcycle single track width.

The White Mountains Wilderness, 229,993 acres in size, is located in southeastern Mono County, California. The unauthorized routes in this wilderness are mostly located in three areas: along the western boundary of the wilderness; in the upper elevations of the Cottonwood Creek drainage; and in the North Fork of Crooked Creek drainage. The wilderness includes 946 acres of Bureau of Land Management public lands in the Chalfant/Coldwater Canyon area. Public Law 111-11, Section 1803 (l) transferred the administrative jurisdiction of the BLM lands to the Forest Service.

The 2009 addition to the John Muir Wilderness is 70,411 acres in size. The unauthorized routes in the wilderness additions are mostly located along the eastern boundary of the wilderness, from approximately five miles west of Bishop, California southward to approximately five miles west of Lone Pine, California.

Figure 1 depicts the general location of the unauthorized routes in the White Mountains Wilderness and adjacent non-wilderness lands. Figure 2 depicts the general location of the unauthorized routes in the John Muir Wilderness and adjacent non-wilderness lands. Appendix A contains more detailed maps of the locations of the routes in the project area.

Figure 1. White Mountains Wilderness Vicinity Map

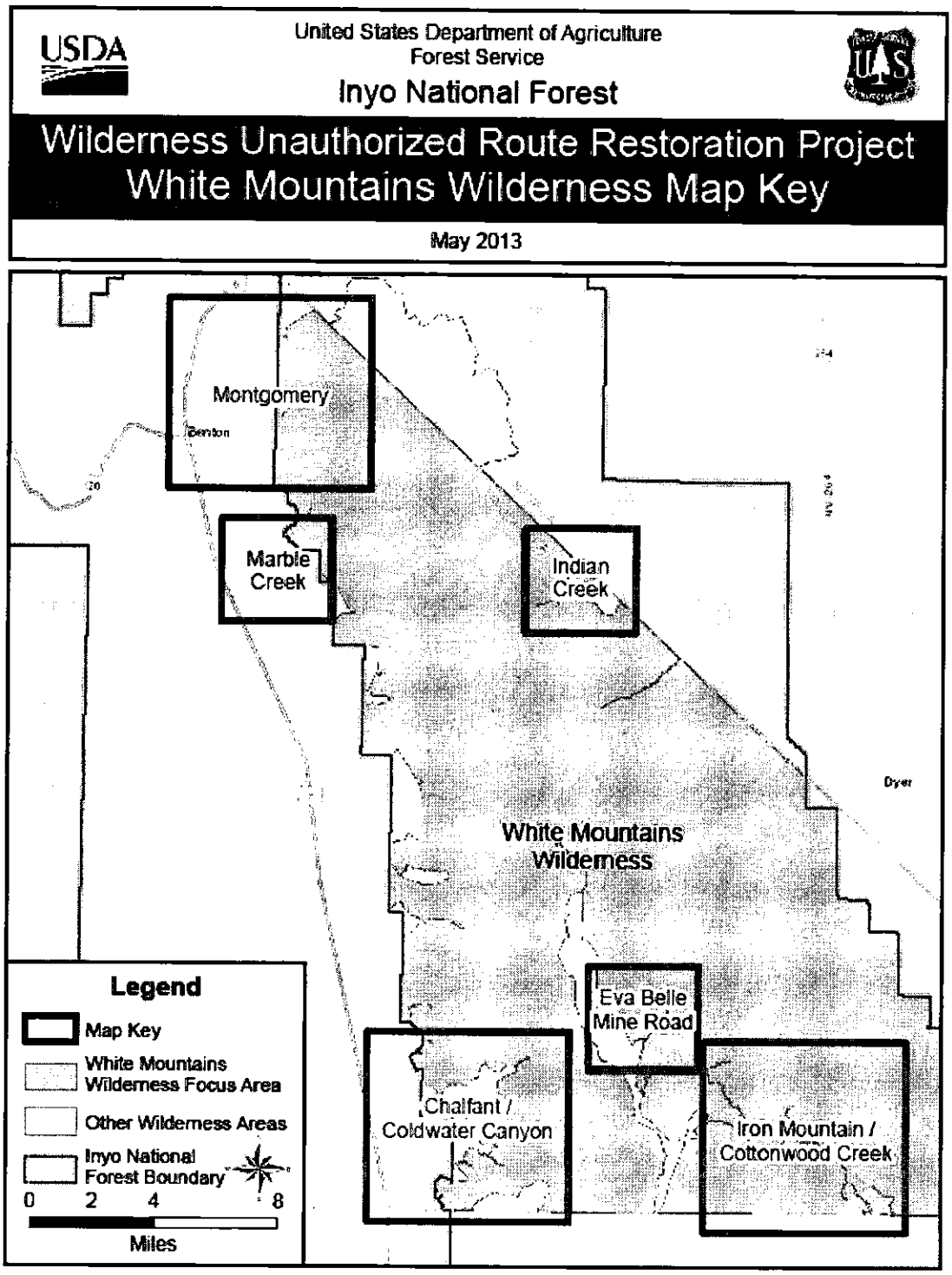
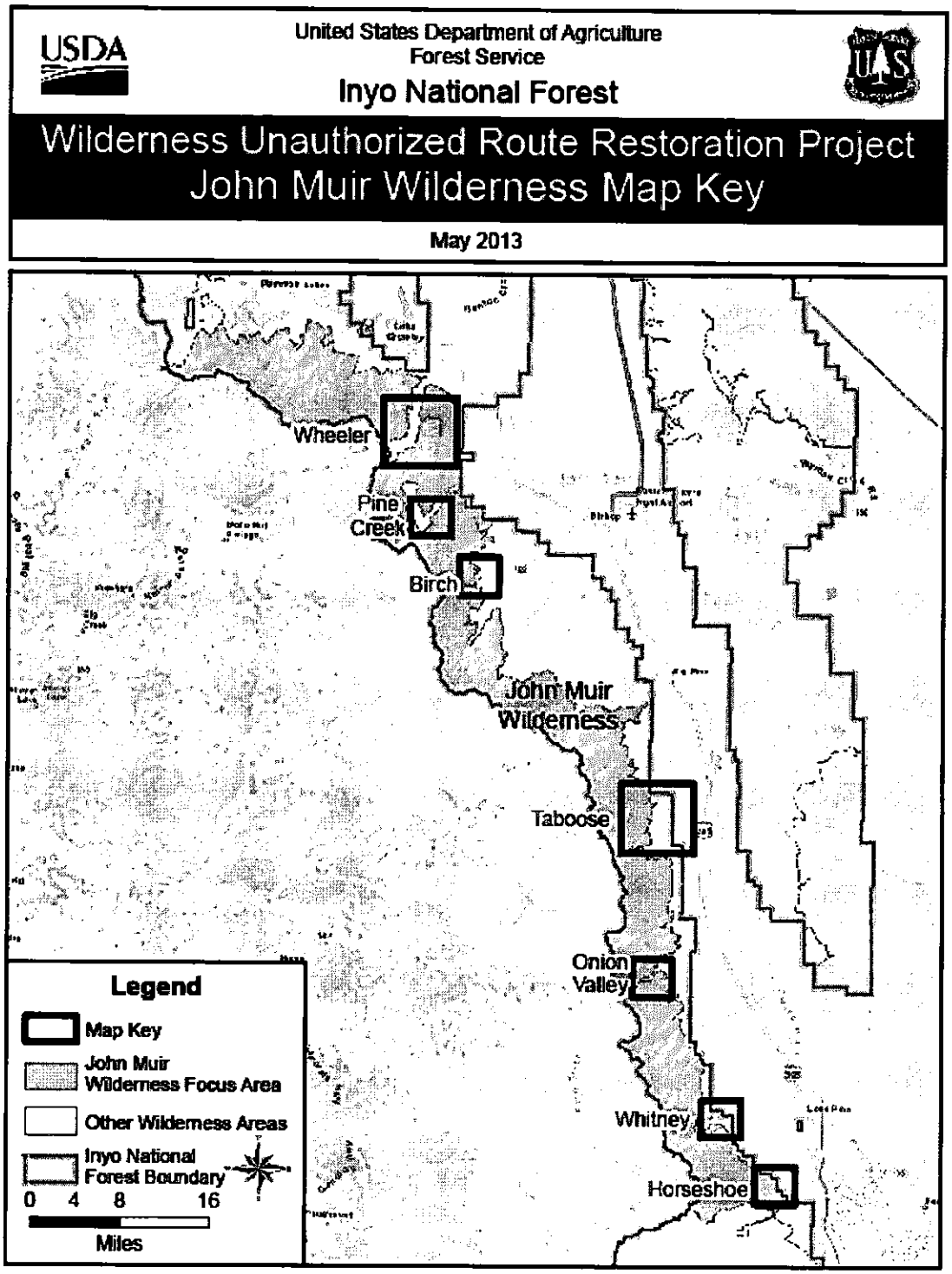


Figure 2. John Muir Wilderness Vicinity Map



1.4 Purpose and need

The overall goal of the project is to protect and restore wilderness character to the routes in the project area that are located in wilderness. The project has three major purposes: 1) prevent vehicle incursions into designated wilderness on unauthorized routes; 2) on routes within wilderness, promote the natural revegetation processes and soil productivity needed to restore the natural quality of wilderness; 3) on routes on non-wilderness lands, decommission the routes and promote revegetation to improve resource conditions.

1.4.1 Need

Routes within wilderness:

There is a need to administer these wilderness areas in a manner consistent with Wilderness Act Section 4(c), which prohibits permanent roads and the use of motor vehicles in wilderness.

There is a need to promote the restoration of the natural quality of wilderness character on the unauthorized routes. After field reviews in the project area, the interdisciplinary team concluded the natural quality of wilderness is being affected by three types of existing resource conditions that do not meet the Forest Land and Resource Management Plan (Forest Plan) standard and guideline to maintain a predominantly natural and natural-appearing environment in wilderness (pg. 97).

- There is a lack of native vegetation on most of the routes. The majority of the routes in the project area appear to have had regular vehicle traffic on them until the Forest began to install vehicle barriers on unauthorized routes in the project area in 2011. Thirty-six routes have either no vegetation on the route surface or there is vegetation present only in the center berm between wheel tracks. Forty-two routes have some vegetation growing in the tracks, but the vegetation is noticeably diminished from that adjacent to the route. Only one route has existing vegetation similar to that adjacent to the route[1].
- Soils on most of the routes are compacted by either past road construction activities or vehicle traffic on routes during the years prior to wilderness designation. Almost all routes in the project area have some level of compaction. Based on a general soil survey, the Chalfant/Coldwater Canyon area routes have moderate to severe compaction; the remainder of the routes in the White Mountains have moderate compaction; and the routes along the Sierra Nevada escarpment have light to moderate compaction. Soils are eroding on portions of fifteen routes, as evidenced by small gullies and rills on route surfaces.

There is a need to restore the undeveloped quality of wilderness character. Thirty-eight of the routes in the project area had been constructed as roads in the past. The routes continue to have

[1] The summary of existing vegetation includes 79 routes. The one remaining route is proposed for addition to the National Forest Transportation system.

visible signs of construction including bladed grades, road cuts in hillsides, and remnants of berms on the sides of the routes. This condition does not meet the Forest Land and Resource Management Plan wilderness standard and guideline to maintain a predominantly natural and natural-appearing environment (pg. 97).

Routes on non-wilderness lands: There is a need to conform to the Travel Management Decision's Implementation Strategy, which requires site-specific analysis before decommissioning unauthorized routes (pg. 11).

There is a need to promote the restoration of native vegetation on these unauthorized routes to meet the Forest Plan watershed standard and guideline to revegetate roads and trails when use is terminated (pg. 97)

1.4.2 Project objectives

Objectives: The Forest has identified three project objectives that will serve as the criteria to compare how well the two alternatives meet the overall project purposes. The management direction that is the source for each objective is referenced as "Direction" below. For each objective, an indicator has been chosen to measure how well the alternatives meet the project objectives.

Objective 1: Protect soil quality by stabilizing eroding sections of routes.

Direction: Forest Plan Watershed Management Direction: a) Stabilize all areas disturbed by management activities to minimize soil erosion. b) Conserve the surface mineral and/or surface organic layer of the soils by minimizing soil disturbance to maintain long-term productivity. (pg. 95).

Indicator: Route sections with eroding soils.

Measure: Proportion of route sections with steeper grades (> 15%) that are incised by gullies or rills and do not have erosion control structures.

Objective 2: Promote the recovery of native vegetation cover and plant communities on route surfaces.

Direction: Forest Plan Wilderness standards and guidelines: Maintain a predominantly natural and natural-appearing environment (pg.97);

Indicator: Routes have surface conditions that promote natural revegetation processes.

Measure A: Proportion of routes in project area with improved conditions for revegetation through restoration treatments.

Measure B: Length of motorcycle single tracks in wilderness with compacted soils and damaged vegetation.

Objective 3: Protect the undeveloped quality of wilderness character in the White Mountains and John Muir Wildernesses.

Direction: Wilderness Act Section 4(c): Except as specifically provided for in this Act, and subject to existing private rights, there shall be no commercial enterprise and no permanent road within any wilderness area designated by the Act…there shall be no temporary road, no use of motor vehicles, motorized equipment or motorboats, no landing of aircraft, no other form of mechanical transport, and no structure or installation within any such area.

Forest Plan Visual Resources standards and guidelines: Rehabilitate the visual resource where the existing visual condition fails to meet the assigned Visual Quality Objective of preservation, which only allows for ecological changes[2] (pg. 94).

Indicator A: Visible remnants of constructed roads in wilderness.

Measure A: Linear distance of constructed roads with no restoration treatments.

Indicator B: Unauthorized motorized vehicle incursions into wilderness.

Measure B: Proportion of routes with vehicle barriers or other treatments to discourage vehicle incursions.

1.4.3 Laws, Regulations, and Policies

The decision on this project will be made in accordance with a number of laws, regulations, and Forest Service policies including:

The **Wilderness Act of 1964** provides for the establishment of designated wilderness lands that are to be protected for their ecological, geological, recreational, historic, scientific, education and scenic values. Section 4(d) of the Wilderness Act states the Forest Service "shall be responsible for preserving the wilderness character of the area and shall so administer such area for such other purposes for which it may have been established as also to preserve its wilderness character."

The **National Historic Preservation Act of 1966, as amended** requires federal agencies to identify and consider historic properties in Federal and federally assisted actions.

The **Clean Water Act of 1972, as amended** contains provisions to restore and maintain the chemical, physical, and biological integrity of the nation's waters, and to protect beneficial use.

---

[2] The Visual Quality Objective (VQO) in wilderness is preservation, which only allows for ecological changes, and all other management activities except for very low visual impact recreation facilities, are prohibited (Agricultural Handbook No. 462, USDA Forest Service, 1974). The VQO in the non-wilderness portion of the project area in the White Mountains is retention, which provides for management activities that are not visually evident and landscape character appears unaltered with only minimal deviations.

The **Endangered Species Act of 1973, as amended** contains provisions to prevent the extinction of any species that is in danger of extinction throughout all or a significant portion of its range. Section 7 of the Act outlines procedures for interagency cooperation to conserve federally listed species and designated critical habitats.

The **Omnibus Public Lands Management Act (2009)** which designated the White Mountains Wilderness and the additions to the John Muir Wilderness.

Forest Service Manual Section 2323 provides policy for management of designated wilderness administered by the Forest Service.

Forest Service Manual Section 2900 provides direction for prevention, detection, control, and restoration of effects from non-native invasive plant species.

36 CFR 212, Subpart B, of the November 5, 2005 Travel Management Rule (36 CFR 212.50-57 provides for a system of National Forest System roads that are designated for motor vehicle use and identifies the criteria for designating Forest Travel Route System routes.

The **Inyo National Forest Land and Resource Management Plan (1988),** as amended, contains watershed goals and wilderness management direction applicable to route restoration projects.

The **Record of Decision for Management Direction for the Ansel Adams, John Muir, and Dinkey Lakes Wildernesses (2001)** contains management direction for the protection of resources within the John Muir Wilderness.

The **Sierra Nevada Forest Plan Amendment Record of Decision (2004)** amended the Inyo Forest Plan. The 2004 Record of Decision contains direction regarding the standards and guidelines for Riparian Conservation Areas. The 2004 Record of Decision also contains direction regarding the involvement of American Indian Tribes, communities, and organizations in land management and for consideration of traditional cultural values, uses and access.

The **Sierra Nevada Management Indicator Species Amendment Record of Decision (2007)** requires the Forest to analyze the effects of proposed projects on management indicator species' habitat.

The **Travel Management Decision (2009)** designated the National Forest Transportation System on the Inyo National Forest.

1.5 Decision to be made

The deciding official will review the Modified Proposed Action and No Action alternatives, and, given the purpose and need for the project and environmental effects, decide whether or not to implement the proposed route restoration activities. The deciding official will also decide whether to add one route and a portion of another route to the National Forest Transportation System.

1.6 Public Involvement and Native American Consultation

The Modified Proposed Action has been developed after review of the agency and public comments on the Proposed Action and further internal Forest Service review of the Programmatic Agreement among the U.S.D.A Forest Service, Pacific Southwest Region, California State Historic Preservation Officer, and Advisory Council on Historic Preservation regarding the identification, evaluation and treatment of historic properties managed by the national forests of the Sierra Nevada, California. The Wilderness Unauthorized Route Restoration Project has been listed on the Forest's Schedule of Proposed Actions since January 2013.

A public meeting to introduce this project and two other route restoration projects on the Forest was held in Bishop, CA on February 12, 2013. The following comments were recorded that pertain to this project:

- The Forest would better protect vegetation from damage by not installing vehicle barriers and restoring routes that are in open wood-cutting areas.
- The route closure point for U-N744 should be at the Forest Boundary, not on BLM lands as depicted on the January 2013 Marble Creek map.
- Restoration treatments on U-05S127 should allow for continued access on the portion of the route in wilderness by hikers and stock users.

No additional written comments were received from the public through the "input form" distributed to meeting attendees.

A scoping letter describing the Proposed Action was mailed to fifty-seven individuals or agencies on January 31, 2013. The Forest requested comments on the Proposed Action be submitted by March 8, 2013. Comment letters or emails were received from two agencies and five individuals or organizations.

The Los Angeles Department of Water and Power letter indicated the Department wanted to clarify that the proposed project area would not include the Hi-Head Hydro intake facility or the intake pipeline in Coldwater Canyon. Neither facility is within the proposed project area.

The Inyo County Board of Supervisors' letter made two comments: 1) The Board expects the Forest Service to consider alternatives to closing routes designated unauthorized by the Inyo National Forest Travel Management Decision if additional information has arisen regarding the specific route closures; 2) The Board requests the Forest to not place barriers on the unauthorized routes in designated wood gathering areas. The Proposed Action's addition of U-N10058 and a portion of 06S03J to the National Forest Transportation System addresses the first comment. The Modified Proposed Action addresses the second comment by adjusting the location of the closure point for U-15S110 to the John Muir Wilderness boundary.

Comments from the public on the Proposed Action fell into five categories:

1. Support for maintaining foot and pack stock access to the routes' destinations.

The Proposed Action included designing restoration treatments on seventeen routes to encourage hiker or riding stock access to the route destinations. No additional destinations were indicated as potential recreation destinations, so the Modified Proposed Action contains the same seventeen routes.

2. Suggestions for additional treatments on a number of routes to improve the natural revegetation processes.

   The suggestions for additional treatments include de-compacting additional route surfaces and adding one route, U-09S178, to the routes receiving restoration treatment. These additional treatments would promote the revegetation of route surfaces and have been incorporated into the Modified Proposed Action.

3. The Forest should consider minimal implementation of vehicle barriers and restoration treatments on several routes.

   The Forest is concerned that the public would perceive uneven implementation of vehicle barriers at wilderness boundaries as adjustments to the boundaries. Inyo National Forest does not have the authority to adjust the boundaries. Forest Service Manual 2321.1 – Legal Description and map (of wilderness boundaries) states: "A legal description and map shall be prepared by the Regional Forester for each wilderness using the boundaries Congress has provided. The Forest Service does not have authority to modify the given boundaries. This is true even though the new wilderness may contain constructed roads, timber harvest areas, summer homes, or other evidences of development…"

4. Restoration actions should be implemented along the entire section of route visible from route closure point.

   The Modified Proposed Action will clarify the Forest proposes to conduct restoration work primarily along the portion of unauthorized routes visible from open routes in the area of the route closure point.

5. The Forest should take additional measures to prevent cross-country vehicle travel in the Wheeler Ridge area of the John Muir Wilderness.

   Additional route delineation measures on routes that are part of the National Forest Transportation System can be implemented under the 2009 Travel Management Decision.

No other potential issues or effects on resources were identified by either agencies or the public.

Native American Tribes that claim ancestral home lands within the project area were consulted pursuant to the American Indian Religious Freedom Act of 1978, Executive Order 13007 (1996), and under Section 101(d)(6)(B) of the National Historic Preservation Act of 1966 as amended. Official letters regarding the Wilderness Unauthorized Route Restoration project were mailed to the following Paiute Tribes that claim ancestral lands within the project area:

- Benton Paiute Reservation Utu Utu Gwaitu Paiute Tribe
- Big Pine Tribe of Owens Valley, Big Pine, Ca.
- Bishop Paiute Indian Tribal Council, Bishop, Ca.
- Fort Independence Community of Paiute Indians, Independence, Ca.
- Lone Pine Paiute-Shoshone Reservation, Lone Pine, Ca.

The Tribal Historic Preservation Officer from the Bishop Paiute Tribe of Owens Valley, Raymond Andrews, conducted a site visit with Forest staff on April 17, 2013 to one of the routes in the project area. Mr. Andrews wanted to visit one of the project routes to ascertain whether the Tribe would have any concerns with potential effects on plants from project activities. The Forest has not received any further comments from the Bishop Paiute Tribe.

1.7 Bureau of Land Management coordination

Eight routes in the project area cross BLM public lands before meeting the wilderness boundary closure point at the boundary between BLM and Forest Service lands (U-01S531; U-N744; U-N1761; U-N10076; U-N10077; U-N10084; U-11S100; and U-N2446). The Forest Service will coordinate with the BLM to place signs at existing vehicle turn-around points closest to the wilderness boundary. The signs will notify motorists the distance to the wilderness boundary and this location if the last available turn-around before the route closure point at the wilderness boundary.

Chapter 2 Description of Alternatives

2.1 Introduction

Two alternatives will be compared in this environmental assessment: the No Action and the Modified Proposed Action. The No Action Alternative allows the existing resource conditions on unauthorized routes to continue. The Forest would continue to implement the Travel Management Decision on the sixty-five routes on Forest Service lands. This includes the installation of vehicle barriers at the beginning termini of unauthorized routes, and treatments to visually disguise the routes within thirty feet of the vehicle barrier.

The Proposed Action was developed by an interdisciplinary team during 2012. The team used a problem assessment approach to evaluate resource conditions on routes in the project area. The Proposed Action was the Forest's recommended actions to prevent vehicle incursions into wilderness, address resource impacts caused by past vehicular use on the routes, and promote the revegetation needed to restore wilderness character. The suggestions for improving the Proposed Action brought by the agencies and the public through the scoping process have resulted in the Forest Service modifying the Proposed Action. The modifications to the Proposed Action in the Modified Proposed Action Alternative include:

- One additional route in wilderness (U-09S178) would receive restoration treatments;

- The non-wilderness portion of two routes (U-N1761 and U-01S532) would receive restoration treatments;
- The non-wilderness portion of U-15S110 would not be blocked or receive restoration treatments;
- Soils on portions of six additional routes in wilderness (U-N1766, U-N2667, U-N2655, U-N2656, U-05S133, U-11S100) would be decompacted.
- To avoid potential impacts to cultural resources in the Southern Belle mining district near Coldwater Canyon, restoration treatments on eight routes in wilderness would include only native mulch and vertical mulch.

The total distance of routes treated is substantially the same for the Proposed Action (8.5 miles of routes with restoration) and Modified Proposed Action (8.6 miles of restoration). The types and levels of anticipated effects of the Proposed Action cannot be differentiated from the types and levels of effects of the Modified Proposed Action.

Project constraints: 1) The overall amount of restoration activities possible for this project in the short-term is constrained by the available funding for the project, which is through a California State Off-Highway Vehicle grant; 2) No restoration activities are proposed for historic mining sites in either wilderness area because the sites have not been evaluated for their significance.

2.2 Alternatives: No Action and Modified Proposed Action

2.2.1 No Action

The Forest would not conduct any resource protection measures or restoration activities on routes in the project area.

The No Action Alternative assumes vehicle barriers or visual disguise treatments within thirty feet of the route closure point will be installed on fifty-three of the sixty-five routes in the project area that were included in the Travel Management Decision. The Forest began installing barriers and visual disguise treatments in the project area in 2012; vehicle barriers have been installed on fourteen routes, and an additional three routes in the project area have received visual disguise treatments. Twelve routes have only wilderness boundary signs because they are in sparsely vegetated high altitude areas where barriers or visual disguise treatments are not practical. The barriers and disguise treatments would be moderately effective at preventing vehicle incursions on the routes in the future. The Travel Management Final Environmental Impact Statement assumed that there will be "a higher number of violations (i.e. travel off designated routes) the first few years before the number of violations declines as users understand and comply with the restrictions" (pg. 52).

There are fifteen routes in the project area where the Forest would not install vehicle barriers or visual disguise treatments because the routes were not included in the inventory analyzed in the Travel Management Final Environmental Impact Statement (pg. 52). The fifteen routes are either on Bureau of Land Management (BLM) public lands within the White Mountains Wilderness that are now administered by the Inyo National Forest, or routes on Forest Service lands that were not identified during the Travel Management planning process. Table 1 below list the fifteen routes. Fourteen of the routes are in the Chalfant/Coldwater Canyon area of the White Mountains Wilderness. The fifteenth, U-N10076, is in the Taboose area of the John Muir Wilderness.

Table 1. Project area routes not included in the Travel Management Record of Decision.

Route number	Route status	Route number	Route status
U-N10072	BLM lands administered by FS	U-N10081	BLM lands administered by FS
U-N10073	Forest Service – not on original Travel Management inventory	U-N10082	BLM lands administered by FS
U-N10074	Forest Service – not on original Travel Management inventory	U-N10083	BLM lands administered by FS
U-N10075	Forest Service – not on original Travel Management inventory	U-N10084	BLM lands administered by FS
U-N10077	BLM lands administered by FS	U-N10086	BLM lands administered by FS
U-N10078	BLM lands administered by FS	U-N10087	BLM lands administered by FS
U-N10079	Forest Service – not on original Travel Management inventory	U-N10088	BLM lands administered by FS
U-N10080	Forest Service – not on original Travel Management inventory		

2.2.2 Modified Proposed Action

The Forest proposes restoration activities on fifty-eight of eighty routes. The description of the proposed action is divided into routes within wilderness and routes outside of wilderness. There are twelve routes with a portion of the route within wilderness and a portion on non-wilderness lands. In general, the project area boundary is a 100 feet wide corridor (50 feet on each side of the centerline of the route) along each route.

The restoration activities would occur mostly on the portion of a route visible from the route closure point. On some routes, additional restoration activities would occur beyond the portion visible primarily to address ongoing soil erosion from the routes. The Forest also proposes one

addition to the National Forest Travel System, and the extension of one existing National Forest Travel System route (06S03J) by approximately ¼ mile.

Unauthorized routes in wilderness:

- The Forest would conduct restoration activities on portions of fifty-two of the seventy-five routes within wilderness. The group of routes with proposed restoration activities includes forty-five routes that are entirely within wilderness, and the wilderness portion of seven routes that are on both wilderness and non-wilderness lands. The Forest would also install vehicle barriers at the wilderness boundary on the fifteen routes in Table 1 above.
- There would be no restoration activities on twenty-three routes in wilderness. On these twenty-three routes the Forest would only implement the Travel Management Decision implementation actions to prevent vehicle incursions into wilderness.

Unauthorized routes outside of wilderness:

- The Forest would conduct restoration activities on twelve of seventeen unauthorized routes on non-wilderness lands. The group of routes on non-wilderness lands includes four routes that are entirely outside of wilderness and the non-wilderness portion of eight routes that are on both wilderness and non-wilderness lands.
- There would be no restoration activities on five routes that are located on non-wilderness lands.

Additions to National Forest Transportation System:

- Add ¼ mile to National Forest Transportation System route 06S03J in the White Mountains. The closure point for this route will be moved ¼ mile east of the point identified in the Travel Management Decision (the Inventoried Roadless Area boundary) to allow a safe turn-around point for motorists.
- Add to the National Forest Transportation System route N10058 in the White Mountains. Forest maps included this route in the list of routes within wilderness for the Travel Management Decision. The Forest has since determined that this route is entirely outside of wilderness.

Description of restoration activities:

1. <u>De-compact surface soils on routes</u>: the top few inches of the route surface would be loosened with non-motorized hand tools to reduce soil compaction.
2. <u>Remove berms or raking to recontour a route surface to natural conditions</u>: If berms along the sides of a route do not have any existing vegetation, soils would be pulled in and distributed across the route surfaces to blend it with the adjacent landscape. In areas with

motorcycles tracks, the disturbed soils would be raked to match the natural contours and reduce the visual contrast of the track with the surrounding landscape.

3. Install native vertical mulch on routes: Dead and down vegetation would be obtained locally from primarily non-wilderness lands and "planted" on route surfaces. The composition and density of the planted vegetation would match the natural vegetation in the area surrounding the route. The vertical mulch would be installed on portions of the route visible from the wilderness boundary or route closure point. The vertical mulch and additional organic material reduce the visual contrast between the route and the surrounding area, and create sheltered sites more favorable for natural revegetation processes.
4. Spread native ground mulch and imbed local rocks in route surfaces: Additional dead vegetation, local rocks or other organic material would be obtained locally and distributed over the route surfaces to provide sheltered sites more favorable for natural revegetation processes. Rocks would be obtained within the 100 foot wide project area along each route. Mulch and rocks would be placed in a manner that matches the color, density, and texture of the areas adjacent to the routes.
5. Install water bars or similar water diversion structure on routes sections that are eroding: Water bars are soil stabilizing and water drainage structures built of locally obtained rock. Water bars will be placed where route surfaces are visibly eroding, or the route's grade exceeds fifteen percent for a distance that creates the potential for soil erosion. The size and placement of structures is primarily to protect the route surface from erosion caused by overland water flow. Water bars would be constructed as a swale on more gradual slopes, or with a single tier of rock on steeper slopes. Rock sources would be within the 100 foot wide project area along each route.
6. Transplant native plant or seed with native species on the non-wilderness portion of routes to enhance the revegetation process: All transplants would be locally collected. Seed from native species would be scattered on de-compacted surfaces.

The design of the restoration treatment for each route is based on the route's soils, condition of vegetation, susceptibility to erosion, the potential for vehicle incursions, and the potential for non-motorized recreation on the route. Appendix B contains a list of routes in the project area, the proposed restoration activities for each route, and the length of the route where activities are proposed.

Adaptive Management actions:

The Modified Proposed Action's restoration activities or Travel Management closure actions (wood barriers, wilderness boundary signs, and route disguising) will likely not deter all future motorized vehicle incursions into wilderness. If resource damage is caused by vehicle incursions, additional wood barriers or other types of vehicle barriers would be installed at the wilderness boundary, and additional restoration treatments would be implemented as needed to

address any resource damage. Any additional barriers would be installed within the 100 foot wide project area boundary for each route. The Forest would have to complete additional environmental analysis to conduct any additional restoration or install vehicle barriers beyond the project area.

2.2.3 Modified Proposed Action management requirements

The following management requirements were developed through the interdisciplinary team process, and would apply to the Modified Proposed Action:

1. Botany protection measures:
    a. A Forest Botanist would either flag sensitive plant populations or supervise the crew's work to avoid disturbing sensitive plants near the following routes: U-05S127; U-04S323; U-N2667; U-N1815; and U-N10074.
    b. A Forest Botanist would provide training and guidance to field crews on techniques for transplanting native plants prior to project implementation.
    c. Crews would clean vehicles, tools, and clothing prior to working in the project area to remove soil, seeds, or plant material.
    d. Sites where decompaction, recontouring, or water bar installation occurs would be monitored for two growing seasons after implementation and any new non-native invasive weed infestations would be removed. If high priority weeds are found, treatment shall continue until the infestation is eradicated.
2. Heritage protection measures:
    a. The Forest would incorporate the protective design standards and standard resource protection measures provided by the Motorized Recreation Programmatic Agreement. Appendix A (Exempt Undertakings) and Appendix B (Standard Resource Protection Measures) in the Programmatic Agreement Among The U.S.D.A. Forest Service, Pacific Southwest Region, U.S.D.A. Forest Service, Intermountain Region's Humboldt-Toiyabe National Forest, California State Historic Preservation Officer, And Advisory Council On Historic Preservation Regarding The Process For Compliance With Section 106 Of The National Historic Preservation Act For Designating Motor Vehicle Routes And Managing Motorized Recreation On The National Forests In California, 2006 are incorporated by reference.
    b. The Forest Archeologist would mark areas on the following routes that crews would avoid and not cause surface disturbances during project implementation: U-N1752; U-N10059; U-N2665; U-N2667; U-04S323; and U-05S127.

3. Sensitive species protection measures:
   a. There would be a limited operating period on the following routes: U-04S323; U-05S137; U-05S138; U-N1901; U-N1902; U-N1903; U-N1904; U-N1910; U-N2655; U-N2656; U-N2657; U-N2667; U-N500; and U-N5012. Restoration activities (including the installation of vehicle barriers) would not occur between April 1 and June 30 each year.
4. Water Quality protection measures:
   a. Implement the following Best Management Practices (BMP) with oversight by a Forest watershed specialist.

      BMP 2-13: Develop and implement an erosion control and sediment plan that covers all disturbed areas, including borrowing, stockpiling, refueling, and staging areas used during construction activities. This plan must be approved by a FS watershed specialist prior to implementation.

      BMP 1-19: Provide for unobstructed passage of storm flows, control sediment and other pollutants from entering the stream course, and restore the natural course of any stream as soon as practicable.

      BMP 5-4: On non-wilderness routes identified by a watershed specialist as having unstable soil surfaces resulting from project activities, revegetation with native seed and/or application of mulch may be required to protect water quality and minimize soil erosion. The onsite factors evaluated will include soil productivity, topography, EHR, and soil water holding capacity.
   b. Implement appropriate monitoring and maintenance efforts (e.g., prior to and after storm events) to ensure proper BMP function and efficiency
   c. Energy dissipaters will be installed at outlet points of water bars to reduce runoff velocity and erosion potential if an erosion hazard exists as determined by a watershed specialist.
   d. If this project plans to utilize native material onsite (such as rocks, logs, etc.), borrow sites/areas must be approved by a FS watershed specialist.
5. All work in designated wilderness would be completed with non-motorized and non-mechanized tools.
6. The restoration treatments on seventeen of the routes listed in Table 2 below would be designed to allow for hiker and equestrian access to the route's destination. None of the routes are proposed to be added to the Forest Trail System.

Table 2. Routes with treatments designed to allow hiker and equestrian access.

Route	Map Key	Route	Map Key
U-01S531	Montgomery	U-N10059	Chalfant/Coldwater Canyon
U-N744	Marble Creek	U-N1815	Chalfant/Coldwater Canyon

Route	Map Key	Route	Map Key
U-N1752	Chalfant/Coldwater	U-N2946	Chalfant/Coldwater Canyon
U-04S323	Eva Belle Mine Rd	U-N2657	Iron Mtn./Cottonwood Ck.
U-N2665	Eva Belle Mine Rd.	U-5008	Iron Mtn./Cottonwood Ck.
U-N2667	Eva Belle Mine Rd.	U-N1910	Iron Mtn./Cottonwood Ck.
U-05S127	Wheeler	U-N2330	Taboose
U-N2331	Taboose	U-13S142	Onion Valley
U-N2446	Horseshoe		

7. Signs to notify motorists of the location of the wilderness boundary would be installed at the closest turn-around to the boundary on four routes crossing BLM public lands: U-01S531; U-N744; U-11S100; U-N2446. The signs would that indicate "wilderness boundary is (for example) 200 feet ahead, this area is the last vehicle turn-around; foot and horse traffic welcome."

2.3 Comparison of Alternatives

This section compares how well the No Action and the Modified Proposed Action achieve project objectives. Table 3 below displays the three project objectives described in Section 1.4.2. For each project objective, the Forest has selected an indicator of resource conditions and one or more measures for the indicator. The projected measure for each indicator is displayed in the No Action and Modified Proposed Action columns. The Modified Proposed Action more effectively meets the three project objectives than the No Action Alternative.

Table 3. Comparison of Alternatives
Effectiveness of No Action and Proposed Action at meeting project objectives

Project Objectives	Indicator & *Measure*	No action	Proposed action
Objective 1: Protect soil quality by stabilizing eroding sections of the unauthorized routes.	Route sections with eroding soils. *Measure: Proportion of former four wheel drive routes on steeper grades (>15%) with visible erosion (small gullies or rills.)*	8% of the total route distance on steeper grades would continue to have visible signs of erosion. Currently 15 routes with total distance of .95 miles have visible signs of erosion.	No routes sections on steeper grades that are currently eroding would lack water bars or erosion control structures. All .95 miles of route surfaces would be stabilized, which would protect soils from additional erosion.

Project Objectives	Indicator & *Measure*	No action	Proposed action
Objective 2: Promote the recovery of native vegetation and plant communities on route surfaces.	Route surface conditions that promote natural revegetation processes. *Measure A: Proportion of routes in project area with improved conditions for revegetation through restoration treatments.*	None of 29.2 miles of routes in the project area would have improved conditions for revegetation through restoration treatments.	29% of 29.2 miles (8.6 miles) of routes in the project area would have improved conditions for revegetation through restoration treatments.
	Measure B: Length of motorcycle single tracks in wilderness, with compacted soils and damaged vegetation.	4.3 miles of motorcycle tracks in wilderness would continue to have compacted soils and damaged vegetation.	Would reduce distance with compacted soils and damaged vegetation from 4.3 miles to 1.8 miles after restoration treatments on 2.5 miles of motorcycle single track.
Objective 3: Protect undeveloped quality of wilderness character.	Indicator A: visible remnants of constructed roads in wilderness[3]. *Measure A: linear distance of restoration treatments on constructed roads.*	There would be no restoration treatments on any of the thirty-eight routes that had been constructed roads.	There would be a total of 4 miles of restoration treatments on twenty-five of thirty-eight routes that had been constructed roads.
	Indicator B: Motorized vehicle incursions into wilderness *Measure B: Proportion of routes with vehicle barriers or other treatments to discourage vehicle incursions.*	B: No routes would have vehicle barriers or route disguising treatments at the route closures to discourage vehicle incursions into wilderness[4].	B: 19% of routes (15 routes) would have vehicle barriers or restoration treatments on route's line of sight to discourage vehicle incursions into wilderness.

[3] Thirty-eight constructed routes with a linear distance of 12.6 miles are now within designated wilderness. The routes were constructed by mechanized equipment prior to wilderness designation.

[4] The Forest will install vehicle barriers or visual disguise treatments on 52 of 80 routes as part of the implementation of the Travel Management Decision.

Chapter 3 Environmental Consequences

3.1 Introduction

This chapter is organized by the effects to vegetation (section 3.2), soils (section 3.3), and wilderness character (section 3.4) for the No Action and Modified Proposed Action Alternatives. The Forest Service has identified these three resources as the relevant resources for analysis based on the project need and project objectives. Relevant resources are the resources that may be affected by the implementation of either the No Action or Modified Proposed Action. Effects to other resources and the ten significance factors are disclosed in section 3.5.

Terminology: The effects on resources or wilderness character are described in terms of the type (i.e. beneficial or adverse effect), context (the areal extent of effect), duration, and the intensity of effect. Beneficial effects would improve resource condition or wilderness character. Adverse effects are those that are unfavorable to resources or wilderness character.

Intensity terminology:

Negligible: There would be no detectable effect on a resource or a quality of wilderness character.

Minor: Effects to a resource or one or more qualities of wilderness character would be detectable; effects would be within one area of the wilderness; effects would be localized to the immediate area around a route, and would not be detectable beyond the 100 foot project area boundary (50 feet of the centerline on each side of a route) around each route.

Moderate: Effects on a resource or one or more qualities of wilderness character would be appreciable; effects would occur in multiple areas within a wilderness; or effects would extend beyond the 100 foot project boundary around project routes.

Major: Effects would substantially alter a resource or one or more qualities of wilderness character; effects would be observed over a larger area (i.e. wilderness-wide).

Duration terminology:

Temporary: Effects would occur only while restoration activities are on-going at a project site, and would not persist for more than one day after restoration activities are completed. The expected duration of restoration activities for each route is from one to five days.

Short term: Effects would occur while restoration activities are on-going at a project site, and, after the project completion, the resulting effects would persist over a time period from one month to five years.

Medium term: After project completion, the resulting effects would persist over a time period from five years to twenty years.

Long term: After project completion, the resulting effects would persist for more than twenty years.

3.1.1 Overview of existing conditions

The portions of the White Mountains Wilderness and John Muir Wilderness additions in the project area have had a history of mining or livestock operations during the past 100 years. A number of roads were constructed in the White Mountains and along the eastern escarpment of the Sierra Nevada during the first half of the twentieth century to access mining operations or conduct mineral exploration activities. An additional set of routes were likely created by livestock operations to provide access to various locations within range allotments. In more recent years, a number of single-track routes have been created by motorcyclists traveling cross-country across the relatively open terrain at lower elevations along the west slope of the White Mountains.

3.1.2 Analysis process

Field surveys of the project area were conducted by an interdisciplinary team comprised of the Forest's wilderness staff, botanist, hydrologist, and archeologist in 2011, 2012, and early 2013. The team employed a problem assessment approach to evaluate whether the natural revegetation processes on the routes in the project area would benefit from restoration treatments. The proposed restoration treatments are based on the team's assessment of route surface conditions. Factors considered include: whether there is existing vegetation on the routes; vegetation type; whether soils are compacted; whether soils are eroding; and relative annual precipitation. Based on the assessment of surface conditions, the team developed recommendations for the type of treatment, if any, on the routes.

The suite of six restoration treatments considered for this project has been adapted from other agencies' experience with route restoration in a wilderness setting in desert environments. A review of recent literature on restoration techniques was conducted, relying especially on the US Geological Survey (USGS) Open-File report 2007-1353: Environmental Effects of Off-Highway Vehicles on Bureau of Land Management lands: a Literature Syntheses, Annotated Bibliographies, Extensive Bibliographies, and Internet Resources.

<u>De-compacting soils (#1), removing berms and raking (#2)</u>: Bolling and Walker (2000) suggest that decompacting route surfaces and flattening out the lateral and central berms of constructed routes may increase the probability of plant community redevelopment.

Compacted soils on routes reduce the ability of the soil to infiltrate water and increases surface runoff that leads to soil erosion. Compacted soils tend to recover very slowly, extending the time for vegetation and soil productivity to recover. By loosening the upper soil layers, water infiltration is increased and concentration of runoff on the route is minimized. Vegetative recovery is also enhanced as soils are able to allow for improved plant root development and root

depth. Adding mulch to de-compacted soils increases treatment efficiency as organic materials add soil cover to protect against erosion, help with soil moisture retention, provide nutrients for plant development and helps to restore compacted soils.

Removing berms from the sides of routes will re-introduce displaced top soils to the route, which will enhance vegetation recovery. Raking of tracks will help to deter motorized vehicle trespass by disguising the existing route and therefore reduce potential impacts that otherwise will adversely affect the natural recovery of the route. Raking will help to retain soil cover as displaced materials are returned to the route.

Vertical mulch (#3) and native mulch (#4): These two treatments help restoration process through three means. First, mulching helps disguise routes and discourages future vehicle incursions, thus preventing the additional soil compaction caused by vehicle traffic on the routes. Second, mulch provides localized areas of decompaction, which increases the probability of plant community redevelopment. Third, mulching provides localized areas with more favorable conditions for plant regrowth. Mulch adds organic materials to the soil to protect against erosion, helps with soil moisture retention, and provides nutrients for plant development. Mulching enhances the development of spatial heterogeneity and the "fertile island" provided by perennial shrubs in deserts described in Bolling and Walker (2002).

Water bars (#5): This is a standard erosion control measure described in Best Management Practices, Water Quality Management for Forest System Lands in California (2001). Water bars placed on routes with steep inclines with proper spacing will prevent the concentration of runoff on long slope lengths of steep route sections by displacing volumes of water and sediment off the route in a sequential method. Water bars will slow soil erosion, prevent accelerated incision, and increase stability on the slope. Through these improved conditions, water bars will assist soil and vegetation recovery and restore natural drainage patterns over the long term.

Transplants or native seed (#6): The USGS literature survey related the importance of the use of mulch, stabilization techniques, and revegetation through seeding to reduce the potential for soil erosion from routes. This restoration technique would only be used on non-wilderness routes where the Forest botanist determines the local conditions make for a reasonable chance of successful transplanting or seeding.

Estimates of time for recovery of vegetation: Recovery will begin in the project areas when vehicle use is discontinued and soil impacts are reduced. The literature on route decommissioning and restoration points out the difficulty of trying to predict the recovery times for vegetation in the project area. The US Geological Survey review of the literature on the restoration of OHV-impacted areas (USGS 2007) noted that restoration is particularly difficult in arid environments. The literature cited in the review indicates the recovery times are dependent on many factors including soil types, magnitude of soil compaction, rainfall rates, propagation rates of vegetation, and the degree of human disturbance. The degree of soil compaction is a major determinant of the rate of recovery (soil productivity and vegetation) of abandoned roads

and routes and the effects on recovery of severe soil compaction can continue for decades in arid environments (Bolling and Walker, 2000). Studies such as Knapp (1991) have concluded that recovery times for soils on abandoned roads in the Mojave desert is very slow, up to 100 years. The discussion of plant succession in the eastern Mojave Desert, Abella, et al. (2007) indicates the reoccupation of disturbed areas in deserts by late-successional perennial plants takes more than 50 years. Recovery of cryptobiotic soils, which are found in the Chalfant/Coldwater areas, is a complex process complex and may require long periods of time (Lovich and Bainbridge, 1999); ultimately, their recovery rate will depend on the degree of soil compaction and the nature and intensity of the initial disturbance (Bolling and Walker, 2000, USGS 2007). Observation of vegetation recovery on Bureau of Land Management Lands in the Ridgecrest, CA area, indicate some native revegetation occurring within 10 years of restoration treatments.

There is wide variability in the climate and vegetation conditions across the project area. In the Chalfant/Coldwater Canyon area, vegetation is mostly desert scrub and soils are thin and less productive. Plants tend to grow slowly, are widely spaced and are stunted due to the hot and dry climatic conditions. In the subalpine areas of the Iron Mountain/Cottonwood Creek area, vegetation is slow growing and less robust, soils in upland areas are poor, and climate conditions are generally cold and dry. In the Sierra Nevada portion of the project area, vegetative conditions are more robust with conifer forests in the upper elevations (7000 to 11,000 feet, soils tend to be more developed and productive, and precipitation amounts are higher.

Observations of routes on Forest Service lands closed to vehicles in the White Mountains illustrate the variability of recovery rates. There is a route at approximately 10,000 feet elevation that has been closed since 1977 - more than 35 years. The vegetation type is primarily great basin sagebrush. The vegetation on the portion of the route that goes through a relatively moist drainage has recovered to the extent the road prism is mostly unnoticeable. The dwarf sagebrush on a more exposed ridgeline, however, has not yet become re-established in the vehicle tracks.

Based on both published literature and observations in White Mountains, the recovery times will vary considerably across the project area. The discussion on environmental effects below will group the vegetation types in the project area into two categories of revegetation, medium-term and long-term, as shown in Table 4 below:

Table 4. Estimated time for route surface revegetation by vegetation type.

Revegetation categories	Vegetation types	Route Location by map key
Revegetation in the medium-term: 5-20 years	pinyon	Montgomery; Gunter Canyon in Chalfant/Coldwater Canyon;
	pinyon sagebrush	Marble; Indian Creek; southeast portion of Iron Mtn./ Cottonwood Ck.; Whitney
	sage, sage bitterbrush	Birch, Pine Creek, Taboose,
	mountain chaparral	Onion Valley
	Jeffrey pine, limber pine	Taboose
	lodgepole pine, whitebark pine	Wheeler
Revegetation in the long-term: More than 20 years	desert scrub	Chalfant/Coldwater Canyon
	sage in subalpine zone (9,500ft to 11,500 ft)	Eva Belle Mine Road Iron Mtn./Cottonwood Ck.
	alpine	Wheeler

3.1.3 Existing vegetation conditions

Extent of vegetation on routes in project area: The extent of existing vegetation on route surfaces can be grouped into five categories, as shown in table 5 below. The vegetation on routes categorized as having some vegetation is in general much lower in height and density than the vegetation in areas adjacent to the route.

Table 5. Categories of existing vegetation on routes

Categories of existing vegetation	Soils compacted	Number of routes	Approximate total distance (miles)
No vegetation on route surface (4WD)	Yes	6	3.4
Vegetation only on middle berm (4WD)	Yes	20	8.7
Some vegetation visible in tracks (4WD)	No	40	12.7
Motorcycle single tracks and hill climbs - no vegetation	Yes	15	4.3
Routes that have re-vegetated	No	1	.1
Total	41 routes	82[5]	29.2

[5] Two routes in project have portions that were four wheel drive routes and portions that were motorcycle tracks.

Noxious Weeds: The Forest Botanist's Noxious Weed Risk Assessment indicates the occurrence of weed species is widespread in the project area. Most of the project area is located in sagebrush scrub or other shrub-dominated vegetation type. These vegetation types are moderately vulnerable to the introduction of weeds. Weed species are known to occur on fifteen routes in the project area. The weed species include: Cheatgrass (*Bromus tectorum*); Russian thistle (*Salsola* ssp.); tansy mustard (*Descurainia pinnata*), White sweetclover (*Melilotus alba*), Mediterranean grass (*Schismus barbatus*), dandelion (*Taraxacum officinale)*; and Red brome (*Bromus madritensis* ssp. *rubens*). None of these weeds are ranked as high priorities for treatment by the Decision Notice for Weed Eradication and Control on the Inyo National Forest (2007). The weed populations are a management concern, however, because they contribute to an increase in fuel loading. Two of the weeds, Cheatgrass and Red brome, may displace native vegetation, alter microhabitat characteristics, and compete for nutrients and light. These two weeds may change the frequency, extent, and timing of wildfires.

Sensitive Plant Species: Field surveys indicate four species listed as sensitive by the Forest Service Pacific Southwest Region occur in the vicinity of four routes in the project area: July gold (*Dedeckera eurekensis*); Raven's milk-vetch (*Astragalus ravenii*); White Mountains horkelia (*horkelia hispidula*) and sensitive moonwort species (*Botrychium ssp.*).

3.1.4 Existing soils conditions:

Routes in the project area generally lack the organic ground cover, litter, and upper soil horizons that are important to watershed function and plant health. Roughly half the routes lack vegetation, exposing soils to weathering and erosion from water runoff and wind. The primary effects of off-highway vehicles (OHV) activity on soils and overall watershed function include altered soil structure (soil compaction in particular), destruction of soil crusts (biotic and abiotic) and desert pavement (fine gravel surfaces) that would otherwise stabilize soils, and soil erosion.

Compacted soils: Indicators of soil compaction discussed in the OHV effects literature include soil bulk density (weight per unit of volume), soil strength (the soil's resistance to deforming forces), and soil permeability (the rate at which water or air infiltrate soil). Soils have become compacted on project area routes in varying degrees of severity. The compaction has reduced the ability of soils to infiltrate water and restricted plant root development, arresting plant development.

For this project, soils are considered compacted where route surfaces do not have existing vegetation. Table 5 above indicates soils are compacted on forty-one routes in the project area. There does not appear to be any correlation between whether a route was constructed and whether a route surface is currently compacted to the degree that there is no vegetation on the route. The routes with compacted soils appear to be more correlated with routes that have had higher numbers of vehicles on them. In the Chalfant/Coldwater Canyon area in particular, soil compaction potential is moderate to severe due to the soil types in the area.

Route surfaces are susceptible to erosion on steeper grades:

Currently fifteen unauthorized routes with total distance of .95 miles have visible signs of erosion such as rills or small gullies. The eroding sections are all on steeper grades (more than a 15% grade). The distance (.95 miles) is 8% of the total route distance on steeper grades in project area. The remaining routes on steeper grades do not have visible signs of erosion. Table 6 below lists the fifteen unauthorized with visible erosion on route surfaces. All the routes are four wheel drive routes, and none of the routes in the project area have any soil stabilizing structures.

Table 6. Routes with eroding soils.

Route number	Map key	Distance with erosion (ft)	Route number	Map key	Distance with erosion (ft)
U-01S532	Montgomery	250	U-N1904	Iron Mtn./ Cottonwood Ck.	50
U-N1761	Chalfant/Coldwater Canyon	300	U-N1909	Iron Mtn./ Cottonwood Ck.	200
U-1815	Chalfant/Coldwater Canyon	700	U-05S131	Wheeler	400
U-1819	Chalfant/Coldwater Canyon	450	U-N5005	Wheeler	200
U-N2946	Chalfant/Coldwater Canyon	300	U-05S133	Wheeler	700
U-04S323	Eva Belle Mine Rd.	350	U-05S127	Wheeler	400
U-N2655	Iron Mtn./ Cottonwood Ck.	500	U-N1934	Birch	200
U-N5008	Iron Mtn./ Cottonwood Ck.	100			

3.1.5 Existing conditions for wilderness character:

The condition of wilderness character in the project area can be assessed by its four qualities: natural, untrammeled, undeveloped, and opportunities for solitude or primitive and unconfined recreation. The four qualities approach to analyzing wilderness character is described in Applying the concept of Wilderness Character to National Forest Planning, Monitoring and Management, Landres et al., USDA General Technical Report RMRS-GTR-217WWW, December 2008.

Natural: The natural quality of wilderness character is assessed by whether there are effects to ecological systems from actions taken within the wilderness area. The indicators of natural

quality selected this project are the native vegetation cover and soil conditions in the project area. The existing conditions for these indicators are summarized by the existing conditions for vegetation and soils above.

Untrammeled: The untrammeled quality of wilderness character is assessed by whether any actions are taken that intentionally manipulate or control ecological systems. Since neither the No Action Alternative nor the Modified Proposed Action would include actions to manipulate or control ecological systems, the proposed project would have no effect on the untrammeled character and will not be discussed further in this EA.

Undeveloped: The undeveloped quality of wilderness character is assessed by whether a wilderness is without permanent improvements or human habitation, and whether mechanical transport is being used. The indicators of the undeveloped quality selected for this project are constructed roads and motorized vehicle incursions. At least thirty-eight routes in the project area have the appearance of permanent improvements because they had been constructed with mechanized equipment at some point in the past. The constructed routes have affected the undeveloped quality by altering the local topography with cuts and fills, and leaving low berms along route margins.

In several parts of the project area, including the Chalfant/Coldwater Canyon area, Eva Belle Mine, and Armstrong Canyon in the Taboose area, routes lead to non-operational mining sites. The mining sites include remnants of structures, equipment, test pits, and other evidence of improvements and human habitation that is an existing effect on the undeveloped quality of wilderness character. The mining sites, however, have not been evaluated for their historical significance. Until that evaluation has been made, the Forest is obliged to not disturb these sites, and they will not be addressed in this proposed project.

During field surveys conducted in 2011 and 2012, Forest staff noted there have been ongoing motorized incursions (i.e. unauthorized use of mechanical transport) into wilderness on most of the routes in the project area. The incursions occurred on routes where there were no wilderness boundary signs or vehicle barriers indicating the wilderness boundary. Motorized incursions are expected to continue on routes entering the wilderness at least until vehicle barriers are installed, wilderness boundary signs posted, and the routes disguised. In 2012 the Forest has installed vehicle barriers or route disguising treatments as part of the 2009 Travel Management ROD implementation on eighteen routes. Wilderness boundary signs were installed on an additional thirteen routes.

Opportunities for solitude or primitive and unconfined recreation: Opportunities for solitude are assessed by whether visitors can experience a degree of separation from other visitors and civilization. The indicator for solitude selected for this project is the number of days a restoration crew would be present in the wilderness. The indicator of opportunities for primitive and unconfined recreation is facilities that decrease self-reliant recreation, which for this project would be constructed roads.

The Forest does not have the baseline data for visitation to the White Mountains Wilderness or the John Muir Wilderness additions that is needed to describe the existing conditions for solitude in the project area. We assume most of the past visitation to the project area was motorized travel on the routes to explore old mining sites, access hunting areas, or access portions of a range allotment. The remnants of the graded roads that are within wilderness decrease self-reliant recreation because they reduce the challenge of wilderness travel compared to other areas of the wilderness, where there are no roads and few trails. There are no other facilities in the project area.

3.1.6 Discussion on cumulative effects

Cumulative impact is the impact on the environment which results from the incremental impact of the action when added to other past, present, and reasonably foreseeable future actions regardless of what agency (Federal or non-Federal) or person undertakes such other actions. Cumulative impact can result from individually minor but collectively significant actions taking place over a period of time (Council on Environmental Quality regulation 1508.7).

In order to understand the contribution of past actions to the cumulative effects of the proposed action and alternatives, this analysis relies on current environmental conditions as a proxy for the impacts of past actions. This is because existing conditions reflect the aggregate impact of all prior human actions and natural events that have affected the environment and might contribute to cumulative effects.

This cumulative effects analysis does not attempt to quantify the effects of past human actions by adding up all prior actions on an action-by-action basis. There are several reasons for not taking this approach. First, a catalog and analysis of all past actions would be impractical to compile and unduly costly to obtain. Current conditions have been impacted by innumerable actions over the last century (and beyond), and trying to isolate the individual actions that continue to have residual impacts would be nearly impossible. Second, providing the details of past actions on an individual basis would not be useful to predict the cumulative effects of the proposed action or alternatives. In fact, focusing on individual actions would be less accurate than looking at existing conditions, because there is limited information on the environmental impacts of individual past actions, and one cannot reasonably identify each and every action over the last century that has contributed to current conditions.

Additionally, focusing on the impacts of past human actions risks ignoring the important residual effects of past natural events, which may contribute to cumulative effects just as much as human actions. By looking at current conditions, we are sure to capture all the residual effects of past human actions and natural events, regardless of which particular action or event contributed those effects. Third, public scoping for this project did not identify any public interest or need for detailed information on individual past actions. Finally, the Council on Environmental Quality issued an interpretive memorandum on June 24, 2005 regarding analysis of past actions,

which states, "agencies can conduct an adequate cumulative effects analysis by focusing on the current aggregate effects of past actions without delving into the historical details of individual past actions."

The cumulative effects analysis in this EA is also consistent with Forest Service National Environmental Policy Act (NEPA) Regulations (36 CFR 220.4(f)) (July 24, 2008), which state: "...With respect to past actions, during the scoping process and subsequent preparation of the analysis, the agency must determine what information regarding past actions is useful and relevant to the required analysis of cumulative effects...."

The only other present or reasonable foreseeable action is the implementation of elements of the 2009 Travel Management Record of Decision. One of the implementation actions for the Decision is the installation of vehicle barriers at route closure points and visually disguising the routes in the immediate area of the vehicle barriers. The effects area from the installation of vehicle barriers and visually disguising unauthorized routes overlaps the effects area of the proposed project because the activities would largely take place on the same routes.

The direct and indirect effects of the No Action and Modified Proposed Action, when added to the effects of the implementation of the vehicle barriers and route disguising from the Travel Management Decision, will describe the full increment of effects to vegetation, soils, the natural quality of wilderness, the undeveloped quality of wilderness, opportunities for solitude, and opportunities for primitive and unconfined recreation.

Cumulative Effects Analysis Areas

The Cumulative Effects Analysis Area for vegetation, soils, natural quality of wilderness, undeveloped quality of wilderness, opportunities for solitude, and opportunities for primitive and unconfined recreation would be same as the area of direct and indirect effects. The rationale for the cumulative effects area being the same as the area of direct and indirect effects includes:

1. Soils: any effects to soils from the proposed project would be negligible beyond the project area.
2. Vegetation: any effects to vegetation from the proposed project would be negligible beyond the project area.
3. Natural quality of wilderness: any effects will be discussed in soils and vegetation because these are the ecosystem components that would be affected by the proposed project.
4. Undeveloped quality of wilderness: any effects of constructed routes to the undeveloped quality of wilderness would be negligible beyond the project area.
5. Opportunities for solitude: visitors' experience of solitude in other areas of the White Mountains or John Muir Wildernesses outside of the project area would not be affected by any actions within the project area.

6. Opportunities for primitive and unconfined recreation: any effects to facilities that decrease self-reliant recreation (the constructed roads) from the proposed project would be negligible beyond the project area.

3.2 Effects to Vegetation: No Action and Modified Proposed Action

The effects to vegetation will be discussed through the indicator and measures associated with the project objective to promote the recovery of native vegetation cover and plant communities.

The discussion in this section includes all routes, wilderness and non-wilderness, in the project area. The analysis boundary for direct and indirect effects to vegetation includes the 100 foot wide project area corridor for each route.

The indicator for this objective is route surface conditions that promote natural revegetation processes. Two measures for this indicator have been selected. The measures provide a means of assessing the length of routes where surface conditions will enhance the recovery of disturbed vegetation through natural processes.

Measure A: The proportion of the total route surface in the project area with improved conditions for natural revegetation of the routes' surfaces. Routes with improved conditions would have one or more of the following treatments: decompacted soils, vertical mulch, native mulch, berms removal, or transplanted vegetation.

Measure B: The length of motorcycle single tracks in wilderness with compacted soils and damaged vegetation.

3.2.1 Direct and Indirect Effects of No Action on Vegetation

There would be moderate adverse effects of long term duration in the project area to vegetation. The adverse effect would be moderate because the project area includes multiple watersheds in both the White Mountains and Sierra Nevada Mountains. If this alternative is selected, none of the route surfaces in the project area would have improved conditions for revegetation (Measure A). The 4.3 miles of motorcycle tracks on fourteen routes in wilderness would continue to have disturbed soils and damaged vegetation (Measure B) because without vehicle barriers there would likely be continued motorized incursion into wilderness. Although there would be a slow upward trend in habitat conditions on the sixty-five routes included in the Travel Management Decision, ninety-seven percent of the project area would likely not meet the Wilderness standard and guideline to maintain a predominantly natural and natural-appearing environment for at least twenty years. Restoration processes would occur at the slower rate described above in the Analysis Process Section 3.1.2.

Sensitive Plants: There may be impacts to individual sensitive plants in the project area, but the implementation of the No Action alternative will not lead to a trend toward Federal listing or a loss of viability of july gold, raven's milkvetch, upswept moonwort, scalloped moonwort, or White Mountains horkelia (see Effects Relative to Significance Factors No. 9, below).

Routes that would become re-vegetated only in the long-term: Revegetation would likely be a long-term process (more than 20 years) on fifty-three of the Travel Management Decision routes because of the following conditions:

1. Soils on twenty-six routes are compacted, as indicated by the lack of existing vegetation in the wheel tracks or across the entire route surface. Recovery of vegetation on compacted soils would be long term due to the long period of time for soils to naturally become de-compacted, the lack of vegetative cover, and the lack of organic material to promote native plant revegetation.
2. Vegetation types on thirty-seven routes are extremely slow growing:
   a. Routes in the desert scrub vegetation type in the Chalfant/Coldwater Canyon area;
   b. Routes in the sage vegetation type in the subalpine zones of the Eva Belle Mine Road and Iron Mountain/Cottonwood Creek area.
   c. Routes in the alpine vegetation type in the Wheeler area.
3. Nine routes have both compacted soils and are in an extremely slow-growing vegetation type; the natural revegetation process would likely be appreciably more than twenty years on these routes.

Routes with revegetation in the medium-term: Revegetation would likely occur in the medium-term (5-20 years) on twelve routes in the project area that have the following conditions:

1. Soils are not compacted and there is some existing vegetation in wheel tracks;
2. Vegetation types that indicate relatively higher amounts of annual precipitation:
   a. Routes in the pinyon vegetation type in the Montgomery area and Gunter Canyon in the Chalfant/Coldwater Canyon area;
   b. Routes in the pinyon sagebrush vegetation type in the Marble, Indian Creek, Whitney, and southeast portion of Iron Mountain/Cottonwood Creek areas;
   c. Routes in the Sage and sage bitterbrush vegetation types in the Birch, Pine Creek, and Taboose areas.
   d. Routes in the mountain chaparral vegetation type in the Onion Valley area.
   e. Routes in the Jeffrey Pine and limber pine vegetation type on the Taboose area.
   f. Routes in the lodgepole Pine and whitebark pine vegetation types in the Wheeler area.

Routes with no revegetation and downward trends: Fourteen of the fifteen routes not included in the Travel Management Decision are in the Chalfant/Coldwater Canyon area. Since there would be not vehicle barriers or disguising of these routes, there would likely be continued incursions into wilderness by motorcyclists in this area. The continued incursions would likely increase the area with damaged vegetation, causing a downward trend in native vegetation on these routes,

with little chance for revegetation. Any increase in the length or area of motorcycle tracks may lead to some increase in the invasive weed Russian thistle in the Chalfant/Coldwater Canyon area. The fifteenth route is in Taboose area. This route is in the limber pine vegetation type and does not appear to have had any vehicle traffic in recent years. Natural revegetation on this route would occur over the medium term.

3.2.2 Cumulative Effects of No Action on Vegetation

The Travel Management Decision, which closed sixty-five unauthorized routes in the project area, has effects which overlap in space and time with the No Action Alternative. The Decision includes the installation of visual disguise treatments within 30 ft. of each side of the vehicle barriers at the start of each route would be applied to fifty-three routes. The visual disguise treatments have essentially the same effect as native mulch treatments. These treatments would be applied to two percent of the 29.2 miles of routes in the project area.

The cumulative effects to vegetation would be two percent of the routes in the project area would have improved conditions for revegetation through restoration treatments.

There are no other existing environmental conditions, ongoing projects, or reasonably foreseeable projects with effects to vegetation that would overlap in space and time and have the same type of effects as the No Action Alternative.

3.2.3 Direct and Indirect Effects of Modified Proposed Action on Vegetation

There would be a moderate beneficial effect of long term duration in the project area to vegetation. Twenty-nine percent of the route surfaces in the project area would have improved conditions for revegetation as a result of the restoration treatments. This area (29% of routes surfaces or 8.6 miles of route) would likely meet the Wilderness standard and guideline of a predominantly natural and natural-appearing environment in ten to twenty years. The beneficial effect would be moderate because the project area includes multiple watersheds in both the White Mountains and John Muir Wildernesses.

Sensitive Plants: There may be impacts to individual sensitive plants in the project area, but the implementation of the Modified Proposed Action alternative will not lead to a trend toward Federal listing or a loss of viability of July gold, raven's milkvetch, upswept moonwort, scalloped moonwort, or White Mountains horkelia (see Effects Relative to Significance Factor No. 9, below).

Non-native invasive weeds: Noxious weeds are widespread along the lower elevations of the White Mountains, but they are not a Forest priority for treatment. Weed populations are known to occur on fifteen routes in the project area, mostly in the Montgomery and Chalfant/Coldwater Canyon areas. Restoration activities will disturb soils and therefore lead to a short-term risk of spreading weeds in the project area. The risk of spreading weeds is higher on the fifteen routes

in the project area with existing weed populations. The habitat vulnerability is moderate, however, due to limited annual precipitation.

The Modified Proposed Action Alternative assumes vehicle barriers or visual disguise treatments would be installed on sixty-four routes in the project area that were included in the Travel Management Decision. The Forest would also install vehicle barriers and visual disguise treatments on the fifteen routes not included in the Decision as part of this alternative's activities. Since U-N10058 would be added to the Forest's transportation system as an element of this alternative, no barriers would be installed on this route.

There would be an upward trend in habitat conditions on the seventy-nine routes with a total distance of 29.2 miles in the project area. The upward trend would be enhanced compared to the No Action Alternative on the portions of the fifty-eight routes totaling 8.6 miles that would have restoration treatments. The time period for the revegetation process on the 8.6 miles of routes would less than the time period for revegetation without restoration treatments. The comparative reduction is difficult to predict, but as discussed in the analysis section 3.1.1. above, restoration activities would likely yield visible revegetation in the medium term. This initial revegetation would likely be early-successional shrubs, and not the same species as areas adjacent to the unauthorized routes. The re-vegetated areas would, however, generally be a natural-appearing environment.

Restoration on routes with long-term revegetation conditions: Fifty-two of the fifty-eight routes with restoration treatments are in areas where revegetation would likely occur only over the long term (more than 20 years). There would be 8 miles of restoration treatments on the fifty-two routes. As discussed above, the revegetation process would be enhanced, but still a long-term process, on these 8 miles of routes. Revegetation would be a long-term process on routes that have the following conditions:

1. Soils on thirty-four routes are compacted, as indicated by the lack of existing vegetation on the entire route surface or lack of vegetation in the route's wheel tracks.
2. Vegetation types on thirty-nine routes are extremely slow growing:
    a. Routes in the desert scrub vegetation type in the Chalfant/Coldwater Canyon area;
    b. Routes in the sage vegetation type in the subalpine zones of the Eva Belle Mine Road and Iron Mountain/Cottonwood Creek area.
    c. Routes in the alpine vegetation type in the Wheeler area.
3. Twenty-two routes have both compacted soils and are in an extremely slow-growing vegetation type; the natural revegetation process may take appreciably more than twenty years on these routes.

Restoration on routes with medium-term revegetation conditions: Six of the fifty-eight routes with restoration treatments are in areas where revegetation would likely occur in the medium-

term (5-20 years). There would be .6 miles of restoration treatments on these six routes. As discussed above, the revegetation process would be enhanced but still a medium-term process, on .6 miles of route with restoration treatments. Revegetation would be medium-term on routes that have the following conditions:

1. Soils are not compacted and there is some existing vegetation in wheel tracks;
2. Vegetation types that indicate relatively higher amounts of annual precipitation:
   a. Routes in the pinyon vegetation type in the Montgomery and Whitney areas;
   b. Routes in the pinyon sagebrush vegetation type in the southeast portion of Iron Mountain/Cottonwood Creek areas;
   c. Routes in the Sage and sage bitterbrush vegetation types in the Birch area;
   d. Routes in the mountain chaparral vegetation type in the Onion Valley area;
   e. Routes in the limber pine vegetation type in the Taboose area;
   f. Routes in the lodgepole pine vegetation type in the Wheeler area.

Revegetation on routes without restoration treatments: There would be no restoration activities on twenty-one routes totaling 5.2 miles in length. Revegetation would likely occur over the long-term (more than 20 years) on sixteen of twenty-one routes because these routes have the long-term revegetation conditions described above. None of the routes without restoration treatments have both compacted soils and are in an extremely slow-growing vegetation type. Revegetation would likely occur over the medium term (5 to 20 years) on five routes because the latter routes have the medium-term revegetation conditions described above.

3.2.4 Cumulative Effects of the Modified Proposed Action on Vegetation

The cumulative effects to vegetation would be the same as the direct and indirect effects because the area of these effects overlaps in space and time with the area of effects from the vehicle barriers and visual disguise treatments on fifty-three routes through implementation of the Travel Management Decision. The vehicle barriers and visual disguise treatments help to deter vehicle incursions, and allow the restoration treatments to enhance the natural processes of vegetation recovery.

There are no other existing environmental conditions, ongoing projects, or reasonably foreseeable projects with effects to vegetation that would overlap in space and time and have the same type of effects as the Modified Proposed Action Alternative.

3.3 Effects to Soils: No Action and Modified Proposed Action

The effects to soils will be discussed through the indicator and measure associated with the first project objective, which is to protect soils quality by stabilizing eroding sections of unauthorized

routes. The indicator for this objective is route sections with eroding soils, with the measure the proportion of former four wheel drive routes on steeper grades with visible soil erosion.

The existing conditions section above also discussed soil compaction. There are thirty-six routes with a total distance of 15.7 miles that have compacted soils because the routes have either no vegetation across the entire twelve foot wide route prism, or no vegetation in the wheel tracks.

The discussion in this section includes all routes, wilderness and non-wilderness, in the project area. The analysis boundary for direct and indirect effects to soils is the area is the 100 foot wide route corridor (50 feet on each side of the centerline of the route).

3.3.1 Direct and Indirect Effects of No Action on Soils

There would continue to be moderate adverse effects of long term duration in the project area to soils. The adverse effect would be moderate because the project area includes multiple watersheds in both the White Mountains and Sierra Nevada Mountains.

Routes with erosion: There would continue to be a downward trend in the condition of soils due to ongoing erosion along fifteen former four wheel drive routes totaling .95 miles in length. Heavy rain or runoff events would continue to erode soils from routes on steep grades or sections where gullies and rills have already formed. A total of 8% of the total length of routes in the project area would continue to have visible signs of erosion.

Compacted soils: Thirty-six of the sixty-five routes included in the Travel Management Decision have compacted soils. There would have a slow upward trend in soil conditions over the long term. The degree of soil compaction on routes was not assessed for the project, and one would need to understand the degree of compaction to predict the recovery rate. The literature referenced in the Analysis section 3.1.2. above, especially Bolling and Walker (2000) , indicates the effects from severe compaction can continue for decades in arid environments. Until soils become decompacted, the reestablishment of native vegetation will be inhibited on project area routes.

Fourteen of the fifteen routes not included in the Travel Management Decision are in the Chalfant/Coldwater Canyon area. There would likely be continued incursions into wilderness by motorcyclists in this area, because there would be not vehicle barriers or disguising of these routes under the No Action Alternative. The continued incursions would likely increase the degree of soil compaction on the routes, causing a downward trend in soil conditions. Over time, there would be a greater chance for soil erosion on these routes caused by heavy rain events. Any increase in the length or area of motorcycle tracks would also lead to an increase in the area of compacted soils. In particular, additional areas with cryptogrammic soils, which have an extremely long recovery period, could be damaged.

3.3.2 Cumulative Effects of No Action on Soils

The cumulative effects to soils would be the same as the direct and indirect effects. The Forest's implementation of the Travel Management Decision on sixty-five routes in the project area would not have any effect on either the sections of routes with eroding soils or the degree of soil compaction. The analysis of these effects assumes vehicle barriers would be installed on fifty-three routes, which would become effective over time at deterring vehicle incursions.

The cumulative effects to soils would be the same as the direct and indirect effects on the routes not included in the Travel Management Decision that are in the Chalfant/Coldwater Canyon area.

There are no other existing environmental conditions, ongoing projects, or reasonably foreseeable projects with effects to soils that would overlap in space and time and have the same type of effects as the No Action Alternative.

3.3.3 Direct and Indirect Effects of the Modified Proposed Action on Soils

There would be a temporary moderate adverse effect to soils caused by the restoration treatments in the project area. The six restoration treatments would displace and disturb soils while implementation activities are ongoing. The disturbance would occur for one to five days on each route while restoration activities are being implemented. The BMPs included in the project's management requirements (see Section 2.2.3) would prevent any soil erosion from routes over the medium or long-term. There would be a moderate beneficial effect of long term duration in the project area to soils after project completion. The beneficial effect would be moderate because the project area includes multiple watersheds in both the White Mountains and John Muir Wildernesses.

Routes with erosion: All of routes sections on steeper grades that are currently eroding (totaling .95 miles) would have water bars or similar erosion control structures. These route surfaces would be stabilized and soils protected from additional erosion.

Compacted soils: The project area has thirty-six routes totaling 15.7 miles in length with soils sufficiently compacted to prevent vegetation growth either on the whole route or in the wheel tracks. The Modified Proposed Action's activities include soil decompaction on portions of eight routes totaling 1.4 miles in length, or nine percent of the compacted distance. Four other restoration activities would also help to decompact some of the soils along the routes: vertical mulch, native mulch, raking, and removing berms. These activities would occur along an additional twenty-six routes, with a total distance receiving restoration treatments of approximately 4 miles.

3.3.4 Cumulative Effects of the Modified Proposed Action on Soils

The cumulative effects to soils would be the same as the direct and indirect effects because the area of these effects overlaps in space and time with the area of effects from the vehicle barriers and visual disguise treatments on fifty-three routes through implementation of the Travel

Management Decision. The vehicle barriers and visual disguise treatments help to deter vehicle incursions, and allow the restoration treatments to enhance the natural processes of soil recovery.

There are no other existing environmental conditions, ongoing projects, or reasonably foreseeable projects with effects to vegetation that would overlap in space and time and have the same type of effects as the Modified Proposed Action Alternative.

The cumulative effects to soils would be the same as the direct and indirect effects because the analysis of these effects assumed the 2009 ROD has been implemented. The 2009 ROD, which closed sixty-five unauthorized routes in the project area, has effects which overlap in space and time with the No Action Alternative. There are no other existing environmental conditions, ongoing projects, or reasonably foreseeable projects with effects to soils that would overlap in space and time and have the same type of effects as the No Action Alternative.

3.4 Effects to Wilderness Character: No Action and Modified Proposed Action

This section applies to the sixty-three unauthorized routes located entirely within the White Mountains Wilderness or the 2009 additions to the John Muir Wilderness, and the wilderness portion of twelve unauthorized routes located partially within wilderness and partially on non-wilderness lands. Effects to wilderness character will be discussed in term of the four qualities of wilderness character: natural; untrammeled; undeveloped; and opportunities for solitude or a primitive and unconfined type of recreation. For each quality, indicators and measures applicable to this restoration project have been selected. The indicators and measures will be used to compare the effects of the No Project alternative and the Modified Proposed Project on the four qualities of wilderness character. The analysis boundary for direct and indirect effects to wilderness character includes the 100 foot wide project area corridor for each route.

Natural Quality

This quality addresses both the intended and unintended effects of human actions on ecological systems inside wilderness. The project area's vegetative habitats and soils are the components of the desert ecological system most likely to be affected by the proposed project. The analysis will utilize the indicators and measures from the Effects to Vegetation Section 3.2 and Effects to Soils Section 3.3 to discuss the effects on the natural quality of wilderness. The analysis boundary for direct and indirect effects to the natural quality includes the 100 foot wide project area corridor for each route

Untrammeled Quality

The proposed project does not include any actions that would manipulate the biophysical environment. Since there would not be any actions that manipulate the biophysical environment, there would be no effects to the untrammeled quality, and this quality will not be discussed further in this analysis.

Undeveloped Quality

This quality addresses the presence of structures, construction, habitations, and other evidence of modern human occupation of the wilderness. The effects to the undeveloped quality will be discussed through the indicator and measures associated with the project objective three, to protect the undeveloped quality of wilderness character. Two indicators for the undeveloped quality have been selected. The first indicator is whether there are visible remnants of constructed roads in wilderness, with the linear distance of restoration treatments on constructed roads the measure for this indicator. The second indicator is whether there are motorized vehicle incursions into wilderness, with the proportion of routes with vehicle barriers or other visual disguising treatments to deter incursions the measure for this indicator. The analysis boundary for direct and indirect effects to vegetation includes the 100 foot wide project area corridor for each route.

Opportunities for Solitude or Primitive and Unconfined Recreation

This quality addresses conditions that affect the opportunity for people to experience solitude or a primitive and unconfined type of recreation in a wilderness setting. The indicator of the opportunities for solitude selected for this proposed project is the presence in wilderness of the crew conducting restoration activities. The measure of the crew presence is the number of days of trail crew activities in the project area. The presence of a crew working on the trails may affect visitors' solitude, because the crew personnel would represent an increase in the number of visitors to the project area. The analysis area of the opportunities for solitude is the routes where restoration activities would take place.

Analyses of the opportunities for primitive and unconfined recreation in a wilderness typically examine whether there are any facilities that decrease self-reliant recreation, meaning a facility such as trail structures or bridges designed to make travel easier for visitors. The proposed project does not include any facilities that decease self-reliant recreation, and the effects of the constructed routes are being addressed through the undeveloped quality. This quality will not be discussed further in this document.

3.4.1 Direct and Indirect Effects of No Action on Wilderness Character

Natural quality

There would be moderate adverse effects of long term duration in the project area to the natural quality of wilderness character for the same reasons discussed in the Effects to Vegetation Section 3.2.1 and the Effects to Soils Section 3.3.1 above. The adverse effect would be moderate because the project area includes multiple watersheds in both the White Mountains and Sierra Nevada Mountains. Although there would be a slow upward trend in habitat conditions on the sixty-five routes included in the Travel Management Decision, ninety-seven percent of the

project area would likely not meet the Wilderness standard and guideline to maintain a predominantly natural and natural-appearing environment for at least twenty years.

Undeveloped Quality

There would be moderate adverse effects of long term duration in the project area to the undeveloped quality. The adverse effect would be moderate because the project area includes multiple watersheds in both the White Mountains and John Muir Wildernesses.

The first indicator is whether there are visible remnants of constructed roads in wilderness, with the linear distance of restoration treatments on constructed roads the measure for this indicator. There are currently thirty-eight routes with a total linear distance of 12.6 miles within wilderness that had been constructed prior to wilderness designation. None of these routes would receive any restoration treatment, so the routes would remain as visible remnants of constructed roads for the long term, likely many decades.

The second indicator is whether there are motorized vehicle incursions into wilderness, with the proportion of routes with vehicle barriers or other visual disguising treatments to deter incursions the measure for this indicator. No routes in the project area would have vehicle barriers or visual disguise treatments installed as part of the No Action alternative. Motorized vehicle incursions into wilderness are expected to continue on the fourteen routes in the Chalfant/Coldwater Canyon area that were not included in the Travel Management Decision. The routes with vehicle barriers installed as part of the implementation of the Decision are discussed in the Cumulative Effects Section 3.4.2 below.

Opportunities for solitude

There would be no effects to opportunities for solitude because there would be no implementation activities in wilderness if the No Action alternative is selected. The effects of the remnants of constructed roads on the opportunities for primitive and unconfined recreation are addressed in the discussion of effects to the undeveloped quality of wilderness character.

3.4.2 Cumulative Effects of No Action on Wilderness Character

The Travel Management Decision, which closed sixty-five unauthorized routes in the project area, has effects which overlap in space and time with the No Action Alternative. The Forest's implementation of the Decision includes the installation of vehicle barriers and visual disguise treatments on fifty-three of the sixty-five routes. Visual disguise treatments will be installed within 30 feet of each side of the vehicle barriers at the start of each route. The visual disguise treatments have essentially the same beneficial effect to the natural quality of wilderness character as native mulch treatments. These treatments would be applied to two percent of the 29.2 miles of routes in the project area. The cumulative effects to the natural quality would therefore be a minor beneficial effect, with only two percent of the routes in the project area having improved conditions for revegetation through restoration treatments.

The Forest will install vehicle barriers on fifty-three of sixty-five routes included in the Travel Management Decision as part of the implementation of the Decision. Sixty-six percent of the routes in the project area will have vehicle barriers or other treatments to discourage vehicle incursions into wilderness. This would be a moderate beneficial effect of long term duration in the project area to the undeveloped quality of wilderness character. Twenty-seven routes, or thirty-four percent of the eighty routes in the project area, however, would not have vehicle barriers or visual disguise treatments. Twelve routes are in the Iron Mountain/Cottonwood Creek area, which is a subalpine area with only low-growing sage vegetation. Vehicle barriers would likely not effectively deter motorized incursions in this area, so the Forest will rely on wilderness boundary signs to deter incursions. The remaining fifteen routes are mostly motorcycle single tracks in the Chalfant/Coldwater Canyon area where there would be a high likelihood of continued motorized incursions.

There are no other existing environmental conditions, ongoing projects, or reasonably foreseeable projects with effects to vegetation that would overlap in space and time and have the same type of effects as the No Action Alternative.

3.4.3 Direct and Indirect Effects of the Modified Proposed Action on Wilderness Character

Natural Quality

During project implementation there would be a temporary moderate adverse effect to soils caused by the restoration treatments in the project area. The rationale for these effects is the same at that discussed in the Effects to Soils Section 3.3.3. above.

After project implementation, there would be moderate beneficial effects of long term duration in the project area to vegetation and soils. The rationale for these effects is the same as those discusses in the Effects to Vegetation Section 3.2.3. and Effects to Soils Section 3.3.3 above.

Undeveloped Quality

There would be moderate beneficial effects of long term duration to the undeveloped quality of wilderness character in the White Mountains and John Muir Wildernesses.

The first indicator for undeveloped quality is whether there are visible remnants of constructed roads in wilderness, with the linear distance of restoration treatments on constructed roads the measure for this indicator. There are currently thirty-eight routes with a total linear distance of 12.6 miles within wilderness that had been constructed prior to wilderness designation. Twenty-eight routes, with a total linear distance of 4 miles, would receive restoration treatments. Although the restoration treatments would not recontour the route prisms to match the local topography, the improved conditions for natural restoration processes would likely reduce the length of time the treated route sections would remain as visible remnants of constructed roads. It would still likely be decades before the beneficial effects are noticeable.

The second indicator is whether there are motorized vehicle incursions into wilderness, with the measure for this indicator the proportion of routes with vehicle barriers or other visual disguising treatments to deter incursions. The Forest would install vehicle barriers or visual disguise treatments on fourteen routes in the Chalfant/Coldwater Canyon area and one route in the Taboose area, which is nineteen percent of the routes in the project area. The routes with vehicle barriers installed as part of the implementation of the Travel Management Decision are discussed in the Cumulative Effects Section 3.4.4 below.

Opportunities for solitude

There would be minor adverse effects of temporary duration to the opportunities for solitude on individual routes in the project area. The indicator for the opportunities for solitude is the presence of Forest crews in the wilderness. The measure of the crew presence is the number of days of crew operations in the project area. The Forest has not yet evaluated the number of visitors to the White Mountains Wilderness or the John Muir Wilderness additions. Visitation to most of the project area is expected to be very low outside of the hunting season because of lack of surface water and, in the lower elevations, extreme heat through the month of September.

The Forest estimates that the Modified Proposed Action would be implemented during August through October 2013. Two project implementation crews comprised of six to eight people each would be working in the project area. The sight and sound of the crew may affect some visitors' perception of solitude. Two design features would minimize the potential effects to visitor's solitude. First, the Forest would implement the restoration treatments on the higher elevation routes prior to hunting season (August and the first half of September), when visitation to these areas is thought to be lower. The crews would work in the lower elevation areas in October. Second, the crews would camp outside of wilderness.

3.4.4 Cumulative Effects of the Modified Proposed Action on Wilderness Character

The Travel Management Decision (Decision), which closed sixty-five unauthorized routes in the project area, has effects which overlap in space and time with the Modified Proposed Action. The Forest's implementation of the Decision includes the installation of vehicle barriers and visual disguise treatments on fifty-three of sixty-five routes in the project.

Natural Quality

During project implementation there would be a temporary moderate adverse effect to soils caused by the restoration treatments in the project area. The rationale for these effects is the same at that discussed in the Effects to Soils Section 3.3.3. above.

After project implementation, there would be moderate beneficial effects of long-term duration in the project area to vegetation and soils. The rationale for these effects is the same as those discusses in the Effects to Vegetation Section 3.2.3. and Effects to Soils Section 3.3.3 above.

The cumulative effects of the Travel Management Decision and the Modified Proposed Action would be to increase the likelihood that twenty-nine percent of the routes in the project area would have improved conditions for revegetation because the vehicle barriers that will be installed by the Decision would better protect the routes from motorized vehicle incursions. With routes better protected from motorized vehicle intrusions, there would not be a continual cause of additional soil compaction in the project area.

Undeveloped Quality

There would be moderate beneficial effects of long-term duration in the project area to the undeveloped quality of wilderness character.

The cumulative effects to the first indicator for undeveloped quality, the linear distance of restoration treatments on visible remnants of constructed roads, would be the same as the direct and indirect effects of the Modified Proposed Action.

The cumulative effects to the second indicator for undeveloped quality would be an increase in the proportion of routes with vehicle barriers or other visual disguise treatments to deter incursions. The Forest would install vehicle barriers or visual disguise treatments on 15 routes as part of the Modified Proposed Action. With the Travel Management Decision implementation action to install barriers on fifty-two[6] routes, sixty-seven of seventy-nine routes (eighty-four percent) are expected to have vehicle barriers or visual disguise treatments. Twelve routes are expected to have only wilderness boundary signs at the closure point, and no vehicle barriers or visual disguise treatments as discussed above.

Opportunities for Solitude or Primitive and Unconfined Recreation

The cumulative effects to the opportunities for solitude would be the same as the direct and indirect effects because the area of these effects overlaps in space and time with the area of effects from the restoration crews' presence in wilderness. There are no other existing environmental conditions, ongoing projects, or reasonably foreseeable projects with effects to opportunities for solitude that would overlap in space and time and have the same type of effects as the Modified Proposed Action Alternative.

[6] If the Modified Proposed Action is selected, one route would be added to the National Forest Transportation System, which would reduce the number of routes with barriers by one from the fifty-three routes discussed in the No Action Alternative's cumulative effects section

3.5 Effects Relative to Significance Factors

1. Beneficial/adverse impacts.

The beneficial and adverse effects of the No Action and Proposed Action can be found in the following Sections of the Environmental Analysis: Section 3. 2, Effects to Vegetation; Section 3.3, Effects to Soils; and Section 3.4, Effects to Wilderness Character.

2. The degree to which the proposed action affects public health or safety.

Although the purposes of the proposed project are to prevent vehicle incursions into designated wilderness and to promote natural revegetation processes, one element of the Modified Proposed Action would protect public safety. The extension of the length of the open section of Route 06S03J by ¼ mile would provide the public with a location for an adequate sized turn-around. The 2009 Travel Management Decision placed the existing location of the end of the open route on a steep hillside with no space for motorists to turn around their vehicles. There are no other foreseeable projects in the project area that would affect public safety, so there would be no cumulative effects on public safety.

3. Unique characteristics of the geographic area such as proximity to historic or cultural resources, parklands, prime farmlands, wetlands, wild and scenic rivers, or ecologically critical areas.

Historic or cultural resources: Cultural Resources Report No. 2013020101771 has been prepared by the Forest Archeologist. The Report's Finding of Effect concluded there would be no direct, indirect, or cumulative effects on historic or cultural resources. With implementation of the standard protection measures, Heritage protection measures described in Section 2.2.4 Modified Proposed Action Management Requirements, and/or completion of this report, mandatory historic preservation requirements for this undertaking have been met according to the Programmatic Agreement among The U.S.D.A. Forest Service, Pacific Southwest Region, California State Historic Preservation Officer, and Advisory Council on Historic Preservation regarding the identification, evaluation and treatment of historic properties managed by the National Forests of the Sierra Nevada, California.

Parklands: There are no parklands in the project area, therefore there would be no direct, indirect, or cumulative effects on parklands.

Prime farmlands: There are no prime farmlands in the project area, therefore there would be no direct, indirect, or cumulative effects on prime farmlands.

Wetlands: There are no wetlands in the project area, therefore there would be no direct, indirect, or cumulative effects on wetlands.

Wild and Scenic Rivers: Two routes in the project area, U-N2667 and U-04S323 are within ¼ mile of the Cottonwood Creek, which has been designated as a Wild River by P.L. 111-11, the

Omnibus Public Lands Management Act (2009). The Inyo NF has not yet designated the Outstandingly Remarkable Values for Cottonwood Creek. Project activities on these two routes include: the installation of water bars on an eroding section of U-04S323; the installation of vertical mulch and native mulch to promote natural revegetation processes; the placement of local rock along sections of U-N2667 to provide an additional vehicle barrier. The Modified Proposed Action would have minor beneficial effects on water quality in the vicinity of the routes by reducing or preventing eroded soils from the routes being deposited as sediment in the creek.

There is one other past, present, or reasonably foreseeable action in the Cottonwood Creek Wild and Scenic River corridor. In 2009, The Inyo NF completed a fishery habitat improvement project to enhance spawning beds for Paiute Cutthroat Trout in the creek. That project had a beneficial effect on the fishery values of Cottonwood Creek[7].

The cumulative effects of the Modified Proposed Action to Wild and Scenic Rivers are minor beneficial effects to the water quality and fisheries in Cottonwood Creek. There would be no other effects to the free-flowing nature or potential outstandingly remarkable values of Cottonwood Creek.

Activities taken under the No Action Alternative would include the installation of a vehicle barrier at the end of open route 05S116. By preventing vehicle incursions on the two routes and potential vehicle traffic in a riparian area along the creek, the No Action would have minor beneficial effects on water quality in the vicinity of the routes by preventing soil erosion from the routes that would be caused by vehicle travel on the routes.

The cumulative effects of the No Action Alternative to Wild and Scenic Rivers are minor beneficial effects to the water quality and fisheries in Cottonwood Creek. There would be no other effects to the free-flowing nature or potential outstandingly remarkable values of Cottonwood Creek.

Wilderness: The effects to Wilderness Character from the No Action and Modified Proposed Action are described in Section 3.4.

Ecologically critical areas: Four routes in the project area, U-N1877, U-N2655, U-N2656, U-N2657, are wholly or partially within the Ancient Bristlecone Pine Forest (Forest). This Forest was designated by P.L. 111-11, the Omnibus Public Lands Management Act (2009) to conserve and protect the Ancient Bristlecone Pines. The Inyo NF is required to maintain near-natural conditions and ensure that all activities are subordinate to the need of protecting and preserving bristlecone pines and wood remnants within the Forest.

The Modified Proposed Action would be consistent with its administrative requirements by protecting and preserving bristlecone pines. Implementation activities on these routes would

[7] Decision Memo, North Fork Cottonwood Creek Gravel Augmentation Project, August 27, 2009.

have a minor long-term beneficial effect to the Ancient Bristlecone Pine Forest by preventing vehicles incursions into the portion of the Forest within wilderness, and promoting natural revegetation processes.

There are no other past, present, or reasonably foreseeable projects in the Ancient Bristlecone Pine Forest, therefore there would be beneficial direct and indirect effects on this ecologically critical area.

4. The degree to which the effects on the human environment are likely to be highly controversial.

Agency and public scoping comments or did not bring forth any issues regarding the environmental effects or controversy about the efficacy of the Modified Proposed Action. There have been no written comments from Native American Tribes in response to official letters sent to tribal governments. The Tribal Historic Preservation Officer from the Bishop Paiute Tribe of Owens Valley visited several routes in the project area, and did not express any concerns with the effects of the Modified Proposed Action. The implementation of the project elements will utilize routine restoration techniques suitable for routes in desert wilderness areas. There is no known controversy about the anticipated effects. Public and agency comments are summarized in Section 1.6, Public Involvement and Native American Consultation.

5. The degree to which the possible effects on the human environment are highly uncertain or involve unique or unknown risks.

The Inyo National Forest has completed several similar projects with similar resource conditions, but in smaller project areas, in wilderness in the past ten years. The projects are meeting the projected improvements to resource conditions, and none had any unanticipated effects to wilderness character or other elements of the human environment. There is extensive literature and research on the environmental effects of off-highway vehicle use on public lands. There is also extensive federal land managing agency experience in California with off-highway vehicle route restoration projects. The Modified Proposed Action draws on that experience.

6. The degree to which the action may establish a precedent for future actions with significant effects or represent a decision in principle about a future consideration.

The Inyo National Forest is disclosing in this Environmental Assessment the complete set of proposed route restoration actions for the project area. The Modified Proposed Action includes all route-related activities that the Forest can foresee in the project area. The environmental analysis concludes there would be no significant effects resulting from the implementation of the complete list of identified route restoration actions in the project area. This is a site-specific project that does not set precedence for future decisions with significant effects or present a decision in principle about future considerations. If the need for additional route restoration

actions in the project area is identified in the future, a separate site-specific environmental analysis would be completed prior to proceeding with those actions.

7. Whether the action is related to other actions with individually insignificant but cumulatively significant impacts.

The discussion of cumulative effects in Section 3.1.2 indicates the Modified Proposed Action overlaps in time and space with the implementation of the Travel Management Decision. The two actions would have similar types of beneficial effects to the undeveloped quality of wilderness character in the project area, primarily by deterring the use of motorized vehicles wilderness. Therefore there would not be any cumulatively significant adverse impacts from implementation of the Modified Proposed Action.

8. The degree to which the action may adversely affect districts, sites, highways, structures, or objects listed in or eligible for listing in the national Register of Historic Places, or may cause loss or destruction of significant scientific, cultural, or historic resources.

The Forest Archeologist prepared a Cultural Resources Report, dated April, 2013 and incorporated by reference, pursuant to the Programmatic Agreement among the U.S.D.A. Forest Service, Pacific Southwest Region, California State Historic Preservation Officer, and Advisory Council on Historic Preservation regarding the identification, evaluation and treatment of historic properties managed by the national forests of the Sierra Nevada, California. The Forest Archeologist found there would be no adverse effects to districts, sites, highways, structures, or objectives listed in or eligible for listing in the National Register of Historic Places from the Modified Proposed Action.

9. The degree to which to action may adversely affect an endangered or threatened species or its habitat that has been determined to be critical under the Endangered Species Act of 1973.

The Forest Service has complied with the Endangered Species Act requirements by completing for the project two biological evaluations: 1) a Biological Evaluation for Threatened, Endangered, Proposed, and Sensitive Plants; 2) a Biological Evaluation/Assessment for Animals.

The Biological Evaluation for Threatened, Endangered, Proposed, and Sensitive Plants, dated April 10, 2013 and incorporated by reference, has been prepared by the Forest Botanist. The evaluation concluded there is no potential habitat for any threatened, endangered, proposed or candidate plant species within or adjacent to the proposed project area.

Field surveys conducted in 2012 and 2013 indicated four species listed as sensitive by the Forest Service Pacific Southwest Region occur in the vicinity of four routes in the project area: july gold (*Dedeckera eurekensis*); raven's milk-vetch (*Astragalus ravenii*); White Mountains horkelia (*horkelia hispidula*) and sensitive moonwort species (*Botrychium* ssp.). The Modified Proposed

Action includes a management requirement that a botanist would either flag the sensitive plant populations' location or supervise the project's implementation so that all project work would avoid sensitive plants. The proposed project may impact individual plants of the four sensitive species above, but will not lead to a trend toward federal listing or loss of viability of the four species.

The Biological Evaluation/Assessment for Animals, dated April 18, 2013 and incorporated by reference, has been prepared by the Forest Wildlife Biologist.

Portions of nine routes with a combined distance of 3 miles are within Critical Habitat for the Sierra Nevada bighorn sheep (*Ovis canadensis sierrae)*, a federally listed endangered species. The evaluation determined the potential for disturbance of bighorn sheep by implementation of the Modified Proposed Action is negligible, based on the known timing of the use of habitat by bighorn sheep in the vicinity of proposed restoration activities. The Forest would implement the project during the months of August through October, when bighorn sheep are not know to occupy habitat in the project area. No other threatened, endangered or proposed species are known to occur within the analysis area, nor is there suitable habitat present for any of these species.

Two terrestrial species listed as sensitive by the Forest Service Pacific Southwest Region, greater sage-grouse (*Centrocercus urophasianus*) and Panamint alligator lizard (*Elgaria panamintina*), have potential habitat in the project area. Ten routes with a combined distance of 4.8 miles are within "preliminary priority habitat" for greater sage-grouse. The Modified Proposed Action includes a management requirement for a limited operating period on routes within the preliminary priority habitat to eliminate the potential for disturbance of nesting grouse. The limited operating period would be from April 1 and June 30 each year, when project implementation activities would not occur in the preliminary priority habitat. The evaluation determined the Modified Proposed Action may impact both greater sage-grouse and Panamint alligator lizard individuals, but would no result in a trend towards federal listing or loss of viability in the project area for either species. No other sensitive species are known to occur within the analysis area, nor is there suitable habitat present for any of these other species.

There would be no effect to Threatened, Endangered, Proposed, and Sensitive aquatic species because there is no habitat for Threatened, Endangered, Proposed, and Sensitive aquatic species in the project area.

10. Whether the action threatens a violation of Federal, State, or local law or other requirements imposed for the protection of the environment.

Wilderness Act: The Modified Proposed Action is consistent with the Wilderness Act Sections 2(a) and 2 (c) because the project protects and preserves wilderness character while providing for use and enjoyment of the area by visitors. Section 3.4.3 of this Environmental Assessment concludes the Modified Proposed Action would have: 1) a moderate beneficial effect of long-

term duration to the natural quality of wilderness character in the project area; 2) a moderate beneficial effect of long-term duration to the undeveloped quality of wilderness character; 3) a minor adverse effect of short-term duration on the opportunities for solitude during project implementation; 4) no effect on the untrammeled quality of wilderness character.

Clean Water Act: The Modified Proposed Action is consistent with the Clean Water Act through the inclusion of Best Management Practices in the project design. The Forest Service has developed Best Management Practice guidelines to prevent water degradation on National Forest lands as part of the Management Agency Agreement between the Forest Service and the State Water Resources Control Board. The Forest has included four Best Management Practices in the Modified Proposed Action Section 2.2.2 to protect water quality.

The Forest will determine with appropriate regulatory agencies whether permits may be necessary to comply with Clean Water Act Section 404-401 or for National Pollutant Discharge Elimination System (NPDES) permits for the project before implementation.

National Forest Management Act: The Modified Proposed Action is consistent with the National Forest Management Act, because neither alternative would threaten the viability of any sensitive species (Perloff 2013, and Weis 2013).

Sierra Nevada Management Indicator Species Amendment Record of Decision (2007): A Management Indicator Species Report, dated May 2, 2013 and incorporated by reference, has been prepared by Forest Wildlife and Fisheries Biologists (Murphy, Sims 2013). The effects of the Proposed Action on the habitat of three management indicator species were evaluated:

Aquatic macroinvertebrates: Aquatic macroinvertebrate habitat occurs within the project area. There are, however, no proposed restoration activities in or adjacent to the lacustrine and riverine habitat of aquatic macroinvertebrates. The Modified Proposed Action would therefore have no direct or indirect effects on aquatic macroinvertebrates, and would not alter the existing trends in the lacustrine and riverine ecosystem component across the Sierra Nevada bioregion.

Pacific chorus frog (*Pseudacris regilla*): Pacific chorus frog habitat occurs within the project area. There are, however, no proposed restoration activities in or adjacent to the wet meadow habitat of Pacific chorus frogs. The Modified Proposed Action would therefore have no direct or indirect effects on Pacific chorus frogs, and would not alter the existing trends in the wet meadow ecosystem component across the Sierra Nevada bioregion.

Greater sage-grouse: greater sage-grouse habitat occurs within the project area. All proposed restoration activities, however, would occur within the road prisms, or previously disturbed areas, and not affect the sagebrush habitat of greater sage-grouse. The Modified Proposed Action would therefore not alter the existing trend in the sagebrush ecosystem component, nor will it lead to a change in the distribution of greater sage-grouse across the Sierra Nevada bioregion. The Modified Proposed Action also includes a management requirement to not

implement project activities in sage-grouse habitat during the April 1 to June 30 nesting season for sage-grouse.

Inyo National Forest Land and Resource Management Plan (1988) (LRMP): The Modified Proposed Project is consistent with the watershed goals established in the LRMP: project activities would be conducted to maintain or improve soil productivity, to maintain favorable conditions of water flow, and to comply with state and federal water quality goals. The Modified Proposed Action is consistent with the wilderness goal for the LRMP: project activities would protect wilderness character, provide opportunities for primitive recreation, maintain watershed values, and enhance the quality of wilderness experiences (LRMP, pgs.68-69).

Sierra Nevada Forest Plan Amendment Record of Decision (2004): A Riparian Conservation Objective analysis has been completed for this project. The Hydrology and Soils Specialist Report, dated May 2013 and incorporated by reference, indicates the Modified Proposed Project is consistent with the Riparian Conservation Objectives, standards and guidelines applicable to this project. The Report's determination is that the Modified Proposed Action would have beneficial effects to watershed conditions.

The Forest has complied with the 2004 Record of Decision direction regarding the involvement of American Indian Tribes by soliciting the Tribes' opinions and concerns related to the Proposed Action.

Record of Decision for Management Direction for the Ansel Adams, John Muir, and Dinkey Lakes Wildernesses (2001): The Wilderness Specialists Report, dated May 2013 and incorporated by reference, indicates the Modified Proposed Action is consistent with the management direction contained in the Ansel Adams, John Muir, and Dinkey Lakes Wilderness Management Plan. The Modified Proposed Action is also consistent with Forest Service Manual Section 2323 policies administration of wilderness.

Chapter 4 List of Persons Consulted

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Chapter 5 Appendices

Appendix A contains thirteen maps that depict the project areas in Figures 1 and 2.

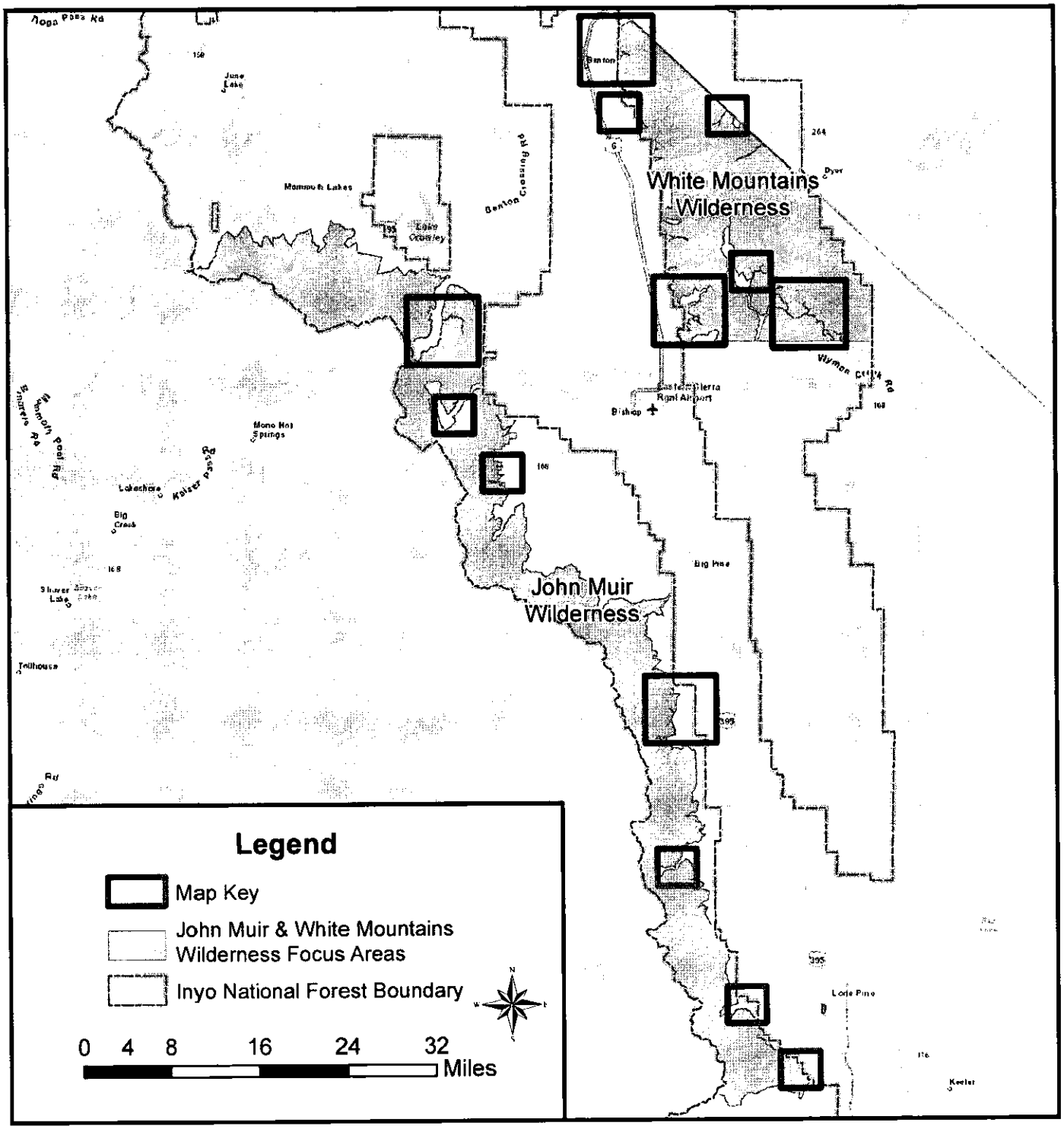
Appendix B contains a table of the project area routes and proposed treatments.

United States Department of Agriculture
Forest Service

Inyo National Forest

Wilderness Unauthorized Route Restoration Project
Project Area Map

June 2013

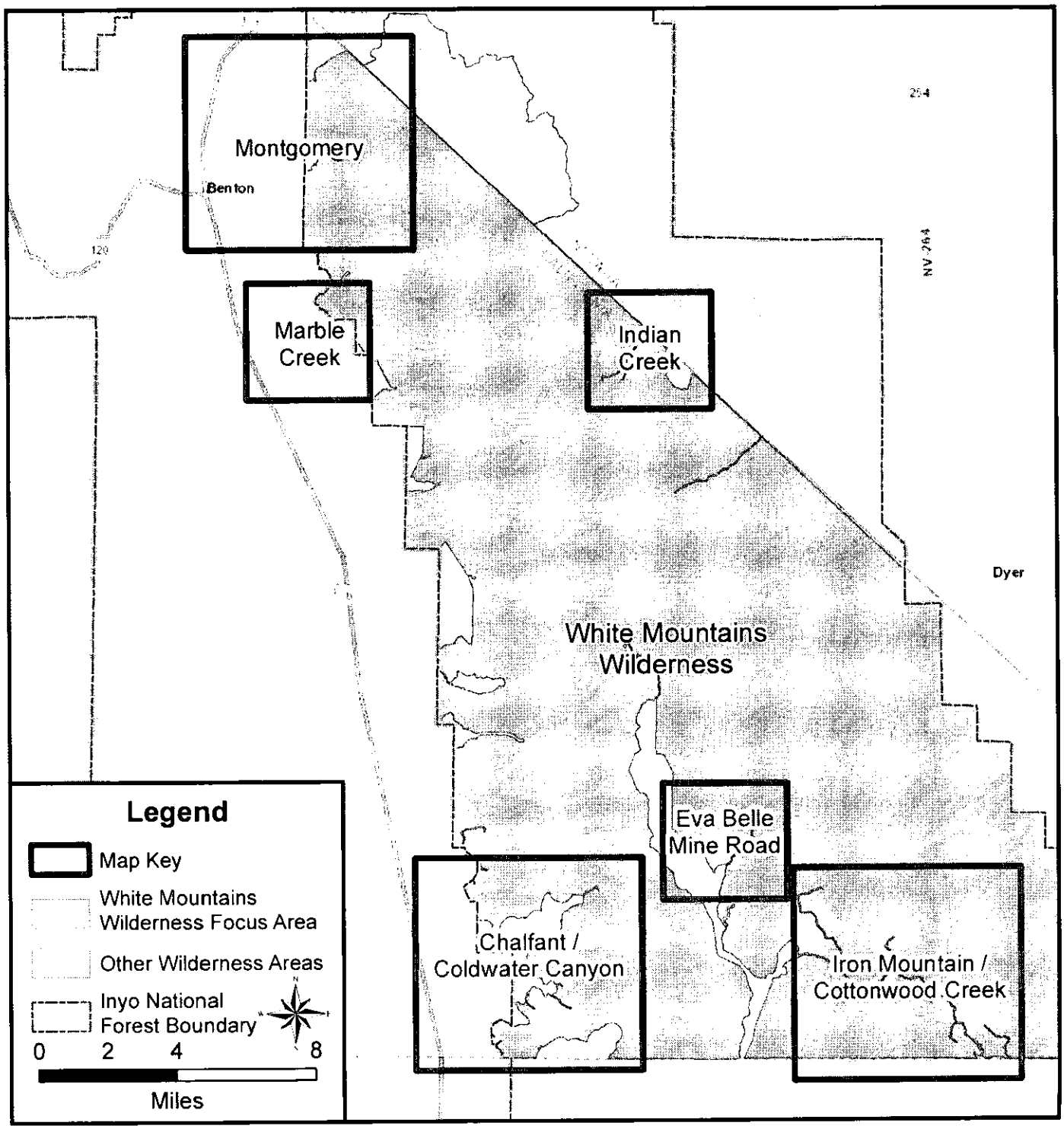


United States Department of Agriculture
Forest Service

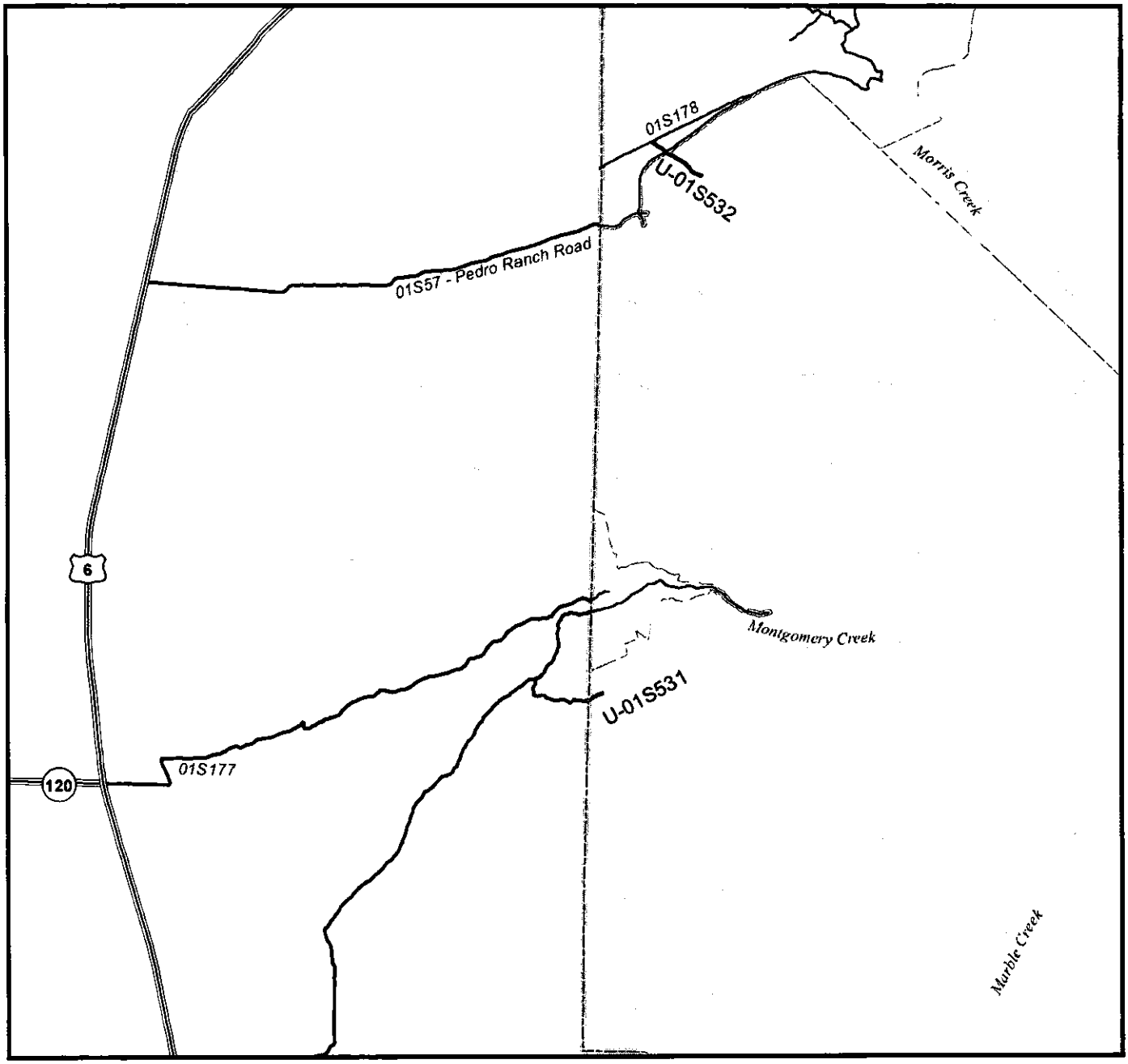
Inyo National Forest

Wilderness Unauthorized Route Restoration Project
White Mountains Wilderness Map Key

June 2013



Wilderness Unauthorized Route Restoration Project
Montgomery



Transportation System

- Highway
- Non Forest Service Road
- National Forest System Road
- National Forest System Motorized Trail
- Inyo National Forest Boundary
- Wilderness

Unauthorized Routes in Project Area

- Restoration Proposed (See Appendix B Table)
- No Restoration Action Proposed Beyond 2009 Travel Management Decision
- Other Action Proposed (See Appendix B Table)

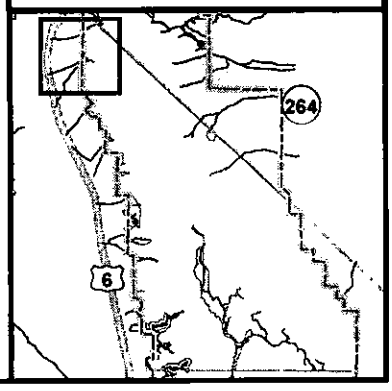
0 1 2
Miles

Contours at 200 ft. intervals

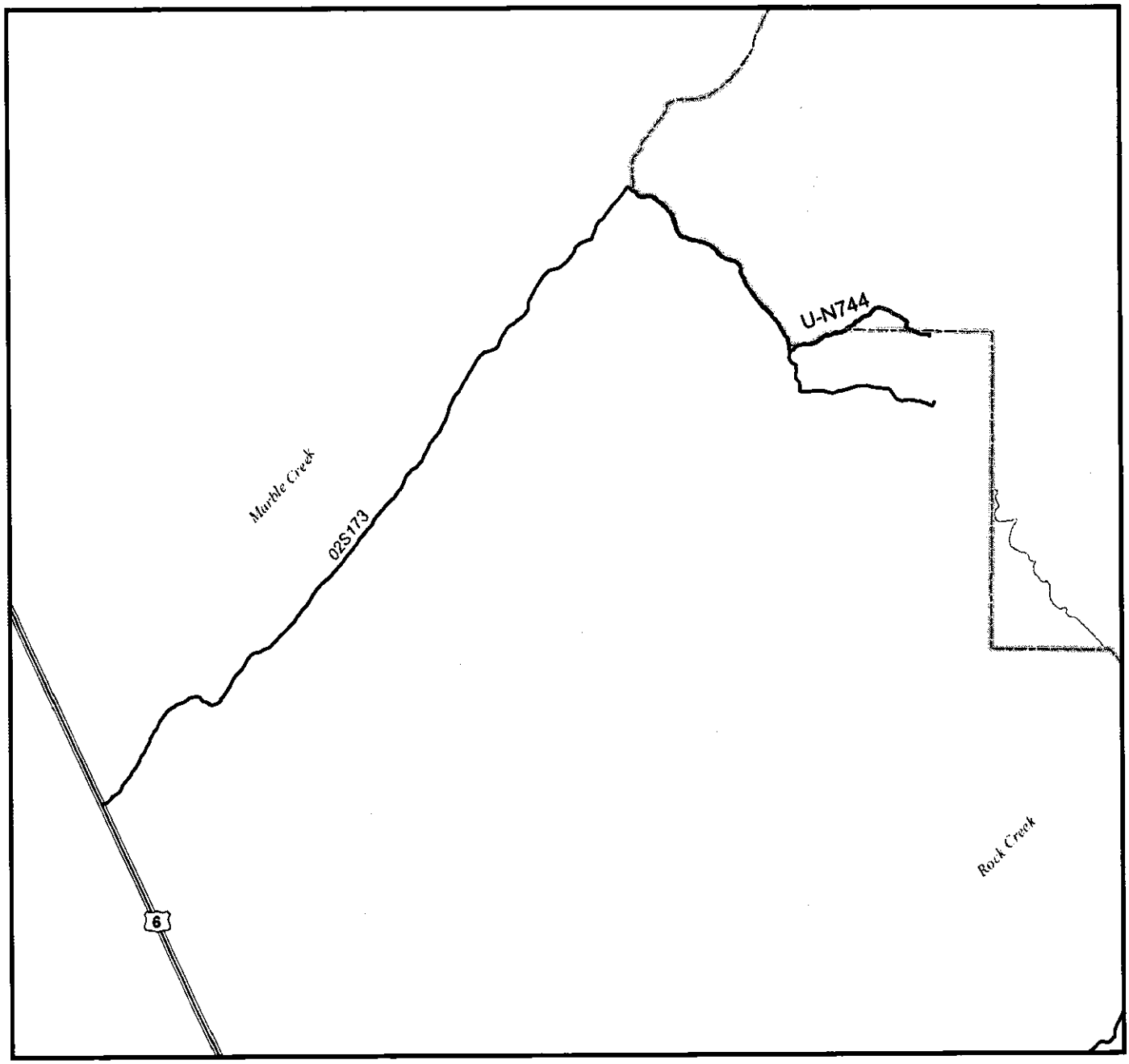
N W E S

June 2013

White Mountains Wilderness



Wilderness Unauthorized Route Restoration Project
Marble Creek



Transportation System

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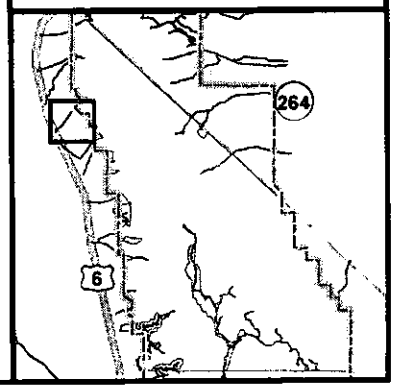
Miles

Contours at 200 ft. intervals

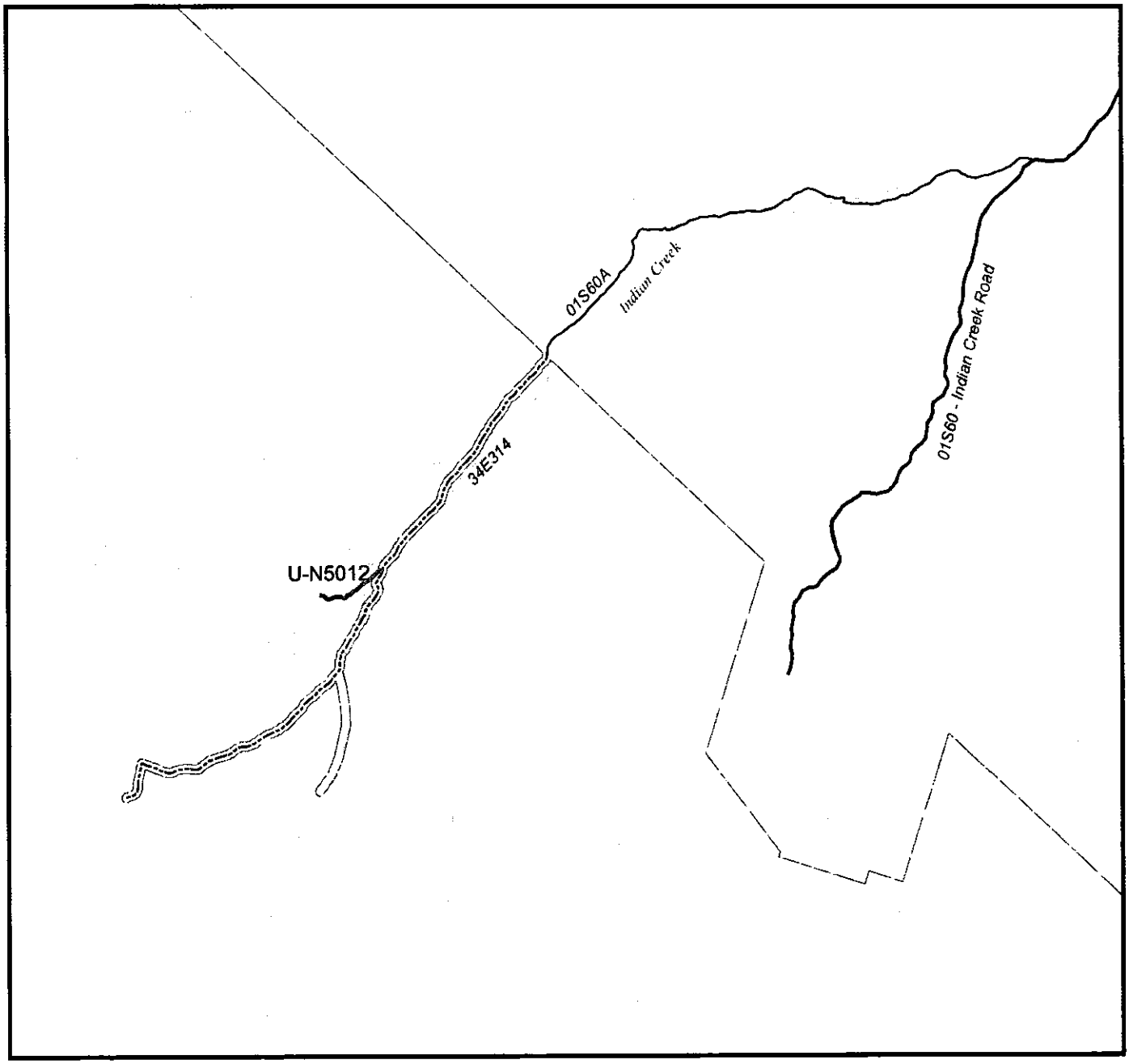
N W E S

June 2013

White Mountains Wilderness



Wilderness Unauthorized Route Restoration Project
Indian Creek



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Miles

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June 2013

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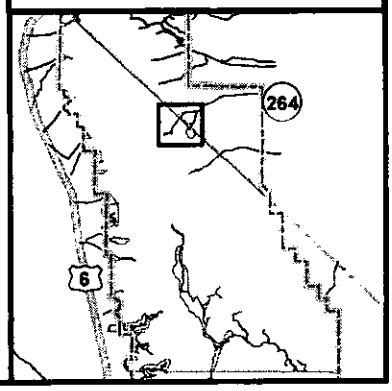
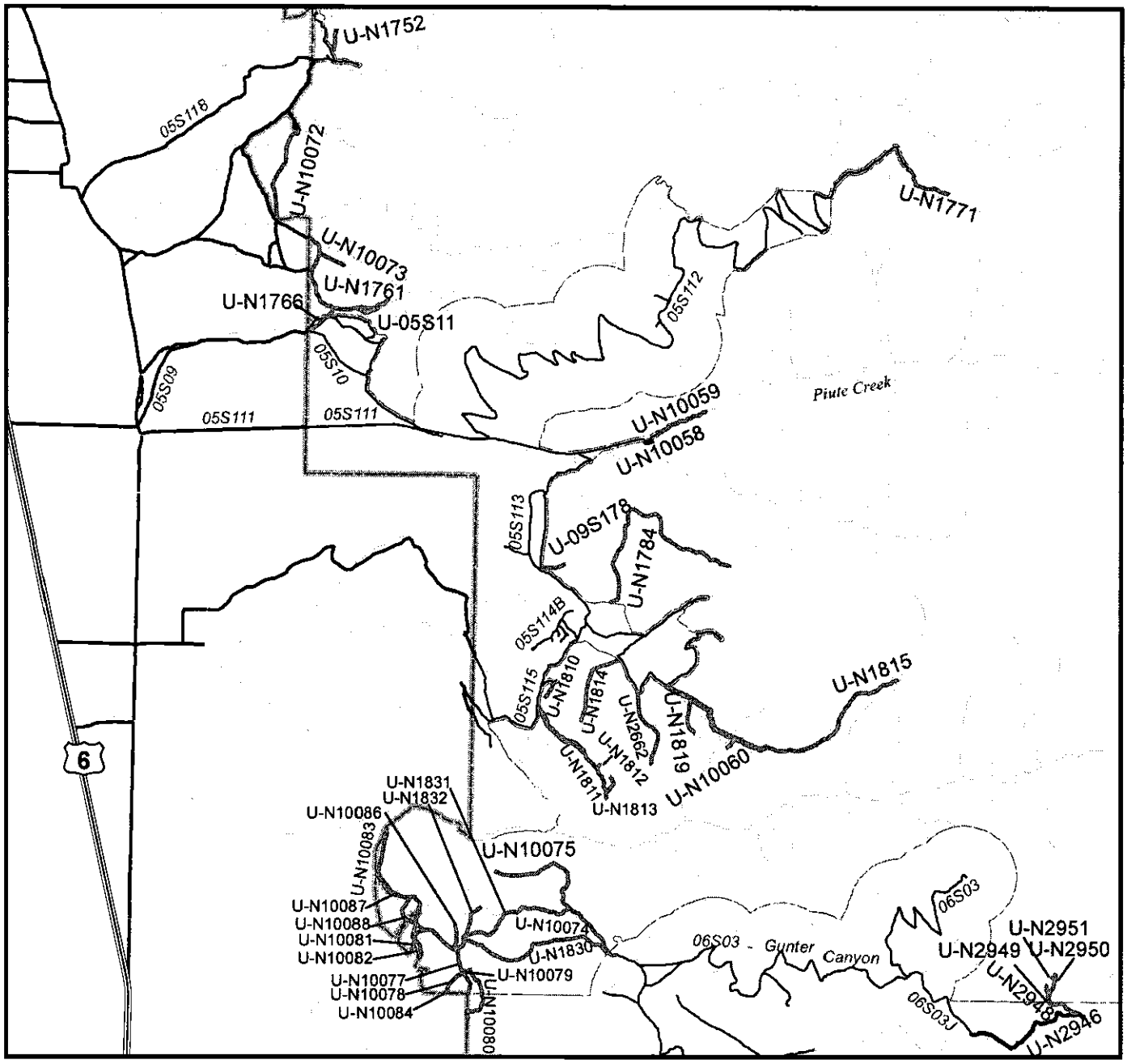


Wilderness Unauthorized Route Restoration Project
Chalfant / Coldwater Canyon



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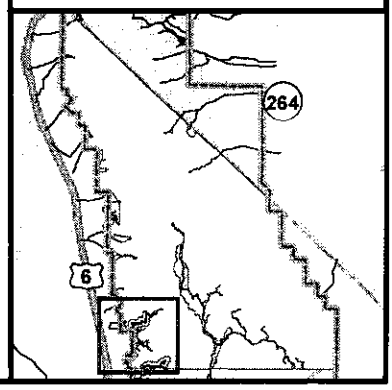
Miles

Contours at 200 ft. intervals

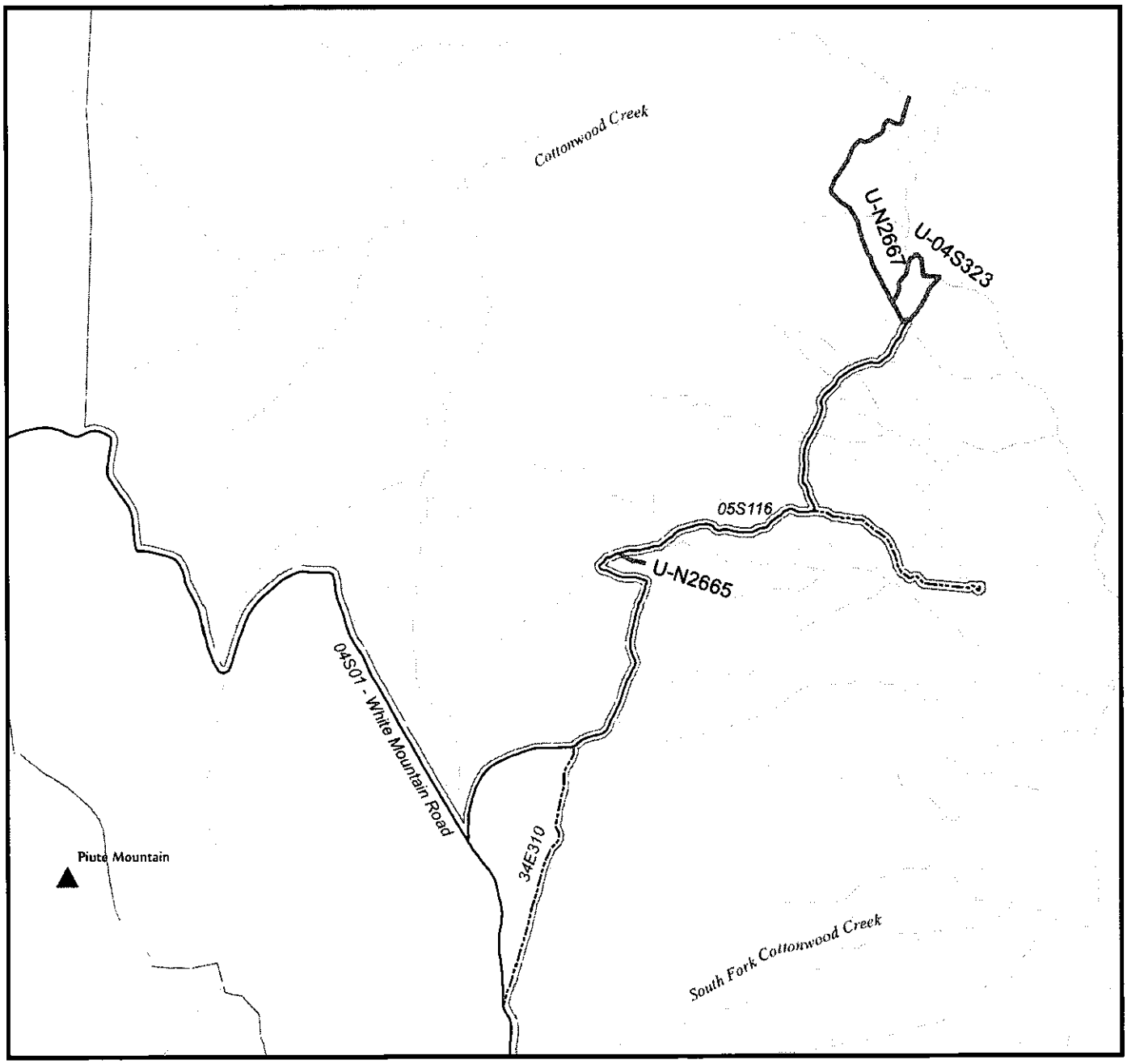
N W E S

June 2013

White Mountains Wilderness



Wilderness Unauthorized Route Restoration Project
Eva Belle Mine Road



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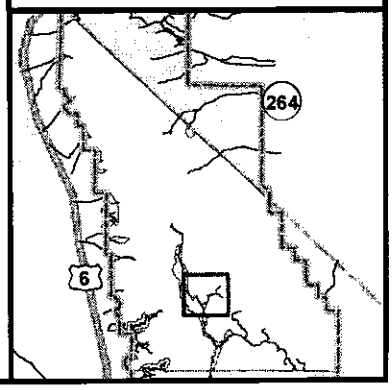
Miles

Contours at 200 ft. intervals

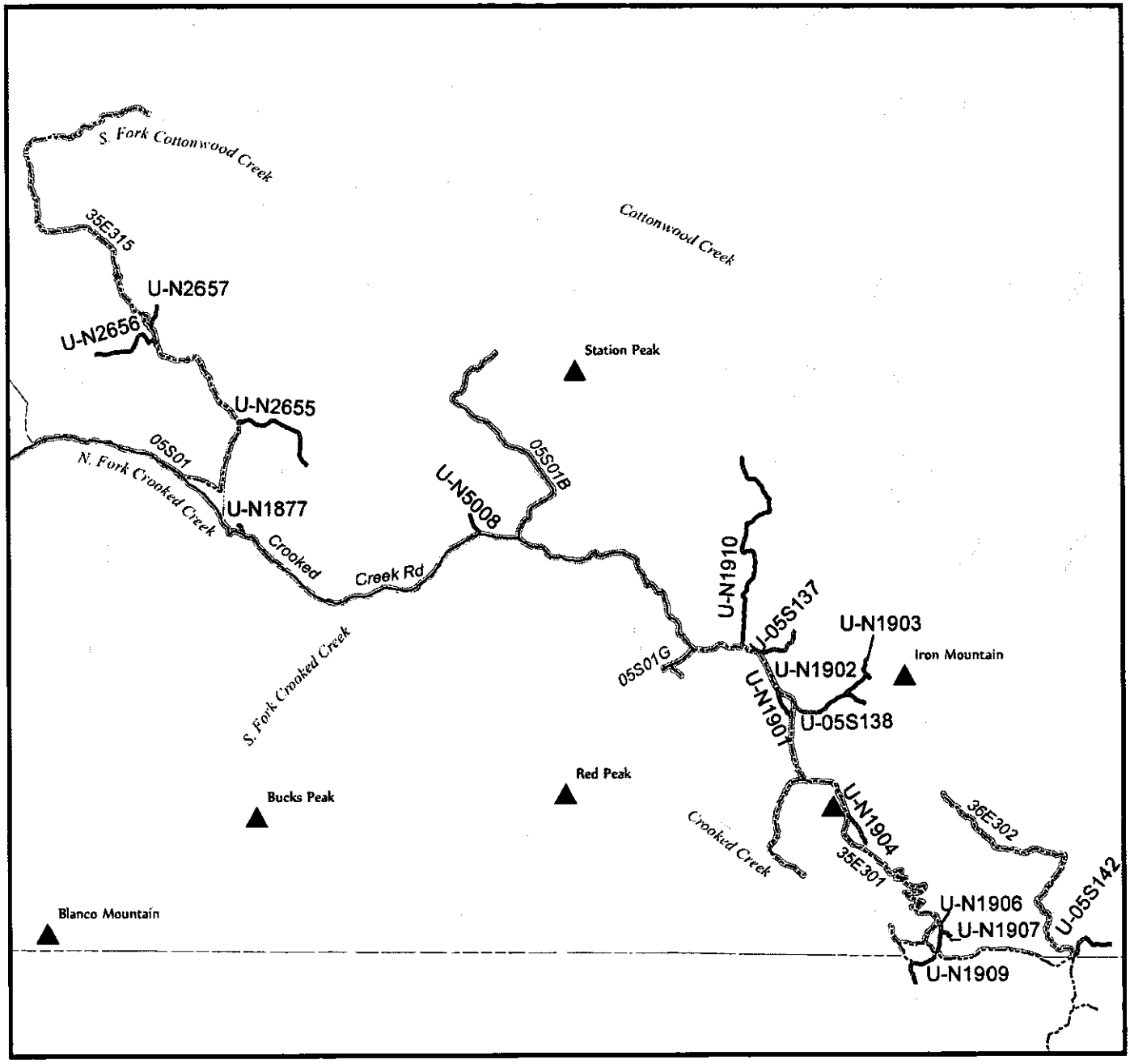
N W E S

June 2013

White Mountains Wilderness



Wilderness Unauthorized Route Restoration Project
Iron Mountain / Cottonwood Creek



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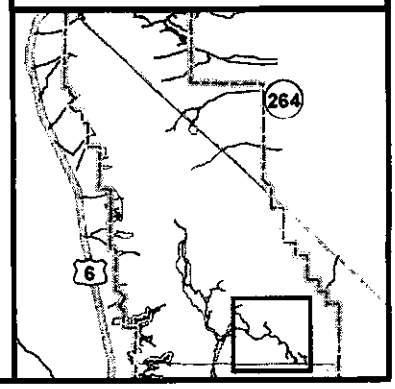
Miles

Contours at 200 ft. intervals

N W E S

June 2013

White Mountains Wilderness

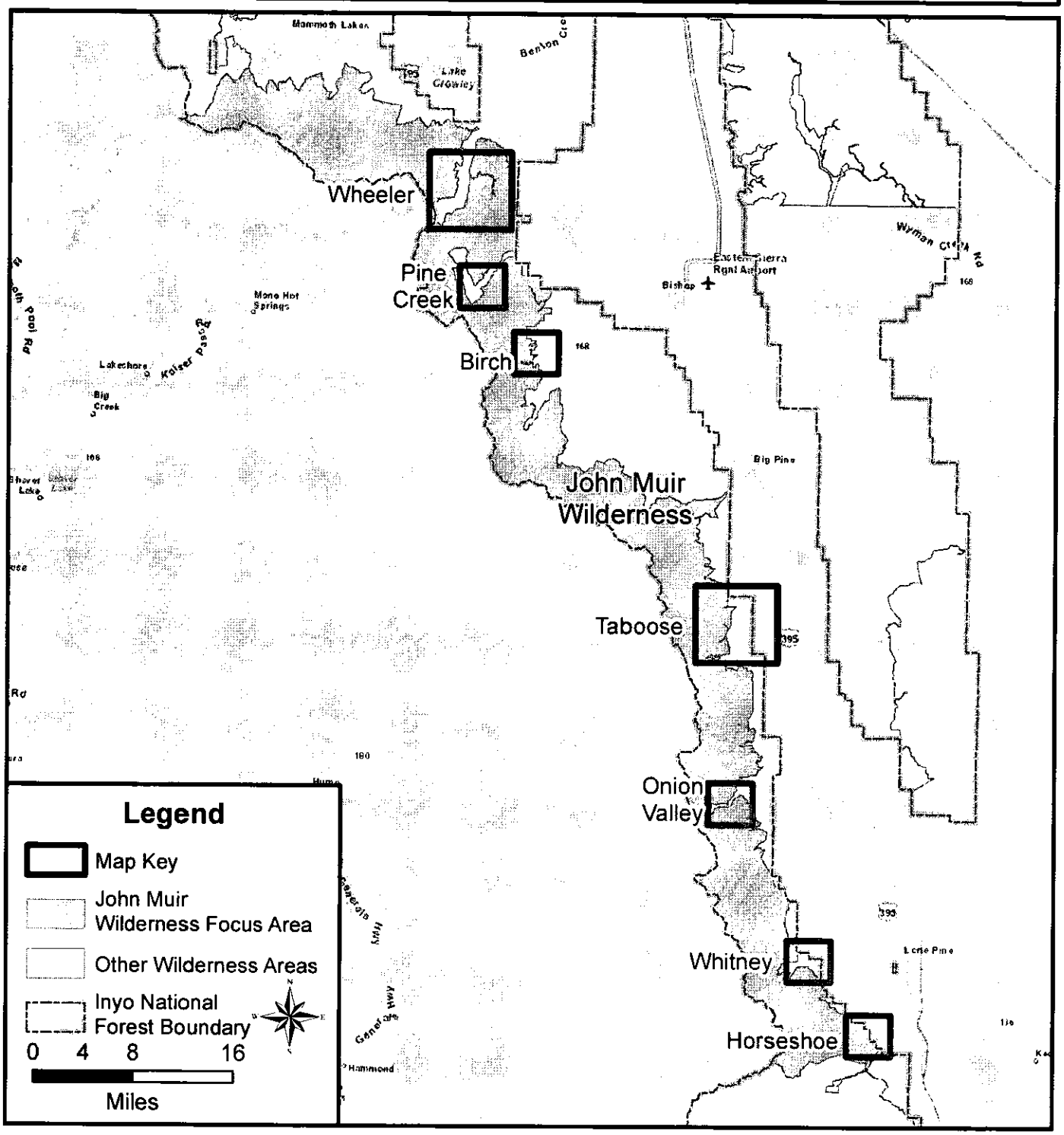


United States Department of Agriculture
Forest Service

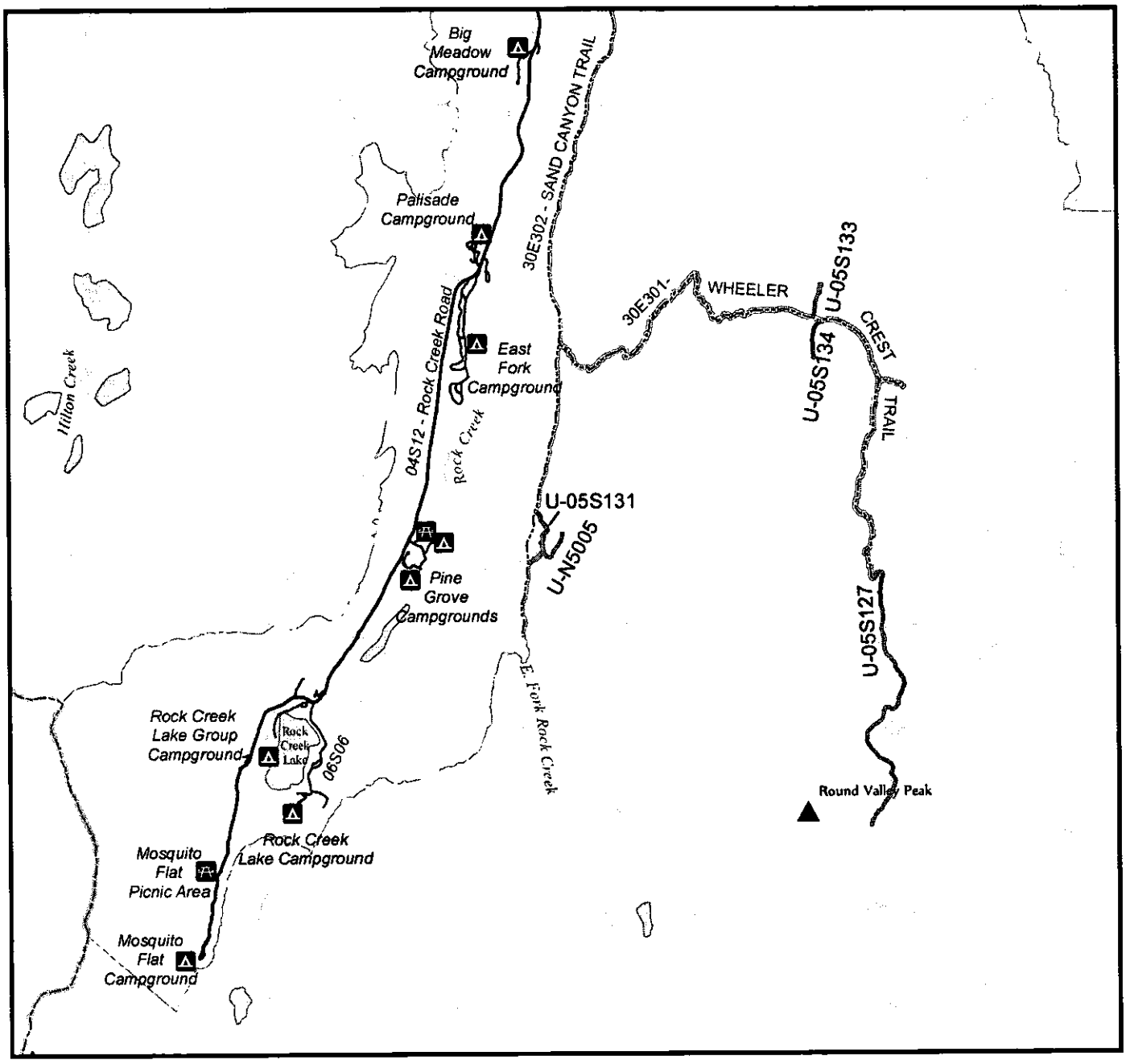
Inyo National Forest

Wilderness Unauthorized Route Restoration Project
John Muir Wilderness Map Key

June 2013



Wilderness Unauthorized Route Restoration Project
Wheeler



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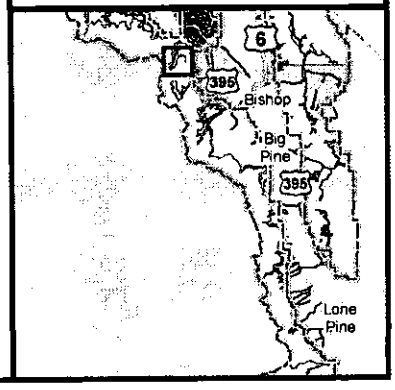
Miles

Contours at 200 ft. intervals

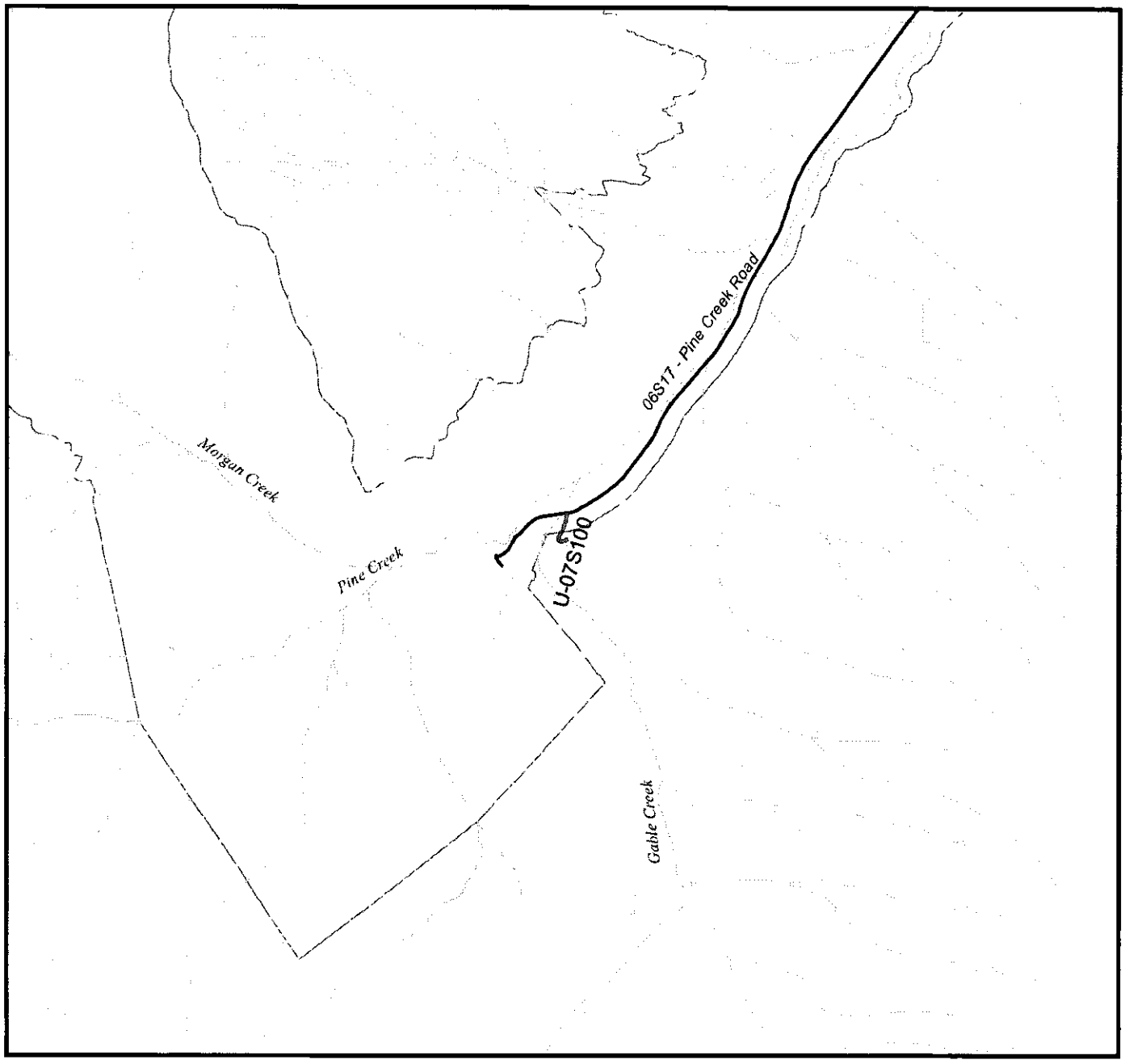
N W E S

June 2013

John Muir Wilderness



Wilderness Unauthorized Route Restoration Project
Pine Creek



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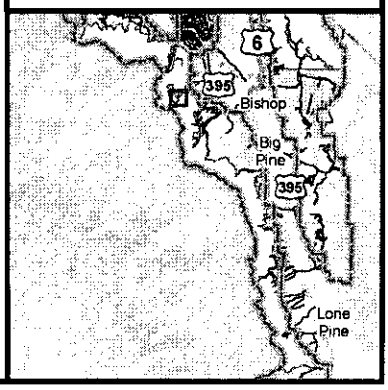
0 0.5 1
Miles

Contours at 200 ft. intervals

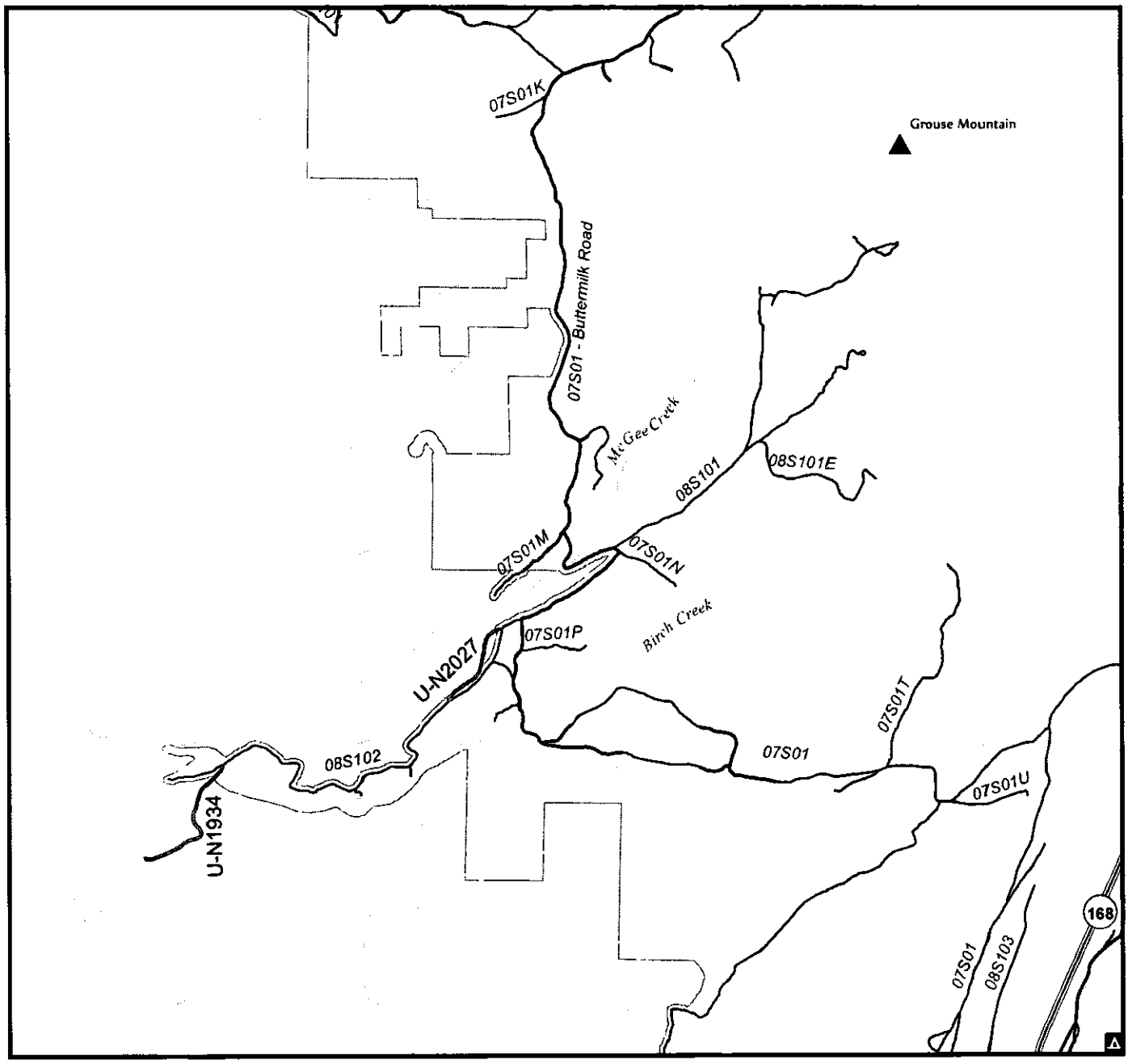
N W E S

June 2013

John Muir Wilderness



Wilderness Unauthorized Route Restoration Project
Birch



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Miles

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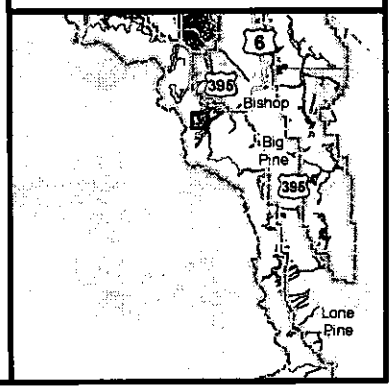
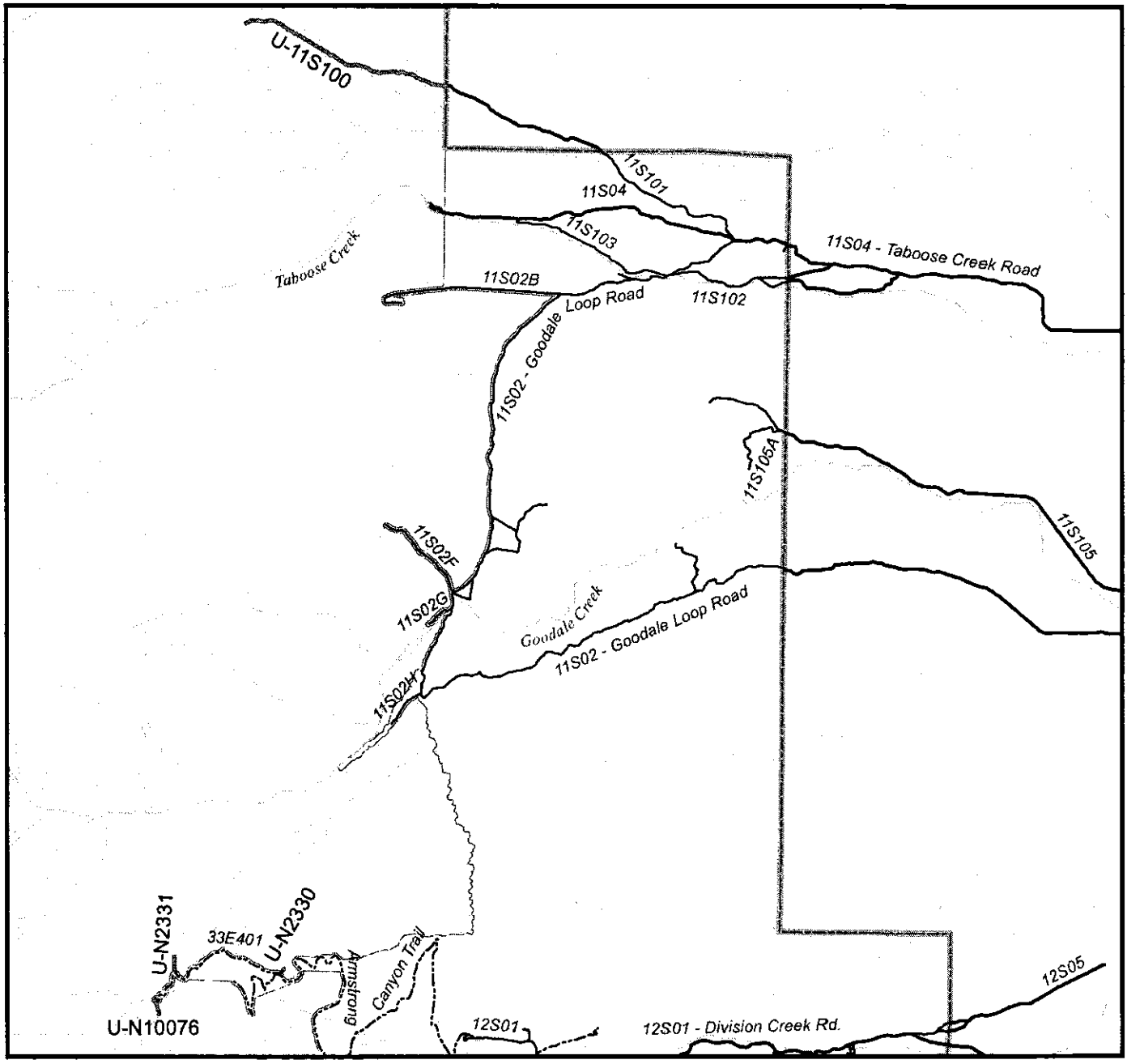
N W E S

June 2013

John Muir Wilderness



Wilderness Unauthorized Route Restoration Project
Taboose



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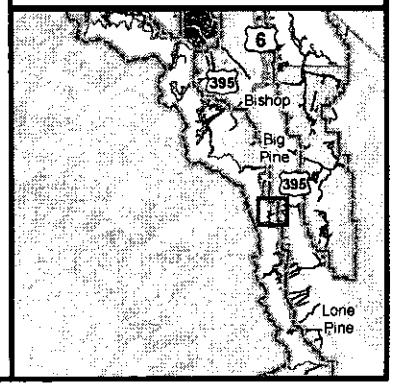
Miles

Contours at 200 ft. intervals

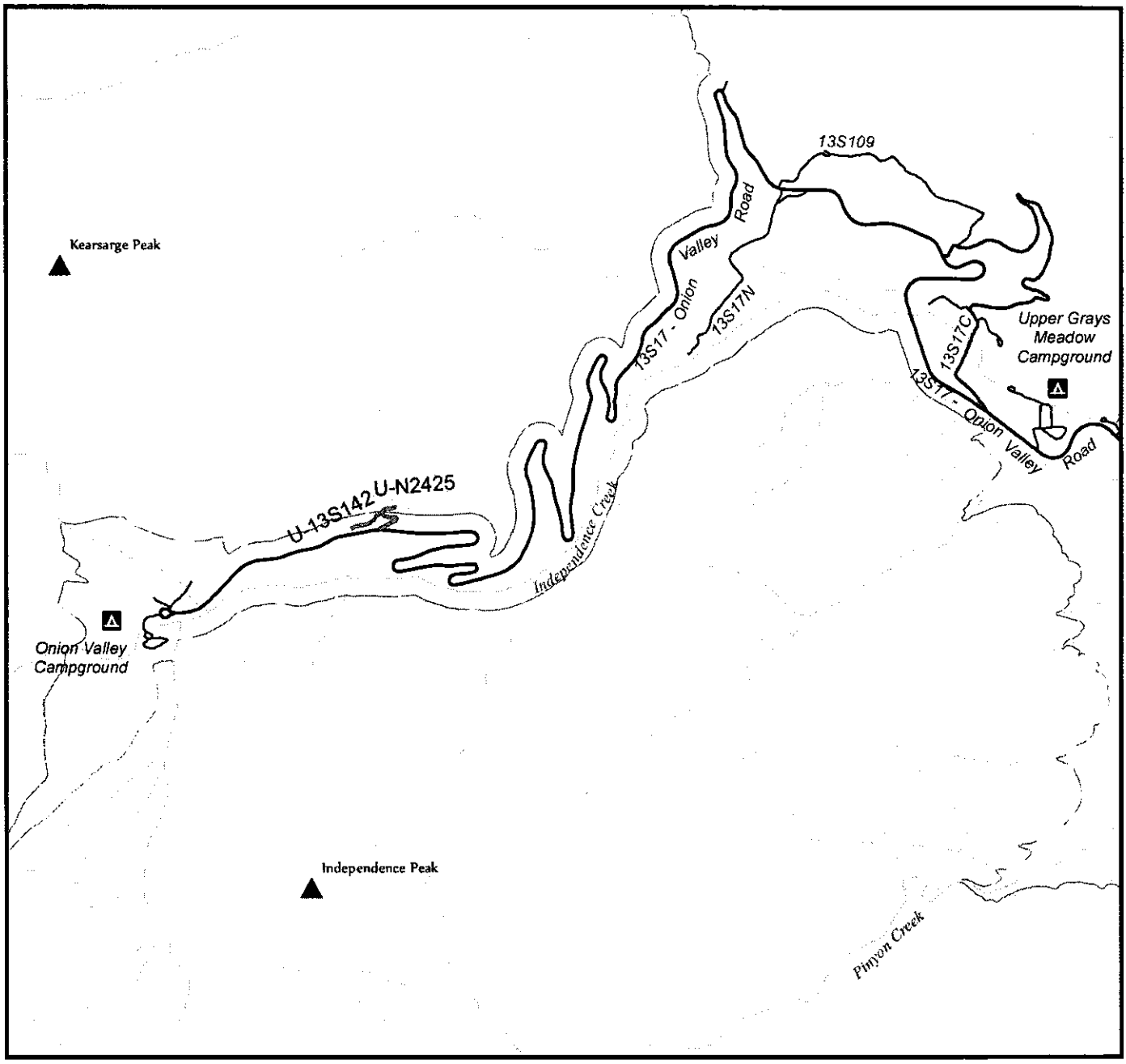
N W E S

June 2013

John Muir Wilderness



Wilderness Unauthorized Route Restoration Project
Onion Valley



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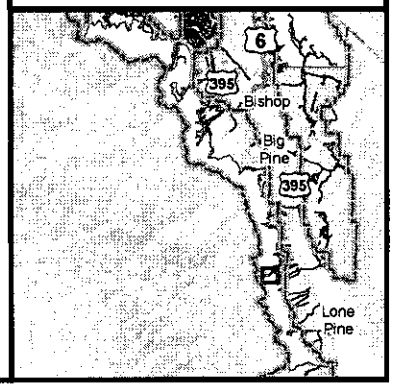
June 2013

John Muir Wilderness



Wilderness Unauthorized Route Restoration Project
Whitney

Hogback Creek
15S01 - Hog Back Creek Road
15S07 - Whitney Portal Road
Lone Pine Group Campground
Lone Pine Campground
Lone Pine Creek
Whitney Portal Campground
15S102
15S103
U-15S110
15S104
15S106
Meysan Creek
Inyo Creek

Transportation System

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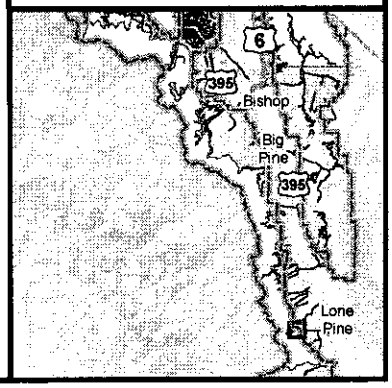
Miles

Contours at 200 ft. intervals

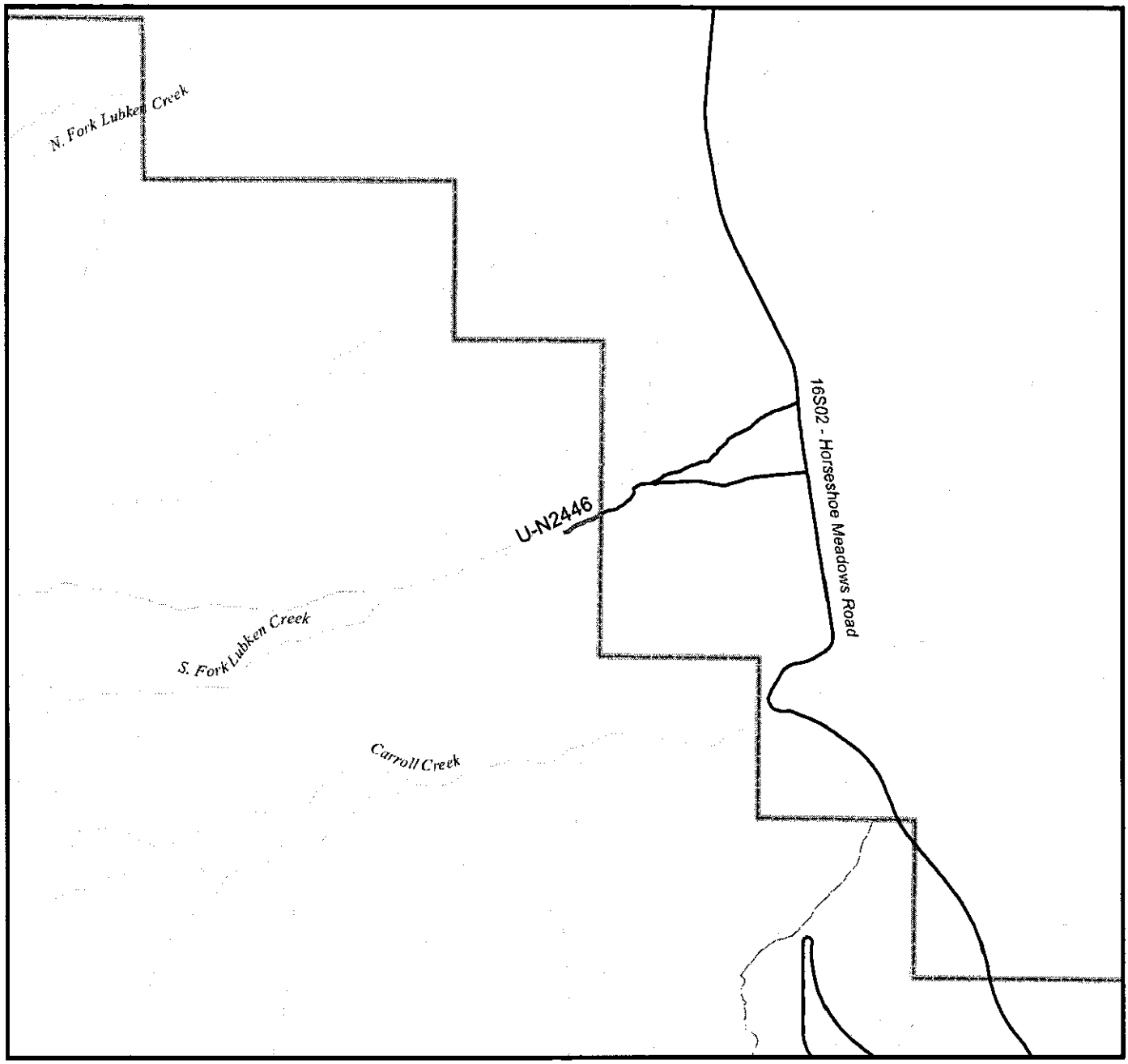
N W E S

June 2013

John Muir Wilderness



Wilderness Unauthorized Route Restoration Project
Horseshoe



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Miles

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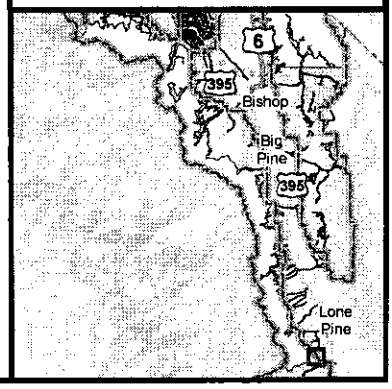
June 2013

John Muir Wilderness



For Clerk's Use Only:
AGENDA NUMBER

27

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: June 25, 2013

SUBJECT: Approval of Minutes

DEPARTMENTAL RECOMMENDATION: - Request approval the minutes of the Board of Supervisors Meeting of June 11, 2013.

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

28

AGENDA REQUEST FORM

BOARD OF SUPERVISORS
COUNTY OF INYO

☐ Consent ☐ Departmental ☐ Correspondence Action ☐ Public Hearing

x Scheduled Time for 11:30 ☐ Closed Session ☐ Informational

FROM: Personnel

FOR THE BOARD MEETING OF: June 25, 2013

SUBJECT: Adoption of an Ordinance of the County of Inyo Amending Section 2.80.140 to Authorize Pay to Employees on a Biweekly Basis

DEPARTMENTAL RECOMMENDATION: Request Board enact an ordinance titled "AN ORDINANCE OF THE COUNTY OF INYO, STATE OF CALIFORNIA, AMENDING SECTION 2.80.140 OF THE INYO COUNTY CODE TO AUTHORIZE PAY TO EMPLOYEES ON A BIWEEKLY BASIS".

SUMMARY DISCUSSION: Inyo County Code § 2.80.140 establishes bimonthly pay periods for County employees. The Board of Supervisors recently took action to establish biweekly pay periods for County employees by which employees are paid every two weeks. This ordinance will make the Inyo County Code consistent with the newly established payday schedule.

ALTERNATIVES: n/a

OTHER AGENCY INVOLVEMENT: County Counsel

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 5-30-13
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.) Sue DL Approved: ✓ Date 5/31/13

DEPARTMENT HEAD SIGNATURE: Kevin Carunchi Date: 5/31/13
(Not to be signed until all approvals are received)
(The Original plus 20 copies of this document are required)
by Sue DL

ORDINANCE NO._____

AN ORDINANCE OF THE COUNTY OF INYO, STATE OF CALIFORNIA, AMENDING SECTION 2.80.140 OF THE INYO COUNTY CODE TO AUTHORIZE PAY TO EMPLOYEES ON A BIWEEKLY BASIS

The Board of Supervisors of the County of Inyo, State of California, do ordain as follows:

SECTION ONE. AUTHORITY.

California Government Code § 28003 authorizes the board of supervisors to establish a schedule of payment of salaries of officers, deputies, clerks and employees of the County.

SECTION TWO. PURPOSE.

Inyo County Code § 2.80.140 establishes bimonthly pay periods for County employees. The Board of Supervisors recently took action to establish biweekly pay periods for County employees by which employees are paid every two weeks. This ordinance will make the Inyo County Code consistent with the newly established payday schedule.

SECTION THREE. SECTION 2.80.140 AMENDED.

Section 2.80.140 is amended to read as follows:

"2.80.140 Biweekly pay periods."

"All county officers and employees, except those persons providing services under the terms of a contract which provides otherwise, shall be paid every two weeks."

SECTION FOUR. EFFECTIVE DATE.

This Ordinance shall take effect and be in full force and effect thirty (30) days after its adoption. Before the expiration of fifteen (15) days from the adoption thereof, this Ordinance shall be published as required by Government Code Section 25124. The Clerk of this Board is hereby instructed and ordered to so publish this Ordinance together with the names of the Board voting for and against the same.

PASSED AND ADOPTED this ___ day of _____, 2013.

AYES:
NOES:
ABSENT:
ABSTAIN:

_____
Linda Arcularius, Chair
INYO COUNTY BOARD OF SUPERVISORS

ATTEST: Kevin Carunchio
Clerk of the Board

BY:_____
Patricia Gunsolley, Assistant Clerk of the Board

s/Ordinance/Amending/BiWeeklyPayPeriods.2.80.140 053013

For Clerk's Use Only:
AGENDA NUMBER
29

AGENDA REQUEST FORM
BOARD OF SUPERVISORS
COUNTY OF INYO

☐ Consent ☐ Departmental ☐ Correspondence Action ☐ Public Hearing

x Scheduled Time for 11:30 ☐ Closed Session ☐ Informational

FROM: County Counsel

FOR THE BOARD MEETING OF: June 25, 2013

SUBJECT: Adoption of an Ordinance of the County of Inyo Deleting Chapter 1.16 of the Inyo County Code Which Established the Inyo County Judicial District

DEPARTMENTAL RECOMMENDATION: Request Board enact an ordinance titled "AN ORDINANCE OF THE COUNTY OF INYO, STATE OF CALIFORNIA, DELETING CHAPTER 1.16 OF THE INYO COUNTY CODE WHICH ESTABLISHED THE INYO COUNTY JUDICIAL DISTRICT".

SUMMARY DISCUSSION: Inyo County Code Chapter 1.16 was enacted in 1976 to establish the Inyo County Judicial District and consolidate the Inyo County Justice Courts. The Inyo County Judicial District consisted of two offices to adjudicate matters within the jurisdiction of the justice court in the County. There has not been a justice court in the County since 1996 and there is no current authority to maintain a justice court. Chapter 1.16 also created the elected positions of justice court judge and constable, who were officers of the justice court. Neither of these offices have been filled or authorized since 1996. The purpose of this ordinance is to delete Chapter 1.16, which is archaic.

ALTERNATIVES: n/a

OTHER AGENCY INVOLVEMENT: n/a

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.)* R Walle Approved: — Date 5-30-13
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) R Walle Date: 5-30-13
(The Original plus 20 copies of this document are required)

ORDINANCE NO._____

AN ORDINANCE OF THE COUNTY OF INYO, STATE OF CALIFORNIA, DELETING CHAPTER 1.16 OF THE INYO COUNTY CODE WHICH ESTABLISHED THE INYO COUNTY JUDICIAL DISTRICT

The Board of Supervisors of the County of Inyo, State of California, do ordain as follows:

SECTION ONE. AUTHORITY.

Article 6 § 4 of the Constitution of the State of California establishes a superior court in each county in the state. There is no longer authority to establish justice courts in California.

SECTION TWO. PURPOSE.

Inyo County Code Chapter 1.16 was established in 1976 to establish the Inyo County Judicial District. The Inyo County Judicial District consisted of two offices to adjudicate matters within the jurisdiction of the justice court in the County. There has not been a justice court in the County since 1996 and there is no current authority to maintain a justice court. Chapter 1.16 also created the elected positions of justice court judge and constable, who were officers of the justice court. Neither of these offices have been filled or authorized for many years. The purpose of this ordinance is to delete Chapter 1.16, which is archaic.

SECTION THREE. CHAPTER 1.16 DELETED.

Chapter 1.16 of the Inyo County Code (Inyo County Judicial District) is hereby deleted in its entirety.

SECTION FOUR. EFFECTIVE DATE.

This Ordinance shall take effect and be in full force and effect thirty (30) days after its adoption. Before the expiration of fifteen (15) days from the adoption thereof, this Ordinance shall be published as required by Government Code Section 25124. The Clerk of this Board is hereby instructed and ordered to so publish this Ordinance together with the names of the Board voting for and against the same.

PASSED AND ADOPTED this ___ day of _____, 2013.

AYES:
NOES:
ABSENT:
ABSTAIN:

_____
Linda Arcularius, Chair
INYO COUNTY BOARD OF SUPERVISORS

ATTEST: Kevin Carunchio
Clerk of the Board

BY:_____
Patricia Gunsolley, Assistant Clerk of the Board

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COMMISSION MEMBERS
DOUGLAS BROWN
GARY GUNSOLLEY
BRUCE IVY
GARRETT McMURTRIE
JOE PECSI

INYO COUNTY
FISH AND WILDLIFE COMMISSION

407 WEST LINE STREET • BISHOP, CA 93514

REPLY TO:
Ychelle Tillemans
2273 Brigadoon Ave.
Bishop, CA 93514

The Fish & Wildlife Commission had a meeting on January 24, 2013.

Dick Noles of the Bishop Lions Club asked for $1,000 donation to stock Buckley Ponds with fish. Larry McIntosh made a motion to give a $1,000 donation to the Lions Club for the Buckley Ponds stocking project. Gary Gunsolley 2nd the motion. Motion passed unanimously.

The February 2013 meeting was cancelled.
The approved minutes of March 25, 2013 are attached.

If you should have any questions, please feel free to contact me.

Thank you,

Ychelle Tillemans
Secretary of the Fish & Wildlife Commission

COMMISSION MEMBERS
DOUGLAS BROWN
GARY GUNSOLLEY
BRUCE IVEY
GARRETT McMURTRIE
JOE PECSI
LARRY McINTOSH

INYO COUNTY
FISH AND WILDLIFE COMMISSION

407 WEST LINE STREET • BISHOP, CA 93514

REPLY TO:
Ychelle Tillemans
2273 Brigadoon Ave.
Bishop, CA 93514
760-937-3683

AGENDA

January 24, 2013 at 3:00 p.m.

California Department of Fish & Game Field Office, Bishop, CA

*Note: Agenda items may be addressed out of sequence at the direction of the Chairman and/or Commission Members

MEETING CALLED TO ORDER

PLEDGE OF ALLEGIANCE

ROLL-CALL – The Commission will take a roll-call of its members to ensure there is a quorum of the Commission to conduct business as required by the Ralph M. Brown Act.

FINANCIAL REPORT – The Secretary will provide the current financial report.

APPROVAL OF MINUTES – The Commission will review Minutes from the last meeting and approve as appropriate.

PUBLIC COMMENT – Any member of the public may make comment to the Commission – no action is taken.

FISH AND GAME PERSONNEL UPDATES

NEW BUSINESS

DISCUSSION AND POSSIBLE ACTION on the California Fish & Game Commissions petition listing the gray wolf as an endangered species in California.

DISCUSSION AND POSSIBLE ACTION- Dick Noles/Catfish fund.

FUTURE AGENDA ITEMS - The Commission will discuss and provide direction to the Secretary on future Agenda items and Commission meeting dates, times and locations.

COMMISSION REPORTS

NEXT SCHEDULED MEETING – The Commission will discuss the status of the regularly scheduled February meeting.

ADJOURNMENT

FISH AND WILDLIFE COMMISSION
MINUTES

The Fish and Wildlife Commission met on Thursday, January 24, 2013 at the Fish & Game conference room.

Call to Order:
Doug Brown called the meeting to order at 3:01p.m.

Roll Call
Members Present:

Gary Gunsolley	Doug Brown
Larry McIntosh	

Members Absent:

Garrett McMurtrie	Bruce Ivey
Joe Pecsi	

Others Present:

Ychelle Tillemans	Dick Noles
Gaye Mueller	Jim Erdman, Jr.

Financial Report
$9,181.01

Approval of Minutes
Larry McIntosh made a motion to approve minutes, Gary Gunsolley seconded the motion, motion approved unanimously.

Public Comment
Gaye Mueller reported that Mono County will be having a meeting on Monday, March 11, 2013 in June Lake and would like the Inyo County Fish & Wildlife Commission to attend to possibly promote hunting in Mono County.
Dick Noles updated on Buckley Ponds: this pond should be complete within one month. There will be a volunteer work weekend on January 25, 2013, LADWP has volunteers with at least 4 semis, excavators along with Brown's and many more, to dig-out and remove dirt. The handicap ramp is ready to be put in. The local restaurants have donated food for all of the workers. When this is finished, we will have 2 great ponds.
His next project will be Millpond.

Fish & Game Report
Jim Erdman said there will be a kids fishing event June 29th at Hot Creek in Mammoth. Free: 15 years of age and under. They are looking for volunteers.

New Business:
Possible fishing event during Mule Days. More information to come

Gray Wolf: OR7. Larry McIntosh made a motion and Doug Brown 2nd the motion to table this until further notice. motion approved unanimously.

Larry McIntosh made a motion and Gary Gunsolley 2nd the motion to go the Inyo County Board of Supervisors to approve a donation in the amount of $1,000.00 to Dick Noles for fish in the Buckley Ponds. Motion approved unanimously

Commission Reports:
There will be a CWA banquet in Bishop on March 23, 2013.

Next Meeting:
Thursday, February 21, 2013 at 3:00 p.m. at the Fish and Game Department.

Meeting Adjourned at 3:49 p.m.

FISH AND WILDLIFE COMMISSION
MINUTES

The Fish and Wildlife Commission met on Thursday, March 21, 2013 at the Fish & Game conference room.

Call to Order:
Doug Brown called the meeting to order at 3:03p.m.

Roll Call
Members Present:

Bruce Ivey	Doug Brown
Joe Pecsi	Rick Pucci

Members Absent:

Garrett McMurtrie	Gary Gunsolley
Larry McIntosh	

Others Present:

Ychelle Tillemans	Mike Morrison
Gaye Mueller	Jim Erdman, Jr.

Financial Report
$9,471.37

Approval of Minutes
Joe Pecsi made a motion to approve minutes, Bruce Ivey seconded the motion, motion approved unanimously.

Public Comment
Gaye Mueller reported on the March meeting. Hunting is being promoted in Mono County. Planting in Mono County including
60/ 1 to 3 pounds
40/ 3 to 4 pounds
4/ 5 to 6 pounds
Glen commented on the Bob cat issue. Objecting to SB1213. Stating the there is a statewide limit on bobcats of 14,000. The average take each year is around 2,000 and to his knowledge that quota has never been reached.

Fish & Game Report
Jim Erdman said the Blake Jones was a huge success. They will have 8 fishing events for kids this year, including Mule Days.
Mike Morrison reported on the buck to doe ratio: see attached

New Business:
None

Commission Reports:
Joe Pecsi reported on the disbanding of Al Toucher, COHA commission is "taking over", this topic to be tabled. The COHA notes are attached.
SB1213 is being endorsed by the Humane Society. This topic to be tabled.
AB711: lead ban is to also be tabled.

Next Meeting:
Thursday, April 18, 2013 at 3:00 p.m. at the Fish and Game Department.

Meeting Adjourned at 4:50 p.m.