

AGREEMENT NUMBER

5600002347

REGISTRATION NUMBER

ep 1174334

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

STATE AGENCY'S NAME

California Department of Corrections and Rehabilitation

CONTRACTOR'S NAME

County of Monterey

2. The term of this Agreement is: Upon approval through June 30, 2013

3. The maximum amount of this Agreement is: **The total estimated amount of this Master Agreement shall not exceed Seventy Four Thousand One Hundred Eight Two Dollars and Zero Cents (\$74,182.00). There is no monetary obligation, either written or implied, created on this Master Agreement. Each Institution requesting services under this Master Agreement shall encumber funds on a Purchase Order (PO). The state makes no commitment, either written or implied, as to the total amount to expend during the term of this Master Agreement.**

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

Exhibit A – Scope of Work	7 pages
Exhibit B – Budget Detail and Payment Provisions	2 pages
Exhibit B-1 – Contractor Rate Request	1 page
Exhibit B-2 – Rate Sheet	7 pages
Exhibit B-3 – Subcontractor Published Price Schedule	1 page
Exhibit C – General Terms and Conditions*	GTC 610
Exhibit D – Special Terms and Conditions	12 pages

* Exhibit C is incorporated by reference as a part of this agreement. It may be viewed at www.ols.dgs.ca.gov/Standard+Language.

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

CONTRACTOR

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

County of Monterey

BY (Authorized Signature)



DATE SIGNED (Do not type)

9-6-11

PRINTED NAME AND TITLE OF PERSON SIGNING

Ray Bullick, Director of Health

ADDRESS

1270 Natividad Rd.
Salinas, CA 93906

STATE OF CALIFORNIA

AGENCY NAME

California Department of Corrections and Rehabilitation

BY (Authorized Signature)



DATE SIGNED (Do not type)

9/15/11

PRINTED NAME AND TITLE OF PERSON SIGNING

Bedeth Victorioso, Manager, Institution Master Contracts Unit

ADDRESS

10000 Goethe Road, Sacramento, CA 95827

California Department of General
Services Use Only

I hereby certify that all conditions for exemption have been complied with and this contract is exempt from the Department of General Services Approval. Exempt from DGS approval per DGS Exemption Letter # **2008-02**

By: 

Date: **9/15/11**

☐ Exempt per:

MONTEREY COUNTY

RISK MANAGEMENT

168 W. ALISAL STREET 3RD FLOOR
SALINAS, CA 93901-2680
(831) 755-5458
FAX (831) 751-9597
www.co.monterey.ca.us



August 22, 2011

California Department of Corrections and Rehabilitation
Office of Business Services
Attention: Nathan Boone
1000 Goethe Road, Suite C-1
Sacramento, CA 95827

RE: Monterey County Health Department: Agreement #5600002347, Water Testing Services

By this letter I hereby certify that the County of Monterey is lawfully self-insured for purposes of General Liability and Automobile Liability related to County sanctioned activities.

By order of the Board of Supervisors, the County of Monterey maintains a \$1.5 million reserve fund to cover occurrences within a self-insured retention level set by the Board. Above the self-insured retention, the County maintains a primary excess layer through the Starr Indemnity & Liability Company with a master policy number SISCPEL00007911, effective 7/1/2011-7/1/2012.

This policy and its limits are inclusive of EPL, Employment practice liability, E&O, Errors and Omissions Liability, and property damage.

Through a Joint Powers Authority Agreement with other counties, the CSAC Excess Insurance Authority, the County purchases a broad form property policy covering fire, vandalism, extended coverage, business interruption, etc. This coverage is underwritten by Lloyd's of London and various insurers under master policy #EIAPPR-10-14.

The County is Self-insured for purposes of Workers' Compensation with statutory limits.


Respectfully,

Lydia Schumaker
Risk & Benefits Analyst
Risk Management

CCC-307

CERTIFICATION

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

<i>Contractor/Bidder Firm Name (Printed)</i>  County of Monterey		<i>Federal ID Number</i> 94-6000524
<i>By (Authorized Signature)</i>		
<i>Printed Name and Title of Person Signing</i> Ray Bullick, Director of Health		
<i>Date Executed</i> 9-6-91	<i>Executed in the County of</i> Monterey	

CONTRACTOR CERTIFICATION CLAUSES

1. STATEMENT OF COMPLIANCE: Contractor has, unless exempted, complied with the nondiscrimination program requirements. (Gov. Code §12990 (a-f) and CCR, Title 2, Section 8103) (Not applicable to public entities.)

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

- a. Publish a statement notifying employees that unlawful manufacture, distribution, dispensation, possession or use of a controlled substance is prohibited and specifying actions to be taken against employees for violations.
- b. Establish a Drug-Free Awareness Program to inform employees about:
 - 1) the dangers of drug abuse in the workplace;
 - 2) the person's or organization's policy of maintaining a drug-free workplace;
 - 3) any available counseling, rehabilitation and employee assistance programs; and,
 - 4) penalties that may be imposed upon employees for drug abuse violations.
- c. Every employee who works on the proposed Agreement will:
 - 1) receive a copy of the company's drug-free workplace policy statement; and,
 - 2) agree to abide by the terms of the company's statement as a condition of employment on the Agreement.

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

STATE OF CALIFORNIA
STANDARD AGREEMENT
STD 213 (Rev 06/03)

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COUNTY OF MONTEREY

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INSURANCE LANGUAGE

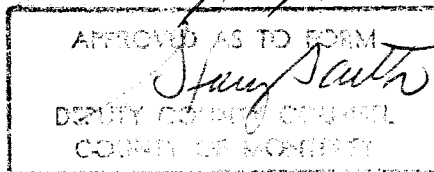
- Exhibit A – Scope of Work
Exhibit B – Budget Detail and Payment Provisions
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Exhibit C – General Terms and Conditions*
Exhibit D – Special Terms and Conditions

Reviewed as to fiscal provisions

Auditor-Controller
County of Monterey

By: *[Signature]*

Date: *8/25/11*



7 pages
2 pages
1 page
7 pages
1 page
GTC 610
12 pages

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

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

County of Monterey

BY (Authorized Signature)

DATE SIGNED (Do not type)

9-6-11

PRINTED NAME AND TITLE OF PERSON SIGNING

Ray Bullick, Director of Health

ADDRESS

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Salinas, CA 93906

STATE OF CALIFORNIA

AGENCY NAME

California Department of Corrections and Rehabilitation

BY (Authorized Signature)

DATE SIGNED (Do not type)

PRINTED NAME AND TITLE OF PERSON SIGNING

Bedeth Victorioso, Manager, Institution Master Contracts Unit

ADDRESS

10000 Goethe Road, Sacramento, CA 95827

California Department of General
Services Use Only

☐ Exempt per:

pickup falls on a State holiday, pick-up services shall be provided the next regular business day.

6. **CALL BACK SERVICES**

Should the Contractor fail to provide any of the specified services in the prescribed manner; the State may call the Contractor to provide services within four hours, unless otherwise specified, at no additional cost to the State.

7. **ANALYTICAL EQUIPMENT AND SUPPLIES**

The Contractor shall supply enough sterile sample collection bottles/containers, including bacteriological examination containers (no whirl packs will be accepted) that are sterilized and contain the appropriate preservatives and dechlorinating agents, refrigerants (blue ice), preservative reagents, shipping containers, labels and chain of custody forms shall be provided by the Contractor at no additional cost to the State/CDCR. Sampling containers, dechlorinating agents, preservatives, and holding times shall be as set forth in either "Recommendations for Sampling and Preservation of Samples According to Measurement" in the USEPA Manual of Methods for Chemical Analysis of Water and Wastes, or other procedures listed in USEPA approved manuals (i.e. SW 846) and Collection, Storage, Transportation and Pretreatment of Water and Wastewater Samples, published by the Sanitation and Radiation Laboratory, California Department of Health Services (DHS). The above references to publications shall mean the applicable provisions thereof as they exist at the time of collection and submission of samples.

The Contractor shall supply enough sampling bottles/containers and packaging supplies for the next regular draw of water samples by institution staff.

The Contractor shall also provide an insulated cooler (Igloo or equivalent) and refrigerants (blue ice) for packaging of samples prior to pick-up by the Contractor, and shall leave additional coolers and cooling agents with Institution staff for the next regular sampling.

8. **DOCUMENTATION AND CHAIN OF CUSTODY**

The Contractor shall provide and use labels and chain of custody forms as standard procedure. The labels and forms shall provide and identify space for entry of the following information:

Labels

- 1) Institution name, City and County;
- 2) Sample identification number;
- 3) Time and date sample was taken; and
- 4) Preservative(s) used.

Chain of Custody Form

- 1) Institution name, City and County, agreement number;
- 2) Sampler name and telephone number;
- 3) Sample identification number;
- 4) Time and date sample was taken;

- 5) Number and type of container;
- 6) Preservative(s) used;
- 7) Type of sample;
- 8) Analysis required;
- 9) Remark space for additional information;
- 10) Time and date sample relinquished and received;
- 11) Space for relinquishing and receiving person's signature; and
- 12) Space to Print Name of Signing Person

The Contractor shall institute procedural safeguards to ensure exclusive custody and safekeeping of all samples, and designate individuals responsible for custody of such samples.

The Contractor shall designate one (1) full-time employee as sample custodian and one (1) or more employee(s) as alternate sample custodian(s) to ensure that at least one (1) such custodian shall be available to receive samples from the institution and/or courier service at all times during the Contractor's normal business hours.

The Contractor shall maintain an area for storage of samples, which, in addition to requirements imposed by other provisions of these specifications, shall be secured from access by any person other than a designated custodian.

From the time of submittal to a custodian, samples shall, at all times, remain in the actual or constructive custody of a designated custodian or analyst until released for disposal pursuant to direction of the appropriate CDCR Institution Contract Liaison or his/her designee.

- Actual custody shall mean personal and constant control and surveillance over the sample when it is being transported to or from the secured area specified above and during the actual time that analytical services are being performed on the sample.
- Constructive custody shall mean those times when the sample is stored in the secured area specified above.

The Contractor shall ensure that the custody tag identifies, by signature, the custodian or analyst having custody of the sample and the location of the sample during the entire period from the time the sample is submitted to the Contractor until the appropriate CDCR Institution Contract Liaison releases it for disposal.

The Contractor shall ensure that all documentation specified in these requirements shall not become separated from the sample until disposition of such documentation is directed by the appropriate CDCR Institution Contract Liaison or his/her designee.

The Contractor shall be responsible for disposal of all samples when the analyses are completed. No sample shall be disposed of until verbal release is obtained from the appropriate CDCR Institution Contract Liaison or his/her designee.

9. LABORATORY PROCEDURES

qualifications as those of the Contractor. Contractor shall ensure that chain of custody requirements and requirements for time frames to perform analysis are maintained by the subcontractor.

In addition, the Contractor shall provide written notification to the CDCR Institution Contract Liaison of any and all sample analyses performed by a subcontractor, including the name, address and certification number of the subcontractor.

13. CDCR CONTACT INFORMATION

Should questions or problems arise during the term of this Agreement, the Contractor should contact the following offices:

Billing/Payment Issues:

Central Coast Regional Accounting Office
Phone Number: (805) 237-3030
FAX Number: (805) 237-3137

Scope of Service/Performance Issues:

CTF

Contract Liaison, Plant Operations
Phone Number: (831) 678-3951, Ext. 5975
FAX Number: (831) 678-5909

SVSP

Contract Liaison, Plant Operations
Phone Number: (831) 578-5500, Ext. 6646
FAX Number: (831) 678-5509

General Agreement Issues:

Office of Business Services
Phone Number: (916) 255-5624
FAX Number: (916) 255-6187

1. **Invoicing and Payment**

- a. For services satisfactorily rendered, and upon receipt and approval of contractor's invoices, the State agrees to compensate the Contractor in accordance with Exhibit B-1, Contractor Rate Request and the rates specified herein on Exhibit B-2, Rate Sheet, which are attached hereto and made a part of this Agreement.
- b. Invoices shall include the Agreement Number, Purchase Order Number and shall be submitted in triplicate not more frequently than monthly in arrears to:

California Department of Corrections and Rehabilitation (CDCR)
Central Coast Regional Accounting Office
Salinas Valley State Prison or Correctional Training Facility
Attention: Accounts Payable
P.O. Box 7021
Paso Robles, CA 93447

2. **Budget Contingency Clause**

- a. It is mutually agreed that if the California State Budget Act for the current fiscal year and/or any subsequent fiscal years covered under this Agreement does not appropriate sufficient funds for the program, this Agreement shall be of no further force and effect. In this event, the State shall have no liability to pay any funds whatsoever to Contractor, or to furnish any other considerations under this Agreement, and Contractor shall not be obligated to perform any provisions of this Agreement.
- b. If funding for the purposes of this program is reduced or deleted for any fiscal year by the California State Budget Act, the State shall have the option to either cancel this Agreement with no liability occurring to the State, or offer an Agreement amendment to Contractor to reflect the reduced amount.

3. **Prompt Payment Clause**

Payment will be made in accordance with, and within the time specified in, Government Code Chapter 4.5, commencing with Section 927. Payment to small/micro businesses shall be made in accordance with and within the time specified in Chapter 4.5, Government Code 927 et seq.

4. **Subcontractors**

Nothing contained in this Agreement, or otherwise, shall create any contractual relation between the State and any subcontractors, and no subcontract shall relieve the Contractor of Contractor's responsibilities and obligations hereunder. The Contractor agrees to be as fully responsible to the State for the acts and omissions of its subcontractors and of persons either directly or indirectly employed by any of them as it is for the acts and omissions of persons directly employed by the Contractor. The Contractor's obligation to pay its subcontractors is an independent obligation from the State's obligation to make payments to the Contractor. As a result, the State shall have no obligation to pay or to enforce the payment of any moneys to any subcontractor.

WATER TESTING SERVICES

The contractor hereby agrees to provide all labor, materials, supplies, licenses, permits, equipment and transportation necessary to perform all services required for the foregoing titled work in accordance with the Scope of Work, all Terms and Conditions, and Disabled Veteran Business Enterprise (DVBE) requirements, if applicable, at the rates set forth by the contractor in Exhibit B-2. Any and all services performed outside the scope of this Agreement shall be at the sole risk and expense of the contractor.

Rates must be provided for all services listed in Exhibit B-2. Exhibit B-2 shall remain in force for the stated term of this Agreement and shall include every item of expense, direct and indirect, including any taxes incidental to the specified rates. Any quantities listed on Exhibit B-2 are CDCR's estimates only. The State does not expressly or by implication agree that the actual amount of work will correspond therewith and reserves the right to omit portions of the work as may be deemed necessary or advisable by the State.

SMALL BUSINESS ENTERPRISE

Current law encourages state departments to first consider a Small Business Enterprise (Small)/Microbusiness Enterprise (Micro) for contracting opportunities. The California Department of Corrections and Rehabilitation (CDCR) is committed to supporting Small/Micro business participation in state contracting and seeks to use certified Small/Micro businesses whenever possible.

For certification information, contact the Department of General Services, Office of Small Business and Disabled Veteran Business Enterprise Certification (OSDC) by telephone at (916) 375-4940 or access the OSDC Internet website at www.pd.dgs.ca.gov/smbus. The CDCR asks that you encourage any subcontractor(s) and/or consultant(s) that are not currently certified as a Small/Micro business, that you believe may meet the certification requirements, to become certified through the DGS, OSDC. Please provide those subcontractor(s)/consultant(s) with the OSDC contact and certification information provided above.

To ensure correct reporting of Small/Micro business and large business participation by CDCR, the contractor shall complete the information section below.

PRIME CONTRACTOR NAME: County of Monterey

- ☐ I am a Small Business Enterprise. My DGS reference number is: _____
- ☐ I am a Microbusiness Enterprise. My DGS reference number is: _____
- ☒ I am a large business.

NOTE: IF YOU ARE A CERTIFIED SMALL/MICRO BUSINESS ENTERPRISE AND FAIL TO COMPLETE THIS SECTION, YOUR BUSINESS WILL BE CLASSIFIED AS A LARGE BUSINESS.

5. **City/County Rate Increase**

It is understood that the city/county may regulate some or all of the contractor's rates for services. In the event the city/county increases the rates that directly affect the services provided in this Agreement, the contractor may, once during the term of the Agreement, request from the State an increase in the rates stated in this Agreement. The contractor must submit a written request to the State with a copy of the resolution from the city/county listing the prior rates and new rates and effective date of the new rates.

CTF WELL WATER/WASTE WATER ANALYSIS

ANALYSIS	METHOD	ROUTINE			URGENT		
		Est. # of Tests	X	Cost per Test	=	Total	
Total Coliform	MMO-Mug	72	X	\$22.50	=	\$1,620.00	\$810.00
Nitrate (as NO3)	300	24	X	\$24.30	=	\$583.20	\$291.60
Distribution system Total Coliform	MMO-MUG	312	X	\$22.50	=	\$7,020.00	\$2,700.00
INORGANIC CHEMICAL (excluding Asbestos)		6	X	\$126.05	=	\$756.30	
Arsenic	200.8	6	X	Included	=	Included	
Barium	200.8	6	X	Included	=	Included	
Beryllium	200.8	6	X	Included	=	Included	
Cadmium	200.8	6	X	Included	=	Included	
Chromium	200.8	6	X	Included	=	Included	
Copper	200.8	6	X	Included	=	Included	
Nickel	200.8	6	X	Included	=	Included	
Antimony	200.8	6	X	Included	=	Included	
Thallium	200.8	6	X	Included	=	Included	
Selenium	200.8	6	X	Included	=	Included	
Nitrite (as N)	4500N02-B	6	X	Included	=	Included	
Cyanide	4500CN	6	X	Included	=	Included	
Fluoride	300	6	X	Included	=	Included	
Lead	200.8	6	X	Included	=	Included	
Mercury	200.8	6	X	Included	=	Included	
Asbestos (1)	100.1 or 100.2	6	X	\$200.00	=	\$1,200.00	
TOTAL ROUTINE						\$11,179.50	
						TOTAL URGENT	\$3,801.60

(1) Subcontracted test that is referred to outside laboratories; fees are subject to change without notice.

ANALYSIS	METHOD	Est. # of Tests	X	Cost per Test	=	Total
GENERAL PHYSICAL						
Color (Std Method 18 th Edition)	2120B	6	X	\$31.29	=	\$187.74
Odor	2150B	6	X	Included	=	Included
Turbidity	2130B	6	X	Included	=	Included
GENERAL MINERAL						
Bicarbonate Alkalinity	2320B	6	X	\$140.66	=	\$843.96
Carbonate Alkalinity	2320B	6	X	Included	=	Included
Calcium	3111B	6	X	Included	=	Included
Chloride	300	6	X	Included	=	Included
Iron	3111B	6	X	Included	=	Included
Magnesium	3111B	6	X	Included	=	Included
Manganese	200.8	6	X	Included	=	Included
Foaming Agents (MBAS)	5540C	6	X	Included	=	Included
pH	150.1	6	X	Included	=	Included
Sodium	3111B	6	X	Included	=	Included
Sulfate	300	6	X	Included	=	Included
Specific Conductance	2510B	6	X	Included	=	Included
Total Hardness	2340B	6	X	Included	=	Included
Total Dissolved Solids	2540C	6	X	Included	=	Included
Boron	200.8	6	X	Included	=	Included
Copper	200.8	6	X	Included	=	Included
Zinc	200.8	6	X	Included	=	Included
Potassium	3111B	6	X	Included	=	Included
DISTRIBUTION SYSTEM ANALYSIS						
Lead	200.8	14	X	\$48.00	=	\$672.00
Copper	200.8	14	X	Included	=	Included
Disinfection by-products (THM's & HAA5) ^{(1) (2)}		3	X	\$193.50	=	\$580.50
TOTAL ROUTINE						\$2,284.20

(1) Subcontracted test that is referred to outside laboratories; fees are subject to change without notice.

(2) Panel Price; refer to Exhibit B-2, Page 7, for prices of analyses when ordered individually

County of Monterey
CDCR RATE SHEET

Agreement Number 5600002347
Exhibit B-2

ANALYSIS		METHOD	Est. # of Tests	X	Cost per Test	=	Total
VOLATILE ORGANIC COMPOUNDS (VOC) (1)					\$90.00		\$540.00
1,1 Dichloroethane	502.2	6		X	Included	=	Included
1,1 Dichloropropene	502.2	6		X	Included	=	Included
1,1,1 Trichloroethan	502.2	6		X	Included	=	Included
1,1,1,2 Tetrachloroethan	502.2	6		X	Included	=	Included
1,1,2 Trichloroethane	502.2	6		X	Included	=	Included
1,1,2,2 Tetracloroethane	502.2	6		X	Included	=	Included
1,2,3 Trichloropropene	502.2	6		X	Included	=	Included
1,2,3 Trichlorobenzene	502.2	6		X	Included	=	Included
1,1 Dichloroethylene	502.2	6		X	Included	=	Included
1,2 Dichloroethane	502.2	6		X	Included	=	Included
1,3 Dichloropropene	502.2	6		X	Included	=	Included
2,2 Dichloropropene	502.2	6		X	Included	=	Included
Benzene	502.2	6		X	Included	=	Included
Bromobenzene	502.2	6		X	Included	=	Included
Bromodichloromethane	502.2	6		X	Included	=	Included
Bromoethane	502.2	6		X	Included	=	Included
Carbon Tetrachloride	502.2	6		X	Included	=	Included
Chlorodibromomethane	502.2	6		X	Included	=	Included
Chloroform	502.2	6		X	Included	=	Included
Chloroethane	502.2	6		X	Included	=	Included
Chloromethane	502.2	6		X	Included	=	Included
O-Chlorotoluene	502.2	6		X	Included	=	Included
P-Chlorotoluene	502.2	6		X	Included	=	Included
M-Dichlorobenzene	502.2	6		X	Included	=	Included
P-Dichlorobenzene	502.2	6		X	Included	=	Included
Ethylbenzene	502.2	6		X	Included	=	Included
Monochlorobenzene	502.2	6		X	Included	=	Included
Styrene	502.2	6		X	Included	=	Included
Tetrachloroethylene	502.2	6		X	Included	=	Included
Toluene	502.2	6		X	Included	=	Included
Trichloroethylene	502.2	6		X	Included	=	Included
Vinyl Chloride	502.2	6		X	Included	=	Included
Xylenes	502.2	6		X	Included	=	Included
CIS-1, 2 Dichloroethylene	502.2	6		X	Included	=	Included
Dichloromethane	502.2	6		X	Included	=	Included
O-Dichlorobenzene	502.2	6		X	Included	=	Included
1,2 Dichloropropane	502.2	6		X	Included	=	Included
Trans-1,2-Dichloroethylene	502.2	6		X	Included	=	Included
Methyl Tertiary Butyl Ether (MTBE)	502.2	6		X	Included	=	Included
TOTAL ROUTINE							\$540.00

(1) Subcontracted test that is referred to outside laboratories, fees are subject to change without notice

County of Monterey
CDCR RATE SHEET

Agreement Number 5600002347
Exhibit B-2

ANALYSIS	METHOD	Est. # of Tests	X	Cost per Test	=	Total
Radioactivity		24	X	\$58.50	=	\$1,404.00
Gross Alpha Radioactivity Nucleotides (1)		6	X	Included	=	Included
Synthetic Organic Chemical (SOC) (1) (2)		6	X	\$860.00	=	\$5,160.00
Atachlor (LASSO)	525	6	X	Included	=	Included
Atrazine	525	6	X	Included	=	Included
Bentazon	515.3	6	X	Included	=	Included
Benzo (a) Pyrene	525.2	6	X	Included	=	Included
Carbofuran	531.1	6	X	Included	=	Included
Chloradane	505	6	X	Included	=	Included
2,4-D	515.3	6	X	Included	=	Included
Dalapon	515.3	6	X	Included	=	Included
Dibromochloropropane (DBCP)	504.1	6	X	Included	=	Included
DI (2-Ethylhexyl) Adipate	525.2	6	X	Included	=	Included
DI (2-Ethylhexyl) Phthalate	525.2	6	X	Included	=	Included
Dinoseb	515.1	6	X	Included	=	Included
Diquat	549.1	6	X	Included	=	Included
Endothall	548.1	6	X	Included	=	Included
Endrin	505	6	X	Included	=	Included
Ethylene Dibromide	504.1	6	X	Included	=	Included
Heptachlor	505	6	X	Included	=	Included
Heptachlor Epoxide	505	6	X	Included	=	Included
Glyphosate	547	6	X	Included	=	Included
Hexachlorobenzene	505	6	X	Included	=	Included
Hexachlorocyclopentadiene	505	6	X	Included	=	Included
Lindane	505	6	X	Included	=	Included
Methoxychlor	505	6	X	Included	=	Included
Molinate	525	6	X	Included	=	Included
Oxamyl (Vydate)	531.1	6	X	Included	=	Included
Pentachlorophenol	515.1	6	X	Included	=	Included
Picloram	515.1	6	X	Included	=	Included
Polychlorinate Biphenyls	505	6	X	Included	=	Included
Simazine	525	6	X	Included	=	Included
Thiobencarb	525	6	X	Included	=	Included
Toxaphene	505	6	X	Included	=	Included
2,4,5-TP	515.1	6	X	Included	=	Included
TOTAL ROUTINE						\$6,564.00

(1) Subcontracted test that is referred to outside laboratories; fees are subject to change without notice
(2) Panel Price; refer to Exhibit B-2, Page 7, for prices of analyses when ordered individually

ANALYSIS	METHOD	Est. # of Tests	X	ROUTINE Cost per Test	=	Total
Biochemical Oxygen Demand (BOD) (1)	405.1	24	X	\$46.80	=	\$1,123.20
Unregulated Chemical Monitoring Rule (UCMR 2)						
Dimethoate	527	6	X	\$960.00	=	\$5580.00
Terbufos sulfone	527	6	X	Included	=	Included
2,2,4,4-tetrabromodiphenyl ether (BDE-47)	527	6	X	Included	=	Included
2,2,4,4,5-pentabromodiphenyl ether (BDE-99)	527	6	X	Included	=	Included
2,2,4,4,5,5-hexabromodiphenyl ether (HBB)	527	6	X	Included	=	Included
2,2,4,4,6-pentabromodiphenyl ether (BDE-100)	527	6	X	Included	=	Included
1,3-dinitrobenzene	529	6	X	Included	=	Included
2,4,6-trinitrotoluene (TNT)	529	6	X	Included	=	Included
Hexahydro-1,2,5-trinitro-1,3,5-triazine (RDX)	529	6	X	Included	=	Included
Acetochlor	525.2	6	X	Included	=	Included
Alachlor	525.2	6	X	Included	=	Included
Metolachlor	525.2	6	X	Included	=	Included
Acetochlor ethane sulfonic acid (ESA)	535	6	X	Included	=	Included
Acetochlor oxanilic acid (OA)	535	6	X	Included	=	Included
Alachlor ethane sulfonic acid	535	6	X	Included	=	Included
Alachlor oxanilic acid	535	6	X	Included	=	Included
Metolachlor ethane sulfonic acid	535	6	X	Included	=	Included
Metolachlor oxanilic acid	535	6	X	Included	=	Included
N-nitroso-diethylamine (NDEA)	521	6	X	Included	=	Included
N-nitroso-dimethylamine (NDMA)	521	6	X	Included	=	Included
N-nitroso-di-n-butylamine (NDBA)	521	6	X	Included	=	Included
N-nitroso-di-n-propylamine (NDPA)	521	6	X	Included	=	Included
N-nitroso-methylethylamine (NMEA)	521	6	X	Included	=	Included
N-nitroso-pyrrolidine (NPYR)	521	6	X	Included	=	Included
Radionuclide						
Radon (1)	EPA 913.0	36	X	\$58.50	=	\$2,106.00
Radium 226 & 228	EPA 903.1	36	X	\$311.00	=	\$11,196.00
Uranium (2)	200.8	36	X	\$63.00	=	\$2,268.00
Radiology (Gross Alpha and Beta)	900.0/SM	36	X	\$94.50	=	\$3,402.00
TOTAL ROUTINE						\$25,675.20

Total Well Water/Waste Water Routine	\$46,242.90
Urgent/Emergency	\$3,801.60
Grand Total CTF	\$50,044.50

(1) Subcontracted test that is referred to outside laboratories; fees are subject to change without notice
(2) Panel Price, refer to Exhibit B-2, Page 7, for prices of analyses when ordered individually

SVSP WELL WATER/WASTE WATER ANALYSIS

ANALYSIS	SITE	Est. # of Tests	X	Cost per Test	=	Total
Coliform (Total & E. Coli)	Distribution	144	X	\$22.50	=	\$3,240.00
Nitrate	Distribution	208	X	\$24.30	=	\$5,054.40
Lead and Copper	Distribution	40	X	\$48.00	=	\$1,920.00
TDS	Distribution	208	X	\$19.80	=	\$4,118.40
THM's & HAA5	Distribution	1	X	193.50	=	\$193.50
Nitrate	Well # 9	24	X	\$24.30	=	\$583.20
TDS	Well # 9	24	X	\$19.80	=	\$475.20
Coliform (Total & E. Coli)	Well # 9	8	X	\$22.50	=	\$180.00
GM	Well # 9	1	X	\$140.66	=	\$140.66
GP	Well # 9	1	X	\$31.29	=	\$31.29
IOC	Well # 9	1	X	\$126.05	=	\$126.05
Gross Alpha	Well # 9	4	X	\$58.50	=	\$234.00
Radium 228	Well # 9	4	X	\$186.00	=	\$744.00
MTBE	Well # 9	2	X	\$58.50	=	\$58.50
Nitrate	Well # 10	24	X	\$24.30	=	\$583.20
TDS	Well # 10	24	X	\$19.80	=	\$475.20
Coliform (Total & E. Coli)	Well # 10	8	X	\$22.50	=	\$180.00
GM	Well # 10	2	X	\$140.66	=	\$281.32
GP	Well # 10	2	X	\$31.29	=	\$62.58
IOC	Well # 10	1	X	\$126.05	=	\$126.05
VOC	Well # 10	4	X	\$90.00	=	\$360.00
SOC (Standard T22 panel w/o Dioxin & Diuron)	Well # 10	4	X	\$460.00	=	\$1,840.00
Gross Alpha	Well # 10	4	X	\$58.50	=	\$234.00
Radium 228(1)	Well # 10	4	X	\$186.00		\$744.00
Chromium 6	Well # 10	2	X	\$86.40		\$172.80
UCMR-State	Well # 10	2	X	\$960.00		\$1,920.00
TOTAL ROUTINE						\$24,136.85

Grand Total SVSP \$24,136.85

(1) Subcontracted test that is referred to outside laboratories; fees are subject to change without notice

INDIVIDUAL PRICE (When Ordered Separately)

Disinfection By-Products	Price
THM's	\$72.00
HAA5's	\$121.50
Radionucleotides	
Radium 226	\$126.00
Radium 228	\$186.00
Gross Alpha	\$58.50
Gross Beta	\$54.00
SOC's	
EPA504	\$63.00
EPA505	\$94.50
EPA515	\$94.50
EPA525	\$135.00
EPA531	\$103.50
EPA547	\$103.50
EPA548	\$108.00
EPA549	\$121.50

UCMR State Panel

EPA527-Brominated Fire Retardants Insecticides & Metabolites
EPA529-Explosives (DNB, TNT & RDX)
EPA535-Herbicide Metabolites
EPA 525.2-Parent Herbicides (Acentimides)
EPA 521-Nitrosamines

County of Monterey

California Department of Corrections and Rehabilitation
SUBCONTRACTOR'S PUBLISHED PRICE SCHEDULE

Agreement Number 5600002347
Exhibit B-3

TEST	CPT	FEE	TEST	CPT	FEE	TEST	CPT	FEE
BACTERIOLOGY:			MYCOLOGY:			SEROLOGY:		
B. pertussis Nucleic Acid Amplification	87798	\$85.00	Parasites/Giardia & Crypto (fluorescent antibody)	87269/87272	\$114.00	HIV Oral EIA Screen		\$17.00
Other culture (aerobic culture)	87070	\$33.00	Fungus Smear	87206	\$20.00	HIV Oral Western Blot	86689	\$60.75
Strep. Culture	87081	\$26.00	Fungus Culture with panel (included identification)	87102/87107	\$82.00	Rabies Testing FRA		\$98.00
Campylobacter Stool Culture	87046	\$26.00	Fungus Identification-yeast (per isolate)	87106	\$85.00	West Nile Virus (includes screening & confirmation)	86788/86789	\$45.00
Salmonella/Shigella Stool Culture	87045	\$91.00	Fungus Identification mold (per isolate)	87107	\$85.00	HIV Serum (includes screening and confirmation)	86701/86702/86689	\$45.00
E.coli O157 Stool Culture	87046	\$26.00	Fungus/Coccidioides ID by probe	87797	\$52.00	Syphilis (includes quantitative RPR and TPPA)	86593/86781	\$64.00
Bacterial ID	87077	\$82.00	MYCOBACTERIOLOGY:			VIROLOGY:		
Gram Stain Smear	87205	\$20.00	TB/AFB Smear	87206	\$20.00	Influenza typing (A&B)	87798	\$85.00
PARASITES:			TB/AFB Primary Culture (includes ID & sensitivities)	87015/87116	\$56.00	Influenza subtyping (H1, H3, H5)	87798	\$85.00
Parasites/Intestinal (Complete)	87177/87209	\$104.00	TB/M. gordonae ID by probe	87550	\$136.00	FOOD PROCESSING:		
Parasites/Intestinal (Trichrome Stain)	87209	\$59.00	TB/M. avium ID by probe	87560	\$136.00	Food Exam Processing (per sample)		\$49.00
Parasites/Intestinal (ITE Concentrate)	87177	\$111.00	TB/M. tuberculosis ID by probe	87555	\$136.00	Selective Culture (per agent)		\$17.00
Parasites/Blood (Giemsa)	87207	\$98.00	TB / Quantiferon (1-18 samples)	86480	\$70.00	Enriched Culture (per agent)		\$33.00
Pinworm	87172	\$15.00	TB / Quantiferon (19+ samples)	86849	\$41.00	OTHER FEES AND SERVICES:		
Parasites/Crypto. & Cyclo. (Acid Fast)	87206	\$114.00	TB/AFB Sensitivity Panel	87188	\$56.00	Phlebotomy		\$17.00
Parasites/Microsporidia (Modified Trichrome)	87206	\$59.00	M. tuberculosis Nucleic Acid Amplification	87556	\$85.00			

EXHIBIT C

GENERAL TERMS AND CONDITIONS

1. APPROVAL: This Agreement is of no force or effect until signed by both parties and approved by the Department of General Services, if required. Contractor may not commence performance until such approval has been obtained.
2. AMENDMENT: No amendment or variation of the terms of this Agreement shall be valid unless made in writing, signed by the parties and approved as required. No oral understanding or Agreement not incorporated in the Agreement is binding on any of the parties.
3. ASSIGNMENT: This Agreement 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 amendment.
4. AUDIT: Contractor agrees that the awarding department, the Department of General Services, the Bureau of State Audits, or their designated representative shall have the right to review and to copy any records and supporting documentation pertaining to the performance of this Agreement. Contractor agrees to maintain such records for possible audit for a minimum of three (3) years after final payment, unless a longer period of records retention is stipulated. Contractor agrees to allow the auditor(s) access to such records during normal business hours and to allow interviews of any employees who might reasonably have information related to such records. Further, Contractor agrees to include a similar right of the State to audit records and interview staff in any subcontract related to performance of this Agreement. (Gov. Code §8546.7, Pub. Contract Code §10115 et seq., CCR Title 2, Section 1896).
5. INDEMNIFICATION: Contractor agrees to indemnify, defend and save harmless the State, 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 Agreement, and from any and all claims and losses accruing or resulting to any person, firm or corporation who may be injured or damaged by Contractor in the performance of this Agreement.
6. DISPUTES: Contractor shall continue with the responsibilities under this Agreement during any dispute.
7. TERMINATION FOR CAUSE: The State may terminate this Agreement and be relieved of any payments should the Contractor fail to perform the requirements of this Agreement at the time and in the manner herein provided. In the event of such termination the State may proceed with the work in any manner deemed proper by the State. All costs to the State shall be deducted from any sum due the Contractor under this Agreement and the balance, if any, shall be paid to the Contractor upon demand.

8. INDEPENDENT CONTRACTOR: Contractor, and the agents and employees of Contractor, in the performance of this Agreement, shall act in an independent capacity and not as officers or employees or agents of the State.

9. RECYCLING CERTIFICATION: The Contractor shall certify in writing under penalty of perjury, the minimum, if not exact, percentage of post consumer material as defined in the Public Contract Code Section 12200, in products, materials, goods, or supplies offered or sold to the State regardless of whether the product meets the requirements of Public Contract Code Section 12209. With respect to printer or duplication cartridges that comply with the requirements of Section 12156(e), the certification required by this subdivision shall specify that the cartridges so comply (Pub. Contract Code §12205).

10. NON-DISCRIMINATION CLAUSE: During the performance of this Agreement, Contractor and its subcontractors shall not unlawfully discriminate, harass, or allow harassment against any employee or applicant for employment because of sex, race, color, ancestry, religious creed, national origin, physical disability (including HIV and AIDS), mental disability, medical condition (e.g., cancer), age (over 40), marital status, and denial of family care leave. Contractor and subcontractors shall insure that the evaluation and treatment of their employees and applicants for employment are free from such discrimination and harassment. Contractor and subcontractors shall comply with the provisions of the Fair Employment and Housing Act (Gov. Code §12990 (a-f) et seq.) and the applicable regulations promulgated thereunder (California Code of Regulations, Title 2, Section 7285 et seq.). The applicable regulations of the Fair Employment and Housing Commission implementing Government Code Section 12990 (a-f), set forth in Chapter 5 of Division 4 of Title 2 of the California Code of Regulations, are incorporated into this Agreement by reference and made a part hereof as if set forth in full. Contractor and its subcontractors shall give written notice of their obligations under this clause to labor organizations with which they have a collective bargaining or other Agreement.

Contractor shall include the nondiscrimination and compliance provisions of this clause in all subcontracts to perform work under the Agreement.

11. CERTIFICATION CLAUSES: The CONTRACTOR CERTIFICATION CLAUSES contained in the document CCC 307 are hereby incorporated by reference and made a part of this Agreement by this reference as if attached hereto.

12. TIMELINESS: Time is of the essence in this Agreement.

13. COMPENSATION: The consideration to be paid Contractor, as provided herein, shall be in compensation for all of Contractor's expenses incurred in the performance hereof, including travel, per diem, and taxes, unless otherwise expressly so provided.

14. GOVERNING LAW: This contract is governed by and shall be interpreted in accordance with the laws of the State of California.

15. ANTITRUST CLAIMS: The Contractor by signing this agreement hereby certifies that if these services or goods are obtained by means of a competitive bid, the Contractor shall comply with the requirements of the Government Codes Sections set out below.

a. The Government Code Chapter on Antitrust claims contains the following definitions:

1) "Public purchase" means a purchase by means of competitive bids of goods, services, or materials by the State or any of its political subdivisions or public agencies on whose behalf the Attorney General may bring an action pursuant to subdivision (c) of Section 16750 of the Business and Professions Code.

2) "Public purchasing body" means the State or the subdivision or agency making a public purchase. Government Code Section 4550.

b. In submitting a bid to a public purchasing body, the bidder offers and agrees that if the bid is accepted, it will assign to the purchasing body all rights, title, and interest in and to all causes of action it may have under Section 4 of the Clayton Act (15 U.S.C. Sec. 15) or under the Cartwright Act (Chapter 2 (commencing with Section 16700) of Part 2 of Division 7 of the Business and Professions Code), arising from purchases of goods, materials, or services by the bidder for sale to the purchasing body pursuant to the bid. Such assignment shall be made and become effective at the time the purchasing body tenders final payment to the bidder. Government Code Section 4552.

c. If an awarding body or public purchasing body receives, either through judgment or settlement, a monetary recovery for a cause of action assigned under this chapter, the assignor shall be entitled to receive reimbursement for actual legal costs incurred and may, upon demand, recover from the public body any portion of the recovery, including treble damages, attributable to overcharges that were paid by the assignor but were not paid by the public body as part of the bid price, less the expenses incurred in obtaining that portion of the recovery. Government Code Section 4553.

d. Upon demand in writing by the assignor, the assignee shall, within one year from such demand, reassign the cause of action assigned under this part if the assignor has been or may have been injured by the violation of law for which the cause of action arose and (a) the assignee has not been injured thereby, or (b) the assignee declines to file a court action for the cause of action. See Government Code Section 4554.

16. CHILD SUPPORT COMPLIANCE ACT: For any Agreement in excess of \$100,000, the contractor acknowledges in accordance with Public Contract Code 7110, that:

a. The contractor 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 Family Code; and

b. The contractor, 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.

17. UNENFORCEABLE PROVISION: In the event that any provision of this Agreement is unenforceable or held to be unenforceable, then the parties agree that all other provisions of this Agreement have force and effect and shall not be affected thereby.

18. PRIORITY HIRING CONSIDERATIONS: If this Contract includes services in excess of \$200,000, the Contractor shall give priority consideration in filling vacancies in positions funded by the Contract to qualified recipients of aid under Welfare and Institutions Code Section 11200 in accordance with Pub. Contract Code §10353.

19. SMALL BUSINESS PARTICIPATION AND DVBE PARTICIPATION REPORTING REQUIREMENTS:

a. If for this Contract Contractor made a commitment to achieve small business participation, then Contractor must within 60 days of receiving final payment under this Contract (or within such other time period as may be specified elsewhere in this Contract) report to the awarding department the actual percentage of small business participation that was achieved. (Govt. Code § 14841.)

b. If for this Contract Contractor made a commitment to achieve disabled veteran business enterprise (DVBE) participation, then Contractor must within 60 days of receiving final payment under this Contract (or within such other time period as may be specified elsewhere in this Contract) certify in a report to the awarding department: (1) the total amount the prime Contractor received under the Contract; (2) the name and address of the DVBE(s) that participated in the performance of the Contract; (3) the amount each DVBE received from the prime Contractor; (4) that all payments under the Contract have been made to the DVBE; and (5) the actual percentage of DVBE participation that was achieved. A person or entity that knowingly provides false information shall be subject to a civil penalty for each violation. (Mil. & Vets. Code § 999.5(d); Govt. Code § 14841.)

20. LOSS LEADER:

If this contract involves the furnishing of equipment, materials, or supplies then the following statement is incorporated: It is unlawful for any person engaged in business within this state to sell or use any article or product as a "loss leader" as defined in Section 17030 of the Business and Professions Code. (PCC 10344(e).)

1. **Contract Disputes with Public Entities** (Supersedes provision number 6, Disputes, of Exhibit C)

As a condition precedent to Contractor's right to institute and pursue litigation or other legally available dispute resolution process, if any, Contractor agrees that all disputes and/or claims of Contractor arising under or related to the Agreement shall be resolved pursuant to the following processes. Contractor's failure to comply with said dispute resolution procedures shall constitute a failure to exhaust administrative remedies.

Pending the final resolution of any such disputes and/or claims, Contractor agrees to diligently proceed with the performance of the Agreement, including the delivering of goods or providing of services. Contractor's failure to diligently proceed shall constitute a material breach of the Agreement.

The Agreement shall be interpreted, administered, and enforced according to the laws of the State of California. The parties agree that any suit brought hereunder shall have venue in Sacramento, California, the parties hereby waiving any claim or defense that such venue is not convenient or proper.

A county, city, district or other local public body, state board or state commission, another state or federal agency, or joint-powers authority shall resolve a dispute with CDCR, if any, through a meeting of representatives from the entities affected. If the dispute cannot be resolved to the satisfaction of the parties, each entity may thereafter pursue its right to institute litigation or other dispute resolution process, if any, available under the laws of the State of California.

2. **Confidentiality of Data**

All financial, statistical, personal, technical and other data and information relating to State's operation, which are designated confidential by the State and made available to carry out this Agreement, or which become available to the Contractor in order to carry out this Agreement, shall be protected by the Contractor from unauthorized use and disclosure.

If the methods and procedures employed by the Contractor for the protection of the Contractor's data and information are deemed by the State to be adequate for the protection of the State's confidential information, such methods and procedures may be used with the written consent of the State. The Contractor shall not be required under the provisions of this paragraph to keep confidential any data already rightfully in the Contractor's possession that is independently developed by the Contractor outside the scope of the Agreement or is rightfully obtained from third parties.

No reports, information, inventions, improvements, discoveries, or data obtained, repaired, assembled, or developed by the Contractor pursuant to this Agreement shall be released, published, or made available to any person (except to the State) without prior written approval from the State.

Contractor by acceptance of this Agreement is subject to all of the requirements of California Government Code Section 11019.9 and California Civil Code Sections 1798, et seq., regarding the collection, maintenance, and disclosure of personal and confidential information about individuals.

3. Accounting Principles

The Contractor will adhere to generally accepted accounting principles as outlined by the American Institute of Certified Public Accountants. Dual compensation is not allowed; a contractor cannot receive simultaneous compensation from two or more funding sources for the same services performed even though both funding sources could benefit.

4. Taxes

Unless required by law, the State of California is exempt from federal excise taxes.

5. Right to Terminate (Supersedes provision number 7, Termination for Cause, of Exhibit C)

The parties hereto agree that either party may cancel this Agreement by giving the other party written notice thirty (30) days in advance of the effective date of such cancellation. In the event of such termination, the State agrees to pay Contractor for actual services rendered up to and including the date of termination.

The State may terminate this Agreement and be relieved of any payments should the Contractor fail to perform the requirements of this Agreement at the time and in the manner herein provided. In the event of such termination the State may proceed with the work in any manner deemed proper by the State. All costs to the State shall be deducted from any sum due the Contractor under this Agreement and the balance, if any, shall be paid to the Contractor upon demand.

6. Contract Suspension

Notwithstanding any other provisions of this Agreement, pursuant to a Governor's Executive Order or equivalent directive, such as a court order or an order from a federal or state regulatory agency, mandating the suspension of state contracts, the State may issue a Suspension of Work Notice. The Notice shall identify the specific Executive Order or directive and the Agreement number(s) subject to suspension. Unless specifically stated otherwise, all performance under the Agreement(s) must stop immediately upon receipt of the Notice. During the period of contract suspension, Contractor is not entitled to any payment for the suspended work. Once the order suspending state contracts has been lifted, a formal letter from the Department will be issued to the Contractor to resume work.

7. Extension of Term

If it is determined to be in the best interest of the State, upon agreement, the State may extend this contract, with no increase in service cost, for a period of one (1) year or less.

8. Contractor Employee Misconduct

During the performance of this Agreement, it shall be the responsibility of the Contractor whenever there is an incident of use of force or allegation(s) of employee misconduct associated with and directly impacting inmate and/or parolee rights, to immediately notify the CDCR of the incident(s), to cause an investigation to be conducted, and to provide CDCR with all relevant information pertaining to the incident(s). All relevant information includes, but is not limited to: a) investigative reports; b) access to inmates/parolees and the

associated staff; c) access to employee personnel records; d) that information reasonably necessary to assure CDCR that inmates and/or parolees are not or have not been deprived of any legal rights as required by law, regulation, policy and procedures; and e) written evidence that the Contractor has taken such remedial action, in the event of unnecessary or excessive force, or employee misconduct with inmates and/or parolees, as will assure against a repetition of incident(s) or retaliation. To the extent that the information provided by the Contractor fails to so assure CDCR, CDCR may require that any implicated Contractor staff be denied access to and the supervision of CDCR inmates and/or parolees at the facility and access to inmate and/or parolee records. Notwithstanding the foregoing, and without waiving any obligation of the Contractor, CDCR retains the power to conduct an independent investigation of any incident(s). Furthermore, it is the responsibility of the Contractor to include the foregoing terms within any and all subcontracts, requiring that subcontractor(s) agree to the jurisdiction of CDCR to conduct an investigation of their facility and staff, including review of subcontractor employee personnel records, as a condition of the Agreement.

9. Subcontracting

Services provided are to be performed primarily with the staff of the public entity or, in the case of educational institutions, auxiliaries or foundations, by the faculty, staff or students associated with the particular institution. Agreements are not to be used by state agencies to circumvent the competitive bidding requirements of Public Contract Code Section 10340.

If more than twenty-five (25) percent of the total contract amount or \$50,000.00, whichever is less, is subcontracted, non-competitive bid approval must be obtained from the Secretary of CDCR and the Department of General Services prior to the commencement of services, unless the subcontract was competitively bid or the subcontractor(s) also qualifies as a state agency, governmental agency, or joint power.

10. Subcontractor/Consultant Information

Contractor is required to identify all subcontractors and consultants who will perform labor or render services in the performance of this Agreement. Additionally, the Contractor shall notify the Department of Corrections and Rehabilitation, Office of Business Services, in writing, within ten (10) working days, of any changes to the subcontractor and/or consultant information.

11. Liability for Nonconforming Work

The Contractor will be fully responsible for ensuring that the completed work conforms to the agreed upon terms. If nonconformity is discovered prior to the Contractor's deadline, the Contractor will be given a reasonable opportunity to cure the nonconformity. If the nonconformity is discovered after the deadline for the completion of the project, CDCR, in its sole discretion, may use any reasonable means to cure the nonconformity. The Contractor shall be responsible for reimbursing CDCR for any additional expenses incurred to cure such defects.

12. Temporary Nonperformance

If, because of mechanical failure or for any other reason, the Contractor shall be temporarily unable to perform the work as required, the State, during the period of the Contractor's

inability to perform, reserves the right to accomplish the work by other means and shall be reimbursed by the Contractor for any additional costs above the Agreement price.

13. Contract Violations

The Contractor acknowledges that any violation of Chapter 2, or any other chaptered provision of the Public Contract Code (PCC), is subject to the remedies and penalties contained in PCC Sections 10420 through 10425.

14. Employment of Ex-Offenders

Contractor cannot and will not either directly, or on a subcontract basis, employ in connection with this Agreement:

- a. Ex-Offenders on active parole or probation, who have been on active parole or probation during the last three years preceding their employment;
 1. Contractor shall only employ ex-offenders who can provide written evidence of having satisfactorily completed parole or probation, and who have remained off parole or probation, and have had no arrests or convictions within the past three years.
- b. Ex-offenders convicted of drug trafficking in a prison/jail; escape or aiding/abetting escape; battery on a Peace Officer or Public Official; arson offenses; or, any violations of Penal Code Sections 4570-4574 (unauthorized Communications with Prisons and Prisoners Offenses).
- c. Ex-Offenders are required to register as a sex offender pursuant to Penal Code Section 290.
- d. Any ex-offender who has an offense history involving a "violent felony" as defined in subparagraph (c) of Penal Code Section 667.5; or
- e. Any ex-offender in a position which provides direct supervision of parolees.

An ex-offender whose assigned duties involve administrative or policy decision-making, accounting, procurement, cashiering, auditing, or any other business-related administrative function shall be fully bonded to cover any potential loss to the State or contractor. Evidence of such bond shall be supplied to CDCR prior to employment of the ex-offender.

15. Conflict of Interest

The Contractor and their employees shall abide by the provisions of Government Code (GC) Sections 1090, 81000 et seq., 82000 et seq., 87100 et seq., and 87300 et seq., Public Contract Code (PCC) Sections 10335 et seq. and 10410 et seq., California Code of Regulations (CCR), Title 2, Section 18700 et seq. and Title 15, Section 3409, and the Department Operations Manual (DOM) Section 31100 et seq. regarding conflicts of interest.

a. Contractors and Their Employees

Consultant contractors shall file a Statement of Economic Interests, Fair Political Practices Commission (FPPC) Form 700 prior to commencing services under the

Agreement, annually during the life of the Agreement, and within thirty (30) days after the expiration of the Agreement. Other service contractors and/or certain of their employees may be required to file a Form 700 if so requested by the CDCR or whenever it appears that a conflict of interest may be at issue. Generally, service contractors (other than consultant contractors required to file as above) and their employees shall be required to file an FPPC Form 700 if one of the following exists:

- (1) The Agreement service has been identified by the CDCR as one where there is a greater likelihood that a conflict of interest may occur;
- (2) The Contractor and/or Contractor's employee(s), pursuant to the Agreement, makes or influences a governmental decision; or
- (3) The Contractor and/or Contractor's employee(s) serves in a staff capacity with the CDCR and in that capacity participates in making a governmental decision or performs the same or substantially all the same duties for the CDCR that would otherwise be performed by an individual holding a position specified in the CDCR's Conflict of Interest Code.

b. Current State Employees

- (1) No officer or employee shall engage in any employment, activity or enterprise from which the officer or employee receives compensation or has a financial interest and which is sponsored or funded by any state agency, unless the employment, activity or enterprise is required as a condition of regular state employment.
- (2) No officer or employee shall contract on his or her own behalf as an independent contractor with any state agency to provide goods or services.
- (3) In addition to the above, CDCR officials and employees shall also avoid actions resulting in or creating an appearance of:
 - (a) Using an official position for private gain;
 - (b) Giving preferential treatment to any particular person;
 - (c) Losing independence or impartiality;
 - (d) Making a decision outside of official channels; and
 - (e) Affecting adversely the confidence of the public or local officials in the integrity of the program.
- (4) Officers and employees of the Department must not solicit, accept or receive, directly or indirectly, any fee, commission, gratuity or gift from any person or business organization doing or seeking to do business with the State.

c. Former State Employees

- (1) For the two year (2-year) period from the date he or she left state employment, no former state officer or employee may enter into an Agreement in which he or she engaged in any of the negotiations, transactions, planning, arrangements or any part of the decision-making process relevant to the Agreement while employed in any capacity by any state agency.
- (2) For the twelve-month (12-month) period from the date he or she left state employment, no former state officer or employee may enter into an Agreement with any state agency if he or she was employed by that state agency in a policy-making position in the same general subject area as the proposed Agreement within the 12-month period prior to his or her leaving state service.

In addition to the above, the Contractor shall avoid any conflict of interest whatsoever with respect to any financial dealings, employment services, or opportunities offered to inmates or parolees. The Contractor shall not itself employ or offer to employ inmates or parolees either directly or indirectly through an affiliated company, person or business unless

specifically authorized in writing by CDCR. In addition, the Contractor shall not (either directly, or indirectly through an affiliated company, person or business) engage in financial dealings with inmates or parolees, except to the extent that such financial dealings create no actual or potential conflict of interest, are available on the same terms to the general public, and have been approved in advance in writing by CDCR. For the purposes of this paragraph, "affiliated company, person or business" means any company, business, corporation, nonprofit corporation, partnership, limited partnership, sole proprietorship, or other person or business entity of any kind which has any ownership or control interest whatsoever in the Contractor, or which is wholly or partially owned (more than 5% ownership) or controlled (any percentage) by the Contractor or by the Contractor's owners, officers, principals, directors and/or shareholders, either directly or indirectly. "Affiliated companies, persons or businesses" include, but are not limited to, subsidiary, parent, or sister companies or corporations, and any company, corporation, nonprofit corporation, partnership, limited partnership, sole proprietorship, or other person or business entity of any kind that is wholly or partially owned or controlled, either directly or indirectly, by the Contractor or by the Contractor's owners, officers, principals, directors and/or shareholders.

The Contractor shall have a continuing duty to disclose to the State, in writing, all interests and activities that create an actual or potential conflict of interest in performance of the Agreement.

The Contractor shall have a continuing duty to keep the State timely and fully apprised in writing of any material changes in the Contractor's business structure and/or status. This includes any changes in business form, such as a change from sole proprietorship or partnership into a corporation or vice-versa; any changes in company ownership; any dissolution of the business; any change of the name of the business; any filing in bankruptcy; any revocation of corporate status by the Secretary of State; and any other material changes in the Contractor's business status or structure that could affect the performance of the Contractor's duties under the Agreement.

If the Contractor violates any provision of the above paragraphs, such action by the Contractor shall render this Agreement void.

Members of boards and commissions are exempt from this section if they do not receive payment other than payment for each meeting of the board or commission, payment for preparatory time and payment for per diem.

16. Notification of Personnel Changes

Contractor must notify the State, in writing, of any changes of those personnel allowed access to State premises for the purpose of providing services under this Agreement. In addition, Contractor must recover and return any State-issued identification card provided to Contractor's employee(s) upon their departure or termination.

17. Security Clearance/Fingerprinting

The State reserves the right to conduct fingerprinting and/or security clearance—through the Department of Justice, Bureau of Criminal Identification and Information (BCII)—prior to award and at any time during the term of the Agreement, in order to permit Contractor (and/or Contractor employee) access to State premises. The State further reserves the right to terminate the Agreement should a threat to security be determined.

18. Computer Software

Contractor certifies that it has appropriate systems and controls in place to ensure that state funds will not be used in the performance of this Agreement for the acquisition, operation or maintenance of computer software in violation of copyright laws.

19. Expendable Equipment

Expendable equipment is defined as expendable items which change with use and have a unit acquisition cost of less than \$5,000 per unit (i.e. fax machines, computers, printers, etc.). Title to any expendable equipment purchased or built with State funds as part of this agreement will vest in the State. The Contractor must retain a listing of expendable equipment purchases that are considered "theft-sensitive" items, such as cameras, calculators, two-way radios, computer equipment, etc., for audit purposes. Upon completion or termination of the agreement, Contractors are required to leave all expendable equipment for use by subsequent contractors or for the State to dispose of accordingly. The State may authorize the continued use of such equipment for work to be performed under a different agreement.

The cost of expendable equipment purchased should be comparable to the prevailing price for similar items in the surrounding area.

20. Electronic Waste Recycling

The Contractor certifies that it complies with the requirements of the Electronic Waste Recycling Act of 2003, Chapter 8.5, Part 3 of Division 30, commencing with Section 42460 of the Public Resources Code, relating to hazardous and solid waste. Contractor shall maintain documentation and provide reasonable access to its records and documents that evidence compliance.

21. Liability for Loss and Damages

Any damages by the Contractor to the State's facility including equipment, furniture, materials or other State property, will be repaired or replaced by the Contractor to the satisfaction of the State at no cost to the State. The State may, at its option, repair any such damage and deduct the cost thereof from any sum due Contractor under this Agreement.

22. Disclosure

Neither the State nor any State employee will be liable to the Contractor or its staff for injuries inflicted by inmates or parolees of the State. The State agrees to disclose to the Contractor any statement(s) known made by any inmate or parolee which indicate violence may result in any specific situation, and the same responsibility will be shared by the Contractor in disclosing such statement(s) to the State.

23. Workers' Compensation

Contractor hereby represents and warrants that Contractor is currently and shall, for the duration of this agreement, carry workers' compensation insurance, at Contractor's expense, or that it is self-insured through a policy acceptable to CDCR, for all of its employees who

will be engaged in the performance of this agreement. Such coverage will be a condition of CDCR's obligation to pay for services provided under this agreement.

Prior to approval of this agreement and before performing any work, Contractor shall furnish to the State evidence of valid workers' compensation coverage. Contractor agrees that the workers' compensation insurance shall be in effect at all times during the term of this agreement. In the event said insurance coverage expires or is canceled at any time during the term of this agreement, Contractor agrees to give at least thirty (30) days prior notice to CDCR before said expiration date or immediate notice of cancellation. Evidence of coverage shall not be for less than the remainder of the term of the agreement or for a period of not less than one year. The State reserves the right to verify the Contractor's evidence of coverage. In the event the Contractor fails to keep workers' compensation insurance coverage in effect at all times, the State reserves the right to terminate this agreement and seek any other remedies afforded by the laws of this State.

Contractor also agrees to indemnify, defend and save harmless the State, its officers, agents and employees from any and all of Contractor's workers' compensation claims and losses by Contractor's officers, agents and employees related to the performance of this agreement.

24. Insurance Requirements

Insurance as required herein shall be a condition of the State's obligation to pay for services provided under this Agreement. Prior to approval of this Agreement and before performing any work, Contractor and any subcontractor shall furnish to the State evidence of valid coverage. The following shall be considered evidence of coverage: A certificate of insurance, a "true and certified" copy of the policy, or any other proof of coverage issued by Contractor's insurance carrier. Binders are not acceptable as evidence of coverage. Providing evidence of coverage to the State conveys no rights or privileges to the State, nor does it insure any State employee or insure any premises owned, leased, used by or otherwise or under the control of the State. It does, however, serve to provide the State with proof that the Contractor and any subcontractors are insured at the minimum levels required by the State of California.

Contractor agrees that any liability insurance required in the performance of this Agreement shall be in effect at all times during the term of this Agreement. In the event said insurance coverage expires or is canceled during the term of this Agreement, Contractor's insurance provider must agree to give at least thirty (30) days prior notice to the State before said expiration date or notice of cancellation. Evidence of coverage required in the performance of this Agreement shall not be for less than the remainder of the term of this Agreement or for a period of not less than one year. The State and the Department of General Services (DGS) reserve the right to verify the Contractor's evidence of coverage; evidence of coverage is subject to the approval of the DGS. In the event the Contractor fails to keep insurance coverage as required herein in effect at all times, the State reserves the right to terminate this Agreement and to seek any other remedies afforded by the laws of the State of California.

Contractor hereby represents and warrants they (and any subcontractors) are currently and shall for the duration of this Agreement be insured. Contractor shall provide proof of self-insurance against:

Commercial General Liability - minimum of \$1,000,000 per occurrence for bodily injury and property damage liability combined

25. Tuberculosis (TB) Testing

In the event that the services required under this Agreement will be performed within a CDCR institution/parole office/community-based program, prior to the performance of contracted duties, Contractors and their employees who are assigned to work with inmates/parolees on a regular basis shall be required to be examined or tested or medically evaluated for TB in an infectious or contagious stage, and at least once a year thereafter or more often as directed by CDCR. Regular basis is defined as having contact with inmates/parolees in confined quarters more than once a week.

Contractors and their employees shall be required to furnish to CDCR, at no cost to CDCR, a form CDCR 7336, "Employee Tuberculin Skin Test (TST) and Evaluation," prior to assuming their contracted duties and annually thereafter, showing that the Contractor and their employees have been examined and found free of TB in an infectious stage. The form CDCR 7336 will be provided by CDCR upon Contractor's request.

The following provisions apply to services provided on departmental and/or institution grounds:

26. Blood borne Pathogens

Provider shall adhere to California Division of Occupational Safety and Health (CAL-OSHA) regulations and guidelines pertaining to blood borne pathogens.

27. Primary Laws, Rules, and Regulations Regarding Conduct and Association with State Prison Inmates and Division of Juvenile Justice Wards

Individuals who are not employees of the California Department of Corrections and Rehabilitation (CDCR), but who are working in and around inmates who are incarcerated, or wards who are housed within California's institutions/facilities or camps, are to be apprised of the laws, rules and regulations governing conduct in associating with prison inmates or wards. The following is a summation of pertinent information when non-departmental employees come in contact with prison inmates or wards.

By signing this contract, the Contractor agrees that if the provisions of the contract require the Contractor to enter an institution/facility or camp, the Contractor and any employee(s) and/or subcontractor(s) shall be made aware of and shall abide by the following laws, rules and regulations governing conduct in associating with prison inmates or wards:

- a. Persons who are not employed by CDCR, but are engaged in work at any institution/facility or camp must observe and abide by all laws, rules and regulations governing the conduct of their behavior in associating with prison inmates or wards. Failure to comply with these guidelines may lead to expulsion from CDCR institutions/facilities or camps.

SOURCE: California Penal Code (PC) Sections 5054 and 5058; California Code of Regulations (CCR), Title 15, Sections 3285 and 3415, and California Welfare and Institutions Code (WIC) Section 1712.

- b. CDCR does not recognize hostages for bargaining purposes. CDCR has a "NO HOSTAGE" policy and all prison inmates, wards, visitors, and employees shall be made aware of this.

SOURCE: PC Sections 5054 and 5058; CCR, Title 15, Section 3304 and 4603; WIC Section 1712.

- c. All persons entering onto institution/facility or camp grounds consent to search of their person, property or vehicle at any time. Refusal by individuals to submit to a search of their person, property, or vehicle may be cause for denial of access to the premises.

SOURCE: PC Sections 2601, 5054 and 5058; CCR, Title 15, Sections 3173, 3177, 3288, 4696, and 4697; WIC 1712.

- d. Persons normally permitted to enter an institution/facility or camp may be barred, for cause, by the CDCR Director, Warden, and/or Regional Parole Administrator.

SOURCE: PC Sections 5054 and 5058; CCR, Title 15, Section 3176 (a) and 4696; WIC Section 1712.

- e. It is illegal for an individual who has been previously convicted of a felony offense to enter into CDCR adult institutions/facilities or camps, or youth institutions/facilities or camps in the nighttime, without the prior approval of the Warden or officer in charge. It is also illegal for an individual to enter onto these premises for unauthorized purposes or to refuse to leave said premises when requested to do so. Failure to comply with this provision could lead to prosecution.

SOURCE: PC Sections 602, 4570.5 and 4571; CCR, Title 15, Sections 3173 and 3289; WIC Section 1001.7.

- f. Encouraging and/or assisting prison inmates to escape, is a crime. It is illegal to bring firearms, deadly weapons, explosives, tear gas, drugs or drug paraphernalia on CDCR institutions/facilities or camp premises. It is illegal to give prison inmates or wards firearms, explosives, alcoholic beverages, narcotics, or any drug or drug paraphernalia, including cocaine or marijuana. It is illegal to give wards sex oriented objects or devices, and written materials and pictures whose sale is prohibited to minors.

SOURCE: PC Sections 2772, 2790, 4533, 4535, 4550, 4573, 4573.5, 4573.6 and 4574; WIC Section 1152, CRR, Title 15, sections 4681 and 4710; WIC Section 1001.5.

- g. It is illegal to give or take letters from inmates or wards without the authorization of the Warden or officer in charge. It is also illegal to give or receive any type of gift and/or gratuities from prison inmates or wards.

SOURCE: PC Sections 2540, 2541 and 4570; CCR, Title 15, Sections 3010, 3399, 3401, 3424, 3425 and 4045; WIC Section 1712.

- h. In an emergency situation the visiting program and other program activities may be suspended.

SOURCE: PC Section 2601; CCR, Title 15, Section 3383, 4002.5 and 4696.

- i. For security reasons, visitors must not wear clothing that in any way resembles state issued prison inmate or ward clothing (blue denim shirts, blue denim pants).

SOURCE: CCR, Title 15, Section 3174 (b) (1) and 4696.

- j. Interviews with SPECIFIC INMATES are not permitted. Conspiring with an inmate to circumvent policy and/or regulations constitutes a rule violation that may result in appropriate legal action. Interviews with individual wards are permitted with written consent of each ward if he is 18 years of age or older, or with written consent of a parent, legal guardian, or committing court, if 17 years of age or younger.

SOURCE: CCR, Title 15, Sections 3261.5, 3315 (a) (3) (X), and 3177 and 4700(a)(1).

28. Clothing Restrictions

While on institution grounds, Contractor and all its agents, employees, and/or representatives shall be professionally and appropriately dressed in clothing distinct from that worn by inmates at the institution. Specifically, blue denim pants and blue chambray shirts, orange/red/yellow/white/chartreuse jumpsuits and/or yellow rainwear shall not be worn onto institution grounds, as this is inmate attire. Contractor should contact the institution regarding clothing restrictions prior to requiring access to the institution to assure the Contractor and their employees are in compliance.

29. Tobacco-Free Environment

Pursuant to Penal Code Section 5030.1, the use of tobacco products by any person on the grounds of any institution or facility under the jurisdiction of the Department of Corrections and Rehabilitation is prohibited.

30. Prison Rape Elimination Policy

CDCR is committed to providing a safe, humane, secure environment, free from sexual misconduct. This will be accomplished by maintaining a program to ensure education/prevention, detection, response, investigation and tracking of sexual misconduct and to address successful community re-entry of the victim. The CDCR shall maintain a zero tolerance for sexual misconduct in its institutions, community correctional facilities, conservation camps and for all offenders under its jurisdiction. All sexual misconduct is strictly prohibited.

As a contractor with the CDCR, you and your staff are expected to ensure compliance with this policy as described in Department Operations Manual, Chapter 5, Article 44.

31. Security Regulations

- a. Unless otherwise directed by the entrance gate officer and/or Contract Manager, the Contractor, Contractor's employees and subcontractors shall enter the institution through the main entrance gate and park private and nonessential vehicles in the designated visitor's parking lot. Contractor, Contractor's employees and subcontractors shall

remove the keys from the ignition when outside the vehicle and all unattended vehicles shall be locked and secured while on institution grounds.

- b. Any State- and Contractor-owned equipment used by the Contractor for the provision of contract services, shall be rendered temporarily inoperative by the Contractor when not in use, by locking or other means unless specified otherwise.
- c. In order to maintain institution safety and security, periodic fire prevention inspections and site searches may become necessary and Contractor must furnish keys to institutional authorities to access all locked areas on the worksite. The State shall in no way be responsible for Contractor's loss due to fire.
- d. Due to security procedures, the Contractor, Contractor's employees and subcontractors may be delayed at the institution vehicle/pedestrian gates and sally ports. Any loss of time checking in and out of the institution gates and sally ports shall be borne by the Contractor.
- e. Contractor, Contractor's employees and subcontractors shall observe all security rules and regulations and comply with all instructions given by institutional authorities.
- f. Electronic and communicative devices such as pagers, cell phones and cameras/microcameras are not permitted on institution grounds.
- g. Contractor, Contractor's employees and subcontractors shall not cause undue interference with the operations of the institution.
- h. No picketing is allowed on State property.

32. Gate Clearance

Contractor and Contractor's employee(s) and/or subcontractor(s) must be cleared prior to providing services. The Contractor will be required to complete a Request for Gate Clearance for all persons entering the facility a minimum of ten (10) working days prior to commencement of service. The Request for Gate Clearance must include the person's name, social security number, valid state driver's license number or state identification card number and date of birth. Information shall be submitted to the Contract Liaison or his/her designee. CDCR uses the Request for Gate Clearance to run a California Law Enforcement Telecommunications System (CLETS) check. The check will include Department of Motor Vehicles check, Wants and Warrants check, and Criminal History check.

Gate clearance may be denied for the following reasons: Individual's presence in the institution presents a serious threat to security, individual has been charged with a serious crime committed on institution property, inadequate information is available to establish positive identity of prospective individual, and/or individual has deliberately falsified his/her identity.

All persons entering the facilities must have a valid state driver's license or photo identification card on their person.

MONTEREY COUNTY BOARD OF SUPERVISORS

MEETING: June 14, 2011 - Consent	AGENDA NO.:
SUBJECT: Approve and authorize the Director of Health to execute on behalf of the County of Monterey standard agreements, and any amendments thereto, for continued funding from local, State, and Federal agencies for designated programs.	
DEPARTMENT: Health	

RECOMMENDATION:

It is recommended that the Board of Supervisors:
Approve and authorize the Director of Health to execute on behalf of the County of Monterey standard agreements, and any amendments thereto, for continued funding from local, State and Federal agencies for designated programs.

SUMMARY/DISCUSSION:

The Health Department relies on a variety of local, State, and Federal grants to provide a portion of the financial support required by the Department for the services it provides in the County. In preparing the fiscal year (FY) 2011-2012 Requested County Budget, the Department has compiled list of local, State and Federal programs currently providing funding for various programs. These same programs expect continued funding beyond FY 2011-2012. The State and Federal agencies responsible for these grants require the Department to submit an application and final agreement to renew funding for the upcoming fiscal year even though there is an established relationship between the County and the funding agency in the current fiscal year. In fiscal years 2003 through 2011 the Board of Supervisors (BOS) granted approval and authorized the Director of Health to act on behalf of the County in submitting the application and final agreement to renew grants with the appropriate funding agency.

Continued support and approval by the BOS for this recommended action would allow the Director of Health to continue to submit the approved resolution as authority to sign, submit grant applications and grant agreements to renew funding for those designated programs without having to request BOS approval for each grant application/agreement. This will significantly reduce the number of board reports submitted for approval annually and will expedite the process.

The Department will continue to present amendments to the final grant agreement that require adjustments to the Final County Budget for changes in appropriations, revenues, and/or positions, to the BOS for approval.

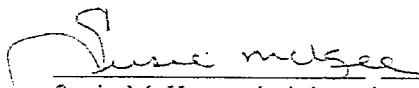
OTHER AGENCY INVOLVEMENT:

County Counsel, Risk Management and the Auditor-Controller agree with the process and will continue to review each grant agreement before the Department signs and submits the agreement to the funding agency.

FINANCING:

The majority of appropriations and revenues related to Attachment A have been included in the Requested County Budget for FY 2011-2012. Adjustments in appropriations, revenue, and/or position count will be submitted to the BOS for approval. There will be no new General Fund Contribution.


Prepared by:



Susie McKee, Administrative Secretary
755-4526

Date: 5/24/11

Approved by:



Ray Bullick, Director of Health

Date: 5/31/11

cc: Charles J. McKee, County Counsel
Michael Miller, Auditor-Controller

**Before the Board of Supervisors in and for the
County of Monterey, State of California**

Approve and authorize the Director of Health to)
execute on behalf of the County of Monterey)
standard agreements, and any amendments)
thereto, for continued funding from local, State,)
and Federal agencies for designated programs.....)

Upon motion of Supervisor Salinas, seconded by Supervisor Armenta, and carried by those members present, the Board hereby;

Approved and authorized the Director of Health to execute on behalf of the County of Monterey standard agreements, and any amendments thereto, for continued funding from local, State, and Federal agencies for designated programs.

Agency	Grant/Contract Title
Calif Dept of Alcohol and Drug	Beverage Container Recycling & Litter Cleanup Activities
Calif Dept of Alcohol and Drug	Comprehensive Drug Court Implementation Grant
Calif Dept of Alcohol and Drug	Department of Alcohol and Drug Programs (ADP)
Calif Dept of Alcohol and Drug	Safe and Drug Free School and Communities
Calif Dept of Alcohol and Drug	Substance Abuse and Crime Prevention Act of 2000 Plan (Prop 36)
Calif Dept of Corrections	Salinas Valley State Prison, Pathology Service
Calif Dept of Fish and Game	Local Assistance Grant For Area Oil Contingency Plan
Calif Dept of Health Care Services	California Children's Services Administration
Calif Dept of Health Care Services	Child Health and Disability Prevention Program
Calif Dept of Health Care Services	Health Care Program for Children in Foster Care
Calif Dept of Health Care Services	Medi-Cal Administration Activities (MAA)
Calif Dept of Health Care Services	Medi-Cal Participation Fee with Host County
Calif Dept of Health Care Services	Monterey County Special Education Local Plan Area (SELPA)
Calif Dept of Health Care Services	Targeted Case Management (TCM)
Calif Dept of Mental Health	County/City Performance Contract
Calif Dept of Mental Health	Managed Care/Mental Health Plan
Calif Dept of Mental Health	Mental Health Services Act (MHSA) Agreement

Calif Dept of Mental Health	Mental Health Services Act (MHSA) Annual Update
Calif Dept of Mental Health	Projects for Assistance in Transition from Homelessness (PATH)
Calif Dept of Mental Health	State Hospital Bed Purchase and Usage
Calif Dept of Mental Health	Substance Abuse and Mental Health Services Administration (SAMHSA - Block)
Calif Dept of Public Health	AIDS CARE - Early Intervention Services
Calif Dept of Public Health	AIDS CARE, Ryan White Treatment Funds Title II
Calif Dept of Public Health	AIDS Master Grant
Calif Dept of Public Health	Beach Safety Program
Calif Dept of Public Health	California Nutrition Network – Local Incentive Award
Calif Dept of Public Health	Childhood Lead Poisoning Prevention Program
Calif Dept of Public Health	Community Challenge Grant/Postpone
Calif Dept of Public Health	Comprehensive Tobacco Control Plan
Calif Dept of Public Health	Hospital Preparedness Program
Calif Dept of Public Health	Immunization Assistance Program
Calif Dept of Public Health	Maternal Child Adolescent Health
Calif Dept of Public Health	Minority AIDS Initiative
Calif Dept of Public Health	Public Health Preparedness Plan/Pan Flu
Calif Dept of Public Health	Regional Nutrition Networks for Healthy Active Living
Calif Dept of Public Health	State Subvention (OHO)
Calif Dept of Public Health	STD Community Interventions Program
Calif Dept of Public Health	Vital Records, fees
Calif Dept of Public Health	Women, Infants and Children (WIC) Supplemental Nutrition Program
Calif Dept of Public Health	Beach Act Grant
Calif Dept of Public Health	Tuberculosis Prevention and Control Activities
Calif Dept of Rehabilitation	County Behavioral Health Cooperative Agreement
Calif Emergency Medical Services Authority	Maddy Fund
Calif Office of Traffic Safety	Pedestrian Safety – Bike Safety
Calif Office of Traffic Safety	Pedestrian Safety – Safe Routes to School
Children's Services International	Children's and Families Commission (Proposition 10)
Dept of Resources Recycling and Recovery - CalRecycle	Used Oil Recycling Block Grant
First 5 Monterey County	Secure Families/Familias Seguras Grant
Monterey County Office of Ed.	Individuals with Disabilities Education Act (IDEA)
Monterey County Office of Ed.	Through and Beyond

State Water Resources Control Board	Emergency, Abandoned, Recalcitrant (EAR)
Substance Abuse and Mental Health Administration (SAMHSA) and Bureau of Justice Assistance (BJA)	Adult Drug Court Grant
Substance Abuse and Mental Health Administration (SAMHSA) Center for Substance Abuse Treatment (CSAT)	Juvenile Drug Court Grant

PASSED AND ADOPTED on this 14th day of June, 2011, by the following vote, to wit:

AYES: Supervisors Armenta, Calcagno, Salinas, Parker, and Potter

NOES: None

ABSENT: None

I, Gail T. Borkowski, Clerk of the Board of Supervisors of the County of Monterey, State of California, hereby certify that the foregoing is a true copy of an original order of said Board of Supervisors duly made and entered in the minutes thereof of Minute Book 75 for the meeting on June 14, 2011.

Dated: June 17, 2011

Gail T. Borkowski, Clerk of the Board of Supervisors
County of Monterey, State of California

By Christ A. Mel
Deputy

**2011-12 CDC Public Health Emergency Preparedness (PHEP), State General Fund (GF)
Pandemic Influenza, HHS Hospital Preparedness Program (HPP) Funding
AGREEMENT
CDC CFDA # 93.069; HPP CFDA # 93.889; State GF Pan Flu - Chapter 33**

1. This Agreement is entered into between the California Department of Public Health, herein after referred to as "CDPH" and the County of Monterey, herein after referred to as "LHD" and/or "Local HPP Entity".
2. The term of this Agreement is:
 - August 10, 2011 through August 9, 2012 PHEP (Centers for Disease Control and Prevention [CDC])
 - July 1, 2011 through June 30, 2012 (Hospital Preparedness Program [HPP])
 - July 1, 2011 through June 30, 2012 (State GF Pandemic Influenza)
3. The maximum amount payable under this Agreement is \$666,019, and is allocated as follows:
 - \$323,914, PHEP CDC Base Allocation. (8/10/11 – 8/9/12)
 - \$0, Laboratory Allocation. (8/10/11 – 8/9/12)
 - \$0, Laboratory Trainee Stipends. (8/10/11 – 8/9/12)
 - \$0, Laboratory Training Assistance Grant. (8/10/11 – 8/9/12)
 - \$0, Cities Readiness Initiative Funds. (8/10/11 – 8/9/12)
 - \$267,443, HPP Allocation. (7/1/11 – 6/30/12)
 - \$74,662, State GF Pandemic Influenza Allocation. (7/1/11 – 6/30/12)
4. The parties agree to comply with the terms and conditions of the following exhibits, which are by this reference made a part of this Agreement.

Exhibit A — Scope of Work	03 Pages
Exhibit B — Budget Detail and Budget Provisions	04 Pages
Exhibit B, Attachment 1, Criteria for Payments	01 Page
Exhibit C — Additional Provisions	03 Pages
Exhibit D(F) — Special Terms and Conditions (Federal)	25 Pages
Notwithstanding provisions 3, 4, 6, 12, 13, 17, 22, 23, 27, and 30 which do not apply to this Agreement.	
Exhibit E – Non-Supplantation Certification Form	01 Page

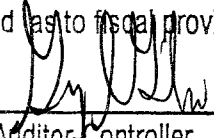
IN WITNESS WHEREOF, this Agreement has been executed by the parties hereto.

CONTRACTOR	
CONTRACTOR'S NAME	
County of Monterey	
BY (Authorized Signature) 	DATE SIGNED (Do not type -signor must date) 9-12-11
PRINTED NAME AND TITLE OF PERSON SIGNING Ray Bullick, Director of Health	
ADDRESS 1270 Natividad Road, Salinas, CA 93906	
STATE OF CALIFORNIA	
AGENCY NAME	
California Department of Public Health	
BY (Authorized Signature)	DATE SIGNED
ADDRESS 1615 Capitol Avenue, MS 7002, P.O. Box 997377, Sacramento, CA 95899-7377	

RISK MANAGEMENT
COUNTY OF MONTEREY
APPROVED AS TO INDEMNITY/
INSURANCE LANGUAGE

By: 
Date: 8/31/11

Reviewed as to fiscal provisions


Auditor-Controller
County of Monterey

8-31-11

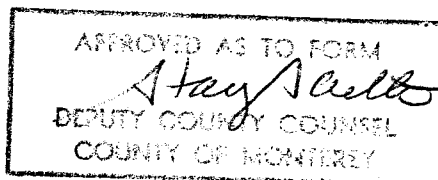


EXHIBIT E
NON-SUPPLANTATION CERTIFICATION FORM


**2011-12 CDC Public Health Emergency Preparedness (PHEP), State General Fund
(GF) Pandemic Influenza, HHS Hospital Preparedness Program (HPP)
Fiscal Year 2011-2012**

(County/City and Name of Local Health Department and/or Local HPP Entity)

I hereby certify that the above-named local health department (LHD) and/or Local HPP Entity shall not use funds allocated by the California Department of Public Health (CDPH) to supplant funding for existing levels of service and that funds shall only be used for the purposes specified in the Fiscal Year (FY) 2011-2012 CDC Public Health Emergency Preparedness (PHEP), State General Fund (GF) Pandemic Influenza, HHS Hospital Preparedness Program (HPP) Funding Agreement as approved by the CDPH.

I further certify that funds received shall be deposited in an interest-bearing Local Public Health Preparedness Trust Fund as per the Health and Safety Code 101317 and expended only for the purposes stated in the LHDs and/or Local HPP Entity's Grant Application Work Plan and Budget, as approved by the CDPH.

Chairperson, Board of Supervisors, Mayor of a City or designee:

Signature:	
Printed Name:	Jane Parker
Title:	Chair, County of Monterey, Board of Supervisors
Phone:	(831) 755-5842
Date:	9-7-11

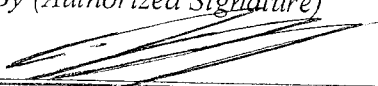
Please return the original signed certification with your FY 2011-2012 CDC PHEP, State GF Pandemic Influenza, HPP Funding Agreement Funding Agreement to:

California Department Public Health
Emergency Preparedness Office
Attn: Local Management Unit
MS 7002
P.O. Box 997377
Sacramento, CA 95899-7377

CCC-307

CERTIFICATION

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

<i>Contractor/Bidder Firm Name (Printed)</i> County of Monterey		<i>Federal ID Number</i> 94-6000524
<i>By (Authorized Signature)</i> 		
<i>Printed Name and Title of Person Signing</i> Ray Bullick, Director of Health		
<i>Date Executed</i> 9-12-11	<i>Executed in the County of</i> Monterey	

CONTRACTOR CERTIFICATION CLAUSES

1. STATEMENT OF COMPLIANCE: Contractor has, unless exempted, complied with the nondiscrimination program requirements. (Gov. Code §12990 (a-f) and CCR, Title 2, Section 8103) (Not applicable to public entities.)

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

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

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

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

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

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

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

STATE OF CALIFORNIA
CALIFORNIA DEPARTMENT OF PUBLIC HEALTH

CERTIFICATION REGARDING LOBBYING

The undersigned certifies, to the best of his or her knowledge and belief, that:

(1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the making, awarding or entering into of this Federal contract, Federal grant, or cooperative agreement, and the extension, continuation, renewal, amendment, or modification of this Federal contract, grant, or cooperative agreement.

(2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency of the United States Government, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, or cooperative agreement, the undersigned shall complete and submit Standard Form LLL, "Disclosure of Lobbying Activities" in accordance with its instructions.

(3) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontractors, subgrants, and contracts under grants and cooperative agreements) of \$100,000 or more, and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Section 1352, Title 31, U.S.C., any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

County of Monterey

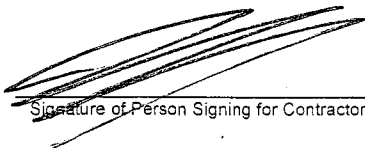
Name of Contractor

EPO 11-27

Contract / Grant Number

9-12-11
Date

Ray Bullick, Director of Health

Printed Name of Person Signing for Contractor

Signature of Person Signing for Contractor

Director of Health

Title

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

California Department of Public Health

CDPH reserves the right to notify the contractor in writing of an alternate submission address.



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)
09/15/2011

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER MARSH RISK & INSURANCE SERVICES 345 CALIFORNIA STREET, SUITE 1300 CALIFORNIA LICENSE NO. 0437153 SAN FRANCISCO, CA 94104	CONTACT NAME: PHONE (A/C, No, Ext): E-MAIL ADDRESS:	FAX (A/C, No):
C.O.MO-COM-LIAB-11-12	INSURER(S) AFFORDING COVERAGE	
INSURED County of Monterey 188 West Alisal Street, 3rd Floor Salinas, CA 93901	INSURER A: Starr Indemnity & Liability Company	NAIC # 38318
	INSURER B:	
	INSURER C:	
	INSURER D:	
	INSURER E:	
	INSURER F:	

COVERAGES **CERTIFICATE NUMBER:** SEA-002254783-01 **REVISION NUMBER:** 3

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSR	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
	GENERAL LIABILITY						EACH OCCURRENCE \$
	<input type="checkbox"/> COMMERCIAL GENERAL LIABILITY						DAMAGE TO RENTED PREMISES (Ea occurrence) \$
	<input type="checkbox"/> CLAIMS-MADE <input type="checkbox"/> OCCUR						MED EXP (Any one person) \$
							PERSONAL & ADV INJURY \$
							GENERAL AGGREGATE \$
	GEN'L AGGREGATE LIMIT APPLIES PER:						PRODUCTS - COMP/OP AGG \$
	<input type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC						\$
	AUTOMOBILE LIABILITY						COMBINED SINGLE LIMIT (Ea accident) \$
	<input type="checkbox"/> ANY AUTO						BODILY INJURY (Per person) \$
	<input type="checkbox"/> ALL OWNED AUTOS <input type="checkbox"/> SCHEDULED AUTOS						BODILY INJURY (Per accident) \$
	<input type="checkbox"/> HIRED AUTOS <input type="checkbox"/> NON-OWNED AUTOS						PROPERTY DAMAGE (Per accident) \$
							\$
A	UMBRELLA LIAB <input checked="" type="checkbox"/> OCCUR			SISCPOL00007911	07/01/2011	07/01/2012	EACH OCCURRENCE \$ 10,000,000
	<input checked="" type="checkbox"/> EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE						AGGREGATE \$ 10,000,000
	DED <input checked="" type="checkbox"/> RETENTION \$ 1,500,000						\$
	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY						WC STATU-TORY LIMITS <input type="checkbox"/> OTH-ER <input type="checkbox"/>
	ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH)	<input type="checkbox"/> Y <input checked="" type="checkbox"/> N	N/A				E.L. EACH ACCIDENT \$
	If yes, describe under DESCRIPTION OF OPERATIONS below						E.L. DISEASE - EA EMPLOYEE \$
							E.L. DISEASE - POLICY LIMIT \$

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (Attach ACORD 101, Additional Remarks Schedule, if more space is required)

Excess liability is a combined Public Entity form that includes automobile liability.

California Department of Public Health is included as additional insured where required by written contract.

CERTIFICATE HOLDER

CANCELLATION

California Department of Public Health 1615 Capitol Ave., MS 7002 PO Box 997377 Sacramento, CA 95899-7237	SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.
	AUTHORIZED REPRESENTATIVE of Marsh Risk & Insurance Services Keith W. Grand



Starr Indemnity & Liability Company

Dallas, TX 1-866-519-2522

Our obligation to defend an insured's indemnitee and to pay for attorneys' fees and necessary litigation expenses as Defense Costs ends when we have used up the applicable Limit of Insurance in the payment of judgments, settlements or defense expenses, or the conditions set forth in **a.** and **b.** above are no longer met.

SECTION II. WHO IS AN INSURED

The following persons or organizations are insureds under this insurance:

- A. You;
- B. Any individual who was previously or is presently elected or appointed as an official of the Named Insured, including members of its governing body or any other agencies, districts, authorities, committees, trustees, boards, commissions, or similar entity of the Named Insured, but only with respect to their duties as an official of the Named Insured;
- C. Your **employees**, past or present, while acting within the course and scope of their employment, or your **volunteer workers** while performing duties on your behalf;
- D. Any legally authorized **purchase group(s)** representing any Named Insured. The following are also insureds with respect to such **purchase group(s)**:
 - 1. The agencies of a **municipality** participating as member agencies in the **purchase group(s)**, and any and all districts, authorities, committees, trustees, boards, commissions, or similar entity subject to the direction or control of such agencies or for which the board members act as governing body. A member agency includes any department or constituent agencies of the member agency; and
 - 2. Any person(s) who are past or present elected or appointed officers, **employees**, or **volunteer workers** of the member agencies, whether or not compensated, while acting on behalf of the member agencies and within the scope of their employment or volunteer capacities, including acting on boards at the direction of the agencies.
- E. Any person designated in paragraphs **A.** through **D.** above:
 - 1. Using any **auto** not owned by you that is used in connection with your operations as a **public entity**; or
 - 2. Using with your permission any **owned auto** of yours or **hired auto** or any person legally responsible for the use thereof,except:
 - 1. Any person using an **auto** while he or she is working in a business of selling or delivering **autos**; or
 - 2. The owner or lessee of any **hired auto**. This exception does not apply if the owner or lessee is an insured designated in paragraphs **A.** through **D.** above.

EXHIBIT A
2011-12 CDC Public Health Emergency Preparedness (PHEP), State General Fund (GF) Pandemic Influenza, HHS Hospital Preparedness Program (HPP) Funding Scope of Work

1. Service Overview

This Agreement is entered into between the California Department of Public Health, hereinafter referred to as "CDPH" and the County of Monterey, hereinafter referred to as the "LHD" and/or "Local HPP Entity". LHD or Local HPP Entity agrees to provide to CDPH the services described herein.

Activities must be in accordance with the Centers for Disease Control and Prevention (CDC) and Hospital Preparedness Program (HPP) 2011-12 Program Guidance, State General Fund (GF) Pandemic Influenza, Public Health Emergency Preparedness (PHEP) Comprehensive Agreement Application 2011-12, Plan and Budget.

2. Service Location

The services shall be performed at applicable facilities in the County of Monterey.

3. Service Hours

The services shall be provided during normal LHD and/or Local HPP Entity working hours and days, as well as other hours and days the LHD deems appropriate.

4. Project Representatives

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

Department of Public Health EPO Project Officer Stacy Sher Telephone: (916) 445-9192 Fax: (916) 650-6420 Email: stacy.sher@cdph.ca.gov	County of Monterey Lin McCray, Public Health Preparedness Coordinator (831) 755-4739 Fax: (831) 796-8589 Email: mccrayl@co.monterey.ca.us
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B. Direct all inquiries to:

Department of Public Health Emergency Preparedness Office Attention: Local Management Unit MS 7002 P.O. Box 997377 Sacramento, CA 95899-7377 Telephone: (916) 650-6416 Fax: (916) 650-6420	County of Monterey Lin McCray, Public Health Preparedness Coordinator 1270 Natividad Road Salinas, CA 93906 (831) 755-4739 Fax: (831) 796-8589 Email: mccrayl@co.monterey.ca.us
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- C. Either party may make changes to the information above by giving written notice to the other party. Said changes shall not require an amendment to this agreement.

5. Services to be Performed

LHD and/or Local HPP Entity shall perform services as outlined in accordance with the Public Health Emergency Preparedness, State GF Pandemic Influenza and HHS Hospital Preparedness Cooperative Agreement Application, Work Plans, and Budgets.

6. Allowable Informal Scope of Work Changes

- A. The LHD and/or Local HPP Entity or CDPH may propose informal changes or revisions to the activities, tasks, deliverables and/or performance time frames specified in the Scope of Work (SOW), provided such changes do not alter the overall goals and basic purpose of the agreement.
- B. Informal SOW changes may include the substitution of specified activities or tasks; the alteration or substitution of agreement deliverables and modifications to anticipated completion/target dates.
- C. Informal SOW changes processed hereunder shall not require a formal agreement amendment, provided the LHD's and/or Local HPP Entity's annual budget does not increase or decrease as a result of the informal SOW change.
- D. Unless otherwise stipulated in this agreement, all informal SOW changes and revisions are subject to prior written approval by the CDPH.
- E. In implementing this provision, CDPH will provide a format for the LHD's and/or Local HPP Entity's use to request informal SOW changes.

7. Reporting Requirements

- A. Semi-annual written progress reports and expenditure reports must be submitted according to the schedule shown below. The purpose of the progress reports and expenditure reports are to document activities and expenditure of funds.

Start of each grant through mid-year point	April 2, 2012
Start of each grant through end of each grant	November 1, 2012

- B. Each progress report shall include, but not be limited to, data and information required by statute and information needed to satisfy federal reporting and CDPH monitoring requirements. The reports shall be submitted in accordance with procedures and a format required by CDPH.

8. Expenditure and Program Requirements

- A. In accordance with the LHD and/or Local HPP Entity signed Certification Against Supplanting (Exhibit E), funds shall not be used to supplant funding for existing levels of services and will only be used for the purposes designated herein.
- B. In executing this Agreement, the LHD and/or Local HPP Entity assures that it will comply with the LHD and/or Local HPP Entity Comprehensive Agreement Application, Work Plans and Budget approved by CDPH.
- C. Funds made available are limited to activities approved in the Work Plans and Budgets. Any changes to the Work Plans or Budgets need prior approval from CDPH before implementing. Any contracts or subcontracts needing approval from Project Officer must be submitted prior to spending those funds.

Exhibit B
2011-12 CDC Public Health Emergency Preparedness (PHEP), State General Fund (GF)
Pandemic Influenza, HHS Hospital Preparedness Program (HPP) Funding
Budget Detail and Payment Provisions

1. Payment Provisions

- A. CDPH will make payments to the LHD and/or Local HPP Entity as authorized in State statute and in accordance with the annual expenditure authority granted to CDPH in the California Budget Act. Payments shall be made in accordance with Exhibit B, Attachment 1. Payment beyond the first quarter shall be contingent upon the approval of the LHD's and/or Local HPP Entity's funding Application, Work Plan, and Budget and satisfactory progress in implementing the provisions of the Work Plan, as determined by CDPH. Final payment is contingent upon receiving acceptable progress and expenditure reports submitted in accordance with timelines, formats and specifications to be provided by CDPH. **Note:** Both HPP and the State GF Pandemic Influenza require submission of invoice forms to be reimbursed.
- B. Reconciliation with the payments shall be through a semi-annual expenditure report and an annual reconciliation report. These reports shall be submitted in accordance with timelines, formats and specifications to be provided by CDPH. Expenditure reports and annual reconciliation report should be sent to:
- California Department of Public Health
Emergency Preparedness Office
Attn: Local Management Unit
MS 7002
P.O. Box 997377
Sacramento, CA 95899-7377
- C. The LHD and/or Local HPP Entity shall deposit advance federal fund payments received from CDPH into separate Trust Funds (hereafter called Federal Fund), established solely for the purposes of implementing the activities described in the LHD's and/or Local HPP Entity's approved Work Plan and Budget and Agreement before transferring or expending the funds for any of the uses allowed. CDPH requires that the LHD and/or Local HPP Entity set up separate Federal Funds for PHEP CDC and HPP funds.
- D. The LHD and/or Local HPP Entity agrees that any refunds, rebates, credits, or other amounts (including any interest thereon) accruing to or received by the LHD and/or Local HPP Entity under this Agreement shall be deposited into the Federal Fund established solely for the purposes of implementing the activities described in the LHD's and/or Local HPP Entity's approved Work Plan and Budget and Agreement before transferring or expending the funds for any of the uses allowed.

- E. The interest earned on moneys in the Federal Fund shall accrue to the benefit of the Federal Fund and shall be expended for the same purposes as other moneys in the Federal Fund.
- F. Any refunds, rebates, credits, or other amounts in the Federal Fund shall accrue to the benefit of the Federal Fund and shall be expended for the same purposes as other moneys in the Federal Fund.
- G. Federal Fund reports will require the LHD and/or Local HPP Entity/City Auditor Controller's or other authorized signature, certifying each report's accuracy and availability of supporting documentation for the State's or the federal government's review.

2. Budget Contingency Clause

- A. It is mutually agreed that if the Budget Act and/or other state statute of the current year and/or any subsequent years covered under this Agreement does not appropriate sufficient funds for the program, this Agreement shall be of no further force and effect. In this event, CDPH shall have no liability to pay any funds whatsoever to LHD and/or Local HPP Entity or to furnish any other considerations under this Agreement and LHD and/or Local HPP Entity shall not be obligated to perform any provisions of this Agreement except as to periods for which funding has been provided.
- B. If funding for any fiscal year is reduced or deleted by the Budget Act for purposes of this program, CDPH shall have the option to either cancel this Agreement with no liability occurring to CDPH, or offer an Agreement amendment to LHD and/or Local HPP Entity to reflect the reduced amount.

3. Amounts Payable

- A. The amount payable under this Agreement shall not exceed:
 - 1. \$323,914, CDC PHEP Base Allocation.
 - 2. \$0, Laboratory Allocation.
 - 3. \$0, Laboratory Trainee Stipends.
 - 4. \$0, Laboratory Training Assistance Grant.
 - 5. \$0, Cities Readiness Initiative Funds.
 - 6. \$267,443, HPP Allocation.
 - 7. \$74,662, State GF Pandemic Influenza Allocation.

4. Redirection of Funds

Any redirection of funds requires prior approval by CDPH.

5. Federal Cooperative Agreement Funds

- A. It is mutually understood between the parties that this Agreement may have been written before ascertaining the availability of congressional appropriation of funds, for the mutual benefit of both parties, in order to avoid program and fiscal delays which would occur if the Agreement were executed after that determination was made.
- B. The Agreement is valid and enforceable only if sufficient funds are made available to CDPH by the United States Government for the fiscal years covered by the term of this Agreement. In addition, this Agreement is subject to any additional restrictions, limitations, or conditions enacted by the Congress or any statute enacted by the Congress, which may affect the provisions, terms or funding of this Agreement in any manner.
- C. It is mutually agreed that if Congress does not appropriate sufficient funds for the program, this Agreement shall be amended to reflect any reduction in funds.

6. Accountability Requirements

- A. CDPH may recoup funds that are not spent for allowable purposes as specified in State statute and determined by CDPH. CDPH will notify the LHD and/or Local HPP Entity prior to recouping such funds.
- B. CDPH may withhold payments if the LHD and/or Local HPP Entity is not in compliance with the terms and conditions of this Agreement or the approved local funding Application, Work Plans and Budgets CDPH may withhold payments if the LHD cannot demonstrate progress toward protecting the jurisdiction from the threat of a bioterrorist attack, infectious disease outbreak or other public health threat or emergency as described in its progress and expenditure reports. CDPH may withhold or reduce payments if the LHD's and/or Local HPP Entity's expenditure reports indicate that quarterly payments remain unspent. CDPH will notify local health officials prior to withholding or reducing such payments.
- C. The LHD and/or Local HPP Entity shall return unexpended funds unless carry over of such funds is approved by CDPH and PHEP or the HPP grant period is extended.
- D. The LHD and/or Local HPP Entity shall maintain the supporting documentation that substantiates all expenditure reports for a minimum of seven years.
- E. Once every three years LHDs and/or Local HPP Entities are subject to an audit by CDPH. The audit will consist of the review of financial records to ensure the existence of proper documentation and the propriety of claims submitted to the State for reimbursement. Such review will include substantive testing:

- To determine that recorded and reported program funds awarded are expended in accordance with terms of the grant Agreement with CDPH;
- To determine that payments are for actual costs and reflect amounts billed to the State;
- To determine that payments are for services rendered;
- To determine that grant funds did not supplant existing levels of State and local funding for this program.

7. Unobligated Balances

At any time during the term of this Agreement, CDPH may request LHDs and/or Local HPP Entity's to identify unobligated funds. The presentation of this information shall be in a manner prescribed by CDPH to include identification of unobligated funds.

8. Terms of Agreement

- A. **CDC PHEP:** This Agreement provides the local funding award for the CDC PHEP federal cooperative Agreement Budget period August 10, 2011 through August 9, 2012. All services must be rendered by and purchases encumbered by August 9, 2012, unless grant is extended. Funds allocated under this Agreement must be liquidated by October 1, 2012.
- B. **State GF Pandemic Influenza:** This Agreement provides the local funding award for the State GF Pandemic Influenza cooperative Agreement Budget period July 1, 2011 through June 30, 2012. All services must be rendered by and purchases encumbered by June 30, 2012. Funds allocated under this Agreement must be liquidated by June 30, 2014. In order for CDPH to liquidate funds by June 30, 2014, a final invoice must be received by CDPH on or before May 1, 2014.
- C. **HPP:** This Agreement provides the local funding award for the HPP federal cooperative Agreement Budget period July 1, 2011 through June 30, 2012. All services must be rendered by and purchases encumbered by June 30, 2012, unless grant is extended. Funds allocated under this Agreement must be liquidated by August 30, 2012.

Exhibit B, Attachment 1 Criteria for Payments
2011-12 CDC Public Health Emergency Preparedness (PHEP), State General Fund (GF) Pandemic Influenza,
HHS Hospital Preparedness Program (HPP) Funding
2011-12 Agreement

County of Monterey
2011-12
Agreement No. EPO 11-27

		CDC PHEP Base and Cites Readiness Initiative (CRI)	Reference Lab Allocations (\$217,740 total to each Reference Lab)	Lab Trainee Stipends (\$30,000 each)	Lab Training Assistance Grants (\$15,500 each)	HPP	
1st Payment		CDCPH must receive following signed Agreement documents: <ul style="list-style-type: none"> Signed Agreement Page Non Supplantation Certification Form Certification Regarding Lobbying Submission of Work Plan Submission of Budget 	CDCPH must receive following signed Agreement documents: <ul style="list-style-type: none"> Signed Agreement Page Non Supplantation Certification Form Certification Regarding Lobbying Submission of Work Plan Submission of Budget 	CDCPH must receive the following: <ul style="list-style-type: none"> Signed Agreement documents Lab trainee(s) must be included in Lab budget A copy of the LFS letter approving the trainee Name and proposed hire date of the trainee A training plan that provides 6 months of training with a completion date no later than Aug 9, 2012. Only 12 traineeships available 	LHD must: <ul style="list-style-type: none"> be an LRN Sentinel laboratory and submitted signed Agreement documents have applied for and received approval for at least one lab trainee stipend be a member of a training consortium with at least one other county indicate what other county(ies) are part of the consortium and provide a letter from at least one other consortium partner agreeing to the arrangement. 	CDCPH must receive following signed Agreement documents: <ul style="list-style-type: none"> Signed Agreement Page Non Supplantation Certification Form Certification Regarding Lobbying Five Letters of Support (Refer to the 11-12 Application Guidance) Submission of Work Plan Submission of Budget Submission of Health Care Facility (HCF) Form 	CDCPH must receive following signed Agreement documents: <ul style="list-style-type: none"> Signed Agreement Page Non Supplantation Certification Form Certification Regarding Lobbying Submission of Work Plan Submission of Budget
	Criteria						
2nd Payment	Payment	25% of CDC PHEP Base and/or CRI Allocation	25% of Lab Allocation (not including lab trainees)	Award is dependent on number of trainees requested AND availability of traineeships AND submission of all required documents	Award is dependent on availability of assistantship funds AND meeting all requirements above	25% of HPP H1N1 Allocation	25% of State Allocation
	Criteria	<ul style="list-style-type: none"> 1st Payment Criteria must be met the Work plan and Budget must be approved All required application documents must be submitted 	<ul style="list-style-type: none"> 1st Payment Criteria must be met the Work plan and Budget must be approved All required application documents must be submitted 	N/A	N/A	<ul style="list-style-type: none"> 1st Payment Criteria must be met the HPP Work Plan and HPP Budget must be approved An invoice with actual HPP expenditures above the 25% advance amount must be submitted to CDCPH All required application documents must be submitted 	<ul style="list-style-type: none"> 1st Payment Criteria must be met the CDCPH Work Plan and HPP Budget must be approved An invoice with actual HPP expenditures above the 25% advance amount must be submitted to CDCPH All required application documents must be submitted
3rd Payment	Payment	25% of CDC PHEP Base and/or CRI Allocation	25% of Lab Allocation (not including lab trainees)	N/A	N/A	CDCPH will pay the Local HPP Entity for actual expenditures above the 25% advance (i.e. - if a local entity submits and invoice for 35%, CDCPH will pay them 10% because the local entity already received 25%). All contracts or subcontracts above \$5k must be approved by CDCPH prior to spending funds or seeking reimbursement.	CDCPH will pay the Local HPP Entity for actual expenditures (above the 2nd payment). All contracts or subcontracts above \$5k must be approved by CDCPH prior to spending funds or seeking reimbursement.
	Criteria	<ul style="list-style-type: none"> 1st & 2nd Payment Criteria must be met prior year-end progress report must be submitted 	<ul style="list-style-type: none"> 1st & 2nd Payment Criteria must be met prior year-end progress report must be submitted 	N/A	N/A	<ul style="list-style-type: none"> 1st & 2nd Payment Criteria must be met prior year-end progress report must be submitted An invoice with actual HPP expenditures must be submitted to CDCPH 	<ul style="list-style-type: none"> 1st & 2nd Payment Criteria must be met prior year-end progress report must be submitted An invoice with actual HPP expenditures must be submitted to CDCPH
Final Payment	Criteria	<ul style="list-style-type: none"> 1st, 2nd & 3rd Payment Criteria must be met current mid-year progress report must be submitted 	<ul style="list-style-type: none"> 1st, 2nd & 3rd Payment Criteria must be met current mid-year progress report must be submitted 	N/A	N/A	<ul style="list-style-type: none"> 1st, 2nd & 3rd Payment Criteria must be met current mid-year progress report must be submitted An invoice with actual HPP expenditures must be submitted to CDCPH 	<ul style="list-style-type: none"> 1st, 2nd & 3rd Payment Criteria must be met current mid-year progress report must be submitted An invoice with actual HPP expenditures must be submitted to CDCPH
	Payment	25% of CDC PHEP Base and/or CRI Allocation	25% of Lab Allocation or remaining balance	N/A	N/A	CDCPH will pay the Local HPP Entity for actual expenditures (above the 3rd payment). All contracts or subcontracts above \$5k must be approved by CDCPH prior to spending funds or seeking reimbursement.	CDCPH will pay the Local HPP Entity for actual expenditures (above the 3rd payment). All contracts or subcontracts above \$5k must be approved by CDCPH prior to spending funds or seeking reimbursement.

Exhibit C
2011-12 CDC Public Health Emergency Preparedness (PHEP), State General Fund (GF) Pandemic Influenza, HHS Hospital Preparedness Program (HPP) Funding Additional Provisions

1. Additional Incorporated Exhibits

The following documents and any subsequent updates are not attached, but are incorporated herein and made a part hereof by this reference. These documents may be updated periodically by CDPH, as required by program directives. CDPH shall provide the LHD and/or Local HPP Entity with copies of said documents and any periodic updates thereto, under separate cover. CDPH will maintain on file all documents referenced herein and any subsequent updates.

- A. 2011-2012 Federal Guidance Documents:
 - 2011-12 Centers for Disease Control and Prevention (CDC) Public Health Emergency Preparedness (PHEP) Cooperative Agreement Guidance.
 - 2011-12 US Department of Health and Human Services Hospital Preparedness Program (HPP).
- B. CDPH Guidance to LHDs and/or Local HPP Entities for CDC PHEP, State General Fund (GF) Pandemic Influenza, and/or HPP Program Funds.
- C. LHD's and/or Local HPP Entity's Public Health Emergency Preparedness Comprehensive Agreement Application, Work Plans, and Budgets and all attachments (refer to the CDPH Guidance to LHDs and/or Local HPP Entities for all attachments).

2. Contract Amendments

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

3. Cancellation / Termination

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

- B. Upon receipt of a notice of termination or cancellation from CDPH, LHD and/or Local HPP Entity shall take immediate steps to stop performance and to cancel or reduce subsequent contract costs.
- C. LHD and/or Local HPP Entity shall be entitled to payment for all allowable costs authorized under this agreement, including authorized non-cancelable obligations incurred up to the date of termination or cancellation, provided such expenses do not exceed the stated maximum amounts payable.
- D. Agreement termination or cancellation shall be effective as of the date indicated in CDPH' notification to LHD and/or Local HPP Entity. The notice shall stipulate any final performance, invoicing or payment requirements.
- E. In the event of early termination or cancellation, LHD and/or Local HPP Entity shall be entitled to compensation for services performed satisfactorily under this Agreement and expenses incurred up to the date of cancellation and any non-cancelable obligations incurred in support of this Agreement.

4. Dispute Resolution Process

- A. This provision supplements provision 15 of Exhibit D(F).
- B. CDPH may recoup from a LHD and/or Local HPP Entity any funds allocated pursuant to this article that are unspent or that are not expended for purposes specified in subdivision (d).
- C. CDPH may also recoup funds expended by the LHD and/or Local HPP Entity in violation of subdivision (d) of Section 101315 of the California Health and Safety Code.
- D. CDPH may withhold quarterly payments of funds to a LHD and/or Local HPP Entity if the LHD and/or Local HPP Entity is not in compliance with this article or the terms of that LHD's and/or Local HPP Entity's work plans as approved by CDPH.
- E. Before any funds are recouped or withheld from a LHD and/or Local HPP Entity, CDPH shall discuss with local health officials or Local HPP Entities the status of the unspent moneys or the disputed use of the funds, or both.

5. Financial and Compliance Audit Requirements

- A. Paragraph d of provision 16 in Exhibit D(F) is amended to read as follows:
 - d. The audit report must identify the Contractor's legal name and the number assigned to this Agreement. The audit report shall be due

within 30 days after the completion of the audit. The LHD/HPP Entity shall keep a copy of the audit report on file and have it available for review by CDPH or auditors upon request.

Special Terms and Conditions

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

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

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

The terms "California Department of Public Health" and "CDPH" shall have the same meaning and refer to the California State agency that is a party to this Agreement.

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

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1. Federal Equal Opportunity Requirements

(Applicable to all federally funded agreements entered into by the California Department of Public Health (CDPH) formerly known as California Department of Health Services (CDHS).)

- a. The Contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, national origin, physical or mental handicap, disability, age or status as a disabled veteran or veteran of the Vietnam era. The Contractor will take affirmative action to ensure that qualified applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex, national origin, physical or mental handicap, disability, age or status as a disabled veteran or veteran of the Vietnam era. Such action shall include, but not be limited to the following: employment, upgrading, demotion or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and career development opportunities and selection for training, including apprenticeship. The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the Federal Government or CDPH, setting forth the provisions of the Equal Opportunity clause, Section 503 of the Rehabilitation Act of 1973 and the affirmative action clause required by the Vietnam Era Veterans' Readjustment Assistance Act of 1974 (38 U.S.C. 4212). Such notices shall state the Contractor's obligation under the law to take affirmative action to employ and advance in employment qualified applicants without discrimination based on their race, color, religion, sex, national origin physical or mental handicap, disability, age or status as a disabled veteran or veteran of the Vietnam era and the rights of applicants and employees.
- b. The Contractor will, in all solicitations or advancements for employees placed by or on behalf of the Contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, national origin physical or mental handicap, disability, age or status as a disabled veteran or veteran of the Vietnam era.
- c. The Contractor will send to each labor union or representative of workers with which it has a collective bargaining agreement or other contract or understanding a notice, to be provided by the Federal Government or the State, advising the labor union or workers' representative of the Contractor's commitments under the provisions herein and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
- d. The Contractor will comply with all provisions of and furnish all information and reports required by Section 503 of the Rehabilitation Act of 1973, as amended, the Vietnam Era Veterans' Readjustment Assistance Act of 1974 (38 U.S.C. 4212) and of the Federal Executive Order No. 11246 as amended, including by Executive Order 11375, 'Amending Executive Order 11246 Relating to Equal Employment Opportunity,' and as supplemented by regulation at 41 CFR part 60, "Office of the Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor," and of the rules, regulations, and relevant orders of the Secretary of Labor.
- e. The Contractor will furnish all information and reports required by Federal Executive Order No. 11246 as amended, including by Executive Order 11375, 'Amending Executive Order 11246 Relating to Equal Employment Opportunity,' and as supplemented by regulation at 41 CFR part 60, "Office of the Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor," and the Rehabilitation Act of 1973, and by the rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to its books, records, and accounts by the State and its designated representatives and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.
- f. In the event of the Contractor's noncompliance with the requirements of the provisions herein or with any federal rules, regulations, or orders which are referenced herein, this Agreement may be cancelled, terminated, or suspended in whole or in part and the Contractor may be declared ineligible for further federal and state contracts in accordance with procedures authorized in Federal Executive Order No. 11246 as amended and such other sanctions may be imposed and remedies invoked as provided in Federal Executive Order No. 11246 as amended, including by Executive Order 11375, 'Amending Executive Order 11246 Relating to Equal Employment Opportunity,' and as supplemented by regulation at 41 CFR part 60, "Office of the Federal Contract Compliance Programs, Equal Employment

Opportunity, Department of Labor," or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.

- g. The Contractor will include the provisions of Paragraphs a through g in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to Federal Executive Order No. 11246 as amended, including by Executive Order 11375, 'Amending Executive Order 11246 Relating to Equal Employment Opportunity,' and as supplemented by regulation at 41 CFR part 60, "Office of the Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor," or Section 503 of the Rehabilitation Act of 1973 or (38 U.S.C. 4212) of the Vietnam Era Veteran's Readjustment Assistance Act, so that such provisions will be binding upon each subcontractor or vendor. The Contractor will take such action with respect to any subcontract or purchase order as the Director of the Office of Federal Contract Compliance Programs or CDPH may direct as a means of enforcing such provisions including sanctions for noncompliance provided, however, that in the event the Contractor becomes involved in, or is threatened with litigation by a subcontractor or vendor as a result of such direction by CDPH, the Contractor may request in writing to CDPH, who, in turn, may request the United States to enter into such litigation to protect the interests of the State and of the United States.

2. Travel and Per Diem Reimbursement

(Applicable if travel and/or per diem expenses are reimbursed with agreement funds.)

Reimbursement for travel and per diem expenses from CDPH under this Agreement shall, unless otherwise specified in this Agreement, be at the rates currently in effect, as established by the California Department of Personnel Administration (DPA), for nonrepresented state employees as stipulated in CDPH's Travel Reimbursement Information Exhibit. If the DPA rates change during the term of the Agreement, the new rates shall apply upon their effective date and no amendment to this Agreement shall be necessary. Exceptions to DPA rates may be approved by CDPH upon the submission of a statement by the Contractor indicating that such rates are not available to the Contractor. No travel outside the State of California shall be reimbursed without prior authorization from CDPH. Verbal authorization should be confirmed in writing. Written authorization may be in a form including fax or email confirmation.

3. Procurement Rules

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

a. Equipment definitions

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

- (1) **Major equipment/property:** A tangible or intangible item having a base unit cost of **\$5,000 or more** with a life expectancy of one (1) year or more and is either furnished by CDPH or the cost is reimbursed through this Agreement. Software and videos are examples of intangible items that meet this definition.
 - (2) **Minor equipment/property:** A tangible item having a base unit cost of **less than \$5,000** with a life expectancy of one (1) year or more and is either furnished by CDPH or the cost is reimbursed through this Agreement.
- b. **Government and public entities** (including state colleges/universities and auxiliary organizations), whether acting as a contractor and/or subcontractor, may secure all commodities, supplies, equipment and services related to such purchases that are required in performance of this Agreement. Said procurements are subject to Paragraphs d through h of Provision 3. Paragraph c of Provision 3 shall also apply, if equipment purchases are delegated to subcontractors that are nonprofit organizations or commercial businesses.
- c. **Nonprofit organizations and commercial businesses**, whether acting as a contractor and/or subcontractor, may secure commodities, supplies, equipment and services related to such purchases for performance under this Agreement.

- (1) Equipment purchases shall not exceed \$50,000 annually.

To secure equipment above the annual maximum limit of \$50,000, the Contractor shall make arrangements through the appropriate CDPH Program Contract Manager, to have all remaining equipment purchased through CDPH's Purchasing Unit. The cost of equipment purchased by or through CDPH shall be deducted from the funds available in this Agreement. Contractor shall submit to the CDPH Program Contract Manager a list of equipment specifications for those items that the State must procure. The State may pay the vendor directly for such arranged equipment purchases and title to the equipment will remain with CDPH. The equipment will be delivered to the Contractor's address, as stated on the face of the Agreement, unless the Contractor notifies the CDPH Program Contract Manager, in writing, of an alternate delivery address.

- (2) All equipment purchases are subject to Paragraphs d through h of Provision 3. Paragraph b of Provision 3 shall also apply, if equipment purchases are delegated to subcontractors that are either a government or public entity.
- (3) Nonprofit organizations and commercial businesses, shall use a procurement system that meets the following standards:
 - (a) Maintain a code or standard of conduct that shall govern the performance of its officers, employees, or agents engaged in awarding procurement contracts. No employee, officer, or agent shall participate in the selection, award, or administration of a procurement, or bid contract in which, to his or her knowledge, he or she has a financial interest.
 - (b) Procurements shall be conducted in a manner that provides, to the maximum extent practical, open, and free competition.
 - (c) Procurements shall be conducted in a manner that provides for all of the following:
 - [1] Avoid purchasing unnecessary or duplicate items.
 - [2] Equipment solicitations shall be based upon a clear and accurate description of the technical requirements of the goods to be procured.
 - [3] Take positive steps to utilize small and veteran owned businesses.
- d. Unless waived or otherwise stipulated in writing by CDPH, prior written authorization from the appropriate CDPH Program Contract Manager will be required before the Contractor will be reimbursed for any purchase of \$5,000 or more for commodities, supplies, equipment, and services related to such purchases. The Contractor must provide in its request for authorization all particulars necessary, as specified by CDPH, for evaluating the necessity or desirability of incurring such costs. The term "purchase" excludes the purchase of services from a subcontractor and public utility services at rates established for uniform applicability to the general public.
- e. In special circumstances, determined by CDPH (e.g., when CDPH has a need to monitor certain purchases, etc.), CDPH may require prior written authorization and/or the submission of paid vendor receipts for any purchase, regardless of dollar amount. CDPH reserves the right to either deny claims for reimbursement or to request repayment for any Contractor and/or subcontractor purchase that CDPH determines to be unnecessary in carrying out performance under this Agreement.
- f. The Contractor and/or subcontractor must maintain a copy or narrative description of the procurement system, guidelines, rules, or regulations that will be used to make purchases under this Agreement. The State reserves the right to request a copy of these documents and to inspect the purchasing practices of the Contractor and/or subcontractor at any time.
- g. For all purchases, the Contractor and/or subcontractor must maintain copies of all paid vendor invoices, documents, bids and other information used in vendor selection, for inspection or audit. Justifications supporting the absence of bidding (i.e., sole source purchases) shall also be maintained on file by the Contractor and/or subcontractor for inspection or audit.
- h. CDPH may, with cause (e.g., with reasonable suspicion of unnecessary purchases or use of

inappropriate purchase practices, etc.), withhold, cancel, modify, or retract the delegated purchase authority granted under Paragraphs b and/or c of Provision 3 by giving the Contractor no less than 30 calendar days written notice.

4. Equipment Ownership / Inventory / Disposition

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

- a. Wherever the terms equipment and/or property are used in Provision 4, the definitions in Provision 3, Paragraph a, shall apply.

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

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

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

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

- (a) Include in the inventory report, equipment and/or property in the Contractor's possession and/or in the possession of a subcontractor (including independent consultants).
- (b) Submit the inventory report to CDPH according to the instructions appearing on the inventory form or issued by the CDPH Program Contract Manager.
- (c) Contact the CDPH Program Contract Manager to learn how to remove, trade-in, sell, transfer or survey off, from the inventory report, expired equipment and/or property that is no longer wanted, usable or has passed its life expectancy. Instructions will be supplied by CDPH's Asset Management Unit.

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

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

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

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

- e. Unless otherwise stipulated by the program funding this Agreement, equipment and/or property purchased/reimbursed with agreement funds or furnished by CDPH under the terms of this Agreement, shall only be used for performance of this Agreement or another CDPH agreement.
- f. Within sixty (60) calendar days prior to the termination or end of this Agreement, the Contractor shall provide a final inventory report of equipment and/or property to the CDPH Program Contract Manager and shall, at that time, query CDPH as to the requirements, including the manner and method, of returning state equipment and/or property to CDPH. Final disposition of equipment and/or property shall be at CDPH expense and according to CDPH instructions. Equipment and/or property disposition instructions shall be issued by CDPH immediately after receipt of the final inventory report. At the termination or conclusion of this Agreement, CDPH may at its discretion, authorize the continued use of state equipment and/or property for performance of work under a different CDPH agreement.

g. **Motor Vehicles**

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

- (1) If motor vehicles are purchased/reimbursed with agreement funds or furnished by CDPH under the terms of this Agreement, within thirty (30) calendar days prior to the termination or end of this Agreement, the Contractor and/or Subcontractor shall return such vehicles to CDPH and shall deliver all necessary documents of title or registration to enable the proper transfer of a marketable title to CDPH.
- (2) If motor vehicles are purchased/reimbursed with agreement funds or furnished by CDPH under the terms of this Agreement, the State of California shall be the legal owner of said motor vehicles and the Contractor shall be the registered owner. The Contractor and/or a subcontractor may only use said vehicles for performance and under the terms of this Agreement.
- (3) The Contractor and/or Subcontractor agree that all operators of motor vehicles, purchased/reimbursed with agreement funds or furnished by CDPH under the terms of this Agreement, shall hold a valid State of California driver's license. In the event that ten or more passengers are to be transported in any one vehicle, the operator shall also hold a State of California Class B driver's license.
- (4) If any motor vehicle is purchased/reimbursed with agreement funds or furnished by CDPH under the terms of this Agreement, the Contractor and/or Subcontractor, as applicable, shall provide, maintain, and certify that, at a minimum, the following type and amount of automobile liability insurance is in effect during the term of this Agreement or any extension period during which any vehicle remains in the Contractor's and/or Subcontractor's possession:

Automobile Liability Insurance

- (a) The Contractor, by signing this Agreement, hereby certifies that it possesses or will obtain automobile liability insurance in the amount of \$1,000,000 per occurrence for bodily injury and property damage combined. Said insurance must be obtained and made effective upon the delivery date of any motor vehicle, purchased/reimbursed with agreement funds or furnished by CDPH under the terms of this Agreement, to the Contractor and/or Subcontractor.
- (b) The Contractor and/or Subcontractor shall, as soon as practical, furnish a copy of the certificate of insurance to the CDPH Program Contract Manager. The certificate of insurance shall identify the CDPH contract or agreement number for which the insurance applies.
- (c) The Contractor and/or Subcontractor agree that bodily injury and property damage liability insurance, as required herein, shall remain in effect at all times during the term of this Agreement or until such time as the motor vehicle is returned to CDPH.
- (d) The Contractor and/or Subcontractor agree to provide, at least thirty (30) days prior to the expiration date of said insurance coverage, a copy of a new certificate of insurance evidencing continued coverage, as indicated herein, for not less than the remainder of the term of this

Agreement, the term of any extension or continuation thereof, or for a period of not less than one (1) year.

- (e) The Contractor and/or Subcontractor, if not a self-insured government and/or public entity, must provide evidence, that any required certificates of insurance contain the following provisions:
 - [1] The insurer will not cancel the insured's coverage without giving thirty (30) calendar days prior written notice to the State (California Department of Public Health (CDPH)).
 - [2] The State of California, its officers, agents, employees, and servants are included as additional insureds, but only with respect to work performed for the State under this Agreement and any extension or continuation of this Agreement.
 - [3] The insurance carrier shall notify CDPH, in writing, of the Contractor's failure to pay premiums; its cancellation of such policies; or any other substantial change, including, but not limited to, the status, coverage, or scope of the required insurance. Such notices shall contain a reference to each agreement number for which the insurance was obtained.
- (f) The Contractor and/or Subcontractor is hereby advised that copies of certificates of insurance may be subject to review and approval by the Department of General Services (DGS), Office of Risk and Insurance Management. The Contractor shall be notified by CDPH, in writing, if this provision is applicable to this Agreement. If DGS approval of the certificate of insurance is required, the Contractor agrees that no work or services shall be performed prior to obtaining said approval.
- (g) In the event the Contractor and/or Subcontractor fails to keep insurance coverage, as required herein, in effect at all times during vehicle possession, CDPH may, in addition to any other remedies it may have, terminate this Agreement upon the occurrence of such event.

5. Subcontract Requirements

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

- a. Prior written authorization will be required before the Contractor enters into or is reimbursed for any subcontract for services costing \$5,000 or more. Except as indicated in Paragraph a(3) herein, when securing subcontracts for services exceeding \$5,000, the Contractor shall obtain at least three bids or justify a sole source award.
 - (1) The Contractor must provide in its request for authorization, all information necessary for evaluating the necessity or desirability of incurring such cost.
 - (2) The State may identify the information needed to fulfill this requirement.
 - (3) Subcontracts performed by the following entities or for the service types listed below are exempt from the bidding and sole source justification requirements:
 - (a) A local governmental entity or the federal government,
 - (b) A State college or university from any State,
 - (c) A Joint Powers Authority,
 - (d) An auxiliary organization of a California State University or a California community college,
 - (e) A foundation organized to support the Board of Governors of the California Community Colleges,
 - (f) An auxiliary organization of the Student Aid Commission established under Education Code § 69522,
 - (g) Entities of any type that will provide subvention aid or direct services to the public,
 - (h) Entities and/or service types identified as exempt from advertising in State Contracting Manual 5.80. View this publication at the following Internet address:

<http://www.ols.dgs.ca.gov/Contract+Manual/Chapters4through6.htm>.

- b. CDPH reserves the right to approve or disapprove the selection of subcontractors and with advance written notice, require the substitution of subcontractors and require the Contractor to terminate subcontracts entered into in support of this Agreement.
 - (1) Upon receipt of a written notice from CDPH requiring the substitution and/or termination of a subcontract, the Contractor shall take steps to ensure the completion of any work in progress and select a replacement, if applicable, within 30 calendar days, unless a longer period is agreed to by CDPH.
- c. Actual subcontracts (i.e., written agreement between the Contractor and a subcontractor) of \$5,000 or more are subject to the prior review and written approval of CDPH. CDPH may, at its discretion, elect to waive this right. All such waivers shall be confirmed in writing by CDPH.
- d. Contractor shall maintain a copy of each subcontract entered into in support of this Agreement and shall, upon request by CDPH, make copies available for approval, inspection, or audit.
- e. CDPH assumes no responsibility for the payment of subcontractors used in the performance of this Agreement. Contractor accepts sole responsibility for the payment of subcontractors used in the performance of this Agreement.
- f. The Contractor is responsible for all performance requirements under this Agreement even though performance may be carried out through a subcontract.
- g. The Contractor shall ensure that all subcontracts for services include provision(s) requiring compliance with applicable terms and conditions specified in this Agreement.
- h. The Contractor agrees to include the following clause, relevant to record retention, in all subcontracts for services:

"(Subcontractor Name) agrees to maintain and preserve, until three years after termination of (Agreement Number) and final payment from CDPH to the Contractor, to permit CDPH or any duly authorized representative, to have access to, examine or audit any pertinent books, documents, papers and records related to this subcontract and to allow interviews of any employees who might reasonably have information related to such records."
- i. Unless otherwise stipulated in writing by CDPH, the Contractor shall be the subcontractor's sole point of contact for all matters related to performance and payment under this Agreement.
- j. Contractor shall, as applicable, advise all subcontractors of their obligations pursuant to the following numbered provisions of this Exhibit: 1, 2, 3, 4, 5, 6, 7, 8, 10, 11, 12, 13, 14, 17, 19, 20, 24, and 31 or other numbered provisions herein that deemed applicable.

6. Income Restrictions

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

7. Audit and Record Retention

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

- a. The Contractor and/or Subcontractor shall maintain books, records, documents, and other evidence, accounting procedures and practices, sufficient to properly reflect all direct and indirect costs of whatever nature claimed to have been incurred in the performance of this Agreement, including any matching costs and expenses. The foregoing constitutes "records" for the purpose of this provision.
- b. The Contractor's and/or subcontractor's facility or office or such part thereof as may be engaged in the performance of this Agreement and his/her records shall be subject at all reasonable times to inspection,

audit, and reproduction.

- c. Contractor agrees that CDPH, the Department of General Services, the Bureau of State Audits, or their designated representatives including the Comptroller General of the United States shall have the right to review and to copy any records and supporting documentation pertaining to the performance of this Agreement. Contractor agrees to allow the auditor(s) access to such records during normal business hours and to allow interviews of any employees who might reasonably have information related to such records. Further, the Contractor agrees to include a similar right of the State to audit records and interview staff in any subcontract related to performance of this Agreement. (GC 8546.7, CCR Title 2, Section 1896).
- d. The Contractor and/or Subcontractor shall preserve and make available his/her records (1) for a period of three years from the date of final payment under this Agreement, and (2) for such longer period, if any, as is required by applicable statute, by any other provision of this Agreement, or by subparagraphs (1) or (2) below.
 - (1) If this Agreement is completely or partially terminated, the records relating to the work terminated shall be preserved and made available for a period of three years from the date of any resulting final settlement.
 - (2) If any litigation, claim, negotiation, audit, or other action involving the records has been started before the expiration of the three-year period, the records shall be retained until completion of the action and resolution of all issues which arise from it, or until the end of the regular three-year period, whichever is later.
- e. The Contractor and/or Subcontractor shall comply with the above requirements and be aware of the penalties for violations of fraud and for obstruction of investigation as set forth in Public Contract Code § 10115.10, if applicable.
- f. The Contractor and/or Subcontractor may, at its discretion, following receipt of final payment under this Agreement, reduce its accounts, books and records related to this Agreement to microfilm, computer disk, CD ROM, or other data storage medium. Upon request by an authorized representative to inspect, audit or obtain copies of said records, the Contractor and/or Subcontractor must supply or make available applicable devices, hardware, and/or software necessary to view, copy and/or print said records. Applicable devices may include, but are not limited to, microfilm readers and microfilm printers, etc.
- g. The Contractor shall, if applicable, comply with the Single Audit Act and the audit reporting requirements set forth in OMB Circular A-133.

8. Site Inspection

The State, through any authorized representatives, has the right at all reasonable times to inspect or otherwise evaluate the work performed or being performed hereunder including subcontract supported activities and the premises in which it is being performed. If any inspection or evaluation is made of the premises of the Contractor or Subcontractor, the Contractor shall provide and shall require Subcontractors to provide all reasonable facilities and assistance for the safety and convenience of the authorized representatives in the performance of their duties. All inspections and evaluations shall be performed in such a manner as will not unduly delay the work.

9. Federal Contract Funds

(Applicable only to that portion of an agreement funded in part or whole with federal funds.)

- a. It is mutually understood between the parties that this Agreement may have been written before ascertaining the availability of congressional appropriation of funds, for the mutual benefit of both parties, in order to avoid program and fiscal delays which would occur if the Agreement were executed after that determination was made.
- b. This agreement is valid and enforceable only if sufficient funds are made available to the State by the United States Government for the fiscal years covered by the term of this Agreement. In addition, this

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

- c. It is mutually agreed that if the Congress does not appropriate sufficient funds for the program, this Agreement shall be amended to reflect any reduction in funds.
- d. CDPH has the option to invalidate or cancel the Agreement with 30-days advance written notice or to amend the Agreement to reflect any reduction in funds.

10. Intellectual Property Rights

a. Ownership

- (1) Except where CDPH has agreed in a signed writing to accept a license, CDPH shall be and remain, without additional compensation, the sole owner of any and all rights, title and interest in all Intellectual Property, from the moment of creation, whether or not jointly conceived, that are made, conceived, derived from, or reduced to practice by Contractor or CDPH and which result directly or indirectly from this Agreement.
- (2) For the purposes of this Agreement, Intellectual Property means recognized protectable rights and interest such as: patents, (whether or not issued) copyrights, trademarks, service marks, applications for any of the foregoing, inventions, trade secrets, trade dress, logos, insignia, color combinations, slogans, moral rights, right of publicity, author's rights, contract and licensing rights, works, mask works, industrial design rights, rights of priority, know how, design flows, methodologies, devices, business processes, developments, innovations, good will and all other legal rights protecting intangible proprietary information as may exist now and/or here after come into existence, and all renewals and extensions, regardless of whether those rights arise under the laws of the United States, or any other state, country or jurisdiction.
 - (a) For the purposes of the definition of Intellectual Property, "works" means all literary works, writings and printed matter including the medium by which they are recorded or reproduced, photographs, art work, pictorial and graphic representations and works of a similar nature, film, motion pictures, digital images, animation cells, and other audiovisual works including positives and negatives thereof, sound recordings, tapes, educational materials, interactive videos and any other materials or products created, produced, conceptualized and fixed in a tangible medium of expression. It includes preliminary and final products and any materials and information developed for the purposes of producing those final products. Works does not include articles submitted to peer review or reference journals or independent research projects.
- (3) In the performance of this Agreement, Contractor will exercise and utilize certain of its Intellectual Property in existence prior to the effective date of this Agreement. In addition, under this Agreement, Contractor may access and utilize certain of CDPH's Intellectual Property in existence prior to the effective date of this Agreement. Except as otherwise set forth herein, Contractor shall not use any of CDPH's Intellectual Property now existing or hereafter existing for any purposes without the prior written permission of CDPH. **Except as otherwise set forth herein, neither the Contractor nor CDPH shall give any ownership interest in or rights to its Intellectual Property to the other Party.** If during the term of this Agreement, Contractor accesses any third-party Intellectual Property that is licensed to CDPH, Contractor agrees to abide by all license and confidentiality restrictions applicable to CDPH in the third-party's license agreement.
- (4) Contractor agrees to cooperate with CDPH in establishing or maintaining CDPH's exclusive rights in the Intellectual Property, and in assuring CDPH's sole rights against third parties with respect to the Intellectual Property. If the Contractor enters into any agreements or subcontracts with other parties in order to perform this Agreement, Contractor shall require the terms of the Agreement(s) to include all Intellectual Property provisions. Such terms must include, but are not limited to, the subcontractor assigning and agreeing to assign to CDPH all rights, title and interest in Intellectual Property made, conceived, derived from, or reduced to practice by the subcontractor, Contractor or CDPH and which result directly or indirectly from this Agreement or any subcontract.

- (5) Contractor further agrees to assist and cooperate with CDPH in all reasonable respects, and execute all documents and, subject to reasonable availability, give testimony and take all further acts reasonably necessary to acquire, transfer, maintain, and enforce CDPH's Intellectual Property rights and interests.

b. Retained Rights / License Rights

- (1) Except for Intellectual Property made, conceived, derived from, or reduced to practice by Contractor or CDPH and which result directly or indirectly from this Agreement, Contractor shall retain title to all of its Intellectual Property to the extent such Intellectual Property is in existence prior to the effective date of this Agreement. Contractor hereby grants to CDPH, without additional compensation, a permanent, non-exclusive, royalty free, paid-up, worldwide, irrevocable, perpetual, non-terminable license to use, reproduce, manufacture, sell, offer to sell, import, export, modify, publicly and privately display/perform, distribute, and dispose Contractor's Intellectual Property with the right to sublicense through multiple layers, for any purpose whatsoever, to the extent it is incorporated in the Intellectual Property resulting from this Agreement, unless Contractor assigns all rights, title and interest in the Intellectual Property as set forth herein.
- (2) Nothing in this provision shall restrict, limit, or otherwise prevent Contractor from using any ideas, concepts, know-how, methodology or techniques related to its performance under this Agreement, provided that Contractor's use does not infringe the patent, copyright, trademark rights, license or other Intellectual Property rights of CDPH or third party, or result in a breach or default of any provisions of this Exhibit or result in a breach of any provisions of law relating to confidentiality.

c. Copyright

- (1) Contractor agrees that for purposes of copyright law, all works [as defined in Paragraph a, subparagraph (2)(a) of this provision] of authorship made by or on behalf of Contractor in connection with Contractor's performance of this Agreement shall be deemed "works made for hire". Contractor further agrees that the work of each person utilized by Contractor in connection with the performance of this Agreement will be a "work made for hire," whether that person is an employee of Contractor or that person has entered into an agreement with Contractor to perform the work. Contractor shall enter into a written agreement with any such person that: (i) all work performed for Contractor shall be deemed a "work made for hire" under the Copyright Act and (ii) that person shall assign all right, title, and interest to CDPH to any work product made, conceived, derived from, or reduced to practice by Contractor or CDPH and which result directly or indirectly from this Agreement.
- (2) All materials, including, but not limited to, visual works or text, reproduced or distributed pursuant to this Agreement that include Intellectual Property made, conceived, derived from, or reduced to practice by Contractor or CDPH and which result directly or indirectly from this Agreement, shall include CDPH's notice of copyright, which shall read in 3mm or larger typeface: "© [Enter Current Year e.g., 2007, etc.], Department of Public Health. This material may not be reproduced or disseminated without prior written permission from the Department of Public Health." This notice should be placed prominently on the materials and set apart from other matter on the page where it appears. Audio productions shall contain a similar audio notice of copyright.

d. Patent Rights

With respect to inventions made by Contractor in the performance of this Agreement, which did not result from research and development specifically included in the Agreement's scope of work, Contractor hereby grants to CDPH a license as described under Section b of this provision for devices or material incorporating, or made through the use of such inventions. If such inventions result from research and development work specifically included within the Agreement's scope of work, then Contractor agrees to assign to CDPH, without additional compensation, all its right, title and interest in and to such inventions and to assist CDPH in securing United States and foreign patents with respect thereto.

e. Third-Party Intellectual Property

Except as provided herein, Contractor agrees that its performance of this Agreement shall not be dependent upon or include any Intellectual Property of Contractor or third party without first: (i) obtaining

CDPH's prior written approval; and (ii) granting to or obtaining for CDPH, without additional compensation, a license, as described in Section b of this provision, for any of Contractor's or third-party's Intellectual Property in existence prior to the effective date of this Agreement. If such a license upon these terms is unattainable, and CDPH determines that the Intellectual Property should be included in or is required for Contractor's performance of this Agreement, Contractor shall obtain a license under terms acceptable to CDPH.

f. Warranties

(1) Contractor represents and warrants that:

- (a) It is free to enter into and fully perform this Agreement.
- (b) It has secured and will secure all rights and licenses necessary for its performance of this Agreement.
- (c) Neither Contractor's performance of this Agreement, nor the exercise by either Party of the rights granted in this Agreement, nor any use, reproduction, manufacture, sale, offer to sell, import, export, modification, public and private display/performance, distribution, and disposition of the Intellectual Property made, conceived, derived from, or reduced to practice by Contractor or CDPH and which result directly or indirectly from this Agreement will infringe upon or violate any Intellectual Property right, non-disclosure obligation, or other proprietary right or interest of any third-party or entity now existing under the laws of, or hereafter existing or issued by, any state, the United States, or any foreign country. There is currently no actual or threatened claim by any such third party based on an alleged violation of any such right by Contractor.
- (d) Neither Contractor's performance nor any part of its performance will violate the right of privacy of, or constitute a libel or slander against any person or entity.
- (e) It has secured and will secure all rights and licenses necessary for Intellectual Property including, but not limited to, consents, waivers or releases from all authors of music or performances used, and talent (radio, television and motion picture talent), owners of any interest in and to real estate, sites, locations, property or props that may be used or shown.
- (f) It has not granted and shall not grant to any person or entity any right that would or might derogate, encumber, or interfere with any of the rights granted to CDPH in this Agreement.
- (g) It has appropriate systems and controls in place to ensure that state funds will not be used in the performance of this Agreement for the acquisition, operation or maintenance of computer software in violation of copyright laws.
- (h) It has no knowledge of any outstanding claims, licenses or other charges, liens, or encumbrances of any kind or nature whatsoever that could affect in any way Contractor's performance of this Agreement.

(2) CDPH MAKES NO WARRANTY THAT THE INTELLECTUAL PROPERTY RESULTING FROM THIS AGREEMENT DOES NOT INFRINGE UPON ANY PATENT, TRADEMARK, COPYRIGHT OR THE LIKE, NOW EXISTING OR SUBSEQUENTLY ISSUED.

g. Intellectual Property Indemnity

- (1) Contractor shall indemnify, defend and hold harmless CDPH and its licensees and assignees, and its officers, directors, employees, agents, representatives, successors, and users of its products, ("Indemnitees") from and against all claims, actions, damages, losses, liabilities (or actions or proceedings with respect to any thereof), whether or not rightful, arising from any and all actions or claims by any third party or expenses related thereto (including, but not limited to, all legal expenses, court costs, and attorney's fees incurred in investigating, preparing, serving as a witness in, or defending against, any such claim, action, or proceeding, commenced or threatened) to which any of the Indemnitees may be subject, whether or not Contractor is a party to any pending or threatened litigation, which arise out of or are related to (i) the incorrectness or breach of any of the

representations, warranties, covenants or agreements of Contractor pertaining to Intellectual Property; or (ii) any Intellectual Property infringement, or any other type of actual or alleged infringement claim, arising out of CDPH's use, reproduction, manufacture, sale, offer to sell, distribution, import, export, modification, public and private performance/display, license, and disposition of the Intellectual Property made, conceived, derived from, or reduced to practice by Contractor or CDPH and which result directly or indirectly from this Agreement. This indemnity obligation shall apply irrespective of whether the infringement claim is based on a patent, trademark or copyright registration that issued after the effective date of this Agreement. CDPH reserves the right to participate in and/or control, at Contractor's expense, any such infringement action brought against CDPH.

- (2) Should any Intellectual Property licensed by the Contractor to CDPH under this Agreement become the subject of an Intellectual Property infringement claim, Contractor will exercise its authority reasonably and in good faith to preserve CDPH's right to use the licensed Intellectual Property in accordance with this Agreement at no expense to CDPH. CDPH shall have the right to monitor and appear through its own counsel (at Contractor's expense) in any such claim or action. In the defense or settlement of the claim, Contractor may obtain the right for CDPH to continue using the licensed Intellectual Property; or, replace or modify the licensed Intellectual Property so that the replaced or modified Intellectual Property becomes non-infringing provided that such replacement or modification is functionally equivalent to the original licensed Intellectual Property. If such remedies are not reasonably available, CDPH shall be entitled to a refund of all monies paid under this Agreement, without restriction or limitation of any other rights and remedies available at law or in equity.
- (3) Contractor agrees that damages alone would be inadequate to compensate CDPH for breach of any term of this Intellectual Property Exhibit by Contractor. Contractor acknowledges CDPH would suffer irreparable harm in the event of such breach and agrees CDPH shall be entitled to obtain equitable relief, including without limitation an injunction, from a court of competent jurisdiction, without restriction or limitation of any other rights and remedies available at law or in equity.

h. Federal Funding

In any agreement funded in whole or in part by the federal government, CDPH may acquire and maintain the Intellectual Property rights, title, and ownership, which results directly or indirectly from the Agreement; except as provided in 37 Code of Federal Regulations part 401.14; however, the federal government shall have a non-exclusive, nontransferable, irrevocable, paid-up license throughout the world to use, duplicate, or dispose of such Intellectual Property throughout the world in any manner for governmental purposes and to have and permit others to do so.

i. Survival

The provisions set forth herein shall survive any termination or expiration of this Agreement or any project schedule.

11. Air or Water Pollution Requirements

Any federally funded agreement and/or subcontract in excess of \$100,000 must comply with the following provisions unless said agreement is exempt under 40 CFR 15.5.

- a. Government contractors agree to comply with all applicable standards, orders, or requirements issued under section 306 of the Clean Air Act [42 U.S.C. 1857(h)], section 508 of the Clean Water Act (33 U.S.C. 1368), Executive Order 11738, and Environmental Protection Agency regulations (40 CFR part 15).
- b. Institutions of higher education, hospitals, nonprofit organizations and commercial businesses agree to comply with all applicable standards, orders, or requirements issued under the Clean Air Act (42 U.S.C. 7401 et seq.), as amended, and the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.), as amended.

12. Prior Approval of Training Seminars, Workshops or Conferences

Contractor shall obtain prior CDPH approval of the location, costs, dates, agenda, instructors, instructional

materials, and attendees at any reimbursable training seminar, workshop, or conference conducted pursuant to this Agreement and of any reimbursable publicity or educational materials to be made available for distribution. The Contractor shall acknowledge the support of the State whenever publicizing the work under this Agreement in any media. This provision does not apply to necessary staff meetings or training sessions held for the staff of the Contractor or Subcontractor to conduct routine business matters.

13. Confidentiality of Information

- a. The Contractor and its employees, agents, or subcontractors shall protect from unauthorized disclosure names and other identifying information concerning persons either receiving services pursuant to this Agreement or persons whose names or identifying information become available or are disclosed to the Contractor, its employees, agents, or subcontractors as a result of services performed under this Agreement, except for statistical information not identifying any such person.
- b. The Contractor and its employees, agents, or subcontractors shall not use such identifying information for any purpose other than carrying out the Contractor's obligations under this Agreement.
- c. The Contractor and its employees, agents, or subcontractors shall promptly transmit to the CDPH Program Contract Manager all requests for disclosure of such identifying information not emanating from the client or person.
- d. The Contractor shall not disclose, except as otherwise specifically permitted by this Agreement or authorized by the client, any such identifying information to anyone other than CDPH without prior written authorization from the CDPH Program Contract Manager, except if disclosure is required by State or Federal law.
- e. For purposes of this provision, identity shall include, but not be limited to name, identifying number, symbol, or other identifying particular assigned to the individual, such as finger or voice print or a photograph.
- f. As deemed applicable by CDPH, this provision may be supplemented by additional terms and conditions covering personal health information (PHI) or personal, sensitive, and/or confidential information (PSCI). Said terms and conditions will be outlined in one or more exhibits that will either be attached to this Agreement or incorporated into this Agreement by reference.

14. Documents, Publications and Written Reports

(Applicable to agreements over \$5,000 under which publications, written reports and documents are developed or produced. Government Code Section 7550.)

Any document, publication or written report (excluding progress reports, financial reports and normal contractual communications) prepared as a requirement of this Agreement shall contain, in a separate section preceding the main body of the document, the number and dollar amounts of all contracts or agreements and subcontracts relating to the preparation of such document or report, if the total cost for work by nonemployees of the State exceeds \$5,000.

15. Dispute Resolution Process

- a. A Contractor grievance exists whenever there is a dispute arising from CDPH's action in the administration of an agreement. If there is a dispute or grievance between the Contractor and CDPH, the Contractor must seek resolution using the procedure outlined below.
 - (1) The Contractor should first informally discuss the problem with the CDPH Program Contract Manager. If the problem cannot be resolved informally, the Contractor shall direct its grievance together with any evidence, in writing, to the program Branch Chief. The grievance shall state the issues in dispute, the legal authority or other basis for the Contractor's position and the remedy sought. The Branch Chief shall render a decision within ten (10) working days after receipt of the written grievance from the Contractor. The Branch Chief shall respond in writing to the Contractor indicating the decision and reasons therefore. If the Contractor disagrees with the Branch Chief's decision, the Contractor may appeal to the second level.

- (2) When appealing to the second level, the Contractor must prepare an appeal indicating the reasons for disagreement with Branch Chief's decision. The Contractor shall include with the appeal a copy of the Contractor's original statement of dispute along with any supporting evidence and a copy of the Branch Chief's decision. The appeal shall be addressed to the Deputy Director of the division in which the branch is organized within ten (10) working days from receipt of the Branch Chief's decision. The Deputy Director of the division in which the branch is organized or his/her designee shall meet with the Contractor to review the issues raised. A written decision signed by the Deputy Director of the division in which the branch is organized or his/her designee shall be directed to the Contractor within twenty (20) working days of receipt of the Contractor's second level appeal.
- b. If the Contractor wishes to appeal the decision of the Deputy Director of the division in which the branch is organized or his/her designee, the Contractor shall follow the procedures set forth in Division 25.1 (commencing with Section 38050) of the Health and Safety Code and the regulations adopted thereunder. (Title 1, Subchapter 2.5, commencing with Section 251, California Code of Regulations.)
- c. Disputes arising out of an audit, examination of an agreement or other action not covered by subdivision (a) of Section 20204, of Chapter 2.1, Title 22, of the California Code of Regulations, and for which no procedures for appeal are provided in statute, regulation or the Agreement, shall be handled in accordance with the procedures identified in Sections 51016 through 51047, Title 22, California Code of Regulations.
- d. Unless otherwise stipulated in writing by CDPH, all dispute, grievance and/or appeal correspondence shall be directed to the CDPH Program Contract Manager.
- e. There are organizational differences within CDPH's funding programs and the management levels identified in this dispute resolution provision may not apply in every contractual situation. When a grievance is received and organizational differences exist, the Contractor shall be notified in writing by the CDPH Program Contract Manager of the level, name, and/or title of the appropriate management official that is responsible for issuing a decision at a given level.

16. Financial and Compliance Audit Requirements

- a. The definitions used in this provision are contained in Section 38040 of the Health and Safety Code, which by this reference is made a part hereof.
- b. Direct service contract means a contract or agreement for services contained in local assistance or subvention programs or both (see Health and Safety [H&S] Code section 38020). Direct service contracts shall not include contracts, agreements, grants, or subventions to other governmental agencies or units of government nor contracts or agreements with regional centers or area agencies on aging (H&S Code section 38030).
- c. The Contractor, as indicated below, agrees to obtain one of the following audits:
- (1) If the Contractor is a nonprofit organization (as defined in H&S Code section 38040) and receives \$25,000 or more from any State agency under a direct service contract or agreement; the Contractor agrees to obtain an annual single, organization wide, financial and compliance audit. Said audit shall be conducted according to Generally Accepted Auditing Standards. This audit does not fulfill the audit requirements of Paragraph c(3) below. The audit shall be completed by the 15th day of the fifth month following the end of the Contractor's fiscal year, **and/or**
- (2) If the Contractor is a nonprofit organization (as defined in H&S Code section 38040) and receives less than \$25,000 per year from any State agency under a direct service contract or agreement, the Contractor agrees to obtain a biennial single, organization wide financial and compliance audit, unless there is evidence of fraud or other violation of state law in connection with this Agreement. This audit does not fulfill the audit requirements of Paragraph c(3) below. The audit shall be completed by the 15th day of the fifth month following the end of the Contractor's fiscal year, **and/or**
- (3) If the Contractor is a State or Local Government entity or Nonprofit organization (as defined by the Federal Office of Management and Budget [OMB] Circular A-133) and expends \$500,000 or more in

Federal awards, the Contractor agrees to obtain an annual single, organization wide, financial and compliance audit according to the requirements specified in OMB Circular A-133 entitled "Audits of States, Local Governments, and Non-Profit Organizations". An audit conducted pursuant to this provision will fulfill the audit requirements outlined in Paragraphs c(1) and c(2) above. The audit shall be completed by the end of the ninth month following the end of the audit period. The requirements of this provision apply if:

- (a) The Contractor is a recipient expending Federal awards received directly from Federal awarding agencies, or
 - (b) The Contractor is a subrecipient expending Federal awards received from a pass-through entity such as the State, County or community based organization.
- (4) If the Contractor submits to CDPH a report of an audit other than an OMB A-133 audit, the Contractor must also submit a certification indicating the Contractor has not expended \$500,000 or more in federal funds for the year covered by the audit report.
- d. Two copies of the audit report shall be delivered to the CDPH program funding this Agreement. The audit report must identify the Contractor's legal name and the number assigned to this Agreement. The audit report shall be due within 30 days after the completion of the audit. Upon receipt of said audit report, the CDPH Program Contract Manager shall forward the audit report to CDPH's Audits and Investigations Unit if the audit report was submitted under Section 16.c(3), unless the audit report is from a City, County, or Special District within the State of California whereby the report will be retained by the funding program.
 - e. The cost of the audits described herein may be included in the funding for this Agreement up to the proportionate amount this Agreement represents of the Contractor's total revenue. The CDPH program funding this Agreement must provide advance written approval of the specific amount allowed for said audit expenses.
 - f. The State or its authorized designee, including the Bureau of State Audits, is responsible for conducting agreement performance audits which are not financial and compliance audits. Performance audits are defined by Generally Accepted Government Auditing Standards.
 - g. Nothing in this Agreement limits the State's responsibility or authority to enforce State law or regulations, procedures, or reporting requirements arising thereto.
 - h. Nothing in this provision limits the authority of the State to make audits of this Agreement, provided however, that if independent audits arranged for by the Contractor meet Generally Accepted Governmental Auditing Standards, the State shall rely on those audits and any additional audit work and shall build upon the work already done.
 - i. The State may, at its option, direct its own auditors to perform either of the audits described above. The Contractor will be given advance written notification, if the State chooses to exercise its option to perform said audits.
 - j. The Contractor shall include a clause in any agreement the Contractor enters into with the audit firm doing the single organization wide audit to provide access by the State or Federal Government to the working papers of the independent auditor who prepares the single organization wide audit for the Contractor.
 - k. Federal or state auditors shall have "expanded scope auditing" authority to conduct specific program audits during the same period in which a single organization wide audit is being performed, but the audit report has not been issued. The federal or state auditors shall review and have access to the current audit work being conducted and will not apply any testing or review procedures which have not been satisfied by previous audit work that has been completed.

The term "expanded scope auditing" is applied and defined in the U.S. General Accounting Office (GAO) issued Standards for *Audit of Government Organizations, Programs, Activities and Functions*, better known as the "yellow book".

17. Human Subjects Use Requirements

(Applicable only to federally funded agreements/grants in which performance, directly or through a subcontract/subaward, includes any tests or examination of materials derived from the human body.)

By signing this Agreement, Contractor agrees that if any performance under this Agreement or any subcontract or subagreement includes any tests or examination of materials derived from the human body for the purpose of providing information, diagnosis, prevention, treatment or assessment of disease, impairment, or health of a human being, all locations at which such examinations are performed shall meet the requirements of 42 U.S.C. Section 263a (CLIA) and the regulations thereunder.

18. Novation Requirements

If the Contractor proposes any novation agreement, CDPH shall act upon the proposal within 60 days after receipt of the written proposal. CDPH may review and consider the proposal, consult and negotiate with the Contractor, and accept or reject all or part of the proposal. Acceptance or rejection of the proposal may be made orally within the 60-day period and confirmed in writing within five days of said decision. Upon written acceptance of the proposal, CDPH will initiate an amendment to this Agreement to formally implement the approved proposal.

19. Debarment and Suspension Certification

(Applicable to all agreements funded in part or whole with federal funds.)

- a. By signing this Agreement, the Contractor/Grantee agrees to comply with applicable federal suspension and debarment regulations including, but not limited to 7 CFR Part 3017, 45 CFR 76, 40 CFR 32 or 34 CFR 85.
- b. By signing this Agreement, the Contractor certifies to the best of its knowledge and belief, that it and its principals:
 - (1) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded by any federal department or agency;
 - (2) Have not within a three-year period preceding this application/proposal/agreement been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
 - (3) Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State or local) with commission of any of the offenses enumerated in Paragraph b(2) herein; and
 - (4) Have not within a three-year period preceding this application/proposal/agreement had one or more public transactions (Federal, State or local) terminated for cause or default.
 - (5) Shall not knowingly enter into any lower tier covered transaction with a person who is proposed for debarment under federal regulations (i.e., 48 CFR part 9, subpart 9.4), debarred, suspended, declared ineligible, or voluntarily excluded from participation in such transaction, unless authorized by the State.
 - (6) Will include a clause entitled, "Debarment and Suspension Certification" that essentially sets forth the provisions herein, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.
- c. If the Contractor is unable to certify to any of the statements in this certification, the Contractor shall submit an explanation to the CDPH Program Contract Manager.

- d. The terms and definitions herein have the meanings set out in the Definitions and Coverage sections of the rules implementing Federal Executive Order 12549.
- e. If the Contractor knowingly violates this certification, in addition to other remedies available to the Federal Government, the CDPH may terminate this Agreement for cause or default.

20. Smoke-Free Workplace Certification

(Applicable to federally funded agreements/grants and subcontracts/subawards, that provide health, day care, early childhood development services, education or library services to children under 18 directly or through local governments.)

- a. Public Law 103-227, also known as the Pro-Children Act of 1994 (Act), requires that smoking not be permitted in any portion of any indoor facility owned or leased or contracted for by an entity and used routinely or regularly for the provision of health, day care, early childhood development services, education or library services to children under the age of 18, if the services are funded by federal programs either directly or through state or local governments, by federal grant, contract, loan, or loan guarantee. The law also applies to children's services that are provided in indoor facilities that are constructed, operated, or maintained with such federal funds. The law does not apply to children's services provided in private residences; portions of facilities used for inpatient drug or alcohol treatment; service providers whose sole source of applicable federal funds is Medicare or Medicaid; or facilities where WIC coupons are redeemed.
- b. Failure to comply with the provisions of the law may result in the imposition of a civil monetary penalty of up to \$1,000 for each violation and/or the imposition of an administrative compliance order on the responsible party.
- c. By signing this Agreement, Contractor or Grantee certifies that it will comply with the requirements of the Act and will not allow smoking within any portion of any indoor facility used for the provision of services for children as defined by the Act. The prohibitions herein are effective December 26, 1994.
- d. Contractor or Grantee further agrees that it will insert this certification into any subawards (subcontracts or subgrants) entered into that provide for children's services as described in the Act.

21. Covenant Against Contingent Fees

(Applicable only to federally funded agreements.)

The Contractor warrants that no person or selling agency has been employed or retained to solicit/secure this Agreement upon an agreement of understanding for a commission, percentage, brokerage, or contingent fee, except *bona fide* employees or *bona fide* established commercial or selling agencies retained by the Contractor for the purpose of securing business. For breach or violation of this warranty, CDPH shall have the right to annul this Agreement without liability or in its discretion to deduct from the Agreement price or consideration, or otherwise recover, the full amount of such commission, percentage, and brokerage or contingent fee.

22. Payment Withholds

(Applicable only if a final report is required by this Agreement. Not applicable to government entities.)

Unless waived or otherwise stipulated in this Agreement, CDPH may, at its discretion, withhold 10 percent (10%) of the face amount of the Agreement, 50 percent (50%) of the final invoice, or \$3,000 whichever is greater, until CDPH receives a final report that meets the terms, conditions and/or scope of work requirements of this Agreement.

23. Performance Evaluation

(Not applicable to grant agreements.)

CDPH may, at its discretion, evaluate the performance of the Contractor at the conclusion of this Agreement.

If performance is evaluated, the evaluation shall not be a public record and shall remain on file with CDPH. Negative performance evaluations may be considered by CDPH prior to making future contract awards.

24. Officials Not to Benefit

No members of or delegate of Congress or the State Legislature shall be admitted to any share or part of this Agreement, or to any benefit that may arise therefrom. This provision shall not be construed to extend to this Agreement if made with a corporation for its general benefits.

25. Four-Digit Date Compliance

(Applicable to agreements in which Information Technology (IT) services are provided to CDPH or if IT equipment is procured.)

Contractor warrants that it will provide only Four-Digit Date Compliant (as defined below) Deliverables and/or services to the State. "Four Digit Date compliant" Deliverables and services can accurately process, calculate, compare, and sequence date data, including without limitation date data arising out of or relating to leap years and changes in centuries. This warranty and representation is subject to the warranty terms and conditions of this Contract and does not limit the generality of warranty obligations set forth elsewhere herein.

26. Prohibited Use of State Funds for Software

(Applicable to agreements in which computer software is used in performance of the work.)

Contractor certifies that it has appropriate systems and controls in place to ensure that state funds will not be used in the performance of this Agreement for the acquisition, operation or maintenance of computer software in violation of copyright laws.

27. Use of Small, Minority Owned and Women's Businesses

(Applicable to that portion of an agreement that is federally funded and entered into with institutions of higher education, hospitals, nonprofit organizations or commercial businesses.)

Positive efforts shall be made to use small businesses, minority-owned firms and women's business enterprises, whenever possible (i.e., procurement of goods and/or services). Contractors shall take all of the following steps to further this goal.

- (1) Ensure that small businesses, minority-owned firms, and women's business enterprises are used to the fullest extent practicable.
- (2) Make information on forthcoming purchasing and contracting opportunities available and arrange time frames for purchases and contracts to encourage and facilitate participation by small businesses, minority-owned firms, and women's business enterprises.
- (3) Consider in the contract process whether firms competing for larger contracts intend to subcontract with small businesses, minority-owned firms, and women's business enterprises.
- (4) Encourage contracting with consortiums of small businesses, minority-owned firms and women's business enterprises when a contract is too large for one of these firms to handle individually.
- (5) Use the services and assistance, as appropriate, of such organizations as the Federal Small Business Administration and the U.S. Department of Commerce's Minority Business Development Agency in the solicitation and utilization of small businesses, minority-owned firms and women's business enterprises.

28. Alien Ineligibility Certification

(Applicable to sole proprietors entering federally funded agreements.)

By signing this Agreement, the Contractor certifies that he/she is not an alien that is ineligible for state and local benefits, as defined in Subtitle B of the Personal Responsibility and Work Opportunity Act. (8 U.S.C. 1601, et seq.)

29. Union Organizing

(Applicable only to grant agreements.)

Grantee, by signing this Agreement, hereby acknowledges the applicability of Government Code Sections 16645 through 16649 to this Agreement. Furthermore, Grantee, by signing this Agreement, hereby certifies that:

- a. No state funds disbursed by this grant will be used to assist, promote or deter union organizing.
- b. Grantee shall account for state funds disbursed for a specific expenditure by this grant, to show those funds were allocated to that expenditure.
- c. Grantee shall, where state funds are not designated as described in b herein, allocate, on a pro-rata basis, all disbursements that support the grant program.
- d. If Grantee makes expenditures to assist, promote or deter union organizing, Grantee will maintain records sufficient to show that no state funds were used for those expenditures, and that Grantee shall provide those records to the Attorney General upon request.

30. Contract Uniformity (Fringe Benefit Allowability)

(Applicable only to nonprofit organizations.)

Pursuant to the provisions of Article 7 (commencing with Section 100525) of Chapter 3 of Part 1 of Division 101 of the Health and Safety Code, CDPH sets forth the following policies, procedures, and guidelines regarding the reimbursement of fringe benefits.

- a. As used herein fringe benefits shall mean an employment benefit given by one's employer to an employee in addition to one's regular or normal wages or salary.
- b. As used herein, fringe benefits do not include:
 - (1) Compensation for personal services paid currently or accrued by the Contractor for services of employees rendered during the term of this Agreement, which is identified as regular or normal salaries and wages, annual leave, vacation, sick leave, holidays, jury duty and/or military leave/training.
 - (2) Director's and executive committee member's fees.
 - (3) Incentive awards and/or bonus incentive pay.
 - (4) Allowances for off-site pay.
 - (5) Location allowances.
 - (6) Hardship pay.
 - (7) Cost-of-living differentials
- c. Specific allowable fringe benefits include:
 - (1) Fringe benefits in the form of employer contributions for the employer's portion of payroll taxes (i.e., FICA, SUI, SDI), employee health plans (i.e., health, dental and vision), unemployment insurance, worker's compensation insurance, and the employer's share of pension/retirement plans, provided they are granted in accordance with established written organization policies and meet all legal and Internal Revenue Service requirements.
- d. To be an allowable fringe benefit, the cost must meet the following criteria:
 - (1) Be necessary and reasonable for the performance of the Agreement.
 - (2) Be determined in accordance with generally accepted accounting principles.

- (3) Be consistent with policies that apply uniformly to all activities of the Contractor.
- e. Contractor agrees that all fringe benefits shall be at actual cost.
- f. Earned/Accrued Compensation
 - (1) Compensation for vacation, sick leave and holidays is limited to that amount earned/accrued within the agreement term. Unused vacation, sick leave and holidays earned from periods prior to the agreement term cannot be claimed as allowable costs. See Provision f (3)(a) for an example.
 - (2) For multiple year agreements, vacation and sick leave compensation, which is earned/accrued but not paid, due to employee(s) not taking time off may be carried over and claimed within the overall term of the multiple years of the Agreement. Holidays cannot be carried over from one agreement year to the next. See Provision f (3)(b) for an example.
 - (3) For single year agreements, vacation, sick leave and holiday compensation that is earned/accrued but not paid, due to employee(s) not taking time off within the term of the Agreement, cannot be claimed as an allowable cost. See Provision f (3)(c) for an example.

(a) **Example No. 1:**

If an employee, John Doe, earns/accrues three weeks of vacation and twelve days of sick leave each year, then that is the maximum amount that may be claimed during a one year agreement. If John Doe has five weeks of vacation and eighteen days of sick leave at the beginning of an agreement, the Contractor during a one-year budget period may only claim up to three weeks of vacation and twelve days of sick leave as actually used by the employee. Amounts earned/accrued in periods prior to the beginning of the Agreement are not an allowable cost.

(b) **Example No. 2:**

If during a three-year (multiple year) agreement, John Doe does not use his three weeks of vacation in year one, or his three weeks in year two, but he does actually use nine weeks in year three; the Contractor would be allowed to claim all nine weeks paid for in year three. The total compensation over the three-year period cannot exceed 156 weeks (3 x 52 weeks).

(c) **Example No. 3:**

If during a single year agreement, John Doe works fifty weeks and used one week of vacation and one week of sick leave and all fifty-two weeks have been billed to CDPH, the remaining unused two weeks of vacation and seven days of sick leave may not be claimed as an allowable cost.

31. Lobbying Restrictions and Disclosure Certification

(Applicable to federally funded agreements in excess of \$100,000 per Section 1352 of the 31, U.S.C.)

a. Certification and Disclosure Requirements

- (1) Each person (or recipient) who requests or receives a contract or agreement, subcontract, grant, or subgrant, which is subject to Section 1352 of the 31, U.S.C., and which exceeds \$100,000 at any tier, shall file a certification (in the form set forth in Attachment 1, consisting of one page, entitled "Certification Regarding Lobbying") that the recipient has not made, and will not make, any payment prohibited by Paragraph b of this provision.
- (2) Each recipient shall file a disclosure (in the form set forth in Attachment 2, entitled "Standard Form-LLL 'disclosure of Lobbying Activities'") if such recipient has made or has agreed to make any payment using nonappropriated funds (to include profits from any covered federal action) in connection with a contract, or grant or any extension or amendment of that contract, or grant, which would be prohibited under Paragraph b of this provision if paid for with appropriated funds.

- (3) Each recipient shall file a disclosure form at the end of each calendar quarter in which there occurs any event that requires disclosure or that materially affect the accuracy of the information contained in any disclosure form previously filed by such person under Paragraph a(2) herein. An event that materially affects the accuracy of the information reported includes:
 - (a) A cumulative increase of \$25,000 or more in the amount paid or expected to be paid for influencing or attempting to influence a covered federal action;
 - (b) A change in the person(s) or individuals(s) influencing or attempting to influence a covered federal action; or
 - (c) A change in the officer(s), employee(s), or member(s) contacted for the purpose of influencing or attempting to influence a covered federal action.
- (4) Each person (or recipient) who requests or receives from a person referred to in Paragraph a(1) of this provision a contract or agreement, subcontract, grant or subgrant exceeding \$100,000 at any tier under a contract or agreement, or grant shall file a certification, and a disclosure form, if required, to the next tier above.
- (5) All disclosure forms (but not certifications) shall be forwarded from tier to tier until received by the person referred to in Paragraph a(1) of this provision. That person shall forward all disclosure forms to CDPH Program Contract Manager.

b. Prohibition

Section 1352 of Title 31, U.S.C., provides in part that no appropriated funds may be expended by the recipient of a federal contract or agreement, grant, loan, or cooperative agreement to pay any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with any of the following covered federal actions: the awarding of any federal contract or agreement, the making of any federal grant, the making of any federal loan, entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal contract or agreement, grant, loan, or cooperative agreement.

Attachment 2

CERTIFICATION REGARDING LOBBYING

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

Approved by OMB

0348-0046

1. Type of Federal Action: <input type="checkbox"/> a. contract <input type="checkbox"/> b. grant <input type="checkbox"/> c. cooperative agreement <input type="checkbox"/> d. loan <input type="checkbox"/> e. loan guarantee <input type="checkbox"/> f. loan insurance	2. Status of Federal Action: <input type="checkbox"/> a. bid/offer/application <input type="checkbox"/> b. initial award <input type="checkbox"/> c. post-award	3. Report Type: <input type="checkbox"/> a. initial filing <input type="checkbox"/> b. material change For Material Change Only: Year _____ quarter _____ date of last report _____.
4. Name and Address of Reporting Entity: <input type="checkbox"/> Prime <input type="checkbox"/> Subawardee Tier ____, if known: Congressional District, If known:	5. If Reporting Entity in No. 4 is Subawardee, Enter Name and Address of Prime: Congressional District, If known:	
6. Federal Department/Agency	7. Federal Program Name/Description: CDFA Number, if applicable: _____	
8. Federal Action Number, if known:	9. Award Amount, if known: \$	
10.a. Name and Address of Lobbying Registrant <i>(If individual, last name, first name, MI):</i>	b. Individuals Performing Services (including address if different from 10a.) <i>(Last name, First name, MI):</i>	
11. Information requested through this form is authorized by title 31 U.S.C. section 1352. This disclosure of lobbying activities is a material representation of fact upon which reliance was placed by the tier above when this transaction was made or entered into. This disclosure is required pursuant to 31 U.S.C. 1352. This information will be available for public inspection. required disclosure shall be subject to a not more than \$100,000 for each such failure.	Signature: _____	
	Print Name: _____	
	Title: _____	
	Telephone No.: _____	Date: _____
Federal Use Only		Authorized for Local Reproduction Standard Form-LLL (Rev. 7-97)

INSTRUCTIONS FOR COMPLETION OF SF-LLL, DISCLOSURE OF LOBBYING ACTIVITIES

This disclosure form shall be completed by the reporting entity, whether subawardee or prime Federal recipient, at the initiation or receipt of a covered Federal action, or a material change to a previous filing, pursuant to title 31 U.S.C. section 1352. The filing of a form is required for each payment or agreement to make payment to any lobbying entity for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with a covered Federal action. Complete all items that apply for both the initial filing and material change report. Refer to the implementing guidance published by the Office of Management and Budget for additional information.

1. Identify the type of covered Federal action for which lobbying activity is and/or has been secured to influence the outcome of a covered Federal action.
2. Identify the status of the covered Federal action.
3. Identify the appropriate classification of this report. If this is a follow-up report caused by a material change to the information previously reported, enter the year and quarter in which the change occurred. Enter the date of the last previously submitted report by this reporting entity for this covered Federal action.
4. Enter the full name, address, city, State and zip code of the reporting entity. Include Congressional District, if known. Check the appropriate classification of the reporting entity that designates if it is, or expects to be a prime or subaward recipient. Identify the tier of the subawardee, e.g., the first subawardee of the prime is the 1st tier. Subawards include but are not limited to subcontracts, subgrants and contract awards under grants.
5. If the organization filing the report in item 4 checks "Subawardee," then enter the full name, address, city, State and zip code of the prime Federal recipient. Include Congressional District, if known.
6. Enter the name of the Federal agency making the award or loan commitment. Include at least one organizational level below agency name, if known. For example, Department of Transportation, United States Coast Guard.
7. Enter the Federal program name or description for the covered Federal action (item 1). If known, enter the full Catalog of Federal Domestic Assistance (CFDA) number for grants, cooperative agreements, loans, and loan commitments.
8. Enter the most appropriate Federal identifying number available for the Federal action identified in item 1 (e.g., Request for Proposal (RFP) number; Invitation for Bid (IFB) number; grant announcement number; the contract, grant, or loan award number; the application/proposal control number assigned by the Federal agency). Include prefixes, e.g., "RFP-DE-90-001."
9. For a covered Federal action where there has been an award or loan commitment by the Federal agency, enter the Federal amount of the award/loan commitment for the prime entity identified in item 4 or 5.
10. (a) Enter the full name, address, city, State and zip code of the lobbying registrant under the Lobbying Disclosure Act of 1995 engaged by the reporting entity identified in item 4 to influence the covered Federal action.

(b) Enter the full names of the individual(s) performing services, and include full address if different from 10 (a). Enter Last Name, First Name, and Middle Initial (MI).
11. The certifying official shall sign and date the form, print his/her name, title, and telephone number.

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

MONTEREY COUNTY BOARD OF SUPERVISORS

MEETING: June 14, 2011 - Consent	AGENDA NO.:
SUBJECT: Approve and authorize the Director of Health to execute on behalf of the County of Monterey standard agreements, and any amendments thereto, for continued funding from local, State, and Federal agencies for designated programs.	
DEPARTMENT: Health	

RECOMMENDATION:

It is recommended that the Board of Supervisors:

Approve and authorize the Director of Health to execute on behalf of the County of Monterey standard agreements, and any amendments thereto, for continued funding from local, State and Federal agencies for designated programs.

SUMMARY/DISCUSSION:

The Health Department relies on a variety of local, State, and Federal grants to provide a portion of the financial support required by the Department for the services it provides in the County. In preparing the fiscal year (FY) 2011-2012 Requested County Budget, the Department has compiled list of local, State and Federal programs currently providing funding for various programs. These same programs expect continued funding beyond FY 2011-2012. The State and Federal agencies responsible for these grants require the Department to submit an application and final agreement to renew funding for the upcoming fiscal year even though there is an established relationship between the County and the funding agency in the current fiscal year. In fiscal years 2003 through 2011 the Board of Supervisors (BOS) granted approval and authorized the Director of Health to act on behalf of the County in submitting the application and final agreement to renew grants with the appropriate funding agency.

Continued support and approval by the BOS for this recommended action would allow the Director of Health to continue to submit the approved resolution as authority to sign, submit grant applications and grant agreements to renew funding for those designated programs without having to request BOS approval for each grant application/agreement. This will significantly reduce the number of board reports submitted for approval annually and will expedite the process.

The Department will continue to present amendments to the final grant agreement that require adjustments to the Final County Budget for changes in appropriations, revenues, and/or positions, to the BOS for approval.

OTHER AGENCY INVOLVEMENT:

County Counsel, Risk Management and the Auditor-Controller agree with the process and will continue to review each grant agreement before the Department signs and submits the agreement to the funding agency.