

COUNTY OF MONTEREY

AMENDMENT #1 TO AGREEMENT #A-11799

CareAccess Silicon Valley, Inc.

This Amendment is made and entered into by and between the County of Monterey, a political subdivision of the State of California, (hereinafter, "COUNTY"), and CareAccess Silicon Valley, Inc. (hereinafter, "CONTRACTOR").

This Amendment modifies the agreement for the provision of portal access and maintenance to third-party software ("Q"-CH Mack), between the parties executed on July 29, 2010, (hereinafter, "Original Agreement ") **by adding \$210 to extend services, and extending the contract term through September 30, 2011, increasing the total contract amount to \$4,830.** Therefore, the parties agree:

1. Section 1 of the Original Agreement is amended to read as follows:
 1. **SERVICES TO BE PROVIDED:** The County hereby engages CONTRACTOR to perform, and CONTRACTOR hereby agrees to perform, the services described in **Exhibit AA**, in conformity with the terms of this Agreement. The services are generally described as follows: Provide portal access and maintenance to third-party software ("Q"-CH Mack).
2. Section 2 of the Original Agreement is amended to read as follows:
 2. **PAYMENTS BY COUNTY:** COUNTY shall pay the CONTRACTOR in accordance with the payment provisions set forth in **Exhibit AA**, subject to the limitations set forth in this Agreement. The total amount payable by COUNTY to CONTRACTOR under this agreement shall not exceed the sum of **\$4,830.**
3. Section 3 of the Original Agreement is amended to read as follows:
 3. **TERM OF AGREEMENT:** The term of this Agreement is from July 1, 2010 to **September 30, 2011**, unless sooner terminated pursuant to the terms of this Agreement. This Agreement is of no force or effect until signed by both CONTRACTOR and County and with County signing last, and CONTRACTOR may not commence work before County signs this Agreement.
4. Section 4 of the Original Agreement is amended to read as follows:
 4. **ADDITIONAL PROVISIONS/EXHIBITS:** The following attached exhibits are incorporated herein by reference and constitute a part of this agreement:

Exhibit AA	Scope of Services
Exhibit C	Background/Definitions
Exhibit D	Third Party Software Selection
Exhibit E	Licensed "Q" Continuum End Users

Exhibit FF	Budget
Exhibit G	Monthly Claim Form
Exhibit H	Notification of Change Form
Exhibit I	Identified Subcontractors
Exhibit J	Service Level Agreement
Exhibit K	Intellectual Property
Exhibit L	Warranties
Exhibit M	Privacy Policy Statement
Exhibit N	HIPAA Business Associate Agreement
Exhibit O	Elder Abuse Reporting Certification

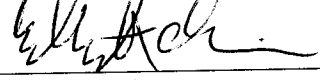
5. Exhibits A and F of the Original Agreement are rescinded and replaced by Exhibits AA and FF, attached.

Subject to the foregoing amendment, all other terms and conditions of the Original Agreement shall remain in full force and effect.

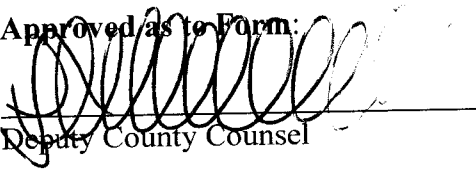
If there is any conflict or inconsistency between provisions of this amendment and the Original Agreement, the provisions of this amendment shall control in all respects.

IN WITNESS HEREOF, the parties hereby execute this amendment as follows:

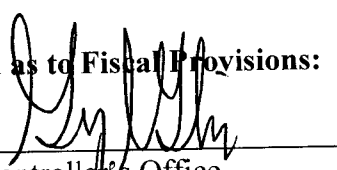
COUNTY OF MONTEREY:

By: 
 Elliott C. Robinson
 Director, DSES

Date: 6/13/11

Approved as to Form:

 Deputy County Counsel

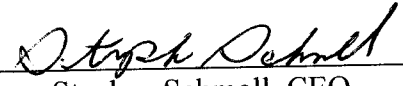
Date: 6-10-11

Approved as to Fiscal Provisions:

 Auditor-Controller's Office

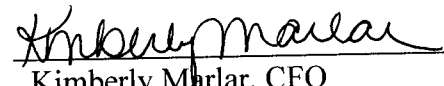
Date: 6-10-11

CONTRACTOR:

CareAccess Silicon Valley, Inc.

By: 
 Stephen Schmoll, CEO

Date: 6/7/11

By: 
 Kimberly Marlar, CFO

Date: 6/7/11

SCOPE OF SERVICES
Q
CAREACCESS, SILICON VALLEY, INC.
July 1, 2010 to September 30, 2011

I. CONTRACTOR INFORMATION

Contractor Name: CareAccess Silicon Valley, Inc.
2115 The Alameda
San Jose, California 95126

Contractor Contact: Manuel Altamirano, Chief Operating Officer
CareAccess
(408) 350-3295 (telephone)
(408) 590-2939 (cell)
(408) 249-8918 (fax)
maltamirano@scccoa.org

Primary County Contact: Ethan Hurley, MA II
Monterey County Department of Social and
Employment Services
713 La Guardia Street, Suite A
Salinas, CA 93905
(831) 755-3425 (telephone)
(831) 783-7021 (fax)
hurleye@co.monterey.ca.us

County Software Contact: Bob Huss, Senior DISC
Monterey County Department of Social and
Employment Services
713 La Guardia Street, Suite H-8
Salinas, CA 93905
(831) 783-7026 (telephone)
hussr@co.monterey.ca.us

Term of Agreement: July 1, 2010 to **September 30, 2011**

II. SERVICES TO BE PROVIDED:

The CONTRACTOR shall provide access to the CareAccess Portal 24 hours a day for up to 13 COUNTY users for the contract period July 1, 2010 to **September 30, 2011**.

2.01 CONTRACTOR Services: CONTRACTOR shall implement the Third Party Software identified in Exhibit D of this Agreement. CONTRACTOR shall provide Services to COUNTY pursuant to this **Exhibit AA**, including:

- (i) Access to the CareAccess VPP: CONTRACTOR shall provide access to the CareAccess VPP 24 hours a day for up to 13 COUNTY users for the contract period July 1, 2010 to **September 30, 2011**.

- (ii) Development Support: From time to time, COUNTY may request “Additional Enhancements” which are not included in the current public release version of the Licensed Software. CONTRACTOR will coordinate its best efforts to include such enhancements under a separate “Statement of Work” to be developed and agreed between the portal members.

2.02 Assurances: Each party hereby represents and warrants that all representations, warranties, recitals, statements and information provided to each other under this Agreement are true, correct, and accurate to the best of their knowledge.

2.03 Scope: In the event of any conflict between the terms of this Agreement and the terms of any Third Party Software Agreement accessed through the CareAccess VPP, the terms of this Agreement shall govern.

2.04 Entire Agreement: The Third Party software Agreement, together with any schedules, appendices, and other attachment thereto or other agreements (including this Agreement) which are specifically incorporated therein as part of the Third Party software shall constitute the entire agreement between COUNTY and CONTRACTOR with respect to the matters referred to therein and shall supersede all proposals, oral and written, and all other communications between the parties in relation to the subject matter of such Third Party software Schedule identified in Exhibit D which have not otherwise been incorporated in writing as a part of such Third Party software identified in Exhibit D. In all applications, though, in the event of any conflict between this Agreement and any provision of a Third Party Agreement, the provision of this Agreement shall control.

2.05 Personnel: The personnel assigned to perform Services shall be determined by Third Party Vendor and CONTRACTOR. COUNTY hereby acknowledges and agrees that CONTRACTOR may engage independent contractors, as identified in Exhibit I, to perform the Services on behalf of CONTRACTOR.

2.06 Access to COUNTY Data: COUNTY hereby authorizes CONTRACTOR to access the COUNTY’S materials and information data for purpose of performing this Agreement. COUNTY shall allow one CONTRACTOR administration profile to exist on county database for the purpose of technical support. Such access shall be subject to the confidentiality provisions hereunder and independent contractors shall sign confidentiality agreements.

2.07 COUNTY Cooperation: COUNTY hereby acknowledges that successful performance by CONTRACTOR of the Services shall require COUNTY to cooperate with CONTRACTOR in good faith and to provide information as may be requested by CONTRACTOR from time to time. COUNTY hereby agrees to provide such good faith cooperation and information.

2.08 Schedule: The Support Services shall be offered Monday through Friday, from 8:00 am to 5:00 pm, (excluding Christmas Day, Thanksgiving Day, and New Years Day).

2.09 Facilities: The Services shall be performed at the facilities of SBC Communications, located in Irvine, California, unless otherwise reasonably required.

2.10 Data Storage: Exhibits I and J provide the specifications for the site location of CONTRACTOR’S servers and databases. Data will be stored a minimum of 5 years.

2.11 Backup and Usage Information: CONTRACTOR shall backup the Third Party software using commercially reasonable backup procedures as described in Exhibit C, Section II., Number 12. CONTRACTOR shall manage the recordation of monthly reports detailing:

- (i) All information reflecting access and usage of the Third Party software including, but not limited to, audited and unaudited visits; and
- (ii) All available information about users of the Third Party software shall maintain strict confidentiality and adhere to all privacy and data protection laws applicable to the gathering, processing, storing, and transmitting of such information.

Back up data will be stored by the following method(s): Two electronic/computer generated copies stored in separate locations, using application language capable of data recovery.

- (iii) Data can be accessed by the following method: via the CareAccess FTP site for downloads on a monthly basis, or other scheduled periods.
- (iv) Back-up data will be stored both on-site and off-site at the location identified in I. Data will be backed up at the end of each business day.

2.12 Security Certificate: CONTRACTOR'S Services shall include issuance to COUNTY of a Secure Sockets Layer (SSL) certificate or other equivalent security certificate to enable secure and encrypted communications between Users and the Third Party software. CONTRACTOR hereby acknowledges that all such security certificates are provided by third party certificate authorities.

2.13 Passwords: COUNTY hereby acknowledges and agrees that access to certain areas of Third Party software (as determined by CONTRACTOR) shall be subject to use of a Password mutually agreeable to COUNTY and CONTRACTOR. COUNTY acknowledges that CONTRACTOR shall not provide full or administrative access to the Third Party software or the hosting equipment. Access to the Third Party software shall be determined in the exclusive discretion of CONTRACTOR. Modification of COUNTY Password shall be subject to approval of CONTRACTOR. In the event COUNTY is enabled to issue passwords to Users ("User Passwords") for accessing the Third Party software, CONTRACTOR shall have the right to access such User Passwords and COUNTY shall cooperate with CONTRACTOR in providing information to CONTRACTOR in connection with such User Passwords for purposes of operating and maintaining the Third Party software. CONTRACTOR shall maintain all password information in strict confidence. COUNTY hereby accepts responsibility for, and shall be liable for, all access to the Third Party software in connection with User and COUNTY Passwords. COUNTY shall be responsible for the confidentiality of the COUNTY Password. COUNTY shall be responsible for maintenance of COUNTY Passwords.

2.14 Access to Third Party Software: COUNTY hereby acknowledges and agrees that access to the Third Party Software may be affected by local market telecommunication network activity, capacity and compatibility with third party communication equipment, Internet access software and browser. CONTRACTOR hereby disclaims and COUNTY hereby waives any and all CONTRACTOR responsibility for any Defect or service interruption in connection with local market telecommunication network activity, capacity and compatibility with third party

communication equipment, Internet access software and browsers outside of CONTRACTOR'S control.

2.15 Privacy Policy Statement: CONTRACTOR shall comply with the Policy Statement, attached hereto as Exhibit O.

2.16 Exclusivity: COUNTY hereby acknowledges and agrees that CONTRACTOR shall be the exclusive provider of VPP access hosting for the Third Party Software. The Third Party Software shall be accessed exclusively by COUNTY for purposes of performing this Agreement. In no event shall COUNTY use third parties or permit third parties to access the Third Party Software for purposes of performing any services concerning the Third Party Software including (without limitation) third party Internet service providers, web designers, solution providers, or third-party advertising management services in connection with the Third Party Software vendors.

2.17 Contact Person: CONTRACTOR and COUNTY shall each designate a principal contact person who shall act as a liaison between CONTRACTOR and COUNTY and who shall have sufficient authority to grant or communicate the granting of all necessary approvals.

2.18 Current Technology: CONTRACTOR represents and warrants that during the Term of this Agreement, and any renewals thereof, CONTRACTOR shall continually use and integrate the most current and up to date technology utilized by other users of the same version of the Third Party Software into the Third Party Software, provided it does not limit COUNTY'S access to this technology.

2.19 Telephone Support: CONTRACTOR shall make available reasonable telephone support to COUNTY'S personnel to assist them in utilizing the CONTRACTOR'S VPP and third Party Licensed Software during the hours of 8:00 a.m. to 5:00 p.m. USA Pacific Time on weekdays (exclusive of holidays).

2.20 Development Support: From time to time, COUNTY may request additional enhancements which are not included in the current public release version of the Licensed Software. CONTRACTOR will coordinate its best efforts to include such enhancements under a separate Statement of Work to be developed and agreed between the portal members.

2.21 Termination Without Cause: Either party may terminate this Agreement by providing ninety (90) days advance written notice of termination to the other party.

2.22 Cancellation With Cure: If either party violates its obligations under this Agreement or a Service, the other party may cancel the Agreement or such Service because of breach by sending written notice of cancellation to the other party describing the noncompliance to the non-complying party. Upon receiving such cancellation notice, the non-complying party shall have thirty (30) days from the date of such notice to cure any such noncompliance. If such noncompliance is not cured within the required thirty-day period, the party providing cancellation notice shall have the right to cancel this Agreement or the Service Order as of the thirty-first day after the date of such cancellation notice as specified in such cancellation notice.

2.23 Termination of Contract: Upon termination of the Agreement, COUNTY shall have thirty (30) days to transfer data to another location.

2.24 Nonpayment: Notwithstanding previous Section 2.22, "Cancellation with Cure," COUNTY'S failure to pay an invoice when due shall be sufficient cause for cancellation of this Agreement and any Service by CONTRACTOR as provided hereunder. CONTRACTOR shall exercise such right of cancellation by submitting Nonpayment Notice to COUNTY. Upon receipt of Nonpayment Notice, COUNTY shall have thirty (30) days to cure the nonpayment. If COUNTY fails to cure the nonpayment within the required thirty-day period, CONTRACTOR shall have the right to cancel the Agreement and any and all Service as of the thirty-first day after the date of the Nonpayment Notice.

2.25 Effect of Termination: Termination or cancellation of this Agreement shall terminate or cancel (as the case may be) this Agreement and each Service Order. Termination or cancellation of a Service shall terminate or cancel (as the case may be) such Service only.

2.26 Removal: COUNTY hereby acknowledges and agrees that CONTRACTOR shall have the right to remove (so long as such component is promptly replaced with a component of comparable quality and functionality) or modify a particular component or service, including (without limitation) the Tools, for any reason, including (without limitation) in the event use of such components is challenged or opposed by a third-party.

2.27 Access upon Termination: Upon termination or cancellation of this Agreement by CONTRACTOR, COUNTY shall immediately cease and desist any and all access to and attempt to access the Third Party Software, unless COUNTY enters into new and separate Agreements with the Third Party providers.

2.28 Litigation Expense: In the event of litigation or arbitration arising out of this Agreement, each party shall pay its own costs and expenses of litigation or arbitration.

PAYMENT PROVISIONS/BUDGET

I. PAYMENT PROVISIONS

A. PORTAL SUBSCRIPTION FEE:

COUNTY shall pay CONTRACTOR the Portal Subscription Fee as follows:

a) Portal Access Subscription Fee of \$35.00 per month per User for up to eleven (11) licensed users, as identified in Exhibit E, to access the Q Continuum software.

b) Two (2) licensed users, who will use the Portal to access both MSSP/Linkages (Q Continuum) and APS (AACTS) software, shall not be billed under this contract for the period from July 1, 2010 to September 30, 2011.

c) The bill submitted by CONTRACTOR each month will be compared to actual users. Portal access fees shall be determined by the actual number of identified users during the billing period. Payment of the current bill will reflect usage for the month billed.

Up to thirteen (13) licensed users may utilize this contract, although portal fees will be claimed for only eleven (11). In addition, Identified users shall be identified by Worker Number on Exhibit E. If more than one person utilizes a worker number during the billing period, billing will occur for only one worker number.

II. AUDITING

CONTRACTOR shall have the right at a time and place reasonably acceptable to COUNTY and CONTRACTOR but in no event more than once per year, to audit the Third Party Software, COUNTY'S, records, data and correspondence and any other information as reasonably necessary, related to the Third Party Software for purposes of validating the accuracy of fees due CONTRACTOR under this Agreement. The audit shall be conducted at CONTRACTOR'S sole cost and expense.

III. BUDGET

Portal Access Fees

Monthly portal access fee, per identified Q User:	\$35.00
Maximum Number of Identified Q Users:	<u>11</u>
Total Monthly Portal Access Fees (\$35.00/user x 11 users):	\$385.00

Number of Months:	<u>12 months</u>
Total Access Fees: (\$385.00 p/m x 12 months):	\$4,620.00

Portal Access Fees

Monthly portal access fee, per identified Q User:	\$35.00
Maximum Number of Identified Q Users:	<u>2</u>
Total Monthly Portal Access Fees (\$35.00/user x 2 users):	\$70.00

Number of Months:	<u>3 months</u>
Total Access Fees: (\$70.00 p/m x 3 months):	\$210.00

TOTAL: \$4,830.00

The maximum amount to be paid by COUNTY to CONTRACTOR under this contract shall not exceed **four thousand, eight hundred and thirty dollars (\$4,830.00)**.