

COUNTY OF SAN MATEO  
Departmental Correspondence

Date: **OCT 17 2001**  
Hearing date: **OCT 30 2001**

TO: Honorable Board of Supervisors  
FROM: Charlene A. Silva, Director, Aging and Adult Services *CS*  
SUBJECT: Agreement with California Department of Health Services (DHS) for the Long-Term Care Supportive Services Project (LTSSP)

RECOMMENDATION

1. Adopt a resolution authorizing the President of the Board to execute Agreement No. 01-15802 with DHS for LTSSP
2. Approve an Appropriation Transfer Request to set up additional appropriation and recognize additional revenues in the amount of \$150,000

Background

In 1992 Aging and Adult Services (AAS) convened a broad-based group of seniors, persons with disabilities, caregivers, and service providers to form the New Beginning Coalition (NBC). The Coalition's focus is the development of a long-range plan for a continuum of services that meet the needs of its consumers and acknowledge and incorporate the county's diversity. LTSSP is a goal of the NBC and is supported by the Commission on Disabilities and the Commission on Aging. Your board approved the NBC Strategic Plan on October 17, 1995.

Also in 1995 California State legislation was enacted to authorize and implement the LTSSP Pilot Program. The Welfare and Institutions (W & I) code 14139.05 et seq. directed DHS to select pilot sites to participate in LTSSP. The goal of LTSSP is to provide a comprehensive continuum of long-term care services for seniors and adults with disabilities. The project will remove barriers to services by blending funding across all levels of care: acute, long-term, primary, and home- and community-based services.

On March 30, 1999, your board authorized AAS to submit an application for the first round of planning grants issued by DHS through its Office of Long Term Care, and on August 19, 1999, your board approved an agreement with DHS for a \$50,000 planning grant. On March 28, 2000, your board authorized AAS to submit an application for the second round of planning grants, and on October 17, 2000, your board approved an agreement with DHS for a second \$50,000 planning grant.

The first grant was used to develop a menu of services for LTSSP services, including pre-admission assessment and eligibility criteria, protocols for Skilled Nursing Facilities (SNFs) and Adult Day

Health Care, and a plan to enhance communication among consumers, primary care providers, and care coordinators. The second grant is being used to plan for a rate and payment structure and a technology assessment that will ensure appropriate screening of patients prior to entering a SNF.

In spring 2001 DHS issued a Request for Application (RFA) through its Office of Long Term Care. Grants of \$150,000 were to be awarded to organizations that received planning grants last year. On May 22, 2001, your board authorized AAS to submit an application to continue with LTSSP's development process.

### Discussion

This grant from DHS provides \$150,000 to be used to develop a care coordination system that will link primary care providers, hospital discharge planning, SNFs, Adult Day Health Care Centers, and home- and community-based services. The purpose of the care coordination will be to avoid unnecessary institutionalization by linking the client to home- and community-based services. Additionally, funds will be used to continue working on the following three goals currently in progress:

- Goal 1: To develop an eligibility screening process,
- Goal 2: To create an assessment and care management process, and
- Goal 3: To establish a plan describing how service authorization will work.

County Counsel has reviewed and approved this agreement as to form and content.

### Fiscal Impact

The term of the agreement is July 1, 2001 to June 30, 2002. The agreement provides \$150,000 to support LTSSP's development process. As a condition for receiving the funding, Health Services will be required to provide a 20% (\$30,000) match to the grant either in cash or in-kind contributions. AAS will meet this condition by providing in-kind contributions of time, space, equipment, and support. An Appropriation Transfer Request (ATR) has been prepared to add these revenues and related appropriations to AAS's approved budget for 2001-2002. Any ongoing expenditures will be reduced if funds are unavailable in future years. There is no impact on the county General Fund as a result of this Agreement and approval of the ATR.

RECOMMENDED

  
HEALTH SERVICES AGENCY

RESOLUTION NO. \_\_\_\_\_

BOARD OF SUPERVISORS, COUNTY OF SAN MATEO, STATE OF CALIFORNIA

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RESOLUTION APPROVING AGREEMENT NO. 01-15802 WITH THE  
DEPARTMENT OF HEALTH SERVICES FOR THE LONG TERM CARE  
SUPPORTIVE SERVICES PROJECT FOR FISCAL YEAR 2001-02

RESOLVED, by the Board of Supervisors of the County of San Mateo, State of California, that

WHEREAS, this Board supports the Long-Term Care Supportive Services Project that provides the full continuum of integrated medical, social, and supportive services to its eligible population; and

WHEREAS, this Board supports the development of a continuum of care that fosters independence and self-reliance and maintains individual dignity; and

WHEREAS, this Board supports the goal that allows consumers of publicly funded long-term care services to remain an integral part of their family and community life; and

WHEREAS, this Board encourages the consumers and their families to become partners in developing and implementing the Long-Term Care Supportive Services Project:

NOW, THEREFORE, IT IS RESOLVED that Agreement No. 01-15802 is hereby approved, and the President of this Board of Supervisors is hereby authorized and directed to execute the aforesaid Agreement for and on behalf of the County of San Mateo, and the Clerk of the Board shall attest the President's signature thereto.

**COUNTY OF SAN MATEO  
APPROPRIATION TRANSFER REQUEST**

REQUEST NO. \_\_\_\_\_

DEPARTMENT \_\_\_\_\_

DATE \_\_\_\_\_

**1. REQUEST TRANSFER OF APPROPRIATIONS AS LISTED BELOW:**

C O D E S		AMOUNT	DESCRIPTION
FUND OR ORG.	ACCOUNT		
From	57011	1871	150,000   00 All other State Aid
To	57011	5858	150,000   00 Other Professional Contract Services

Justification. (Attach Memo if Necessary) The State of California Department of Health Services through its Office of Long-Term Care issued a grant of \$150,000.00. This grant shall be used to develop a care coordination system that will link primary care providers, hospital discharge planning, skilled nursing facilities, Adult Day Health Care Centers, and home- and community-based services. There is no financial impact on the county General Fund as a result of this ATR.

DEPARTMENT HEAD  
 BY: *Charlene A. Silva* 1/10/17

2.  Board Action Required  Four-Fifths Vote Required  Board Action Not Required
- Remarks: \_\_\_\_\_

COUNTY CONTROLLER  
 BY: \_\_\_\_\_ DATE \_\_\_\_\_

3.  Approve as Requested  Approve as Revised  Disapprove
- Remarks: \_\_\_\_\_

COUNTY MANAGER  
 BY: \_\_\_\_\_ DATE \_\_\_\_\_

**DO NOT WRITE BELOW THIS LINE — FOR BOARD OF SUPERVISORS' USE ONLY**

BOARD OF SUPERVISORS, COUNTY OF SAN MATEO, STATE OF CALIFORNIA  
 RESOLUTION TRANSFERRING FUNDS  
 RESOLUTION NO. \_\_\_\_\_

RESOLVED, by the Board of Supervisors of the County of San Mateo, that

WHEREAS, the Department hereinabove named in the Request for Appropriation, Allotment or Transfer of Funds has requested the transfer of certain funds as described in said Request; and

WHEREAS, the County Controller has approved said Request as to accounting and available balances, and the County Manager has recommended the transfer of funds as set forth hereinabove:

NOW, THEREFORE, IT IS HEREBY ORDERED AND DETERMINED that the recommendations of the County Manager be approved and that the transfer of funds as set forth in said Request be effected.

Regularly passed and adopted this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_.

Ayes and in favor of said resolution:

Noes and against said resolution:

Supervisors: \_\_\_\_\_

Supervisors: \_\_\_\_\_

**GRANT AGREEMENT**

HAS 1229 (Rev 07/01)

Agreement Number

**01-15802**

1. The California Department of Health Services, hereafter called the State and/or DHS hereby makes a grant award funds to the Grantee named below:

Grantee's Name

San Mateo County Health Services Agency, Aging and Adult Services

2. Grant term

From 7/1/01 through 6/30/02

3. Total grant amount

\$ 150,000

4. Grantee's Project Director

Name

Charlene Silva

Telephone number

(650) 573-3910

Address, if different from Grantee's address

225 37th Avenue  
San Mateo, CA 94403

5. Grantee's Financial Officer

Name

Charlene Silva

Telephone number

(650) 573-3910

Address, if different from Grantee's address

6. The grantee, in accepting this grant award, agrees to comply with the terms and conditions of the following exhibits which are made a part of this grant award by this reference and any applicable statutes or regulations:

Exhibit A – Scope of Work	12 pages
Exhibit B – Budget Detail and Payment Provisions	6 pages
Exhibit B, Attachment I – Grant Budget and Required Budget	2 pages
*Exhibit C – General Terms and Conditions	GTC 201 – dated 2/20/01
Exhibit D(S) – Special Terms and Conditions	18 pages
Exhibit E – Additional Provisions	3 pages
Exhibit F – Contractor's Release	1 page
Exhibit G – Travel Reimbursement Information	2 pages

\* View at [www.dgs.ca.gov/contracts](http://www.dgs.ca.gov/contracts).

In Witness Whereof, this agreement has been executed by the parties hereto.

**GRANTEE**

Grantee's Name (If other than an individual, state if a corporation, partnership, nonprofit organization, etc.)

San Mateo County Health Services Agency, Aging and Adult Services

Signed By (Authorized Signature)

Date Signed



Printed Name and Title of Person Signing

Michael D. Nevin, President  
Board of Supervisors, County of San Mateo

Address

**STATE OF CALIFORNIA**

Agency Name

California Department of Health Services (DHS)

Signed By (Authorized Signature)

Date Signed



Printed Name and Title of Person Signing for Edward Stahlberg, Chief of Program Support Branch

Edward Stahlberg, Chief, Program Support Branch

Address

1800 3rd. Street, Rm. 455, P.O. Box 942732, Sacramento, CA 94234-7320

Exempt from DGS review per AG Opinion

Exempt from DGS review per this authority:

**Exhibit A**  
**Scope of Work**

1. Grantee agrees to provide to the Department of Health Services (DHS) the services described herein: The development of a full continuum, at risk LTCI pilot project as currently envisioned and described in the attached pages listing the specific goals, objectives, activities, measurable performance outcomes and methods of evaluation.
2. The services shall be performed at applicable facilities in the County of San Mateo or in various statewide facilities accessible to the Grantee.
3. The services shall be provided during normal contractor working hours, Monday through Friday, excluding national holidays.
4. The project representatives during the term of this agreement will be:

Department of Health Services  
Carol A. Freels  
(916) 322-4475  
FAX (916) 322-8619

San Mateo County  
Charlene Silva, Director  
(650) 573-3910  
FAX (650) 573-2193

Direct all inquiries to:

Department of Health Services:

Office of Long Term Care  
Attn: Carol Freels  
1800 3<sup>rd</sup> Street, Suite 205  
P.O. Box 942732  
Sacramento, CA 94234-7320  
916) 322-4475  
FAX (916) 322-8619

San Mateo County:

San Mateo County Health Services Agency  
Aging and Adult Services  
Attn: Charlene Silva  
225 37<sup>th</sup> Avenue  
San Mateo, CA 94403  
(650) 573-3910  
FAX (650) 573-2193

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. Allowable Informal Scope of Work Changes**

- A. The Grantee or the State may propose informal changes or revisions to the activities, tasks, deliverables and/or performance time frames specified in the Scope of Work, provided such changes do not alter the overall goals and basic purpose of the contract.

- B. Informal SOW changes may include the substitution of specified activities or tasks; the alteration or substitution of contract deliverables and modifications to anticipated completion/target dates.
- C. Informal SOW changes processed hereunder, shall not require a formal contract amendment, provided the Grantee's annual budget does not increase or decrease as a result of the informal SOW changes.
- D. Unless otherwise stipulated in this contract, all informal SOW changes and revisions are subject to prior written approval by the State.
- E. In implementing this provision, the State may provide a format for the Grantee's use to request informal SOW changes. If no format is provided by the State, the Grantee may devise its own format for this purpose.

**6. Control of Project**

The State reserves the exclusive right to approve and adjust specific tasks to be performed within the general SOW to be performed by the Grantee pursuant to Paragraph 5, entitled "*Allowable Informal Scope of Work Changes*". These changes shall be accomplished by written notification to the Grantee and/or amendment to this grant as stipulated in Exhibit C, General Terms and Conditions. Amendment to this Grant shall be mutually agreeable to both parties.

**7. Progress Reports, Evaluation Instruments, And Other Contractual Requirements**

A. The Grantee shall submit a progress report, postmarked no later than the date specified in Paragraph 2 below. Reports are to be prepared in accordance with the information and format identified in Paragraph 3 below. Facsimile reports are not acceptable. Failure to submit an acceptable report timely is cause for invoice payments to the Grantee to be delayed or disallowed. The grantee's final report and/or final invoice will not be processed until an acceptable Final Report has been received and approved by the State.

- 1. The progress report, final report and other written communications from the grantee shall be sent to the:

Department of Health Services  
Office of Long Term Care  
P.O. Box 942732  
Sacramento, CA 94234-7320

2. The progress report and final report are to be submitted to the State in a form and format prescribed by the State in accordance with the following schedule:

	From	To	Due Date
<b>Progress Report</b>	07/01/01	12/31/01	01/31/02
<b>Final Report</b>	01/01/02	06/30/02	06/30/02

3. The report requirement instructions are:
- a) The Grantee will be required to submit one progress report and a final report in the planning grant period. The first progress report is due halfway through the grant period. The final report is due at the end of the planning grant period.
  - b) The progress report and final report must describe the accomplishments made during the report period and document that the Grant conditions have been met.
  - c) Both reports shall include a budget narrative and line item budget of expenditures to date documenting that the grant conditions have been met.
  - d) The final report shall include a comprehensive description of what has been accomplished to date and what the Grantee plans as the next step for LTCI.
  - e) If the Grantee has determined to proceed with development of LTCI, the final report shall demonstrate that the applicant has developed a scope of work that follows a logical progression to achieve full LTCI.
4. As stipulated in Paragraph one (1), entitled "*Invoicing and Payment*" in Exhibit B; no payments will be made in the 2<sup>nd</sup> and 4<sup>th</sup>/final quarters of the grant period until approval of the progress and final reports as outlined in this paragraph and evidence that the grant conditions have been met.
5. The Grantee shall complete the State evaluation instruments and other evaluation requirements in accordance with the form and format prescribed by the State.
6. The Grantee shall comply with all State-issued program and policy letters which may be issued during the grant term provided that the



State shall only make changes or impose additional requirements which will not result in additional costs of the Grantee.

7. See the attached pages for a detailed description of the work to be performed.

**OVERVIEW OF LOG'S EXPECTED ACHIEVEMENTS  
(GOALS AND OBJECTIVES)  
July 1, 2001 – June 30, 2002**

- 1. To develop an eligibility screening process**
- 2. To develop an assessment and care management process**
- 3. To develop a plan for how service authorization will work**

<b>OVERVIEW OF LOG'S EXPECTED ACHIEVEMENTS (GOALS AND OBJECTIVES) July 1, 2001 – June 30, 2002</b>			
Goal Number: 1	Specify: To develop an eligibility screening process		
Key Activities	How This Activity Meets & Supports the Goal/Objectives	Measurable Outcome(s)	Method(s) of Evaluating Key Activities & Measurable Outcome(s)
1.1 Gather and summarize information on eligibility screening tools and processes, including the status of State's work in this area	Creates uniform method to determine if an individual meets eligibility requirements for Phase 1a Pilot Project; and lays foundation for later phases of LTSSSP	Screening tool developed, consistent with assessment/care management and service authorization processes  Screening process defined	Consensus about screening tool design and process will be documented with meeting minutes from representative local stakeholder groups, the LOG and the State OLTC
1.2 Identify and organize a group of stakeholders including the LOG and management/line staff who will be involved in using the screening process	Builds knowledge, understanding and commitment from diverse stakeholders for system changes		
1.3 Convene stake holders to give feedback on alternative screening tolls and processes identified through the research	Issues about how to and how much to automate screening function will be further clarified in this process		
1.4 Reach consensus among stakeholders about who will use screening tool, what it should look like, and how screening will be conducted and linked to further assessment/services			

**OVERVIEW OF LOG'S EXPECTED ACHIEVEMENTS  
(GOALS AND OBJECTIVES)  
July 1, 2001 – June 30, 2002**

Goal Number: 1 (Continued)	Specify: To develop an eligibility screening process		
<b>Key Activities</b>	<b>How This Activity Meets &amp; Supports the Goal/Objectives</b>	<b>Measurable Outcome(s)</b>	<b>Method(s) of Evaluating Key Activities &amp; Measurable Outcome(s)</b>
<p>1.5 Based on input from stakeholders, create prototype screening tool and recommended process for use</p> <p>1.6 Stakeholders review and offer feedback on prototype</p> <p>1.7 Prototype revised</p> <p>1.8 Stakeholders approve draft screening tool and process</p>			

**OVERVIEW OF LOG'S EXPECTED ACHIEVEMENTS  
(GOALS AND OBJECTIVES)  
July 1, 2001 – June 30, 2002**

Goal Number: 2	Specify: Design a single system of conducting assessments and care management		
<b>Key Activities</b>	<b>How This Activity Meets &amp; Supports the Goal/Objectives</b>	<b>Measurable Outcome(s)</b>	<b>Method(s) of Evaluating Key Activities &amp; Measurable Outcome(s)</b>
2.1 Identify, review and summarize current systems of assessment and care management, including MSSP and other models	Will create a common practice for assessment and care management, and will lay foundation for assessment/care management in later phases of LTSSP	Assessment tool and process consistent with eligibility screening and service authorization processes will be identified and ready for implementation	Consensus about assessment tool and process will be documented with meeting minutes from representative local stakeholder groups, the LOG and the State OLTC
2.2 Identify and clarify alternative systems regarding management of data, including automated and web-based approaches	Management Information System requirement will begin to be clarified, including automation options and challenges	Care management structure, process and standards created	Consensus about care management structure, process and standards will be documented with meeting minutes from representative local stakeholder groups, the LOG and the State OLTC
2.3 Review local research and data and clarify the scope of care management that will be required for Phase 1a at full capacity	Builds knowledge, understanding and commitment from diverse stakeholders for system changes		
2.4 Review alternative care management models, based on data gathered, in preparation for presentation to stakeholders	Care management design will also be linked to utilization and outcomes		
2.5 Identify and organize a group of stakeholders including the LOG and management/line staff.			

**OVERVIEW OF LOG'S EXPECTED ACHIEVEMENTS  
(GOALS AND OBJECTIVES)  
July 1, 2001 – June 30, 2002**

Goal Number: 2 (Continued)	Specify: Design a single system of conducting assessments and care management		
<b>Key Activities</b>	<b>How This Activity Meets &amp; Supports the Goal/Objectives</b>	<b>Measurable Outcome(s)</b>	<b>Method(s) of Evaluating Key Activities &amp; Measurable Outcome(s)</b>
<p>2.6 Convene stakeholders to give feedback on assessment tool and process, care management structure, process and standards. Review authorization framework for levels of care management</p> <p>2.7 Reach consensus among stakeholders on tools and process</p> <p>2.8 Create prototype assessment tool and process, care management system plan and standards</p>			

<b>OVERVIEW OF LOG'S EXPECTED ACHIEVEMENTS (GOALS AND OBJECTIVES) July 1, 2001 – June 30, 2002</b>			
Goal Number: 3		Specify: To develop a draft plan for how service authorization will work	
Key Activities	How This Activity Meets & Supports the Goal/Objectives	Measurable Outcome(s)	Method(s) of Evaluating Key Activities & Measurable Outcome(s)
3.1 Gather data on HPSM, MSSP and other operating models of service authorization  3.2 Assess alternatives and identify one or more models of service authorization that build on HPSM systems and care management model, are flexible and responsive to consumer needs for community-based care  3.3 Convene a group of stakeholders to provide input and feedback on service authorization plans under consideration  3.4 Design a prototype service authorization process and convene stakeholders for input and feedback	Creates uniform methods for service authorization for Phase 1a Pilot Project, and lays foundation for service authorization for later phases of LTSSP  Builds knowledge, understanding and commitment from diverse stakeholders for system changes	Service authorization mechanisms and processes clarified, consistent with eligibility screening and assessment/care management processes	Consensus about levels of care standards and service authorization process will be documented with meeting minutes from representative local stakeholder groups, the LOG and the State OLTC

**OVERVIEW OF LOG'S EXPECTED ACHIEVEMENTS  
(GOALS AND OBJECTIVES)  
July 1, 2001 – June 30, 2002**

Goal Number: 3 (Continued)	Specify: To develop a draft plan for how service authorization will work		
<b>Key Activities</b>	<b>How This Activity Meets &amp; Supports the Goal/Objectives</b>	<b>Measurable Outcome(s)</b>	<b>Method(s) of Evaluating Key Activities &amp; Measurable Outcome(s)</b>
<p>3.5 Design a prototype service authorization process and convene stakeholders for input and feedback</p> <p>3.6 Based on input, finalize prototype system of service authorization; include standards for authorizing levels of care, based on individual consumer needs</p>			



## Overview of Expected Achievements (Timeline)

(GOALS AND OBJECTIVES)  
July 1, 2001 – June 30, 2002

Task #	Task Description	July 01	Aug 01	Sept 01	Oct 01	Nov 01	Dec 01	Jan 02	Feb 02	Mar 02	Apr 02	May 02	June 02
1.1	Gather and summarize info on eligibility screening tools	▶	▶	X									
1.2	Organize group of stakeholders		▶	X									
1.3	Convene stakeholders to give feedback			▶	▶	▶	X						
1.4	Reach consensus among stakeholders on screening tool							X					
1.5	Create prototype screening tool and process for use								▶	▶	X		
1.6	Stakeholder review and feedback on prototype										X		
1.7	Prototype revised										▶	X	
1.8	Approval of draft eligibility screening tool and process												X
2.1	Review current systems of assessment and care management	▶	▶	X									
2.2	Identify and clarify alternative data management systems			▶	X								
2.3	Clarify scope of care management required for Phase 1a				▶	X							
2.4	Review alternative care models					▶	X						
2.5	Organize a group of stakeholders				▶	▶	X						
2.6	Convene stakeholders to give feedback						▶	X					
2.7	Reach consensus among stakeholders on tools and process						▶	▶	X				
2.8	Create prototype assessment tool/processes, care management plan									▶	▶	▶	X
3.1	Gather data on service authorization models	▶	▶	X									
3.2	Identify appropriate models of service authorization		▶	▶	X								
3.3	Convene stakeholders to give feedback					▶	X						
3.4	Design a prototype service authorization process							▶	▶	▶	X		
3.5	Finalize prototype system of service authorization											▶	X
3.6	Progress and final reports to OLTC						X						X

**Exhibit B**  
Budget Detail and Payment Provisions

**1. Invoicing and Payment**

- A. For services satisfactorily rendered, and upon receipt and approval of the invoices, the State agrees to compensate the Grantee for actual expenditures incurred in accordance with the rates specified herein, which is attached hereto and made a part of this Agreement.
- B. Invoices shall include the Agreement Number and shall be submitted in triplicate not more frequently than quarterly in arrears to:

Department of Health Services  
Office of Long Term Care  
Attn: Carol Freels  
1800 3<sup>rd</sup> Street, Suite 205  
P.O. Box 942732  
Sacramento, CA 94234-7320

- C. In consideration that the activities provided by the Grantee, as described in Exhibit A, are performed in a manner acceptable to the State; the State shall reimburse the Grantee for actual costs incurred as outlined in Budget Exhibit B, Attachment I, page 1 of 2, upon submission of an undisputed invoice in accordance with the form and format prescribed by the State.
- D. Invoices shall be submitted in triplicate, quarterly (ending dates: 09/30/01, 12/31/01, 03/31/02 and 06/30/02) in arrears.

Invoices shall have:

- 1. An original signature;
  - 2. The time period covered;
  - 3. The Grantee name and grant number;
  - 4. Actual expenditures identified by line item in accordance with Budget Exhibit B, Attachment I.
  - 5. Copies of the monthly expenditure reports and applicable receipts.
- E. Total State reimbursement for each line item identified in Exhibit B, Attachment I, page 1 of 2, is the maximum amount reimbursable for that line item during the grant term.
  - F. The State, at its own option, may return disputed invoices to the Grantee for correction and resubmission prior to payment, or reduce itemized expenses claimed which are not in accordance with Budget

Exhibit B, Attachment I, page 1 of 2, and the Exhibit A, or which cannot be verified as project expenses by the Grantee.

- G. Invoices are to be signed by an authorized official, employee, or agent of the Grantee who shall certify that the expenditures claimed are actual expenditures for the period reports.
- H. The monthly expenditure reports shall include receipts for all grant money expenditures. If grant money is used for subcontracting, a copy of the subcontract shall be provided.
- I. Overtime is not reimbursable under the terms of their Grant unless the Grantee has obtained prior written approval from the State before the overtime is actually performed. Overtime is defined as time worked on any combination of state-funded long term care integration grant activities in excess of full-time equivalency.
- J. The Grantee understands and agrees that all deliverables and goals and objectives as specified in this Grant award must be fully and satisfactorily performed in order to receive the maximum amount payable identified in Paragraph 4, entitled "*Amount Payable*". The Grantee agrees that if the State determines that any deliverable/goal/objective is not fully performed to the State's satisfaction, or only partially performed, the State may reduce the maximum amount payable under this Grant award as follows:
  - 1. Where a goal/objective is not fully performed or only partially performed, the State shall calculate the pro rata share of the non-performed or partially performed goal/objective by:
    - a. Ascertain what percentage of the goal/objective was not performed;
    - b. Calculate the pro rata share of the non-performed portion by utilizing the "Measurable Outcome(s) and Methods of Evaluating Key Activities & Measurable Outcome(s)" specified in Exhibit A, SOW for each goal/objective;
    - c. Reduce the maximum amount payable by deducting the budgeted expense of completing the goal/objective based upon the cost of performing the "Measurable Outcome(s) and Methods of Evaluating Key Activities & Measurable Outcome(s)" from any sum due the Grantee to the degree that the sum due the Grantee meets or exceeds the reduction;

d. If the reduction exceeds the sum due the Grantee, the Grantee shall pay such amount back to the State upon its demand. The grantee agrees that such deductions to sums due to the Grantee are offsets and no further amount shall be due to the Grantee.

K. Grantee shall not divert, freeze, restrict, or prevent the use of funds received or generated, in whole or in part, for purposes other than conducting the activities described in the approved SOW.

**2. Budget Contingency Clause**

A. It is mutually agreed that if the Budget Act 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, 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 any fiscal year is reduced or deleted by the Budget Act for purposes of this program, the State shall have the option to either cancel this Agreement with no liability occurring to the State, or offer an agreement amendment to Grantee 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.

**4. Amount Payable**

A. The amount payable under this agreement shall not exceed \$150,000 for the budget period of 07/01/01 through 06/30/02.

B. Reimbursement shall be made for allowable expenses up to the amount annually encumbered commensurate with the state fiscal year in which services are performed and/or goods are received.

**5. Timely Submission of Final Invoice**

A. A final undisputed invoice shall be submitted for payment no more than ninety (90) calendar days following the expiration or termination date of this contract, unless a later or alternate deadline is agreed to in writing by the program contract manager. Said invoice should be clearly marked "Final Invoice", thus indicating that all payment obligations of

the State under this agreement have ceased and that no further payments are due or outstanding.

- B. The State may, at its discretion, choose not to honor any delinquent final invoice if the Grantee fails to obtain prior written State approval of an alternate final invoice submission deadline. Written State approval shall be sought from the program contract manager prior to the expiration or termination date of this agreement.
- C. The Grantee is hereby advised of its obligation to submit, with the final invoice, a "Contractor's Release (Exhibit F)" acknowledging submission of the final invoice to the State and certifying the approximate percentage amount, if any, of recycled products used in performance of this agreement.

#### **6. Allowable Line Item Shifts**

- A. Cumulative line item shifts of up to \$10,000 per line item may be made, provided no line item is increased or decreased by more than \$10,000 and the annual contract total is not changed.
- B. Line item shifts meeting these criteria shall not require a formal agreement amendment.
- C. Grantee shall adhere to any State requirements regarding the process to follow in requesting approval to make line item shifts.
- D. Line item shifts may be proposed/requested by either the State or the Grantee.
- E. Grantee is cautioned against making expenditures in advance of receiving written authorization for any requested line item shifts. Unauthorized expenditures may be denied by the State. Line item shifts will not be allowed or approved after the expiration or termination of the grant award.
- F. If any adjustments to the Exhibit B, Attachment I, page 1 of 2, alter performance of the Exhibit A, Grantee must obtain prior written approval from the State in accordance with instructions and requirements appearing in Exhibit A, Paragraph five (5), entitled "*Allowable Informal Scope of Work (SOW) Changes*" and Exhibit B, Paragraph six (6) entitled "*Allowable Line Item Shifts*". Failure to provide the State with timely notification of changes which affect the SOW could result in a disallowance of expenditures and/or an audit exception.

- G. If any adjustments to the Exhibit B, Attachment I, page 1 of 2, result in an increase or decrease to any of the line item totals, Grantee must obtain prior written approval from the State. Failure to provide the State with timely notification of changes that will affect line item totals could result in a disallowance of expenditures and/or an audit exception.

**7. Required Budget Match**

Per Welfare & Institutions (W&I) Code §14145.1, Grantees shall be required to match a portion of the grant awarded, either with cash, or in-kind contributions totaling 20 percent (or more) of the total grant. The match required shall be supplemental to the funds appropriated for the Long Term Care Integration Planning Grant.

**8. Recovery of Overpayments**

- A. The State shall recover overpayments to the Grantee including, but not limited to, payments determined to be:
1. In excess of allowable costs;
  2. In excess for amounts usually charged by the Grantee or any of its subcontractors;
  3. For services not documented in the records of the Grantee or any of its subcontractors, or for services where the documentation of the Grantee or any of its subcontractors justifies only a lower level of payment;
  4. Based upon false or incorrect invoices;
  5. For services not authorized by the State;
  6. For services not already paid for or already reimbursed by the State or others;
  7. For services that should have been billed to others.

**9. Travel Costs**

- A. The Grantee's headquarters is the location where the computation of reimbursable travel costs will begin and end under the terms of this Grant award.

- B. Headquarters is defined as the place where project personnel spend the largest portion of their regular working time and return to upon completion of special assignments. Any necessary travel away from the Grantee's headquarters shall be reimbursed in accordance with allowable costs identified in Exhibit B, Attachment I, page 1 of 2, and shall not exceed rates established by the State Department of Personnel Administration for non-represented employees.

**10. Grant Generated Revenues**

- A. The Grantee shall obtain the State's prior approval to generate revenue and place any revenue generated by activities conducted under this Grant, accruing to or received by the Grantee, into an identifiable FDIC-insured, interest-bearing bank account.
- B. Revenue generated by the Grantee as a result of this Grant Award shall be used only:
  - 1. To meet the goals and objectives identified in the Grantee's approved SOW;
  - 2. To defray costs incurred by the Grantee's program in carrying out the terms of this agreement;
  - 3. To measurably expand the Grantee's program, or to improve the quality of services above the level of services already funded under this Grant Award.
- C. The Grantee shall maintain adequate documentation of the receipt and use of such revenues, and shall provide this documentation to the State upon request. If funding authority for this program expires, Grantee agrees to return to the State, within ninety (90) days, any unexpended funds, including any interest earned remaining in the generated revenue account to the address specified in the Exhibit B, Paragraph 1, entitled "*Invoicing and Payment*".
- D. If this Grant is terminated pursuant to Exhibit C, Paragraph 7, entitled "*Termination for Cause*", and *General Terms and Conditions*, number 17, the Grantee agrees to return to the State, within thirty (30) days, any unexpended funds, including any interest earned remaining in the generated revenue account, to the address specified in Exhibit B, Paragraph 1, "*Invoicing and Payment*". The words "Unexpected Long Term Care Integration Pilot Program Generated Revenue" and the grant number shall be written on the face of the check or warrant that the Grantee has issued to return the unexpended generated revenue.

Exhibit B, Attachment I  
Grant Budget  
(07/01/01 – 6/30/02)

Personnel	<u>\$ 0</u>
Fringe Benefits (30% of Personnel)	<u>\$ 0</u>
Operating Expenses or General Expenses	<u>\$ 0</u>
Equipment	<u>\$ 0</u>
Travel	<u>\$ 0</u>
Subcontracts	<u>\$150,000</u>
Direct Overhead Expenses	<u>\$ 0</u>
Other Costs	<u>\$ 0</u>
Indirect Costs* ( <u>  </u> % of [Enter cost basis])	<u>\$ 0</u>
<i>*Indirect costs are limited to the first \$25,000 of each subcontract.</i>	
<b>Total Costs</b>	<b><u>\$150,000</u></b>



Exhibit B, Attachment I  
Local Organizing Group's Required Match  
(07/01/01 – 6/30/02)

Personnel	<u>\$ 27,932</u>
Fringe Benefits (30% of Personnel)	<u>\$ 8,366</u>
Operating Expenses or General Expenses	<u>\$ 0</u>
Equipment	<u>\$ 0</u>
Travel	<u>\$ 0</u>
Subcontracts	<u>\$ 0</u>
Direct Overhead Expenses	<u>\$ 0</u>
Other Costs	<u>\$ 0</u>
Indirect Costs* (___% of [Enter cost basis])	<u>\$ 0</u>
*Indirect costs are limited to the first \$25,000 of each subcontract.	
Total Costs	<u>\$ 36,298</u>

## Special Terms and Conditions

*(For State funded subvention, local assistance and direct service contracts and grant agreements)*

The use of headings or titles throughout this exhibit is for convenience only and shall not be used to interpret or govern the meaning of any specific term or condition. The terms "contract", "Contractor" and "Subcontractor" shall also mean "grant", "Grantee" and "Subgrantee" respectively.

### Index of Special Terms and Conditions

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## 1. Travel and Per Diem Reimbursement

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

Reimbursement for travel and per diem expenses from DHS 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. 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 DHS 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 written authorization from DHS.

## 2. Procurement Rules

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

### a. Equipment definitions

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

- (1) **Major equipment:** 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 DHS or the cost is reimbursed through this agreement. Software and videos are examples of intangible items that meet this definition.
- (2) **Minor equipment:** A tangible item having a base unit cost of **less than \$5,000** with a life expectancy of one (1) year or more that is listed on the DHS Asset Management Unit's Minor Equipment List and is either furnished by DHS or the cost is reimbursed through this agreement. Contractors may obtain a copy of the Minor Equipment List by making a request through the DHS program contract manager.
- (3) **Miscellaneous property:** A specific tangible item with a life expectancy of one (1) year or more that is either furnished by DHS or the cost is reimbursed through this agreement. Examples include, but are not limited to: furniture (excluding modular furniture), cabinets, typewriters, desktop calculators, portable dictators, non-digital cameras, etc.

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 2. Paragraph c of Provision 2 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 DHS program contract manager, to have all remaining equipment purchased through DHS' Purchasing Unit. The cost of equipment purchased by or through DHS shall be deducted from the funds available in this agreement. Contractor shall submit to the DHS 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 DHS. The equipment will be delivered to the Contractor's address, as stated on the face of the agreement, unless the

Contractor notifies the DHS program contract manager, in writing, of an alternate delivery address.

- (2) All equipment purchases are subject to Paragraphs d through h of Provision 2. Paragraph b of Provision 2 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 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 DHS, prior written authorization from the appropriate DHS 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 DHS, 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 DHS (e.g., when DHS has a need to monitor certain purchases, etc.), DHS may require prior written authorization and/or the submission of paid vendor receipts for any purchase, regardless of dollar amount. DHS reserves the right to either deny claims for reimbursement or to request repayment for any Contractor and/or subcontractor purchase that DHS 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. DHS 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 2 by giving the Contractor no less than 30 calendar days written notice.

### 3. Equipment Ownership / Inventory / Disposition

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

- a. Wherever the term equipment and/or miscellaneous property is used in Provision 3, the definitions in Provision 2, Paragraph a shall apply.

All equipment and/or miscellaneous property that are purchased/reimbursed with agreement funds or furnished by DHS under the terms of this agreement and not fully consumed in performance of this agreement shall be considered state equipment and the property of DHS.

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

Upon receipt of equipment and/or miscellaneous property, the Contractor shall report the receipt to the DHS program contract manager. To report the receipt of said items and to receive property tags, the Contractor shall use a form or format designated by DHS' Asset Management Unit. If the appropriate form (i.e., Contractor Equipment Purchased with DHS Funds) does not accompany this agreement, Contractor shall request a copy from the DHS 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 miscellaneous property to the DHS program contract manager using a form or format designated by DHS' Asset Management Unit. If an inventory report form (i.e., Inventory/Disposition of DHS-Funded Equipment) does not accompany this agreement, Contractor shall request a copy from the DHS program contract manager. Contractor shall:

(a) Include in the inventory report, equipment and/or miscellaneous property in the Contractor's possession and/or in the possession of a subcontractor (including independent consultants).

(b) Submit the inventory report to DHS according to the instructions appearing on the form or issued by the DHS program contract manager.

(c) Contact the DHS program contract manager to learn how to remove, trade-in, sell, transfer or survey off, from the inventory report, expired equipment and/or miscellaneous property that is no longer wanted, usable or has passed its life expectancy. Instructions will be supplied by DHS' Asset Management Unit.

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

c. Unless otherwise stipulated, DHS 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 miscellaneous 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 miscellaneous property.

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

- e. Unless otherwise stipulated by the program funding this agreement, equipment and/or miscellaneous property purchased/reimbursed with agreement funds or furnished by DHS under the terms of this agreement, shall only be used for performance of this agreement or another DHS 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 miscellaneous property to the DHS program contract manager and shall, at that time, query DHS as to the requirements, including the manner and method, of returning state equipment and/or miscellaneous property to DHS. Final disposition of equipment and/or miscellaneous property shall be at DHS expense and according to DHS instructions. Equipment and/or miscellaneous property disposition instructions shall be issued by DHS immediately after receipt of the final inventory report. At the termination or conclusion of this agreement, DHS may at its discretion, authorize the continued use of state equipment and/or miscellaneous property for performance of work under a different DHS agreement.
- g. **Motor Vehicles**

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

- (1) If motor vehicles are purchased/reimbursed with agreement funds or furnished by DHS 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 DHS and shall deliver all necessary documents of title or registration to enable the proper transfer of a marketable title to DHS.
- (2) If motor vehicles are purchased/reimbursed with agreement funds or furnished by DHS 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 DHS 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 DHS 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 period of contract extension 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 DHS 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 DHS program contract manager.

- (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 DHS.
- (d) The Contractor and/or Subcontractor agree to provide, at least thirty (30) days prior to the expiration date of said insurance coverage, a copy of a new certificate of insurance evidencing continued coverage, as indicated herein, for not less than the remainder of the term of this agreement, the term of any extension or continuation thereof, or for a period of not less than one (1) year.
- (e) The Contractor and/or Subcontractor, if not a self-insured government and/or public entity, must provide evidence, that any required certificates of insurance contain the following provisions:
  - [1] The insurer will not cancel the insured's coverage without giving thirty (30) calendar days prior written notice to the State (California Department of Health Services).
  - [2] The State of California, its officers, agents, employees, and servants are included as additional insureds, but only with respect to work performed for the State under this agreement and any extension or continuation of this agreement.
  - [3] The insurance carrier shall notify the State of California Department of Health Services, in writing, of the Contractor's failure to pay premiums; its cancellation of such policies; or any other substantial change, including, but not limited to, the status, coverage, or scope of the required insurance. Such notices shall contain a reference to the 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 DHS, 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, DHS may, in addition to any other remedies it may have, terminate this agreement upon the occurrence of such event.

#### 4. 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 particulars 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 Administrative Manual Section 1233, subsection 3. View this publication at the following Internet address: <http://www.sam.dgs.ca.gov>.
- (4) Unless otherwise mandated by the funding agency (i.e., federal government), DHS may only pay the Contractor's overhead charges or indirect costs on the first \$25,000 of each subcontract.
- b. DHS 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 DHS 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 DHS.
  - 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 DHS. DHS may, at its discretion, elect to waive this right. All such waivers shall be confirmed in writing by DHS.
  - d. Contractor shall maintain a copy of each subcontract entered into in support of this agreement and shall, upon request by DHS, make said copies available for approval, inspection, or audit.
  - e. Sole responsibility rests with the Contractor to ensure that subcontractors, used in performance of this agreement, are paid in a timely manner. The timeliness of said payments may be affected by the timeliness of payments issued by DHS to the Contractor.
  - 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 DHS, to permit DHS 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 DHS, 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, 9, 10, 11, and 17.

## 5. 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 DHS, to the extent that they are properly allocable to costs for which the Contractor has been reimbursed by DHS under this agreement.

## 6. Audit and Record Retention

(Applicable to agreements over \$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 purposes 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 DHS, the Department of General Services, the Bureau of State Audits, or their designated representatives 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.

## 7. 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.

## 8. Intellectual Property Rights

### a. Ownership

- (1) Except where DHS has agreed in a signed writing to accept a license, DHS 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 DHS 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 DHS' Intellectual Property in existence prior to the effective date of this agreement. Except as otherwise set forth herein, Contractor shall not use any of DHS' Intellectual Property now existing or hereafter existing for any purposes without the prior written permission of DHS. **Except as otherwise set forth herein, neither the Contractor nor DHS 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 DHS, Contractor agrees to abide by all license and confidentiality restrictions applicable to DHS in the third-party's license agreement.
- (4) Contractor agrees to cooperate with DHS in establishing or maintaining DHS' exclusive rights in the Intellectual Property, and in assuring DHS' 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 DHS all rights, title and interest in Intellectual Property made, conceived, derived from, or reduced to practice by the subcontractor, Contractor or DHS and which result directly or indirectly from this agreement or any subcontract.
- (5) Contractor further agrees to assist and cooperate with DHS 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 DHS' 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 DHS 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 DHS, 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 DHS 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 Section 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 DHS to any work product made, conceived, derived from, or reduced to practice by Contractor or DHS 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 DHS and which result directly or indirectly from this agreement, shall include DHS' notice of copyright, which shall read in 3mm or larger typeface: "© 2001, State of California, Department of Health Services. This material may not be reproduced or disseminated without prior written permission from the Department of Health Services." This notice should be placed prominently on the materials and set apart from other matter on the page where it appears. Audio productions shall contain a similar audio notice of copyright.

**d. Patent Rights**

With respect to inventions made by Contractor in the performance of this agreement, which did not result from research and development specifically included in the agreement's scope of work, Contractor hereby grants to DHS 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 DHS, without additional compensation, all its right, title and interest in and to such inventions and to assist DHS 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 DHS' prior written approval; and (ii) granting to or obtaining for DHS, 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 DHS 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 DHS.

**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 DHS 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 DHS 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) DHS 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 DHS 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 DHS' 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 DHS 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. DHS reserves the right to participate in and/or control, at Contractor's expense, any such infringement action brought against DHS.
- (2) Should any Intellectual Property licensed by the Contractor to DHS under this agreement become the subject of an Intellectual Property infringement claim, Contractor will exercise its authority reasonably and in good faith to preserve DHS' right to use the licensed Intellectual Property in accordance with this agreement at no expense to DHS. DHS 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 DHS 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, DHS 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 DHS for breach of any term of this Intellectual Property Exhibit by Contractor. Contractor acknowledges DHS would suffer irreparable harm in the event of such breach and agrees DHS 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, DHS 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.

## 9. Prior Approval of Training Seminars, Workshops or Conferences

Contractor shall obtain prior DHS 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.

## 10. 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, his/her 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 DHS 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 DHS without prior written authorization from the DHS program contract manager.
- 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.

## 11. 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 contract 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 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.

## 12. Dispute Resolution Process

- a. A Contractor grievance exists whenever the Contractor believes there is a dispute arising from DHS' action in the administration of an agreement. If the Contractor believes there is a dispute or grievance between the Contractor and DHS, both parties shall follow the procedure outlined below.
  - (1) The Contractor should first discuss the problem informally with the DHS program contract manager. If the problem cannot be resolved at this stage, 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 make a determination on the problem within ten (10) working days after receipt of the written communication from the Contractor. The Branch Chief shall respond in writing to the Contractor indicating the decision and reasons

therefore. Should the Contractor disagree with the Branch Chief's decision, the Contractor may appeal to the second level.

- (2) The Contractor must prepare a letter indicating the reasons for disagreement with Branch Chief's decision. The Contractor shall include with the letter a copy of the Contractor's original statement of dispute with any supporting documents and a copy of the Branch Chief's response. This letter shall be sent 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 funding this agreement 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 funding this agreement or his/her designee shall be returned to the Contractor within twenty (20) working days of receipt of the Contractor's letter.
- b. If the Contractor wishes to appeal the decision of the Deputy Director of the division funding this agreement 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 by DHS, dispute, grievance and/or appeal correspondence shall be directed to the DHS program contract manager.

### 13. 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 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, grants, or subventions to other governmental agencies or units of government nor contracts with regional centers or area agencies on aging (See 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; 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. **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, 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. **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 \$300,000 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 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.
- d. The audit shall be completed by the 15th day of the fifth month following the end of the Contractor's fiscal year. Two copies of the audit report shall be delivered to the DHS program funding this agreement. The audit report must identify the Contractor's legal name and the number assigned to this agreement. The report shall be due within 30 days after the completion of the audit. Upon receipt of said audit report, the DHS program contract manager shall forward the audit report to DHS' Audits and Investigations Unit.
  - 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 DHS 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 contract, 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.

#### 14. Novation Requirements

If the Contractor proposes any novation agreement, DHS shall act upon the proposal within 60 days after receipt of the written proposal. DHS 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, DHS will initiate an amendment to this agreement to formally implement the approved proposal.

#### 15. 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, DHS may, at its discretion, withhold 10 percent (10%) of the face amount of the contract, 50 percent (50%) of the final invoice, or \$3,000 whichever is greater, until DHS receives a final report that meets the terms, conditions and/or scope of work requirements of this agreement.

#### 16. Performance Evaluation

(Not applicable to grant agreements.)

DHS 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 DHS. Negative performance evaluations may be considered by DHS prior to making future contract awards.

#### 17. 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.

#### 18. Year 2000 Compliance

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

The Contractor warrants and represents that the goods or services sold, leased, or licensed to the State of California, its agencies, or its political subdivisions, pursuant to this agreement are "Year 2000 Compliant." For the purposes of this agreement, a good or services is Year 2000 compliant if it will continue to fully function before, at, and after the Year 2000 without interruption and, if applicable, with full ability to accurately and unambiguously process, display, compare, calculate, manipulate, and otherwise utilize date information. This warranty and representation supersedes all warranty disclaimers and limitations and all limitations on liability provided by or through the Contractor.

#### 19. 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.

#### 20. University of California Mutual Indemnification

(Applicable only to agreements entered with the Regents of the University of California or a University of California campus under its jurisdiction.)

- a. The State and the Regents of the University of California shall mutually defend, indemnify and hold each other and their respective agencies, officers, employees, and agents harmless from and against any and all liability, loss, expense, attorneys' fees, or claims for injury or damages arising out of the performance of this contract but only in proportion to and to the extent such liability, loss, expense, attorneys' fees, or claims for injury or damages are caused by or result from the negligent or intentional acts or omissions of either the State or the Regents of the University of California.
- b. It should be expressly understood that the obligations hereunder shall be conditioned upon this contract being one that falls within the purview of Section 895 of the Government Code.

#### 21. Union Organizing

(Applicable only to grant agreements.)

Grantee, by signing this agreement, hereby acknowledges the applicability of Government Code 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 2 above, 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.

## 22. 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, DHS 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 contracts, 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 contract year to the next. See f Provision (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 contract period of one year. If John Doe has five weeks of vacation and eighteen days of sick leave at the beginning of the agreement, the Contractor during a one-year agreement term may only claim up to three weeks of vacation and twelve days of sick leave 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 DHS, the remaining unused two weeks of vacation and seven days of sick leave may not be claimed as an allowable cost.

**Exhibit E**  
Additional Provisions

**1. Incorporated Exhibits**

- A. The following exhibits/attachments 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 DHS, as required by program directives. DHS shall provide the Grantee with copies of said documents and any periodic updates thereto, under separate cover. DHS will maintain on file all documents referenced herein and any subsequent periodic updates.
1. The following sections of the Request for Proposal: Executive Summary, Development Readiness, Implementation Plan and Timeline for Phases, Identification of the LOG, Identification of the Agency, Definition of a Governance Structure, Consumer and Provider Involvement, Current Status, Problem Statement and Proposed Solutions, Scope of Services, Description of the Target Population and Geographic Area, Plan for Integration of Funding and Fiscal Integrity, Administration and any clarifications thereto; and the grantee's response to the listed sections, are incorporated herein and made a part hereof by this reference. Copies of these items are on file with the State.
  2. The Grantee's Required Budget Match Detail and Budget Narrative supporting the line item budget is incorporated herein and made a part hereof by this reference.

**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 DHS, Grantee shall take immediate steps to stop performance and to cancel or reduce subsequent contract costs.
- C. Contractor shall be entitled to payment for all allowable costs authorized under this agreement, including authorized non-cancelable obligations incurred prior to receipt of the notice of termination or cancellation, provided such expenses do not exceed the stated maximum amounts payable.

#### **4. Immediate Termination for Cause**

- A. The State reserves the right to immediately terminate this Grant in whole or in part by providing written notice to the Grantee after the occurrence of any of the following:
  - 1. If the Grantee knowingly furnishes any statement, representation, warranty, or certification in connection with the SOW of the grant, which representations are materially false, deceptive, incorrect, or incomplete;
  - 2. If the Grantee fails to perform to the State's satisfaction any material requirement of the Grant or defaults in the performance of the Grant Award;
  - 3. If the State determines satisfactory performance of the Grant is substantially endangered by the action or inaction by the Grantee, or can reasonably anticipate such occurrence of default;
  - 4. If the Grantee files for bankruptcy, or, if in the judgement of the State, the Grantee becomes financially incapable of completing the Grant; or
  - 5. The State may, at its discretion, require the Grantee to cease performance of certain components of the SOW and complete performance of other components prior to termination of the entire Grant.

**5. Responsibilities Upon Termination**

- A. After receipt of notification of termination of this Grant, and except as otherwise specified by the State, the grantee shall stop work under this Grant on the date specified in the written notice of termination.
- B. The Grantee shall:
  - 1. Place no further orders or subcontracts for materials, services, or facilities except as may be necessary for completion of such portion of the work under this grant that is not terminated.
  - 2. Settle all outstanding liabilities and all claims arising out of such termination of orders and subcontracts, with the approval or ratification of the State to the extent the State may require. The State's approval or ratification shall be final for the purposes of this Paragraph 6, "Responsibilities Upon Termination".
  - 3. Take such action as may be necessary, or as the State may specify, to protect and preserve any property related to this Grant which is in the possession of the Grantee and in which the State has or may acquire an interest.

**6. Avoidance of Conflicts of Interest by Contractor**

- A. The Grantee agrees that all reasonable efforts will be made to ensure that no conflict of interest exists between its officer, agents, employees, consultants or members of its governing body.
- B. The Grantee shall prevent its officers, agents, employees, consultants or members of its governing body from using their positions for purposes that are, or give the appearance of being, motivated by a desire for private gain for themselves or others such as those with whom they have family, business or other ties.
- C. In the event that DHS determines that a conflict of interest situation exists, any cost associated with the conflict may constitute grounds for termination of this agreement. This provision shall not be construed to prohibit the employment of persons with whom the Grantee's officer, agents, or employees have family, business or other ties so long as the employment of such persons does not result in increased costs over those associated with the employment of any other equally qualified applicant and such persons have successfully competed for employment with other applicants on a merit basis.

## Contractor's Release

### Instructions to Contractor:

With final invoice(s) submit one (1) original and two (2) copies. The original must bear the original signature of a person authorized to bind the Contractor. The additional copies may bear photocopied signatures.

### Submission of Final Invoice

Pursuant to contract number 01-15802 entered into between the State of California Department of Health hereby Services and the Contractor (identified below), the Contractor does acknowledge that final payment has been requested via invoice number(s) \_\_\_\_\_, in the amount(s) of \$ \_\_\_\_\_ and dated \_\_\_\_\_  
If necessary, enter "See Attached" in the appropriate blocks and attach a list of invoice numbers, dollar amounts and invoice dates.

### Release of all Obligations

By signing this form, and upon receipt of the amount specified in the invoice number(s) referenced above, the Contractor does hereby release and discharge the State, its officers, agents and employees of and from any and all liabilities, obligations, claims, and demands whatsoever arising from the above referenced contract.

### Repayments Due to Audit Exceptions / Record Retention

By signing this form, Contractor acknowledges that expenses authorized for reimbursement does not guarantee final allowability of said expenses. Contractor agrees that the amount of any sustained audit exceptions resulting from any subsequent audit made after final payment, will be refunded to the State.

All expense and accounting records related to the above referenced contract must be maintained for audit purposes for no less than three years beyond the date of final payment, unless a longer term is stated in said contract.

### Recycled Product Use Certification

By signing this form, Contractor certifies under penalty of perjury that a percentage (0% to 100%) of the materials, goods, supplies or products offered or used in the performance of the above referenced contract meets or exceeds the minimum percentage of recycled material, as defined in Public Contract Code Sections 12161 and 12200.

### Reminder to Return State Equipment/Property (If Applicable)

(Applies only if equipment was provided by DHS or purchased with or reimbursed by contract funds)

Unless DHS has approved the continued use and possession of State equipment (as defined in the above referenced contract) for use in connection with another DHS agreement, Contractor agrees to promptly initiate arrangements to account for and return said equipment to DHS, at DHS's expense, if said equipment has not passed its useful life expectancy as defined in the above referenced contract.

### Patents / Other Issues

By signing this form, Contractor further agrees, in connection with patent matters and with any claims that are not specifically released as set forth above, that it will comply with all of the provisions contained in the above referenced contract, including, but not limited to, those provisions relating to notification to the State and related to the defense or prosecution of litigation.

Contractor's Legal Name (As on contract): \_\_\_\_\_

Signature of Contractor or Official Designee: \_\_\_\_\_

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

Printed Name/Title of Person Signing: \_\_\_\_\_

DHS Distribution:    Accounting (Original)    Program    CMU contract file

**Travel Reimbursement Information  
Effective November 1, 1999**

1. The following rate policy is to be applied for reimbursing the travel expenses of persons under contract.
  - a. Reimbursement shall be at the rates established for nonrepresented/excluded state employees.
  - b. Short Term Travel is defined as a 24-hour period, and less than 31 consecutive days, and is at least 50 miles from the main office, headquarters or primary residence. Starting time is whenever a contract employee leaves his or her home or headquarters. "Headquarters" is defined as the place where the contracted personnel spends the largest portion of their working time and returns to upon the completion of special assignments.
  - c. Contractors on travel status for more than one 24-hour period and less than 31 consecutive days may claim a fractional part of a period of more than 24 hours. Consult the chart appearing on page 2 of this exhibit to determine the reimbursement allowance. All lodging must be receipted. If contractor does not present receipts lodging will not be reimbursed.

(1) Lodging (with receipts):

<b>Travel Location / Area</b>	<b>Reimbursement Rate</b>
Statewide Non-High Cost Area	\$ 84.00 plus tax
High Cost Areas including the following counties: Alameda, San Francisco, San Mateo, Santa Clara and Central and Western Los Angeles (L.A.). Central and Western L.A. is the territory bordered by Sunset Blvd. On the north, the Pacific Ocean on the West, Imperial Blvd./Freeway 105 on the South and Freeways 110, 10, and 101 on the East.  Central and Western L.A. includes downtown L.A., Englewood, L.A. International Airport, Playa del Rey, Venice, Santa Monica, Brentwood, West L.A., Westwood Village, Culver City, Beverly Hills, Century City, West Hollywood and Hollywood.	\$110.00 plus tax

Reimbursement for actual lodging expenses exceeding the above amounts may be allowed with the advance written approval of the Deputy Director of the Department of Health Service or his or her designee. Receipts are required.

- (2) Meal/Supplemental Expenses (with or without receipts): With receipts, the contractor will be reimbursed actual amounts spent up to the maximum.

<b>Meal / Expense</b>	<b>Reimbursement Rate</b>
Breakfast	\$ 6.00
Lunch	\$ 10.00
Dinner	\$ 18.00
Incidental	\$ 6.00

- d. Out-of-state travel may only be reimbursed if such travel has been stipulated in the contract and has been approved in advance by the program with which the contract is held. For out-of-state travel, contractors may be reimbursed actual lodging expenses, supported by a receipt, and may be reimbursed for meals and supplemental expenses for each 24-hour period computed at the rates listed in c. (2) above. For all out-of-state travel, contractors must have prior Departmental approval and a budgeted trip authority.
- e. In computing allowances for continuous periods of travel of less than 24 hours, consult the chart appearing on page 2 of this bulletin.
- f. No meal or lodging expenses will be reimbursed for any period of travel that occurs within normal working hours unless expenses are incurred at least 50 miles from headquarters.



2. If any of the reimbursement rates stated herein are changed by the Department of Personnel Administration, no contract amendment will be required to incorporate the new rates. However, DHS shall inform the contractor, in writing, of the revised travel reimbursement rates.
3. For transportation expenses, the contractor must retain receipts for parking; taxi, airline, bus, or rail tickets; car rental or any other travel receipts pertaining to each trip for attachment to an invoice as substantiation for reimbursement. Reimbursement may be requested for commercial carrier fares; private car mileage; parking fees; bridge tolls; taxi, bus, or streetcar fares; and auto rental fees when substantiated by a receipt.
4. **Note on use of autos:** If a contractor uses his or her car for transportation, the rate of pay will be 31 cents maximum per mile. If the contractor is a person with a disability who must operate a motor vehicle on official state business who can operate only specially equipped or modified vehicles may claim a rate of 31 cents per mile without certification and up to 37 cents per mile with certification. If a contractor uses his or her car "in lieu of" air fare, the air coach fare will be the maximum paid by the State. The contractor must provide a cost comparison upon request by the state. Gasoline and routine automobile repair expenses are not reimbursable.
5. The contractor is required to furnish details surrounding each period of travel. Travel detail may include, but not limited to: purpose of travel, departure and return times, destination points, miles driven, mode of transportation, etc.
6. Contractors are to consult with the program with which the contract is held to obtain specific invoicing procedures.

**Travel Reimbursement Guide**

Length of travel period	This condition exists...	Allowable Meal(s)
Less than 24 hours	Travel begins at 6:00 a.m. or earlier and continues until 9:00 a.m. or later.	Breakfast
Less than 24 hours	<ul style="list-style-type: none"> <li>• Travel period ends at least one hour after the regularly scheduled workday ends, or</li> <li>• Travel period begins prior to or at 5:00 p.m. and continues beyond 7:00 p.m.</li> </ul>	Dinner
24 hours	Travel period is a full 24-hour period determined by the time that the travel period begins and ends.	Breakfast, lunch, and dinner
Last fractional part of more than 24 hours	Travel period is more than 24 hours and traveler returns at or after 8:00 a.m.	Breakfast
	Travel period is more than 24 hours and traveler returns at or after 2:00 p.m.	Lunch
	Travel period is more than 24 hours and traveler returns at or after 7:00 p.m.	Dinner

COUNTY OF SAN MATEO  
AGING AND ADULT SERVICES  
MEMORANDUM

CONTRACT APPROVAL FORM

TO: Maria Gonzalez - 573-3495, FAX 573-2193, PONY - AAS 321

FROM: Raymond Swope, County Counsel  
Telephone X 4759, Fax 363-4034, Pony CCO 111

SUBJECT: Approval of Board Memo Resolution and Agreement for:  
Agreement No. 01-15802 with California Department of Health Services

DATE SUBMITTED: October 3, 2001

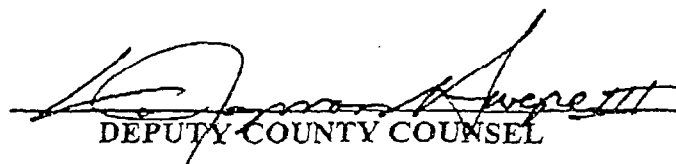
CONTRACT PERIOD: July 1, 2001 to June 30, 2002

CONTRACT AMOUNT AND FUNDING SOURCE:

N/A

COUNTY COUNSEL'S OFFICE HAS REVIEWED AND HEREBY APPROVED AS TO  
FORM THE AGREEMENT STIPULATED ABOVE.

APPROVED BY:

  
DEPUTY COUNTY COUNSEL

10/12/01  
DATE