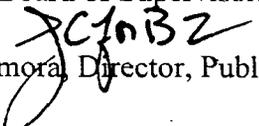


COUNTY OF SAN MATEO  
Departmental Correspondence

DATE: **NOV 5 2001**  
HEARING DATE: **NOV 20 2001**

TO: Honorable Board of Supervisors  
FROM: Brian J. Zamora  Director, Public Health and Environmental Protection Division  
SUBJECT: Agreement with Health Management Systems, Inc.

RECOMMENDATION

- 1) Adopt a resolution authorizing the President of the Board to execute an agreement with Health Management Systems, Inc., to provide computer software and software maintenance services,
- 2) Waive the Request for Proposal (RFP) process for computer software and software maintenance services for the Public Health staff, and
- 3) Approve an Appropriation Transfer Request (ATR) in the amount of \$53,333.

Background

The Public Health Division has used Health Management Systems (HMS), Inc., since 1991 for software used for patient services registration, the billing system and the Public Health Laboratory. The system has since expanded to support activities of the California Children Services (CCS) Program and Field Nursing Services. In 1994, the County retained the billing services of this contractor's Management Services Division to process and submit CCS/Medi-Cal claims and reports to the State.

Discussion

In July of 1998, we believed that most of the HMS functions were going to be replaced by the Siemens/SMS Health Information System installed for the Health Services Agency to replace the San Mateo County Health Center system. That is not the case for the immediate future because the Siemens/SMS system is limited in its applications to Public Health programs. Therefore, the County must continue contracting with Health Management Systems to ensure needed maintenance and support services for Public Health. At this time, there is no other system available that can produce the results required by Public Health programs. It is for this reason that we are requesting a waiver of the RFP process.

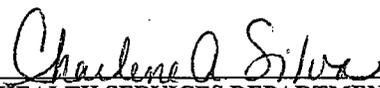
This agreement is for three years and the monthly payment rate will be \$8,602, which is the same as the previous contract. An additional \$150,000 will be paid to HMS to provide one-time work developing electronic interfaces between the Public Health Laboratory and the Siemens/SMS system at the San Mateo County Health Center. This interfacing is a critical patient care improvement, as the laboratory test findings will appear automatically on the Siemens/SMS system allowing Hospital and Clinics' physicians to read the results immediately on their computer. Currently, this interface process is done manually and there is a long unnecessary delay encountered. Finally, \$11,776 is budgeted annually to support CCS program activities.

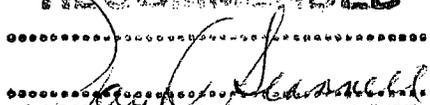
The software and software maintenance agreement has been reviewed and approved by the Information Service Department, Risk Management and County Counsel.

Term and Fiscal Impact

The term of this agreement is July 1, 2001 through June 30, 2004. The agreement maximum for the three-year period is \$495,000. The FY 2001-2002 cost is \$183,333. \$130,000 is included in the approved FY 2001-2002 budget. The remaining \$53,333 is covered by the ATR and transfers money from salary savings to contract services. The cost in FY 2002-2003 is \$155,833.50 and the same for FY 2003-2004. These costs will be included in future budgets. There is no new net County cost.

**RECOMMENDED**

  
HEALTH SERVICES DEPARTMENT

**RECOMMENDED**  
.....  
  
ASSISTANT COUNTY MANAGER

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

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

\* \* \* \* \*

RESOLUTION AUTHORIZING WAIVER OF  
REQUEST FOR PROPOSALS PROCESS  
AND EXECUTION OF AN AGREEMENT WITH  
HEALTH MANAGEMENT SYSTEMS, INC.

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

WHEREAS, Ordinance Code Section 2.92.050 authorizes the Board of Supervisors to waive the Request for Proposals process in any situation where the Board of Supervisors determines that the best interest of the county could be served without the necessity of proposals; and

WHEREAS, the continued service of Health Management Systems, Inc., which were originally obtained by a Request for Proposals, is necessary to ensure proper operation of the information system and there is no known other provider who can provide this service; and

WHEREAS, there have been presented to this Board of Supervisors for its consideration and acceptance an Agreement, reference to which is hereby made further particulars, whereby Health Management Systems, Inc., shall provide computer software, maintenance, software conversion, and data conversion services for the division of Public Health; and

WHEREAS, this Board has been presented with the form of the Agreement and has examined and approved it to both form and content and desires to enter into the Agreement;

NOW, THEREFORE, IT IS HEREBY DETERMINED AND ORDERED that the Request for Proposals process is waived and the President of this Board of Supervisors be, and is hereby authorized and directed to execute said Agreement for and on behalf of the County of San Mateo, and the Clerk of this Board shall attest the President's signature thereto.

**COUNTY OF SAN MATEO  
APPROPRIATION TRANSFER REQUEST**

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

<b>DEPARTMENT</b> Public Health	<b>DATE</b>
---------------------------------	-------------

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

	C O D E S		AMOUNT	DESCRIPTION
	FUND OR ORG.	ACCOUNT		
From	62300	4111	40,100   00	Salaries
	62300	4311	13,233   00	Benefits
To	62300	5856	53,333   00	Contracts

**Justification. (Attach Memo if Necessary)**  
 To provide for the increase in contracted services with Health Management Systems relating to electronic interface between the Public Health Lab and the San Mateo County General Hospital system.

**DEPARTMENT HEAD**  
 BY: *Charlene A. Silva*      DATE: 11/2/01

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: Supervisors: _____ _____ _____	Noes and against said resolution: Supervisors: _____ _____ _____ Absent
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## GENERAL TERMS AND CONDITIONS

### 1. Definitions

- a. "Agreement" shall mean this Licensed Software and Professional Services Agreement made between County and HMS. This Agreement is the only Agreement between County and HMS and supersedes and replaces all written and verbal agreements made previously between the parties.
- b. "Licensed Software", shall mean the Global Health Information System (GHIS) as purchased by contract between County and HMS in a previous agreement including all rights and privileges of ownership including software functions listed in Attachment A to this Agreement. This Agreement calls for modification of the Licensed Software. The modified Licensed Software will remain the property of County.
- c. "Sub-Licensed Software", shall mean any software manufactured by any third party that is required for the operation of the System.
- d. "System" shall mean the Licensed Software operating under the Sub-Licensed Software – Inter Systems Cache in the HMS Data Center under the control of County personnel or the Licensed Software operating under the Sub-Licensed Software in the HMS Data Center.
- e. "HMS Data Center", shall mean a secure facility owned and operated by HMS in which computer equipment, air conditioning equipment, power-conditioning equipment, and other equipment needed to support operation of the System is installed. HMS is responsible for the System Support of the HMS Data Center for the benefit of County.
- f. "System Support", shall mean the support and continuous operation of the System in a data center.
- g. "Licensed Software Support", shall mean the support, maintenance, and enhancement of the Licensed Software functionality in an operational status as it operates under the Sub-Licensed Software.
- h. "System Failure", shall mean a situation in which any of the functions of the System are not available to any end users.
- i. "Test Environment", shall mean, an environment in which the version production Licensed Software resides available for use. The purpose of the Test Environment is to provide an environment in which changes can be made to the Licensed Software, those changes tested, and results evaluated without endangering the Production Environment. Upon completion of testing of Licensed Software changes, HMS is responsible for moving that tested Licensed Software to the

Production Environment for Production Testing and use. HMS is responsible for maintaining the Test Environment and refreshing it with the Licensed Software being used in the Production Environment.

- j. "Production Environment", shall mean, an environment in which the current production Licensed Software resides available for use.
- k. "County Data", shall mean, the data contained in the database controlled by the System. That data is the proprietary property of County.

## **2. Services to be Performed by HMS**

In consideration of the payment made by County hereinafter set forth, HMS, under the general direction of the Director of Health Services, or her designee, shall provide services and facilities as described in Schedule A and B to this Agreement attached hereto and incorporated by reference. Such services shall be provided in a professional and workmanlike manner.

## **3. Payments**

- a. **Maximum Amount.** In full consideration of HMS's performance of services described in Schedule A, the amount that County shall be obligated to pay for services rendered as described in Schedule B under this Agreement shall not exceed four hundred ninety-five thousand dollars (\$495,000) for the contract term of thirty-six (36) months.
- b. **Rate of Payment.** The rate and terms of payment are specified in Schedule B, attached hereto and incorporated herein. Any rate increase is subject to the approval of the Director of Health Services or her designee, and shall not be binding on County unless approved by an Amendment to this Agreement. In no event may the rates established in Schedule B be increased to the extent that the maximum County obligation shall exceed the total specified in paragraph 3a above. Each payment shall be conditioned on the performance of the services described in Schedules A and B to the full satisfaction of the Director of Health Services or her designee.
- c. **Time Limit for Submitting Invoices.** HMS shall submit an invoice for services to County for payment in accordance with the provisions of Schedule B. County shall not be obligated to pay HMS for the services covered by any invoice if HMS presents the invoice to County more than one hundred eighty (180) days after the date HMS renders the services, or more than ninety (90) days after this Agreement terminates, whichever is earlier with the exception of invoices submitted by HMS containing invoice items in dispute. County agrees to pay HMS within thirty (30) days of approval of invoice submission. HMS reserves the right to withhold services if County fails to pay submitted within sixty (60) days.

#### **4. Relationship of the Parties**

It is expressly understood that this is an agreement between two (2) independent contractors and that no agency, employee, partnership, joint venture, or other relationship is established by this Agreement. The intent by both County and HMS is to create an independent contractor relationship. HMS expressly acknowledges and accepts the status and the tax consequences of an independent contractor. Further, as an independent contractor, HMS expressly acknowledges and accepts that no rights, benefits, privileges and/or claims in any form whatsoever under, from, through and/or pursuant to the San Mateo County Civil Service Rules are conveyed by this Agreement.

#### **5. Hold Harmless**

HMS shall indemnify and hold harmless County, its officers, agents, employees, and servants from all claims, suits, or actions of every name, kind and description, brought for, or on account of injuries to or death of any person, including HMS, or damage to any property of any kind whatsoever and to whomsoever belonging, or any failure to withhold and/or pay to the government income and/or employment taxes from earnings under this Agreement as made necessary by Section 530 of the Revenue Act of 1978, or any other loss or cost, including, but not limited to, which is caused by the concurrent active or passive negligence of County, its officers, agents, employees, or servants, resulting from the performance of any work required of HMS or payments made pursuant to this Agreement, provided that this shall not apply to injuries or damage for which County has been found in a court of competent jurisdiction to be solely liable by reason of its own negligence or willful misconduct. The duty of HMS to indemnify and save harmless as set forth herein, shall include the duty to defend as set forth in Section 2778 of the California Civil Code.

#### **6. Insurance**

- a. HMS shall not commence work under this Agreement until all insurance required under this section has been obtained and the Director of Health Services has approved such insurance. HMS shall furnish the Health Services Agency with Certificates of Insurance providing evidence of the required coverage and there shall be a specific contractual liability endorsement extending HMS's coverage to include the contractual liability assumed by HMS pursuant to this Agreement. These Certificates shall specify or be endorsed to provide that thirty (30) days' notice must be given, in writing, to the Health Services Agency of any pending change in the limits of liability or of any cancellation or modification of the policy. In the event of the breach of any provision of this section, or in the event any notice is received which indicates any required insurance coverage will be diminished or canceled, County at its opinion, may notwithstanding any other provision of this Agreement to the contrary, immediately declare a material breach of this Agreement and suspend all further payments pursuant to this Agreement until evidence of required insurance is received.

- b. Workers' Compensation and Employer Liability Insurance. HMS shall have in effect during the entire life of this Agreement, Workers' Compensation and Employer Liability Insurance providing full statutory coverage. In signing this Agreement, HMS makes the following certification, required by Section 1861 of the California Labor Code, which requires every employer to be insured against liability for Worker's Compensation or to undertake self-insurance in accordance with the provisions of the Code, and HMS will comply with such provisions before commencing the performance of the work of this Agreement.
  
- c. Liability Insurance. HMS shall maintain during the life of this Agreement such Bodily Injury Liability and Property Damage Liability Insurance as shall protect HMS personnel while performing work covered by this Agreement from any and all claims for damages for bodily injury, including accidental death, as well as any and all claims for property damage which may arise from HMS's operations under this Agreement, whether such operations be by HMS personnel or by any subcontractor or by anyone directly or indirectly employed to perform work under this Agreement. Such insurance shall be combined single limit bodily injury and property damage for each occurrence and shall not be less than the amount specified below. Such insurance shall include:

Comprehensive General Liability.....	\$0
Motor Vehicle Liability Insurance.....	\$0
Professional Liability.....	\$0

If this Agreement remains in effect for more than one (1) year from the date of execution, County may, at its sole discretion, require an increase in the amount of liability insurance to the level then customary in similar County agreements by giving sixty (60) days' written notice to HMS. County and its officers, agents, employees and servants shall be named as additional insured on any such policies of insurance, which shall also contain a provision that the insurance afforded thereby to County, its officers, agents, employees, and servants shall be primary insurance to the full limits of liability of the policy, and that if County or its officers and employees have other insurance against the loss covered by such a policy, such other insurance shall be excess insurance only. Said certificates of insurance are attached hereto and incorporated by reference herein as Schedules D and E.

**7. Non-discrimination**

Contractor shall comply with the non-discrimination requirements described in Schedule C, which is attached hereto, and incorporated herein.

Contractor shall comply with County admission and treatment policies which shall provide that patients are accepted for care without discrimination on the basis of race, color, religion, sex, sexual orientation, national origin, age, handicap, or political affiliation.

Violation of the non-discrimination provisions of this Agreement shall be considered a breach of this Agreement and subject Contractor to penalties, to be determined by the County Manager, including, but not limited to:

- i. termination of this Agreement;
- ii. disqualification of Contractor from bidding on or being awarded a County contract for a period of up to three (3) years;
- iii. liquidated damages of TWO THOUSAND FIVE HUNDRED DOLLARS (\$2,500) per violation;
- iv. imposition of other appropriate contractual and civil remedies and sanctions, as determined by the County Manager.

To effectuate the provisions of this paragraph, the County Manager shall have the authority to:

- i. examine Contractor's employment records with respect to compliance with this paragraph;
- ii. set off all or any portion of the amount described in this paragraph against amounts due to Contractor under the Contract or any other contractor between Contractor and County.

Contractor shall report to the County Manager the filing by any person in any court of any complaint of discrimination or the filing by any person of any and all charges with the Equal Employment Opportunity Commission, the Fair Employment and Housing Commission or any other entity charged with the investigation of allegations within thirty (30) days of such filing, provided that within such thirty (30) days such entity has not notified Contractor that such charges are dismissed or otherwise unfounded. Such notification shall include the name of the complainant, a copy of such complaint, and a description of the circumstance. Contractor shall provide County with a copy of its response to the complaint when filed.

With respect to the provision of employee benefits, Contractor shall comply with the County Ordinance which prohibits contractors from discriminating in the provision of employee benefits between an employee with a domestic partner and an employee with a spouse.

## **8. Assignments and Subcontracts**

- a. Without the written consent of the Director of Health Services or her designee, this Agreement is not assignable in whole or in part. Any assignment by HMS without the written consent of the Director of Health Services or her designee will constitute a breach of this Agreement and County may at its sole option, terminate this Agreement with thirty (30) days' written notice to HMS.

- b. HMS shall not employ sub-contractors or consultants to carry out the responsibilities undertaken pursuant to this contract without the written consent of the Director of Health Services or her designee.
- c. All assignees, sub-contractors, or consultants approved by the Director of Health Services or her designee shall be subject to the same terms and conditions applicable to HMS under this Agreement, and HMS shall be liable for the assignee's, sub-contractors or consultant's acts and/or omissions.
- d. All agreements between HMS and sub-contractors and/or assignees for services pursuant to this Agreement shall be in writing and shall be provided to County.

**9. Amendment of Agreement**

This Agreement is complete and contains all the terms and conditions agreed upon by the parties. No amendment shall be valid unless made in writing and signed by the parties hereto, and no oral understanding or agreement shall be binding on the parties hereto.

**10. Records**

- a. HMS agrees to provide to County, to any federal or state department having monitoring or reviewing authority, to County's authorized representatives and/or their appropriate audit agencies upon reasonable notice, access to and the right to examine and audit all records and documents necessary to determine compliance with relevant federal, state, and local statutes, rules, and regulations, and timeliness of services performed.
- b. HMS shall maintain and preserve all financial records relating to this Agreement for a period of four (4) years from termination date of this Agreement, or until audit findings are resolved, whichever is greater.

**11. Compliance with Applicable Laws**

- a. All services to be performed by HMS pursuant to this Agreement shall be performed in accordance with all applicable federal, state, county, and municipal laws and regulations, including, but not limited to, Health Insurance Portability and Accountability Act of 1996 (HIPAA), the Americans with Disabilities Act of 1990, as amended, and Section 504 of the Rehabilitation Act of 1973, as amended which prohibits discrimination on the basis of handicap in programs and activities receiving any federal or county financial assistance.
- b. Such services shall also be performed in accordance with all applicable ordinances and regulations, including, but not limited to, appropriate licensure, certification regulations, provisions pertaining to confidentiality of records, and applicable quality assurance regulations.

**12. Ownership of Data**

The County Data that are maintained and processed by the System shall be the proprietary property of County and will not be made available by HMS to any party for any reason without the prior written consent of the Director of Health Services or her designee.

**13. Confidentiality of Data**

All financial, statistical, personal, medical, technical, and any other data and information relating to County's operations and County's clients or patients which is made available to HMS in order to carry out this Agreement shall be presumed to be confidential per HIPAA, and state and federal laws and regulations. HMS agrees to protect said data and information from unauthorized use and disclosure by the observance of the same or more effective procedures as County requires of its own personnel. County's information security requirements indicate that County client or patient information may only be provided to those actually engaged in the activity of providing care. HMS shall not be required, by this paragraph, to keep confidential data or information which is or becomes publicly available, is already rightfully in the possession of HMS or is independently developed by HMS outside the scope of this Agreement or is rightfully obtained from third parties.

**14. Notices**

Any notice, request, demand or other communication required or permitted hereunder shall be deemed to be properly given when deposited in the United States mail, postage prepaid, or when deposited with a public telegraph company for transmittal, charges prepaid, addressed:

In the case of County, to:

Director of Health Services  
225 37<sup>th</sup> Avenue  
San Mateo, CA 94403

In the case of HMS, to:

Health Management Systems, Inc.  
General Manager  
8359 Elk Grove – Florin Road, Room B174, Suite 103  
Sacramento, CA 95829

**15. Controlling Law**

The validity of this Agreement and of its terms or provisions, as well as the rights and duties of the parties hereunder, the interpretation and performance of this Agreement shall be governed by the laws of the State of California.

**16. Term and Termination**

- a. Subject to compliance with the terms and conditions of this Agreement, the term of this Agreement shall be from July 1, 2001 to June 30, 2004.
- b. HMS, Director of Health Services or her designee may terminate this Agreement, with or without cause, at any time upon thirty (30) days' written notice to the other party. HMS agrees to put the source code and life-cycle development scheme in an escrow; and in the event of the thirty (30) day cancellation, they will immediately release the escrow to County.
- c. County reserves the right to withhold payment if services are not performed to meet County's mutually approved written and approved information systems standards.
- d. Upon termination of this Agreement by either party the following will be returned to County within thirty (30) days of termination.
  - The single copy of the Licensed Software purchased by County in an earlier Agreement and modified under the terms of this Agreement in an electronic form described by County.
  - The data contained in the System in an electronic form described by County.
  - All associated Application Software documentation will be made available to County in an electronic form described by County.

Upon termination, if requested by County, HMS will assist in the complete migration of the system back to County Data Center within a three (3) business day period.

## SCHEDULE A

### 1. Licensed Software

The following is the list of functions included in the Licensed Software modified as a part of this Agreement and also known as the Global Health Information System (GHIS). The License to use one (1) copy of the Licensed Software operating under the Sub-licensed software was purchased by County in a previous agreement with GHIS.

- a. Registration
- b. Accounts Receivable
- c. Enter Medical Data
- d. Print Medical Data
- e. Operations Maintenance
- f. Terminal Hold
- g. Payable Reports
- h. Code Review
- i. Laboratory
- j. Field Functions
- k. Pharmacy Functions
- l. Scheduling
- m. Billing (A/R) Reports
- n. Display Medical Data
- o. General Reports
- p. Mailbox
- q. Service Authorization
- r. Process SA Claims
- s. Utilization Reports
- t. California Children Services (CCS) Functions
- u. Correctional Health Function
- v. Well Program
- w. Homeless Program
- x. Prenatal to Three
- y. Child Health and Disability Prevention (CHDP)
- z. Prenatal to Five

## **2. Licensed Software Support Services**

HMS will be responsible for maintaining the System in an operational status and for providing Licensed Software. HMS is not responsible for providing System Support (i.e., System Manager) as related to GHIS software, nor hardware (connectivity) managed by County to benefit County use.

## **3. System Support**

- a. HMS is responsible for responding to assist in the support of the System at the request of County as it functionally relates to the Licensed Software and the contents of the Massachusetts General Hospital Utility Multi-Programming System (MUMPS) database. HMS will participate with County in resolving issues related to the database managed by the System.

## **4. HMS Data Center Environment**

The Licensed Software will continue to function in the HMS Data Center as it has under previous agreements. HMS will continuously provide and support an environment in which the Licensed Software will function. The environment will include, but not be limited to, the following:

- a. Provision of the System in an operation status at all times except for planned periods when the system will not be available due to backup on planned System maintenance. Those planned down periods to allow for backup and planned System maintenance are 9:00 PM to 12:00 AM Monday through Friday of each week.
- b. Provision of processor and disk shortage facilities maintained in a manner that will result in continuous operation of the System with a capacity that will provide terminal response times in County facilities that do not exceed two (2) seconds from the time that the enter key is depressed until the screen is returned for transaction oriented activities. HMS will not be held responsible for slow response times due to County's configuration of their facility's PCs.
- c. A Data Center facility that is protected from unauthorized entry and access to County System and disasters including, but not limited to, fire and theft. System backups will follow an ancestral schedule supporting fourteen (14) generations of backup data (HIPAA compliant).
- d. Maintenance of the processor operating system and the MUMPS operating system and database in a manner that will result in continuous operation of the System excluding County connectivity equipment.
- e. Continuous monitoring to insure that System operation is not interrupted as the result of a shortage of disk storage space, database integrity errors, or any other event (excluding connectivity infrastructure which will be done by County or that

HMS will perform for one hundred twenty-five dollars (\$125)/hour based on schedule dictated by County) that can be observed and avoided as the result of monitoring.

- f. Development in cooperation with County of a database backup and restoration process that will insure that no County data are lost. System backups will follow an ancestral schedule supporting fourteen (14) generations of backup. HMS will maintain the backup in a site more than two hundred (200) miles from their Sacramento data center facility.
- g. Staffing with the skill sets necessary to properly meet the HMS obligations described under this Agreement.
- h. All systems changes including, but not limited to, maintenance upgrades, product and software patches will be coordinated with SMC pursuant to SMC change coordination procedures enhancements.

**5. Providing Maintenance Services**

System (except County controlled connectivity) and Licensed Software Support services that will be supplied by HMS under the terms of this Agreement will be made available by HMS monitoring activities of the System operating in the HMS Data Center and by County by calling the HMS Help Desk during normal business hours considered to be 8:00 AM through 5:00 PM, Pacific Standard Time Monday through Friday. After hours support will be available via pager. Requests and problems whether noted as the result of HMS system monitoring or County calling the HMS Help Desk will be recorded by the HMS Help Desk. All problems, requests, and questions will be addressed in accordance with Priority Levels established by County as listed below:

<u>Priority Level</u>	<u>Resolution Goal</u>
Urgent	Resolve or provide workaround within 4 hours
Stop Work	Resolve in 1 business day
Important question	Resolve in 5-15 business days
Documentation	Resolve in 15-20 business days
Enhancement	Provide information to the requester of the enhancement in 45-60 days of initial request.

The HMS Help Desk will capture the following information related to each item:

- Priority Level assigned by County or HMS Operation Staff
- The date and time of receipt
- Description of the item
- Tracking number
- The caller or requestor

- To whom the item was assigned
- All follow-up analysis notes
- Dates and times of all interaction with County or other organization related to the item.
- The completion date, time, and the cause of the problem or the final disposition of the request.
- HMS will routinely make a monthly report of all items recorded in the HMS Help Desk Database that relates to County and make that report available to County Chief Information Officer upon request.

## **6. Failure to Perform**

In the event that HMS fails to provide any portion of System availability (excluding connectivity or hardware) as it relates to the scope of services provided to County as measured and recorded by County in any given calendar month, County will reduce the amount of the monthly support payment made to HMS by two hundred fifty dollars (\$250) for each hour of down time over eight (8) hours per month for a maximum of two thousand five hundred dollars (\$2,500) per month. Computation of the eight (8) hours of down time shall not include the period of 9:00 PM – 12:00 AM that is planned down time – Monday through Friday.

## **7. Licensed Software Updates**

All Licensed Software updates will be available for purchase by County Health Services Agency as provided in Schedule B at the prevailing market price. If purchased by County, HMS will provide the software releases in the Test Environment prior to implementing them. A letter of acceptance for the tested software releases will be required prior to moving the software to the production system. In addition, all systems changes including, but not limited to, maintenance upgrades, product enhancements, version upgrades, and software patches will be coordinated with SMC pursuant to SMC change coordination procedures.

## **8. Use of Test Environment**

The Licensed Software includes a Test Environment and a Production Environment. When HMS provides modifications to the Licensed Software to County, they will be delivered in the Test Environment following an appropriate level of testing. Upon completion of the testing, County Project Manager will be notified to allow for testing in the Test Environment by County personnel. Upon completion of that testing, County will request, in writing, HMS to move the completed software to the Production Environment for final testing and Production Use. All systems changes including, but not limited to, maintenance upgrades, product enhancements and software patches will be coordinated with SMC pursuant to SMC change coordination procedures.

## **9. Regulatory Changes**

Licensed Software modifications required by federal or state laws or regulations that affect system modules will be provided as a part of the software support provisions described herein. This further includes all software modifications currently operating within other California counties. HMS warrants that the GHIS product will comply with all HIPAA requirements on or about the mandates of implementation.

## **10. Interface Development and Maintenance**

HMS will continuously maintain the following existing interfaces under the direction of County:

- a. All batch uploads, downloads including, but not limited to, Prenatal to Three, Field Nursing, Targeted Case Management, and Public Health Laboratory.
- b. Public Health Laboratory Interfaces
  - 1) CHDP lab changes via diskette/internet format to Electronic Data System (EDS) for processing;
  - 2) interface of laboratory registration and billing data to Siemens/SMS Invision patient management/patient accounting; laboratory results pass through to Siemens/SMS Invision lifetime clinical record;
  - 3) bar code technology for lab specimens, including links to patient identifiers and to lab orders; and laboratory equipment/analyzer input to GHIS software.

County will approve the work plans prior to it being commenced. The work will be completed by January 1, 2003, and be successfully system tested.

## **11. CCS Billing Program Services**

HMS agrees to provide the following services in serving as a clearing house for submitting claims on behalf of County to State for reimbursement for services rendered to eligible Medi-Cal beneficiaries at the CCS-Medical Therapy Unit (MTU):

- a. HMS will assist in training of CCS-MTU personnel in properly completing the state-mandated Patient Therapy Records (PTR) regarding therapy provided to all clients of CCS-MTU. Such training and supervision will be provided by means of a toll free telephone number, which will be staffed by HMS's personnel, qualified to answer questions regarding completing this form, during the hours of 8:00 AM to 5:00 PM, Pacific Standard Time. HMS's personnel will visit CCS-MTU personnel with respect to the proper completion of this form.
- b. HMS will submit reimbursement requests to State on behalf of CCS-MTU immediately upon request from County of completed PTRs. HMS will enter the data from the PTRs into HMS's database pertaining to County. Claim information

will then be extracted and electronically submitted to the State for adjudication and payment. If no response is forthcoming from the State within a reasonable period, HMS will follow-up in contacting the State until such time as a response is received by County from State.

- c. HMS will maintain a database containing County PTR data. In addition, to entering data from the PTRs into HMS's database pertaining to County, as stated above, HMS will update that database to reflect status of each claim, be it payment, denial, or other, based on the response to that claim received from the State.
- d. HMS will submit the following CCS-MTU reports to County:
  - An explanation of benefits (EOB), detailing all billings, payments, and denials for each client. This report will be prepared separately for each County CCS-MTU clinic.
  - A service report, defining all services rendered by each County CCS-MTU site. This report will list all Current Procedural Terminology (CPT) or Health Care Financing Administrations Common Procedure Coding System HCPCS code totals in descending order, for each month within the current quarter, last quarter total, and year-to-date total.
  - A Diagnosis Report (DX), listing primary diagnostic totals in descending order, with the corresponding treatment diagnosis totals.
  - Up to three (3) County specific reports as requested and defined by County, based by County, based on data contained in the PTR. These reports will be produced at the same time as the other HMS supplied reports.
  - All state-mandated CCS-MTU reports.
  - HMS agrees to provide to County, to any federal or state departments having monitoring or reviewing authority, to County's authorized representatives and/or their appropriate audit agencies, upon reasonable notice, access to and the right to examine and audit all records and documents necessary to determine compliance, in performance of the services provided pursuant to this Agreement with federal, state, and local statutes, and to evaluate the quality, appropriateness and timeliness of services performed.
  - Client will submit normal support requests via fax. HMS will provide same half-day confirmation of request receipt via fax. Confirmation will state HMS's ability to meet requested deadline. Any exceptions to HMS's ability to meet requested deadline will be handled in a phone conversation between client and HMS in same half-day the request was submitted.
  - Repairing software errors within software reported by the HMS.

## **12. Patient Information Confidentiality**

The identities of patients and the complete medical records of the patients shall remain the sole and exclusive property of County and shall not be disclosed by HMS or any of its employees. HMS agrees to protect said data and information in compliance with state and federal law from unauthorized use and disclosure by the observance of the same or more

effective procedures as County requires of its own personnel. County's information security requirements indicate that County client or patient information may only be provided to those actually engaged in the activity of providing care. HMS shall not be required, by this paragraph to keep confidential any data or information which is or becomes publicly available, is already rightfully in the possession of HMS or is independently developed by HMS outside the scope of this Agreement or is rightfully from third parties.

All Wide Area Network (WAN) traffic originating from HMS to SMC and all WAN traffic originating from SMC to HMS will use 128-bit encryption security models or a superior mutually agreed upon alternative should a practical one become available during the life of this Agreement. HMS and SMC will work together to ensure data security pursuant to HIPAA standards.

**13. Copy Restrictions**

County agrees that any and all portion(s) of the software programs (hereinafter referred to as PROGRAM PROPERTY) provided by HMS in print or other form pursuant to this Agreement shall not be copied in whole or in part by County, without the prior written consent of HMS, except to the extent authorized in this Agreement. County further agrees that all copies of HMS owned software programs shall be held in strict confidence and that County shall be responsible for their safekeeping in a location mutually agreed to by HMS and County. Under no circumstances may the software programs provided hereunder be used on any equipment other than the HMS designated computer equipment.

**14. Notification of Software Use**

County agrees to notify HMS promptly and fully in writing of the circumstances concerning any possessions, use or study of the PROGRAM PROPERTY by any person, corporation, or entity (other than County, its agents or employees) including, but not limited to, the name(s) and address(es) of such person(s), corporation(s) or other entities.

**15. Use Restrictions**

Except for HMS employees, County will not provide or otherwise make available any part or portion of software programs, in any form, to any person other than County's employees and such other persons who are on County's premises with County permission for purposes specifically related to County's use of the software programs, without the prior written consent of HMS. County agrees that it will take appropriate action by instruction, agreement, or otherwise, with its employees or other persons permitted access to the software programs or portion(s) thereof, to satisfy obligations under this Agreement with respect to use, copying, modification, and protection of the System. These obligations of County shall survive the termination of this Agreement.

**16. Proprietary Rights**

Unless otherwise herein specified, all materials provided hereunder, including but not limited to, software programs, operating system, and printed documentation may not be reproduced by County except for archive purposes for replacement of a defective copy,

for program error verification or for training on software applications. In addition, with respect to all data supplied by HMS, HMS retains for itself all proprietary rights in and to all design, engineering details, and other data pertaining to the System specified in this Agreement and to all discoveries, inventions, patent rights, etc., arising out of work done by HMS in connection with this Agreement, and to any and all such software developed by HMS as a result thereof, including the rights to manufacture and sell such software to third parties.

**17. County Assignment Restrictions**

County may not assign this Agreement without prior written approval of HMS, which approval of HMS shall not be unreasonably withheld, and no assignment shall be effective until the assignee has executed a duplicate of this Agreement. An adjustment in the cost provision of this Agreement may be made if such an assignment would result in a substantial modification of the System.

**18. HMS Assignment Restrictions**

HMS may assign its right to receive payments under this Agreement without County's consent; however HMS may assign its other rights or delegate its duties hereunder only upon County's written consent.

**19. Waivers**

A waiver by either party of any breach or any provision of this Agreement shall not operate or be construed as a waiver and no breach excused, unless such a waiver or consent shall be in writing and signed by the party claimed to have waived or consented.

**20. Jurisdiction**

This Agreement shall be construed in accordance with the laws of the State of California, and any action brought in regards to this contract or matters arising as a result of this contract are exclusively within the jurisdiction of the State of California. In the event any court of competent jurisdiction shall declare any portion of this Agreement to be invalid, the remainder of this Agreement shall not be invalidated thereby, but shall remain in full force and effect.

**21. Entirety of Agreement**

This Agreement contains all of the agreements and understandings between the parties hereto with respect to the System to be provided by HMS. No oral agreements shall be held to affect the provisions of this Agreement. All subsequent changes and modifications to this Agreement, if any, to be a valid instrument to be executed by the parties hereto.

## SCHEDULE B

### PAYMENT FOR SERVICES

#### 1. **Payment – General Services**

In consideration of the System Support and Licensed Software Support provided by HMS, County shall pay HMS, when invoiced, eight thousand six hundred two dollars (\$8,602) per month less any reductions in payment described in the Failure to Perform provisions contained in Attachment A. Any version upgrades will be provided at no charge.

#### 2. **Payment – Public Health Laboratory**

HMS will perform the work to program new services as follows:

- a. CHDP lab charges electronically via diskette/internet format to EDS for processing;
- b. interface of laboratory registration and billing data received from Siemens/SMS Invision patient management/patient accounting; laboratory results pass through to Siemens/SMS Invision lifetime clinical record;
- c. bar code technology for lab specimens, including links to patient identifiers and to lab orders; and
- d. laboratory equipment/analyzer input to GHIS software.

The work will be performed at a rate of one hundred forty-five dollars (\$145) per hour. The billing shall not exceed seventy-five thousand dollars (\$75,000) the first (1<sup>st</sup>) year, thirty-seven thousand five hundred dollars (\$37,500) the second (2<sup>nd</sup>) year, and thirty-seven thousand five hundred dollars (\$37,500) the third (3<sup>rd</sup>) year of the contract. County will approve the work plans prior to it being commenced. The work will be completed by January 1, 2003, and be successfully system tested.

#### 3. **Payment – California Children Services (CCS) Billing**

HMS shall be compensated for providing billing services for CCS using the following formulas:

- a. For Medi-Cal eligible clients, fifteen percent (15%) of all reimbursement received by County as determined by Health Services Program Manager.
- b. For CCS only clients, three percent (3%) of Medi-Cal allowable reimbursement schedule as determined by Health Services Program Manager.

**4. Other Services**

a. Services not previously described under this Agreement shall be paid when invoiced on an hourly basis as described below. Other Services requested by County will be approved in advance writing, with cost proposals. Billing for Other Services provided by HMS without written authorization in advance by the Director of Health Services or her designee will not be paid when invoiced. Charges for Other Services will be paid according to the following rates:

- 1) Training – seventy-five dollars (\$75) per hour.
- 2) Programming and analysis – one hundred forty-five dollars (\$145) per hour.
- 3) MUMPS support – (Cache license for all users) – no charge.
- 4) Hardware support and consultation – one hundred twenty-five dollars (\$125) per hour.
- 5) Twenty-five percent (25%) discount on additional module installations.
- 6) Help desk operation services – no charge.
- 7) Programming consultants at no charge.
- 8) Version upgrades of all modules at no charge.

b. Anticipated services include the following categories:

- 1) Any new development not provided by HMS to other California counties.
- 2) New interfaces.
- 3) Other services as desired by County.
- 4) Technical services.

5. The maximum allowable amount of this Agreement is four hundred ninety-five thousand dollars (\$495,000).

## SCHEDULE C

HMS accepts the following provisions as responsibilities under this Agreement:

1. No person shall, on the grounds of race, creed, color, national origin, ancestry, handicap, disability, medical condition, marital status, age, sex, sexual orientation, or political affiliation, be excluded from participation in, be denied the benefits, or be subject to discrimination under this Agreement.
2. HMS shall insure equal employment opportunity based on objective standards of recruitment, selection, promotion, classification, compensation, performance evaluations, and management relations, for all employees under this contract. HMS's personnel policies shall be made available to County upon request.
3. HMS shall assure compliance with Section 504 of the Rehabilitation Act of 1973. HMS shall be prepared to submit a self-evaluation and compliance plan to County upon request within one (1) year of the execution of this Agreement.

COUNTY OF SAN MATEO  
HEALTH SERVICES ADMINISTRATION

MEMORANDUM

DATE: 10/24/01

TO: Priscilla Morse, Risk Management, San Mateo County  
PONY# EPS163 Fax: 363-4864

FROM: Shirley Ventura, Acting Contract Coordinator, Public Health Division  
PONY # PBH319A Fax: 573-2715

SUBJECT: Contract Insurance Approval

CONTRACTOR: Health Management System / Global

DO THEY TRAVEL: 

PERCENT OF THE TIME:

NUMBER OF EMPLOYEES:

DUTIES (SPECIFIC): Provide computer software and software maintenance services as described in Schedule A and B..

COVERAGE:

Comprehensive General Liability:	\$ _____
Motor Vehicle Liability:	\$ _____
Professional Liability:	\$ _____
Worker's Compensation:	\$ _____

APPROVE \_\_\_\_\_

WAIVE  \_\_\_\_\_

MODIFY \_\_\_\_\_

REMARKS/COMMENTS:

REQUEST WAIVER

  
SIGNATURE