

BAY AREA REGIONAL IMMUNIZATION REGISTRY JOINT POWERS AGREEMENT

This is a joint powers agreement between the executing public agencies and such other public agencies as may be subsequently added (hereinafter collectively referred to as the "Parties").

WHEREAS, the Parties are "public agencies" as that term is defined in California Government Code Section 6500 dealing with joint powers agreements; and

WHEREAS, the Parties are actively involved or desire to be actively involved in immunization information systems under California Health & Safety Code Section 120440; and

WHEREAS, Sharing of immunization records, via the Bay Area Regional Immunization Registry ("BARR") system, is compatible with current California law (Health and Safety Code Section 120440). BARR will always comply with local, state and federal laws and regulations regarding immunization registries and the confidentiality of medical records. BARR will work with other entities, including the State and other Regional Registries to exchange information as allowed by law."

WHEREAS, the Parties are possessed of common powers and authority to collect, analyze, use and share immunization related information in their respective immunization information systems; and

WHEREAS, the Parties desire to share certain information, research and assistance functions and services, using a centralized approach, in order to realize attendant economic and operational efficiencies and to increase the overall effectiveness of efforts to achieve high immunization rates among the residents of the Bay Area.

THEREFORE, the Parties agree as follows:

ARTICLE I. DEFINITIONS.

1. "Lead Agency" means the County of Santa Clara.
2. "Member Agency" means a party to this joint powers agreement ("Agreement") other than the Lead Agency.
3. "User" means any entity, agency, or individual that has executed an agreement with the Lead Agency or a Member Agency for the purpose of utilizing the immunization information system created by this Agreement.

ARTICLE II

1. Purpose.

The purpose of this Agreement is to jointly create and operate a regional immunization information system called the BARR which will be used to collect and share immunization related information for the purpose of increasing the vaccination coverage of the residents of the Bay Area.

2. Powers.

The powers to be exercised by the parties are those express and implied powers under applicable provisions of law relating to and governing the creation and operation of immunization information systems, including but not limited to the power to collect, analyze, use and share information related to immunizations.

3. Method.

The method of implementing the above purpose and executing the above powers is to provide services in accordance with the terms and conditions hereof through staff and facilities of the Lead Agency and Member Agencies under the leadership of a joint committee consisting of one representative from each of the Parties and the Director of Immunization Registry of the Lead Agency ("Joint Committee"). By this Agreement the Parties do not create an agency or entity separate from the parties themselves.

4. Present and Additional Parties.

a. The public agencies executing this Agreement ("Present Parties") will enjoy the rights and perform the duties prescribed by the terms and conditions hereof. Other public agencies subsequently added to this Agreement in accordance with the terms and conditions hereof ("Additional Parties") will become and be Parties to this Agreement on the effective date of such addition and will thereafter enjoy the rights and perform the duties required in accordance with the terms and conditions hereof. A current list of participating agencies is attached hereto as Exhibit A.

b. Other public agencies may become Parties to this Agreement by executing an agreement with the Lead Agency, for and on behalf of all Parties, to be bound by the terms and conditions of this Agreement.

5. Term of Agreement.

Irrespective of the date or dates of execution hereof by Present or Additional Parties, the term of this Agreement will commence January 14, 2007 and will continue through January 13,

2012, unless terminated earlier by mutual agreement of the Parties or as otherwise provided for in this Agreement.

6. Termination.

a. A Member Agency may terminate its membership for any reason and will give written notice to the Parties of its intention to terminate membership no less than thirty (30) days prior to the effective date of termination.

b. The Lead Agency may terminate its membership for any reason and will give written notice to the Parties no less than ninety (90) days prior to the effective date of termination.

c. Termination for Cause. A Member Agency's membership may be terminated for cause if two-thirds (2/3) of the Parties approve of the termination. For purposes of this Agreement, cause includes, but is not limited to, material breach of this Agreement by the Member Agency or violation by the Member Agency of any applicable laws. Notice of termination will specify the reason for termination and will indicate the effective date of such termination.

d. In the event of termination, a Member Agency will delete server ID's and passwords and return to the Lead Agency any equipment belonging to the Lead Agency and/or BARR. All information previously entered into BARR will remain in BARR's database.

7. Share of Cost/Funding.

a. Each Party will provide or identify sufficient resources to meet its obligations under this Agreement in accordance with its normal and customary appropriation process.

b. The Parties expressly assume that revenues, in the form of federal, state, local, private grant sources and/or User fees, will be generated throughout each fiscal year of this agreement, under the direction of the Joint Committee, to cover some, or all, of the operating expense of BARR.

ARTICLE III

1. The Joint Committee

a. Each party to this Agreement will have one (1) representative on the Joint Committee who will have the express authority to exercise, on behalf of the party, those powers granted to the Joint Committee under this Agreement. Each representative will have one (1) vote. To the extent feasible, each party will also designate an alternate who will serve in the absence or unavailability of its regular representative. In addition to the Lead Agency's

appointed Joint Committee representative, the Lead Agency's Director of Immunization Registry will be a voting member of the Joint Committee.

b. By majority vote of the quorum, the members of the Joint Committee will select a chairperson, or co-chairpersons, at its first meeting of the new fiscal year. The term of the chairperson(s) will extend for at least the balance of that year. A vacancy in the office will be filled for the balance of the term by a representative, or representatives, selected by a majority vote of the quorum at the first meeting of the Joint Committee following notice of the vacancy.

c. The Joint Committee will meet as often as necessary to fulfill its functions, but not less than four (4) times per year. The frequency of and agendas for such meetings will be determined by the chairperson(s) in consultation with other representatives and staff. The chairperson(s) will provide each representative notice of meetings, together with an agenda of matters to be discussed.

d. A quorum of fifty percent (50%) will be required in order for the Joint Committee to meet. Except where otherwise provided in this Agreement, a two-thirds (2/3) majority vote of the quorum is required for the Joint Committee to take action.

e. The Joint Committee will have no power to alter, amend, modify or terminate this agreement except as expressly delegated to it in accordance with this Agreement.

f. The Joint Committee will have no power to obligate the Parties financially, except to the extent expressly delegated to it in accordance with this Agreement.

g. The Joint Committee will have the following functions:

1. Establish objectives and priorities, at least annually, for the operation of BARR and the performance of BARR services.
2. Evaluate the operation of BARR and the performance of BARR services on a continuing basis.
3. Coordinate the Parties' identification and development of funding mechanisms, including but not limited to, public and private grants and other private participation.
4. Annually, adopt a fiscal year budget governing those operations and services under this Agreement which are funded by revenue granted to the parties as a whole.
5. Develop and execute a strategic plan for the expansion of BARR.

6. Adopt a charter consistent with this Agreement and with all applicable laws that includes, but is not limited to, an immunization registry overview, an opportunity statement, an impact statement, a statement concerning the scope of BARR, and a risk and risk mitigation statement. The charter will also set forth an organizational structure for BARR, additional obligations of the Member Agencies as determined by the Joint Committee, and rules and procedures for the conduct of the Joint Committee's business. Such rules and procedures will include a process for the orderly documentation of Joint Committee meetings, including the distribution of meeting agendas and final meeting minutes.

2. Lead Agency Obligations.

The Lead Agency will:

- a. Establish and update, annually, an operational plan for BARR consistent with the objectives and priorities of the Joint Committee.
- b. Develop and maintain BARR server hardware, supporting software, and network access controls.
- c. Store and maintain BARR data.
- d. Update confidentiality and security policies and procedures, subject to approval by the Joint Committee.
- e. Monitor the Parties' and Users' compliance with confidentiality and security policies and procedures. Such monitoring will include reporting security issues or breaches to the Joint Committee.
- f. Provide server-side and application technical support to Member Agencies and Users.
- g. Act as fiscal agent on behalf of the Parties for all revenue received by the Parties as a whole, including but not limited to the collection, accounting, reporting, and expenditure of grant monies. This provision does not preclude individual parties from receiving BARR monies directly from the State, or other entities, as approved by the Joint Committee.
- h. Adhere to all Member Agency Obligations set forth in Article III, Section 3 of this Agreement.

3. Member Agency Obligations.

Each of the Parties will:

- a. Recruit and enter into agreements with prospective Users operating within the party's jurisdiction. If a User operates in more than one jurisdiction, the parties sharing jurisdiction will cooperate in the execution of their duties under this Agreement with respect to that User.
- b. Train Users and provide ongoing education and local technical support, as required by the Joint Committee.
- c. (1) Comply with confidentiality and security policies and procedures established by the Lead Agency; (2) designate a security officer responsible for monitoring User compliance with confidentiality and security policies and procedures; (3) conduct User compliance visits; and (4) report security issues or breaches to the Lead Agency and the Joint Committee.
- d. Implement immunization information sharing systems in a manner consistent with (1) the objectives, priorities and Charter established by the Joint Committee; and (2) the operational plan established by the Lead Agency. This provision does not require that a Member Agency fundamentally alter the degree or nature of service that it wishes to provide in its jurisdiction.
- e. Submit local reports to the Joint Committee and/or the Lead Agency as required by the Joint Committee.

ARTICLE IV

1. Data Privacy and Confidentiality

The Parties agree to comply with applicable Federal and State laws and regulations in effect at the inception of this Agreement, or that become effective during the term of this Agreement, concerning the handling and disclosure of private and confidential information.

2. Mutual Indemnification.

In lieu of and notwithstanding the pro rata risk allocation which might otherwise be imposed between the Parties pursuant to Government Code Section 895.6, the Parties agree that all losses or liabilities incurred by a party shall not be shared pro rata but instead the Parties agree that pursuant to Government Code Section 895.4, each of the parties hereto shall fully indemnify and hold each of the other parties, their officers, board members, employees and agents, harmless from any claim, expense or cost, damage or liability imposed for injury (as

defined by Government Code Section 810.8) occurring by reason of the negligent acts or omissions or willful misconduct of the indemnifying party, its officers, board members, employees or agents, under or in connection with or arising out of any work, authority or jurisdiction delegated to such party under this Agreement. No party, nor any officer, board member, employee or agent thereof shall be responsible for any damage or liability occurring by reason of the negligent acts or omissions or willful misconduct of other parties hereto, their officers, board members, employees or agents, under or in connection with or arising out of any work, authority or jurisdiction delegated to such other parties under this Agreement.

3. Nondiscrimination.

The Parties will comply with all applicable Federal, State, and local laws and regulations. Such laws include but are not limited to the following: Title VII of the Civil Rights Act of 1964 as amended; Americans with Disabilities Act of 1990; The Rehabilitation Act of 1973 (Sections 503 and 504); California Fair Employment and Housing Act (Government Code sections 12900 et seq.); and California Labor Code sections 1101 and 1102. The Parties will not discriminate against any subcontractor, employee, or applicant for employment because of age, race, color, national origin, ancestry, religion, sex/gender, sexual orientation, mental disability, physical disability, medical condition, political beliefs, organizational affiliations, or marital status in the recruitment, selection for training including apprenticeship, hiring, employment, utilization, promotion, layoff, rates of pay or other forms of compensation. Nor will the Parties discriminate in provision of services provided under this Agreement because of age, race, color, national origin, ancestry, religion, sex/gender, sexual orientation, mental disability, physical disability, medical condition, political beliefs, organizational affiliations, or marital status.

4. Notices.

All notices required by this Agreement will be deemed given when in writing and delivered personally or deposited in the United States mail, postage prepaid, return receipt requested, addressed to the other Parties of this Agreement.

5. Contact Person/Program Manager.

In order to coordinate the services of the Parties under this Agreement, the Parties will each identify an individual to act as a contact person and manage this Agreement on behalf of the party.

6. Governing Law.

This Agreement has been executed and delivered in, and will be construed and enforced in accordance with, the laws of the State of California.

7. Entire Agreement.

This document represents the entire Agreement between the parties with respect to the subject matter hereof. All prior negotiations and written and/or oral agreements between the parties with respect to the subject matter of this Agreement are merged into this Agreement.

8. Amendments.

This Agreement may be amended only by an instrument signed by the Parties.

9. Counterparts and Delivery.

This Agreement may be executed in one or more counterparts, each of which shall be deemed to be an original, but all of which together shall constitute one and the same instrument. The Lead Agency will deliver to each Member Agency three executed originals of this Agreement. Each Member Agency will deliver to the Lead Agency two originals of this Agreement executed by the Member Agency as soon as practicable following its execution.

10. Assignment.

Except to the extent expressly provided herein, no party may assign any right or obligation hereunder without the written consent of the other Parties to the Agreement.

11. Severability.

If any provision of this Agreement is found by a court of competent jurisdiction to be void, invalid or unenforceable, the same will either be reformed to comply with applicable law or stricken if not so conformable, so as not to affect the validity or enforceability of this Agreement.

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12. Waiver.

No delay or failure to require performance of any provision of this Agreement shall constitute a waiver of that provision as to that or any other instance. Any waiver granted by a party must be in writing, and shall apply to the specific instance expressly stated.

IN WITNESS WHEREOF, the below designated Present Parties have executed this Agreement on the dates set forth below.


COUNTY OF SANTA CLARA

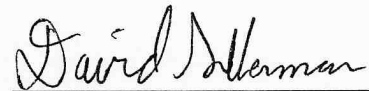
COUNTY OF SAN MATEO

By  date: 11/27/06 By _____ date: _____
Guadalupe S. Olivas, Director
Public Health Department
President, Board of Supervisors

APPROVED AS TO FORM AND
LEGALITY:

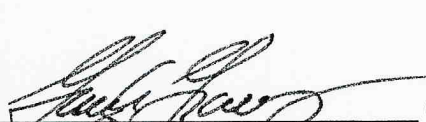
APPROVED AS TO FORM AND
LEGALITY:

 date: 11/21/06
Jennifer Sprinkles
Deputy County Counsel

 date: 12-27-06

APPROVED:

APPROVED:

 date: 11/27/06
Gary A. Graves
Chief Deputy County Executive

Clerk of the Board of Supervisors

EXHIBIT A

**LIST OF JURISDICTIONS PARTICIPATING IN THE BAY AREA
REGIONAL IMMUNIZATION REGISTRY**

1. County of Alameda
2. City of Berkeley
3. County of Marin
4. County of Monterey
5. County of Napa
6. County of San Benito
7. City and County of San Francisco
8. County of San Mateo
9. County of Santa Clara
10. County of Santa Cruz
11. County of Solano
12. County of Sonoma