

**STANDARD AGREEMENT**

ID 213 (NEW 02/98)

Agreement Number

07-77013-000

Amendment Nbr.

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

State Agency's Name:

**Department of Mental Health**

Contractor's Name:

**San Mateo County Mental Health**2. The Term of this Agreement is: **July 01, 2007 or upon DGS approval, through June 30, 2010**3. The maximum amount of this agreement is: **\$180,000.00**  
**One Hundred Eighty Thousand Dollars And No Cents**

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

Exhibit A - Scope of Work	Page(s)	3
Exhibit B - Budget Detail and Payment Provision	Page(s)	7
* Exhibit C - General Terms and Conditions	Form:	GTC 306 Dated 3/23/2006
Exhibit D - Special Terms and Conditions	Page(s)	5
Exhibit E - Additional Provision	Page(s)	4

\*View at: <http://www.ols.dgs.ca.gov/Standard+Language/default.htm>**IN WITNESS WHEREOF, this Agreement has been executed by the parties hereto.****CONTRACTOR**

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

**San Mateo County Mental Health**

BY (Authorized Signature)

DATE SIGNED

PRINTED NAME AND TITLE OF PERSON SIGNING

**Rose Jacobs Gibson, President, Board of Supervisors**  
**Gale Bataille, MSW Director**ADDRESS **225 37th Avenue****San Mateo, CA 94043****STATE OF CALIFORNIA**

AGENCY NAME

**Department of Mental Health**

BY Authorized Signature

DATE SIGNED

PRINTED NAME AND TITLE OF PERSON SIGNING

**Elaine Bush**  
**Procurement and Contracting Officer**ADDRESS **1600 9th Street****Sacramento, CA 95814**California  
Department of General Services  
Use Only

EXHIBIT A

SCOPE OF WORK

1. San Mateo County Mental Health Services, hereafter referred to as the Contractor, agrees to provide services to assist people with AIDS as described herein.

The Mental Health AIDS Project for 2007/20010 will include the following services:

- A. Counseling Intervention – Direct, time-limited counseling for persons affected by, and/or recently diagnosed as having HIV/AIDS.
  - B. Cultural and Ethnic Specific Services – Group, family and individual services targeting specific ethnic populations.
  - C. Psychiatric consultation, medication evaluation services to the San Mateo County AIDS Clinics.
2. Services shall be performed at various sites throughout San Mateo County, including at San Mateo County AIDS clinics.
  3. Services shall be provided during regular business hours, Monday through Friday, except holidays.
  4. The project representatives during the term of this agreement will be:

State Agency: Department of Mental Health	Contractor: San Mateo County Mental Health Services
Name: Joseph Kim	Name: John Klyver
Phone: (916) 651-6339	Phone: (650) 573-2641
Fax: (916) 654-5591	Fax: (650) 573-2841

Direct all inquiries to:

State Agency: Department of Mental Health	Contractor: San Mateo County Mental Health Services
Section/Unit: Systems of Care/ Adult & Older Adult Program Policy	Section/Unit:
Attention: Joseph Kim, AIDS Project Coordinator	Attention: John Klyver, Contracts Manager
Address: 1600 9 <sup>th</sup> Street, Room 100 Sacramento, CA 95814	Address: 225 37 <sup>th</sup> Avenue San Mateo, CA 94403
Phone: (916) 651-6339	Phone: (650) 573-2641
Fax: (916) 654-5591	Fax: (650) 573-2841

5. Program Evaluation

The contractor will prepare and submit annual program report to the State Department of Mental Health by June 30, 2008, June 30, 2009, and June 30, 2010. The format and content of the annual report will be as required by DMH. DMH reserves the right to modify these requirements during the term of the agreement.

EXHIBIT A

A. Specifications, requirements

Services, Objectives & Projected Units of Service: 2007-2010

i. Counseling Intervention

- |           |  |
|-----------|--|
| Services  | Direct, time-limited counseling for persons diagnosed with HIV/AIDS and their families. Clients will include individuals with AIDS-related mental health needs. Services shall be provided at various sites throughout San Mateo County. All program services shall be available in English and Spanish. |
| Objective | To provide up to nine hundred and twenty-eight (928) hours of individual ongoing counseling/therapy services, and two hundred and nine (209) hours of group counseling/therapy services per year. Services shall be provided to approximately ninety (90) unduplicated clients per year.                 |

ii. Cultural and Ethnic Specific Services

- |           |  |
|-----------|--|
| Services  | Spanish Speaking counseling/therapy for San Mateo County residents.                    |
| Objective | To provide up to one hundred and twenty (120) hours of monolingual counseling/therapy. |

iii. Psychiatric Consultation

- |           |  |
|-----------|--|
| Services  | Psychiatric consultation, diagnostic and medication evaluation services to clients of the San Mateo County AIDS clinics. |
| Objective | To provide up to one hundred and four (104) hours of psychiatric services.   |

B. Personnel, staffing

Counseling intervention and cultural and ethnic specific services will be provided by a subcontractor agency that will be selected by a Request for Proposals (RFP) process. This RFP process will be completed prior the start of this agreement.

Psychiatric consultation services will be provided by a staff psychiatrist at the County-run San Mateo Medical Center.

C. Coordination

These services will be coordinated by staff from the San Mateo County AIDS Program, with contract administration be provided by San Mateo County Mental Health Services. Both the AIDS Program and Mental Health Services are part of the San Mateo County Health Department.

D. Results, deliverables

Mental Health Services will report annually outcome data for the following subcontractor goals and objectives.

EXHIBIT A

Client satisfaction

Objective 1: Ninety percent (90%) of clients served shall be satisfied with services measured by client satisfaction survey administered by Contractor.

Cultural competence

Objective 1: At least one (1) in-service training emphasizing cultural variables and competencies shall be provided to all program staff by Contractor.

Objective 2: All newly hired staff shall have some relevant trans-cultural experience and/or language capacity pertinent to the populations Contractor expects to be serving.

E. Timelines, progress reports

Progress reports shall be submitted by Contractor annually.

F. Evaluation, acceptance



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 Contractor 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 not more frequently than monthly in arrears.
- C. Payment shall not be due until the later of: (a) The date of acceptance of goods or performance of services; or (b) receipt of an accurate invoice.
- D. For contracts which allow partial payments to be made, partial payments of the contract price during the progress of the work shall have a minimum 10% of the gross payment withheld pending satisfactory final completion of the entire contract.

2. Instructions to Contractor

- A. To expedite the processing of invoices submitted to the Department of Mental Health (DMH) for payment, all invoice(s) will be submitted to the DMH Contract Manager for review and approval at the following Bill To Address:

Department of Mental Health  
Attention: Joseph Kim, AIDS Project Coordinator  
1600 Ninth Street, Room 100  
Sacramento, CA 95814

- B. Invoices shall be submitted as one original and three copies.
- C. The following items are required on all invoices:
  - 1. On printed letterhead with Contractor name and address, or on invoice template provided by DMH Contract Manager
  - 2. Bill To Address (see section A. above)
  - 3. DMH Contract Manager's name
  - 4. Services or Products provided should be properly itemized
  - 5. Dates of Services provided
  - 6. DMH Contract Number
  - 7. Invoice Date
  - 8. Invoice Total
  - 9. Authorizing Signature

D. Travel Reimbursement

Since the Contractor is not a State employee, travel reimbursement rates will be calculated in accordance with the Department of Personnel Administration (DPA) Rules 599.619, 599.631 and 599.722 for non-represented employees. Travel must be pre-approved by the DMH Contract Manager. Contractor will be reimbursed for actual expenses up to the maximum prescribed in the aforementioned DPA rules.

## EXHIBIT B

Along with an invoice, Contractor must submit a Travel Expense Claim (TEC) form (available from the DMH Contract Manager) or other such travel expense summary form approved by the DMH Contract Manager. Check with your Contract Manager for the appropriate document. All reimbursable travel expenses must be documented and receipts submitted to verify the following expenses: lodging, rental car, fuel for rental car and parking. A copy of the travel itinerary is required for all air travel. The time an individual leaves his/her office or residence and returns to his/her office or residence will be used in calculating per diem allowances. Expense claim forms must specify these times in order to be processed for payment.

Contractor must retain copies of all expense claim forms and receipts for at least three years from the final payment of this contract in case of an audit. For an overview of DPA's travel reimbursement program go to <http://www.dpa.ca.gov/jobinfo/statetravel.shtml>. For specific questions regarding which travel expenses are reimbursable, contact the DMH Contract Manager.

### 3. 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 no longer be in full 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 Contractor to reflect the reduced amount.
- C. If this contract overlaps Federal and State fiscal years, should funds not be appropriated by Congress and approved by the Legislature for the fiscal year(s) following that during which this contract was executed, the State may exercise its option to cancel this contract.

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

### 4. Budget

- A. Charges/rates shall be computed in accordance with the budget detail included in Exhibit B. If major budget categories are listed in the budget detail section of Exhibit B, the cost of each major budget category may vary up to 15% within each Fiscal Year (FY) without DMH approval so long as the total amount budgeted for the FY is not exceeded.
- B. The Contractor may request changes in any individual categorical line item (i.e., personnel, consultants, client services, operating cost etc) in the budget above 15%, subject to approval of the AIDS Contract Manager. The Contractor must submit an explanation of the need for such revision. The State reserves the right to deny any such request for revision of any item. It is further understood that in no event shall the maximum amount payable under this agreement exceed the total contract amount. A contract amendment shall be required when funds are added to or reduced from the original contract amount.

### 5. 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.

EXHIBIT B

Budget Detail

July 1, 2007 - June 30, 2008

BUDGET ITEM	SALARY& BENEFITS	% TIME	TOTAL AMOUNT
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**Personnel Cost**

Physician	\$ 8,736	0.05	
Director Program Services	\$ 7,677	0.25	
Social Worker III	\$13,029	0.15	
Social Worker III	\$13,029	0.15	
Social Worker III	\$13,029	0.15	
Total Personnel Costs	\$55,500		

**Operational Costs**

Agency Administration	\$ 4,500		
Total Operational Costs	\$ 4,500		

**TOTAL AMOUNT 2007- 08 \$60,000**

EXHIBIT B

BUDGET DETAIL

July 1, 2008 - June 30, 2009

BUDGET ITEM	SALARY & BENEFITS	% TIME	TOTAL AMOUNT
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**Personnel Cost**

Physician	\$ 8,736	0.05	
Director Program Services	\$ 7,677	0.25	
Social Worker III	\$13,029	0.15	
Social Worker III	\$13,029	0.15	
Social Worker III	\$13,029	0.15	

Total Personnel Costs \$55,500

**Operational Costs**

Agency Administration \$ 4,500

Total Operational Costs \$ 4,500

**TOTAL AMOUNT 2008-09 \$60,000**



EXHIBIT B

BUDGET DETAIL

July 1, 2009 - June 30, 2010

BUDGET ITEM	SALARY & BENEFITS	% TIME	TOTAL AMOUNT
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**Personnel Cost**

Physician	\$ 8,736	0.05	
Director Program Services	\$ 7,677	0.25	
Social Worker III	\$13,029	0.15	
Social Worker III	\$13,029	0.15	
Social Worker III	\$13,029	0.15	
Total Personnel Costs	\$55,500		

**Operational Costs**

Agency Administration	\$ 4,500		
Total Operational Costs	\$ 4,500		

**TOTAL AMOUNT 2008-09 \$60,000**

EXHIBIT B

EXHIBIT B

**BUDGET SUMMARY**  
**July 1, 2007 - June 30, 2010**

BUDGET ITEM	YEAR I	YEAR II	YEAR III
Personnel Cost			
Physician	\$ 8,736	\$ 8,736	\$ 8,736
Director Program Services	\$ 7,677	\$ 7,677	\$ 7,677
Social Worker III	\$13,029	\$13,029	\$13,029
Social Worker III	\$13,029	\$13,029	\$13,029
Social Worker III	\$13,029	\$13,029	\$13,029
Total Personnel Costs	\$55,500	\$55,500	\$55,500
Operational Costs			
Administration	\$ 4,500	\$ 4,500	\$ 4,500
Total Operational Costs	\$ 4,500	\$ 4,500	\$ 4,500
TOTAL AMOUNT PER YEAR	\$60,000	\$60,000	\$60,000
<b>GRAND TOTAL (3 YEARS)</b>			<b>\$180,000</b>

EXHIBIT B

BUDGET NARRATIVE

**Personnel costs**

Physician (\$8,736 annually)

This funding will pay for services hours provided by a San Mateo County staff psychiatrist, who will provide psychiatric consultation, diagnostic and medication evaluation services to clients of the San Mateo County AIDS clinics. This will fund approximately .05 FTE. These services will be provided at San Mateo Medical Center.

Director Program Services (\$7,677 annually)

This funding will pay for 0.25 FTE of a subcontractor staff position. This staff person will provide administrative oversight for the counseling services program provided by subcontractor social worker staff.

Social Worker III (\$13,029 X 3, totaling \$39,087 annually)

This funding will pay for three (3) subcontracted part-time social workers who will provide group and individual counseling for San Mateo County AIDS Program clients and their families. This will fund a total of .45 FTE.

Total Personnel Costs: \$55,500

**Operational Costs**

Agency Administration (\$4,500 annually)

This funding will pay for San Mateo County overhead and supplies costs for these services.

Total Operational Costs: \$4,500

EXHIBIT D

SPECIAL TERMS AND CONDITIONS

**Termination**

Either party may terminate this Contract by giving 60 days written notice to the other party. The notice of termination shall specify the effective date of termination.

Upon the Contractor's receipt of notice of termination from the Department of Mental Health (DMH), and except as otherwise directed in the notice, the Contractor shall:

1. Stop work on the date specified in the notice.
2. Place no further orders or enter into any further subcontracts for materials, services or facilities except as necessary to complete work under the Contract up to effective date of termination.
3. Terminate all orders and subcontracts;
4. Promptly take all other reasonable and feasible steps to minimize any additional cost, loss, or expenditure associated with work terminated, including, but not limited to reasonable settlement of all outstanding liability and claims arising out of termination of orders and subcontracts;
5. Deliver or make available to DMH all data, drawings, specifications, reports, estimates, summaries, and such other information and materials as may have been accumulated by the Contractor under this Contract, whether completed, partially completed, or in progress.

In the event of termination, an equitable adjustment in the price provided for this Contract shall be made. Such adjustment shall include reasonable compensation for all services rendered, materials supplies, and expenses incurred pursuant to this Contract prior to the effective date of termination.

**Subcontracts**

Contractor shall submit any subcontractors to the Department of Mental Health for approval by the Department of Mental Health prior to implementation of the contract. Upon termination of any subcontract, the Department of Mental Health shall be notified immediately.

**Disputes**

Any dispute concerning a question of fact arising under this contract, that is not disposed of by agreement, shall be decided by the Deputy Director of Administration. All issues pertaining to this dispute will be submitted in written statements and addressed to the Deputy Director of Administration, Division of Administration, Department of Mental Health, 1600 Ninth Street, Room 150, Sacramento, CA 95814. Such written notice must contain the Contract Number. The Deputy Director's decision shall be final and binding to all parties. Within ten days of receipt of such notice, the Deputy Director, Division of Administration shall advise the Contractor of his/her findings. These findings do not preclude Contractor from any other resolution allowed by the laws of the State of California.

Neither the pendency of a dispute nor its consideration by the Deputy Director of Administration will excuse the Contractor from full and timely performance in accordance with the terms of the contract.

**Law Governing**

It is understood and agreed that this Contract shall be governed by the laws of the State of California both as to interpretation and performance.

**Contract Manager**

The Department of Mental Health may change its Contract Manager by written notice given to the Contractor at any time.



### Confidentiality of Data and Documents

1. Contractor will not disclose data or documents or disseminate the contents of the final or any preliminary report without express permission of the Contract Manager.
2. Permission to disclose information or documents on one occasion or at public hearings held by the Department of Mental Health relating to the same shall not authorize Contractor to further disclose such information or documents on any other occasion.
3. Contractor will not comment publicly to the press or any other media regarding the data or documents generated, collected, or produced in connection with this contract, or the Department of Mental Health's actions on the same, except to the Department of Mental Health staff, Contractor's own personnel involved in the performance of this Contract, at a public hearing, or in response to questions from a legislative committee.
4. If requested by the Department of Mental Health, Contractor shall require each of its employees or officers who will be involved in the performance of this Contract to agree to the above terms in a form to be approved by the Department of Mental Health and shall supply the Department of Mental Health with evidence thereof.
5. Each subcontract shall contain the foregoing provisions related to the confidentiality of data and nondisclosure of the same.
6. After any data or documents submitted has become a part of the public records of the State, Contractor may, if it wishes to do so, at its own expense and upon approval by the Contract Manager, publish or utilize the same but shall include the following legend:

### LEGAL NOTICE

This report was prepared as an account of work sponsored by the Department of Mental Health, but does not necessarily represent the views of the Department or any of its employees except to the extent, if any, that it has formally been approved by the Department. For information regarding any such action, communicate directly with the Department at P.O. Box 952050, Sacramento, California, 94252-2050. Neither said Department nor the State of California, nor any officer or employee thereof, or any of its contractors or subcontractors makes any warranty, express or implied, or assumes any legal liability whatsoever for the contents of this document. Nor does any party represent that use of the data contained herein would not infringe upon privately owned rights without obtaining permission or authorization from any party who has any rights in connection with the data.

### Provisions Relating to Data

1. "Data" as used in this Contract means recorded information, regardless of form or characteristics, of a scientific or technical nature. It may, for example, document research, experimental, developmental or engineering work; or be usable or be used to define a design or process; or support a premise or conclusion asserted in any deliverable document called for by this Contract. The data may be graphic or pictorial delineations in media, such as drawings or photographs, charts, tables, mathematical modes, collections or extrapolations of data or information, etc. It may be in machine form, as punched cards, magnetic tape, computer printouts, or may be retained in computer memory.
2. "Proprietary data" is such data as the Contractor has identified in a satisfactory manner as being under Contractor's control prior to commencement of performance of this Contract and which has been reasonably demonstrated as being of a proprietary force and effect at the time this Contract is commenced.
3. "Generated data" is that data which a Contractor has collected, collated, recorded, deduced, read out or postulated for utilization in the performance of this Contract. Any electronic data processing program, model or software system developed or substantially modified by the Contractor in the performance of this Contract at State expense, together with complete documentation thereof, shall be treated in the same manner as generated data.
4. "Deliverable data" is that data which under terms of this Contract is required to be delivered to the Department of Mental Health. Such data shall be property of the Department of Mental Health.

5. "Generated data" shall be the property of the Department of Mental Health unless and only to the extent that it is specifically provided otherwise herein.
6. The title to Contractor's proprietary data shall remain in the Contractor's possession throughout the term of this Contract and thereafter. As to generated data which is reserved to the Contractor by express terms of this Contract and as to any preexisting or proprietary data which has been utilized to support any premise, postulate or conclusion referred to or expressed in any deliverable hereunder, Contractor shall preserve the same in a form which may be introduced in evidence in a court of competent jurisdiction at Contractor's own expense for a period of not less than three years after receipt by the State of the final report or termination of this Contract and any and all amendments hereto, or for three years after the conclusion or resolution of any and all audits or litigation relevant to this Contract, whichever is later.
7. Prior to the expiration of such time, and before changing the form of or destroying any such data, Contractor shall notify the Department of Mental Health of any such contemplated action; and the Department of Mental Health may, within 30 days after said notification, determine whether it desires said data to be further preserved and, if the Department of Mental Health so elects, the expense of further preservation of said data shall be paid for by the Department of Mental Health. Contractor agrees that Department of Mental Health shall have unrestricted reasonable access to the same during said three-year period and throughout the time during which said data is preserved in accordance with this Contract, and Contractor agrees to use best efforts to furnish competent witnesses or to identify such competent witnesses to testify in any court of law regarding said data.

#### **Changes in Time for Performance of Tasks**

The time for performance of the tasks and items within the budget, but not the total contract price, may be changed with the prior written approval of the Contract Manager. However, the date for completion of performance and the total contract price, as well as all other terms not specifically accepted may be altered only by formal amendment of this Contract.

#### **Approval of Product**

Each product to be approved under this Contract shall be approved by the Contract Manager. The Department of Mental Health's determination as to satisfactory work shall be final absent fraud, mistake or arbitrariness.

#### **Waiver**

No waiver of any breach of this Contract shall be held to be a waiver of any other or subsequent breach. All remedies afforded in this Contract shall be taken and construed as cumulative; that is, in addition to every other remedy provided therein or by law. The failure of the Department of Mental Health to enforce at any time the provisions of this Contract, or to require at any time performance by the Contractor of any of the provisions, shall in no way be construed to be a waiver of such provisions not to affect the validity of this Contract or the right of the Department of Mental Health to enforce said provisions.

#### **Contract is Complete**

Other than as specified herein, no document or communication passing between the parties hereto shall be deemed a part of this Contract.

#### **Captions**

The clause headings appearing in this Contract have been inserted for the purpose of convenience and ready reference. They do no purport to and shall not be deemed to define, limit or extend the scope or intent of the clauses to which they pertain.

#### **Public Hearings**

If public hearings on the subject matter dealt with in this Contract are held within one year from the contract expiration date, Contractor will make available to testify the personnel assigned to this Contract at the hourly rates specified in the Contractor's proposed budget.

#### **Force Majeure**

Neither the State nor the Contractor shall be deemed to be in default in the performance of the terms of this Contract if either party is prevented from performing the terms of this Contract by causes beyond its control, including without being limited to: acts of God, interference, rulings or decision by municipal, Federal, State or other governmental agencies, boards or commissions; any laws and/or regulations of such municipal, State, Federal, or other governmental bodies; or any catastrophe resulting from flood, fire, explosion, or other causes



beyond the control of the defaulting party. If any of the stated contingencies occur, the party delayed by force majeure shall immediately give the other parties written notice of the cause of delay. The party delayed by force majeure shall use reasonable diligence to correct the cause of the delay, if correctable, and if the condition that caused the delay is corrected, the party delayed shall immediately give the other parties written notice thereof and shall resume performance under this Contract.

#### **Permits and Licenses**

The Contractor shall procure and keep in full force and effect during the term of this Contract all permits, registrations and licenses necessary to accomplish the work specified in this Contract, and give all notices necessary and incident to the lawful prosecution of the work.

The Contractor shall keep informed of, observe, comply with, and cause all of its agents and employees to observe and comply with all prevailing Federal, State, and local laws, and rules and regulations made pursuant to said Federal, State, and local laws, which in any way affect the conduct of the work of this Contract. If any conflict arises between provisions of the plans and specifications and any such law above referred to, then the Contractor shall immediately notify the Department of Mental Health in writing.

#### **Litigation**

The Department of Mental Health, promptly after receiving notice thereof, shall notify the Contractor in writing of the commencement of any claim, suit, or action against the Department of Mental Health or its officers or employees for which the contractor must provide indemnification under this Contract. The failure of the Department of Mental Health to give such notice, information, authorization or assistance shall not relieve the Contractor of its indemnification obligations. The Contractor shall immediately notify the Department of Mental Health of any claim or action against it which affects, or may affect, this Contract, the terms and conditions hereunder, or the Department of Mental Health, and shall take such action with respect to said claim or action which is consistent with the terms of this Contract and the interest of the Department of Mental Health.

#### **Severability**

If any provision of this Contract is held invalid by a court of competent jurisdiction, such invalidity shall not affect any other provision of this Contract and remainder of this Contract shall remain in full force and effect. Therefore, the provisions of this Contract are and shall be deemed to be severable.

#### **Budget Disclaimer**

If this Contract overlaps State fiscal years, should funds not be appropriated by the Legislature for the fiscal year(s) following that during which this Contract was executed, the State may exercise its option to cancel this Contract or reduce funding and make appropriate line item changes upon providing reasonable notice thereof.

If this Contract overlaps Federal and State fiscal years, should funds not be appropriated by Congress and approved by the Legislature for the fiscal year(s) following that during which this Contract was executed, the State may exercise its option to cancel this Contract.

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

#### **Public Contract Code**

If applicable, the Contractor is advised that provisions of Public Contract Code Sections 10335 through 10381 pertaining to the duties, obligations and rights of a consultant service contractor are applicable to this Contract.

#### **Client Confidentiality**

1. For contract involving clients and information regarding clients, the Contractor shall protect from unauthorized disclosure, names and other identifying information concerning persons receiving services pursuant to this contract, except for statistical information not identifying any client. Client is defined as "those persons receiving services pursuant to a Department of Mental Health funded program." Contractor shall not use such identifying information for any purpose other than carrying out the Contractor's obligations under this contract.
2. Contractor shall promptly transmit to the Department of Mental Health all requests for disclosure of such identifying information not emanating from the client.

3. Contractor shall not disclose, except as otherwise specifically permitted by this contract or authorized by the client, any such identifying information to anyone other than the Department of Mental Health without prior written authorization from DMH.
4. For purposes of this section, identity shall include but not be limited to name, identifying number, symbol or other identifying piece of information assigned to the individual, such as a finger or voice print or a photograph which can be used to identify the individual person.

#### **Conflict of Interest Certification**

In accordance with State laws and Departmental policy, no employees (including contractors) shall participate in incompatible activities which are in conflict with their job duties. In addition, State law requires employees whose positions are designated in the Department's Conflict of Interest Code to file statements of economic interest. Employees whose positions have been designated will be notified by the department if a statement is required.

In signing this contract, I certify that I have read and understand the following:

#### **GOVERNMENT CODE 19990**

A state officer or employee shall not engage in any employment, activity, or enterprise, which is clearly inconsistent, incompatible, in conflict with, or inimical to his or her duties as a state officer or employee.

Each appointing power shall determine, subject to approval of the department, those activities which, for employees under its jurisdiction, are inconsistent, incompatible or in conflict with their duties as state officers or employees. Activities and enterprises deemed to fall in these categories shall include, but not be limited to, all of the following:

- a) Using the prestige or influence of the state or the appointing authority for the officer's or the employee's private gain or advantage or the private gain of another.
- b) Using state time, facilities, equipment, or supplies for private gain or advantage.
- c) Using, or having access to, confidential information available by virtue of state employment for private gain or advantage or providing confidential information to persons to whom issuance of this information has not been authorized.
- d) Receiving or accepting money or any other consideration from anyone other than the state for the performance of his or her duties as a state officer or employee.
- e) Performance of an act in other than his or her capacity as a state officer or employee knowing that the act may later be subject, directly or indirectly to the control, inspection, review, audit, or enforcement by the officer or employee.
- f) Receiving or accepting, directly or indirectly, any gift, including money, or any service, gratuity, favor, entertainment, hospitality, loan, or any other thing of value from anyone who is doing or is seeking to do business of any kind with the officer's or employee's appointing authority or whose activities are regulated or controlled by the appointing authority under circumstances from which it reasonably could be substantiated that the gift was intended to influence the officer or employee in his or her official duties or was intended as a reward for any official actions performed by the officer or employee.
- g) Subject to any other laws, rules, or regulations as pertain thereto, not devoting his or her full time, attention, and efforts to his or her state office or employment during his or her hours of duty as a state officer or employee.



**Exhibit E**  
**HIPAA Provisions**

1. The parties to this agreement shall comply with applicable laws and regulations, including but not limited to Sections 14100.2 and 5328 et seq. of the Welfare and Institutions Code, Section 431.300 et seq. of Title 42, Code of Federal Regulations, and the Health Insurance Portability and Accountability Act (HIPAA), including but not limited to Section 1320 D et seq. of Title 42, United States Code and its implementing regulations (including but not limited to Title 45, CFR, Parts 142, 160, 162 and 164) regarding the confidentiality and security of patient information.
2. The Contractor shall protect, from unauthorized disclosure, names and other identifying information concerning persons receiving services pursuant to this Contract, except for statistical information. This pertains to any and all persons receiving services pursuant to a DMH-funded program. The Contractor shall not use such identifying information for any purpose other than carrying out The Contractor's obligations under this Contract.
3. The Contractor shall not disclose, except as otherwise specifically permitted by this Contract, authorized by law or authorized by the client/patient, any such identifying information to anyone other than the State without prior written authorization from the State in accordance with State and Federal Laws.
4. For purposes of the above paragraphs, identifying information 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.
5. Notification of Electronic Breach or Improper Disclosure: During the term of this Agreement, Contractor shall notify DMH, immediately upon discovery of any breach of Medi-Cal Protected Health Information (PHI) and/or data, where the information and/or data is reasonably believed to have been acquired by an unauthorized person. Immediate notification shall be made to the DMH Information Security Officer, within two business days of discovery, at (916) 651-6776. Contractor shall take prompt corrective action to cure any deficiencies and any action pertaining to such unauthorized disclosure required by applicable Federal and State laws and regulations. Contractor shall investigate such breach and provide a written report of the investigation to the DMH Information Security Officer, postmarked within thirty (30) working days of the discovery of the breach to the address below:

**Information Security Officer  
Office of HIPAA Compliance  
California Department of Mental Health  
1600 9<sup>th</sup> Street, Room 150  
Sacramento, CA 95814**

6. *Safeguards.* To implement administrative, physical, and technical safeguards that reasonably and appropriately protect the confidentiality, integrity, and availability of the protected health information, including electronic PHI, that it creates, receives, maintains or transmits on behalf of DMH; and to prevent use or disclosure of PHI other than as provided for by this Agreement. Contractor shall develop and maintain a written information privacy and security program that includes administrative, technical and physical safeguards appropriate to the size and complexity of the Contractor's operations and the nature and scope of its activities. Contractor will provide DMH with information concerning such safeguards as DMH may reasonably request from time to time.

Contractor will implement strong access controls and other security safeguards and precautions as noted in the following to restrict logical and physical access to confidential, personal (e.g., PHI) or sensitive data to authorized users only.

Contractor will enforce the following administrative and technical password controls on all systems used to process or store confidential, personal, or sensitive data:

**Exhibit E**  
**HIPAA Provisions**

- a. Passwords must not be:
  - i. shared or written down where they are accessible or recognizable by anyone else, such as taped to computer screens, stored under keyboards, or visible in a work area
  - ii. a dictionary word
  - iii. stored in clear text
- b. Passwords must be:
  - i. 8 characters or more in length
  - ii. changed every 90 days
  - iii. changed immediately if revealed or compromised
  - iv. composed of characters from at least three of the following four groups from the standard keyboard:
    - (1) Upper case letters (A-Z);
    - (2) Lower case letters (a-z);
    - (3) Arabic numerals (0 through 9); and
    - (4) Non-alphanumeric characters (punctuation symbols)

Contractor will implement the following security controls on each workstation or portable computing device (e.g., laptop computer) containing confidential, personal, or sensitive data:

- a. network-based firewall and/or personal firewall
- b. continuously updated anti-virus software
- c. patch management process including installation of all operating system/software vendor security patches

Contractor will utilize a commercial encryption solution that has received FIPS 140-2 validation to encrypt all confidential, personal, or sensitive data stored on portable electronic media (including, but not limited to, CDs and thumb drives) and on portable computing devices (including, but not limited to, laptop and notebook computers).

Contractor will not transmit confidential, personal, or sensitive data via e-mail or other internet transport protocol unless the data is encrypted by a solution that has been validated by the National Institute of Standards and Technology (NIST) as conforming to the Advanced Encryption Standard (AES) Algorithm.

- 7. *Mitigation of Harmful Effects.* To mitigate, to the extent practicable, any harmful effect that is known to Contractor of a use or disclosure of PHI by Contractor or its subcontractors in violation of the requirements of these Provisions.
- 8. *Contractor's Contractors.* To ensure that any contractors, including subcontractors, to whom Contractor provides PHI received from or created or received by Contractor on behalf of DMH, agree to the same restrictions and conditions that apply to Contractor with respect to such PHI; and to incorporate, when applicable, the relevant provisions of these Provisions into each subcontract or sub award to such agents or subcontractors.
- 9. *Employee Training and Discipline.* To train and use reasonable measures to ensure compliance with the requirements of these Provisions by employees who assist in the performance of functions or activities on behalf of DMH under this Agreement and use or disclose PHI; and discipline such employees who intentionally violate any provisions of these Provisions, including termination of employment.



**Exhibit E**  
**HIPAA Provisions**

10. *Termination for Cause.* Upon DMH's knowledge of a material breach of these Provisions by Contractor, DMH shall either:
- (1) Provide an opportunity for Contractor to cure the breach or end the violation and terminate this Agreement if Contractor does not cure the breach or end the violation within the time specified by DMH; or
  - (2) Immediately terminate this Agreement if Contractor has breached a material term of these Provisions and cure is not possible.
  - (3) If neither cure nor termination is feasible, the DMH Privacy Officer shall report the violation to the Secretary of the U.S. Department of Health and Human Services.
11. *Judicial or Administrative Proceedings.* DMH may terminate this Agreement, effective immediately, if (i) Contractor is found guilty in a criminal proceeding for a violation of the HIPAA Privacy or Security Rule or (ii) a finding or stipulation that the Contractor has violated a privacy or security standard or requirement of HIPAA, or (iii) other security or privacy laws is made in an administrative or civil proceeding in which the Contractor is a party.
12. *Effect of Termination.* Upon termination or expiration of this Agreement for any reason, Contractor shall return or destroy all PHI received from DMH (or created or received by Contractor on behalf of DMH) that Contractor still maintains in any form, and shall retain no copies of such PHI or, if return or destruction is not feasible, it shall continue to extend the protections of these Provisions to such information, and limit further use of such PHI to those purposes that make the return or destruction of such PHI infeasible. This provision shall apply to PHI that is in the possession of subcontractors or agents of Contractor.
13. *Disclaimer.* DMH makes no warranty or representation that compliance by Contractor with these Provisions, HIPAA or the HIPAA regulations will be adequate or satisfactory for Contractor's own purposes or that any information in Contractor's possession or control, or transmitted or received by Contractor, is or will be secure from unauthorized use or disclosure. Contractor is solely responsible for all decisions made by Contractor regarding the safeguarding of PHI.
14. *Amendment.* The parties acknowledge that Federal and State laws relating to electronic data security and privacy are rapidly evolving and that amendment of these Provisions may be required to provide for procedures to ensure compliance with such developments. The parties specifically agree to take such action as is necessary to implement the standards and requirements of HIPAA, the HIPAA regulations and other applicable laws relating to the security or privacy of PHI. Upon DMH's request, Contractor agrees to promptly enter into negotiations with DMH concerning an amendment to these Provisions embodying written assurances consistent with the standards and requirements of HIPAA, the HIPAA regulations or other applicable laws. DMH may terminate this Agreement upon thirty (30) days written notice in the event (i) Contractor does not promptly enter into negotiations to amend these Provisions when requested by DMH pursuant to this Section or (ii) Contractor does not enter into an amendment providing assurances regarding the safeguarding of PHI that DMH in its sole discretion, deems sufficient to satisfy the standards and requirements of HIPAA and the HIPAA regulations.
15. *No Third-Party Beneficiaries.* Nothing express or implied in the terms and conditions of these Provisions is intended to confer, nor shall anything herein confer, upon any person other than DMH or Contractor and their respective successors or assignees, any rights, remedies,

**Exhibit E**  
**HIPAA Provisions**

obligations or liabilities whatsoever.

16. *Interpretation.* The terms and conditions in these Provisions shall be interpreted as broadly as necessary to implement and comply with HIPAA, the HIPAA regulations and applicable State laws. The parties agree that any ambiguity in the terms and conditions of these Provisions shall be resolved in favor of a meaning that complies and is consistent with HIPAA and the HIPAA regulations.
17. *Regulatory References.* A reference in the terms and conditions of these Provisions to a section in the HIPAA regulations means the section as in effect or as amended.
18. *Survival.* The respective rights and obligations of Contractor under Section 6.C of these Provisions shall survive the termination or expiration of this Agreement.
19. *No Waiver of Obligations.* No change, waiver or discharge of any liability or obligation hereunder on any one or more occasions shall be deemed a waiver of performance of any continuing or other obligation, or shall prohibit enforcement of any obligation, on any other occasion.



## CONTRACT INSURANCE APPROVAL

DATE: May 10, 2007

TO: Faiza Steele FAX: 363-4610 PONY: HRD 163

FROM: John Klyver

PHONE: 573-2641 FAX: 573-2841 PONY: MLH 322

The following is to be completed by the department before submission to Risk Management:

CONTRACTOR NAME: State Department of Mental Health

DOES THE CONTRACTOR TRAVEL AS A PART OF THE CONTRACT SERVICES? No

NUMBER OF EMPLOYEES WORKING FOR CONTRACTOR: N/A

DUTIES TO BE PERFORMED BY CONTRACTOR FOR COUNTY: We are the service provider

The following will be completed by Risk Management:

INSURANCE COVERAGE:	Amount	Approve	Waive	Modify
Comprehensive General Liability	\$1,000,000	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Motor Vehicle Liability	\$1,000,000	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Professional Liability	\$1,000,000	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Workers' Compensation	Statutory	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

REMARKS/COMMENTS: Please waive.

Faiza Steele  
Faiza Steele  
Risk Management Analyst

5/10/07  
Date