



COUNTY OF SAN MATEO
Inter-Departmental Correspondence
Health System



DATE: August 10, 2011
BOARD MEETING DATE: September 13, 2011
SPECIAL NOTICE/HEARING: None
VOTE REQUIRED: Majority

TO: Honorable Board of Supervisors
FROM: Jean S. Fraser, Chief, Health System
Lisa Mancini, Director, Aging and Adult Services
SUBJECT: Interagency Agreement between the County of San Mateo and the San Mateo County In-Home Supportive Services Public Authority

RECOMMENDATION:

- A) Adopt a Resolution authorizing the:
1. President of the Board to execute an Interagency Agreement between the County of San Mateo and San Mateo County In-Home Supportive Services Public Authority for the independent provider component of the In-Home Supportive Services Program for the term July 1, 2011 through June 30, 2014, in an amount not to exceed \$1,078,564; and
 2. County Manager to execute a Business Associate Agreement between the County of San Mateo and the County of San Mateo In-Home Supportive Services Public Authority for the term July 1, 2011 through June 30, 2014.
- B) Adopt a Resolution authorizing the President of the Governing Board of the In-Home Supportive Services Public Authority to execute an Interagency Agreement between the San Mateo County In-Home Supportive Services Public Authority and the County of San Mateo for the term July 1, 2011 through June 30, 2014, in an amount not to exceed \$1,078,564.

BACKGROUND:

In September 1993 by ordinance of the San Mateo County Board of Supervisors, a separate Public Authority was established to administer the provider components of the In-Home Supportive Services Program (IHSS). The enabling ordinance designated the Board of Supervisors as the Governing Board of the IHSS Public Authority.

IHSS Public Authority regulations require that the County and the Public Authority have an Interagency Agreement. That Agreement must specify the purpose, scope or nature of the arrangement, roles and responsibilities of each party, provisions ensuring compliance with all applicable State and federal laws and regulations, and fiscal provisions under which the Public Authority will be reimbursed.

DISCUSSION:

The proposed Interagency Agreement meets the regulatory requirements and reflects the relationship that exists between the County and the IHSS Public Authority. Approval of the Interagency Agreement, which includes the County-required HIPAA Business Associate language, will enable the IHSS Public Authority to receive reimbursement for State and federal shares of the IHSS Public Authority expenses.

County Counsel has reviewed and approved the two Agreements and the two Resolutions as to form and content.

These Agreements contribute to the Shared Vision 2025 outcome of a Healthy Community by allowing Aging and Adult Services to provide IHSS services to at-risk individuals that help them remain in the most independent setting possible. It is anticipated that 95% of at-risk individuals will be maintained in a least restrictive setting through case management.

Performance Measure:

Measure	FY 2010-11 Actual	FY 2011-12 Target
Percent of at-risk individuals maintained in a least restrictive setting through case management	99%*	95%

* The FY 2010-11 performance exceeded the division's expectations in this measure.

FISCAL IMPACT:

The term of this Interagency Agreement is July 1, 2011 through June 30, 2014. Annual costs for administration of IHSS Public Authority (exclusive of services) are budgeted at \$1,078,564 for FY 2011-12. Based on past history, reimbursements for administrative costs of the IHSS Public Authority will be \$375,340 in State funds and \$491,825 in federal funds in FY 2011-12, leaving a County share of \$211,399, which is paid for through Realignment funding. These costs and revenues are included in the IHSS Public Authority FY 2011-12 Recommended Budget.

There will be no additional Net County Cost as a result of the approval of this Interagency Agreement. Funding for the second and third year will be brought before your Board for approval through the budget adoption process.

RESOLUTION NO. _____

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

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RESOLUTION AUTHORIZING THE: 1. PRESIDENT OF THE BOARD TO EXECUTE AN INTERAGENCY AGREEMENT BETWEEN THE COUNTY OF SAN MATEO AND THE SAN MATEO COUNTY IN-HOME SUPPORTIVE SERVICES PUBLIC AUTHORITY FOR THE INDEPENDENT PROVIDER COMPONENT OF THE IN-HOME SUPPORTIVE SERVICES PROGRAM FOR THE TERM JULY 1, 2011 THROUGH JUNE 30, 2014, IN AN AMOUNT NOT TO EXCEED \$1,078,564; AND 2. COUNTY MANAGER TO EXECUTE A BUSINESS ASSOCIATE AGREEMENT BETWEEN THE COUNTY OF SAN MATEO AND THE SAN MATEO COUNTY IN-HOME SUPPORTIVE SERVICES PUBLIC AUTHORITY FOR THE TERM JULY 1, 2011 THROUGH JUNE 2014

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

WHEREAS, In-Home Supportive Services (IHSS) Public Authority regulations require the County of San Mateo to enter into an Interagency Agreement with the IHSS Public Authority; and

WHEREAS, the parties wish to enter into an Agreement to provide the IHSS independent provider components of the San Mateo County IHSS Public Authority for the period of July 1, 2011 through June 30, 2014, with a total fiscal obligation for FY 2011-12 of \$1,078,564 with a Net County Cost of \$211,399; and

WHEREAS, funding for the second and third fiscal years are to be determined and brought separately before this Board for approval; and

WHEREAS, this Board has been presented with an Interagency Agreement,

reference to which is hereby made for further particulars, and the Board has examined and approved it as to both form and content and desires to enter into the same.

NOW, THEREFORE, IT IS HEREBY DETERMINED AND ORDERED that the President of this Board be, and is hereby authorized and directed to execute the said Interagency Agreement between the County of San Mateo and the San Mateo County IHSS Public Authority for and on behalf of the County of San Mateo, and the Clerk of this Board shall attest the President's signature thereto.

BE IT FURTHER RESOLVED that the County Manager is authorized to execute a Business Associate Agreement between the County of San Mateo and the San Mateo County IHSS Public Authority as required by federal and State law in accordance with the Health Insurance Portability and Accountability Act of 1996.

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RESOLUTION NO. _____

BOARD OF SUPERVISORS ACTING AS THE GOVERNING BOARD OF THE IN-HOME SUPPORTIVE SERVICES PUBLIC AUTHORITY OF THE COUNTY OF SAN MATEO, STATE OF CALIFORNIA

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RESOLUTION AUTHORIZING THE PRESIDENT OF THE GOVERNING BOARD OF THE IN-HOME SUPPORTIVE SERVICES PUBLIC AUTHORITY TO EXECUTE AN INTERAGENCY AGREEMENT BETWEEN THE SAN MATEO COUNTY IN-HOME SUPPORTIVE SERVICES PUBLIC AUTHORITY AND THE COUNTY OF SAN MATEO FOR THE TERM JULY 1, 2011 THROUGH JUNE 30, 2014, IN AN AMOUNT NOT TO EXCEED \$1,078,564

RESOLVED, by the In-Home Supportive Services (IHSS) Public Authority of the County of San Mateo, State of California, that

WHEREAS, the Board of Supervisors of San Mateo County has designated itself as the Governing Board of the San Mateo County IHSS Public Authority to carry out programs pursuant to the IHSS program; and

WHEREAS, IHSS Public Authority regulations require that the IHSS Public Authority enter into an Interagency Agreement with the County; and

WHEREAS, the parties wish to enter into an Agreement to provide the IHSS provider components of the San Mateo County Public Authority for the period of July 1, 2011 through June 30, 2014, with a total fiscal obligation for FY 2011-12 of \$1,078,564 with a Net County Cost of \$211,399, and

WHEREAS, funding for the second and third fiscal years are to be brought

separately before this Board for approval; and

WHEREAS, this Governing Board has been presented with an Interagency Agreement with the County of San Mateo, reference to which is hereby made for further particulars, and the Board has examined and approved it as to both form and content and desires to enter into the same.

NOW, THEREFORE, IT IS HEREBY DETERMINED AND ORDERED that the President of this Governing Board be, and is hereby authorized and directed to execute the Interagency Agreement between the County of San Mateo and the IHSS Public Authority for and on behalf of the IHSS Public Authority, and the Clerk of this Board shall attest the President's signature thereto.

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SAN MATEO COUNTY PUBLIC AUTHORITY
INTERAGENCY AGREEMENT TO ADMINISTER THE INDEPENDENT PROVIDER
COMPONENTS OF THE IN-HOME SUPPORTIVE SERVICES PROGRAM

I. DECLARATION

This Agreement is entered into this _____ day of _____, _____, in the State of California by and between the County of San Mateo, hereinafter referred to as the "County" and the San Mateo County Public Authority, hereinafter referred to as the "Authority," for the purpose of administering the independent provider components of the In-Home Supportive Services Program.

II. DEFINITIONS

A. Pursuant to California Welfare and Institutions Code Section 12301.6 and San Mateo County Ordinance Number 03508, the Authority was created to govern the administration of the provider components of the In-Home Supportive Services (IHSS) program.

1. The Authority is an entity separate from the County; a corporate public body exercising public and essential governmental functions; and has all powers necessary and convenient to carry out the independent provider components of IHSS.
2. Independent providers are those individuals hired by consumers to provide IHSS services.
3. Consumers are those individuals served by the IHSS Program.

III. DUTIES AND RESPONSIBILITIES

A. The County and the Authority shall have the following Joint Responsibilities:

1. Prepare an annual evaluation of the performance of the Authority at the end of each fiscal year. Areas to be covered in the evaluation include quantitative and qualitative measures regarding independent providers served, services provided, the financial status of the Authority, and any significant changes to the Authority due to State/Federal requirements or local decisions. The evaluation will be presented to the Director of Aging and Adult Services in a report format within 90-days of the close of the fiscal year.

2. Confer on all cases in which a consumer or independent provider grievance/appeal has been registered regarding the conduct or performance of the Authority.
3. Maintain liaison personnel.
 - a. The County will provide a .5 FTE Health Services Manager (HSM) I to the Authority to manage its operations. This HSM will report to the Director of Aging and Adult Services and will have primary responsibility for liaison and coordination of activities between the Authority and the IHSS Program.
 - b. The County will also provide a HSM I responsible for the IHSS Program to coordinate services with the Authority. This person will report to the HSM II over AAS protective and supportive services programs.
 - c. These persons will act to ensure compliance with all Agreement provisions.

B. The County shall have the following responsibilities:

1. The exclusive right to authorize services for a consumer.
2. Sole authority for the determination of the need for IHSS, the level and quality of services required, and the eligibility of individuals to be served.
3. Assessment of a consumer's continuing need for services.
4. The exclusive right to terminate the consumer's participation in the IHSS Program at any time based on regulatory requirements.
5. To work in collaboration with the Authority to provide orientation to all appropriate staff regarding the Authority's role, responsibilities and contract agreements.
6. To refer all appropriate IHSS consumers to the Authority for Authority services.
7. To evaluate the effectiveness, level and quality of service performed by the Authority.
8. To assist the Authority to obtain complete and current information with respect to pertinent statutes, regulations, policies, procedures and guidelines which apply to the delivery of IHSS.
9. To provide necessary data and access to County records to allow the Authority to perform its mandated and authorized functions.
10. To provide certain services to the Authority. These services will include, but not be limited to, business administration; accounting; payables; receivables;

budgeting; contract processing and monitoring of the agreements with Service Employees International Union (SEIU), the Health Plan of San Mateo, Addus Healthcare, Inc., and Hospitality Data Solutions; legal services; trainings; risk management and benefits and payroll services for the Authority's administrative staff. In addition, the County will be responsible for any negotiations with SEIU. The scope and costs of these services will be negotiated annually during the County's annual budget process.

11. To assist the Authority to develop the positions/staffing patterns necessary to accomplish its work, as mutually agreed upon.

C. The Authority shall have the following responsibilities:

1. EXHIBIT A, Authority Responsibilities, is attached and made a part hereof by this Agreement.

IV. FISCAL PROVISIONS

A. The Authority will be funded by County, State, and Federal monies based on the established IHSS cost sharing ratios. Ratios are established by California State Welfare and Institutions Code 12306.

1. The County's financial obligation under this Agreement shall be determined annually during the County's annual budget process. The County's final Adopted Budget for the Authority shall be provided to the Authority each year.
2. EXHIBIT B, Billing and Payment, is attached and made a part hereof by this Agreement.

B. Availability of Funds

1. The County may terminate this Agreement or a portion of the services referenced in the Attachments and Exhibits based upon unavailability of Federal, State, or County funds, by providing written notice to the Authority as soon as is reasonably possible after the County learns of said unavailability of outside funding.

V. TERMINATION

A. This Agreement may be terminated under the following conditions:

1. Failure or refusal of the Authority to perform any act herein required shall constitute a default. In the event of any default this Agreement may be terminated by the County immediately upon written notice.

2. This Agreement may be terminated by the County with or without cause by providing a thirty (30) days' written notice to the Authority.
3. The Authority may terminate this Agreement with or without cause by providing a sixty (60) days' advance written notice to the County.

In the event of termination, all finished or unfinished documents, data, studies, maps, photographs, reports, and materials (hereafter referred to as materials) prepared by the Authority under this Agreement shall become the property of the County and shall be promptly delivered to the County. Upon termination, the Authority may make and retain a copy of such materials. Subject to availability of funding, the Authority shall be entitled to receive payment for work/services provided prior to termination of the Agreement. Such payment shall be that portion of the full payment which is determined by comparing the work/services completed to the work/services required by the Agreement.

VI. RETENTION OF RECORDS, RIGHT TO MONITOR AND AUDIT

A. Records Retention

1. The Authority agrees to maintain all records pertaining to service delivery and fiscal and administrative controls for a minimum of three (3) years after final payment for a given fiscal year has been made, and all other pending matters are closed, and shall be subject to the examination and/or audit of the County, a Federal grantor agency, and the State of California, whichever is later.

B. Reporting and Record Keeping

1. The Authority shall comply with all program and fiscal reporting requirements set forth by appropriate Federal, State and local agencies, and as required by the County.
2. The Authority agrees to maintain all required program, fiscal, statistical and management records locally and make such records available for inspection by the Federal, State and County representatives at all reasonable times.
3. The Authority agrees to provide to any Federal or State department having monitoring or review authority, to County's authorized representatives, and/or their appropriate audit agencies upon reasonable notice, access to and the right to examine all records and documents, necessary to determine compliance with relevant Federal, State, and local statutes, rules and regulations, and this Agreement, and to evaluate the quality, appropriateness and timeliness of services performed.
4. The Authority shall cooperate fully in any monitoring or auditing conducted by the County or other governmental entities.

5. The Authority agrees their financial records shall contain itemized records of all costs and be available for inspection in the County within three (3) working days of a request by any County, State, or Federal agency.
6. Monitoring by the County may be accomplished by the following means: field reviews, audit of claims, and review of records.
7. The County shall notify the Authority in writing within thirty (30) calendar days of the discovery of any potential audit exceptions discovered during any monitoring or auditing examination.

C. Disposal of Records

1. Records shall be destroyed in accordance with Department of Social Services (DSS), Manual of Policies and Procedures (MPP), Division 23, Section 350 Disposition of Welfare Records.

VII. MINIMUM STANDARDS FOR SALARIES AND BENEFITS

A. The Authority assures that the following minimum standards with regard to salaries and benefits for all Authority staff will be met:

1. Authority staff shall receive wages and benefits which are no less than required by applicable State and Federal law.
2. With the exception of retirement benefits and the Commute Alternatives Program, Authority staff shall receive the same benefits as comparable County employees.
3. Authority staff shall receive retirement benefits through the Public Employees Retirement System (PERS).

B. Salary and benefit payroll deductions will be made by the County for Authority staff.

VIII. GENERAL PROVISIONS

A. Term of Agreement

1. The term of this Agreement is from July 1, 2011 through June 30, 2014.

B. Totality of Agreement

1. This Agreement contains all the terms and conditions agreed upon by the County and the Authority and no other understanding, oral or otherwise, regarding this Agreement shall be deemed to exist or to bind any of the parties to this Agreement.

C. Agreement Transition Process

1. The Authority agrees to provide all information deemed necessary by the County for use in transitioning, rebidding or discontinuing this Agreement.
2. Should this Agreement be terminated by the County or the Authority for any reason, the Authority shall assist the County in the orderly transfer of Authority services to a successor contractor or other entity.

D. Controlling Law and Venue

1. The validity of the Agreement and of its terms or provisions, as well as the rights and duties of the parties hereunder, the interpretation, and performance of the Agreement shall be governed by the laws of the State of California. Any dispute arising out this Agreement shall be venued either in the San Mateo County Superior Court or the United States District Court for the Northern District of California.

E. Insurance

1. The Authority shall not commence work or be required to commence work under this Agreement unless and until all insurance required under this paragraph has been obtained and such insurance has been approved by Risk Management, and Authority shall use diligence to obtain such insurance and to obtain such approval. The Authority shall furnish the County with certificates of insurance evidencing the required coverage, and there shall be a specific contractual liability endorsement extending the Authority's coverage to include the contractual liability assumed by the Authority 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 County of any pending change in the limits of liability or of any cancellation or modification of the policy.
 - a. **Worker's Compensation and Employer's Liability Insurance** The Authority shall have in effect during the entire life of this Agreement Workers' Compensation and Employer's Liability Insurance providing full statutory coverage. In signing this Agreement, the Authority certifies, as required by Section 1861 of the California Labor Code, that it is aware of the provisions of Section 3700 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 I will comply with such provisions before commencing the performance of the work of this Agreement.
 - b. **Liability Insurance** The Authority shall take out and maintain during the life of this Agreement such Bodily Injury Liability and Property Damage Liability

Insurance as shall protect him/her 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 contractors operations under this Agreement, whether such operations be by himself/herself or by any sub-contractor or by anyone directly or indirectly employed by either of them. Such insurance shall be combined single limit bodily injury and property damage for each occurrence and shall be not less than the amount specified below.

\$1,000,000.00 Bodily Injury - per person and

\$1,000,000.00 Bodily Injury - each occurrence and

\$1,000,000.00 Property Damage or

\$1,000,000.00 Combined single limit bodily injury and property damage.

- c. 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 the County, its officers, agents, employees and servants shall be primary insurance to the full limits of liability of the policy, and that if the 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.
- d. The policies shall provide thirty (30) days' written notice to the County, by certified mail, of cancellation or material change of said policies. Any such policies or insurance held or owned by the County shall be called upon to cover a loss under said policy.
- e. The amounts referenced above are specific to this Agreement or are an aggregate amount for this and other agreements. And further, if the amount(s) is/are or does become an aggregate for the Authority, the Authority shall execute an agreement with the Insurance Company, and provide evidence of same to the County, for the Insurance Company to immediately provide notice to the County of any claim that is filed which may reduce the aggregate amount.
- f. 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, the County of San Mateo at its option, may, notwithstanding any other provision of this Agreement to the contrary, immediately declare a material breach of this Agreement and suspend all further work pursuant to this Agreement.

F. Compliance with laws; payment of Permits/Licenses

All services to be performed by the Authority pursuant to this Agreement shall be performed in accordance with all applicable Federal, State, County, and municipal

laws, including, but not limited to, Health Insurance Portability and Accountability Act of 1996 (HIPAA) and all Federal regulations promulgated thereunder, as amended, and the Americans with Disabilities Act of 1990, as amended, and Section 504 of the Rehabilitation Act of 1973, as amended and attached hereto and incorporated by reference herein as Attachment "I," which prohibits discrimination on the basis of handicap in programs and activities receiving any Federal or County financial assistance. 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. Further, the Authority certifies that the Authority and all of its subcontractors will adhere to all applicable provisions of Chapter 4.106 of the San Mateo County Ordinance Code, which regulates the use of disposable food service ware.

In the event of a conflict between the terms of this Agreement and State, Federal, County, or municipal law or regulations, the requirements of the applicable law will take precedence over the requirements set forth in this Agreement.

The Authority will timely and accurately complete, sign, and submit all necessary documentation of compliance.

G. Hold Harmless and Indemnification

1. The Authority shall indemnify and save 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: (A) injuries to or death of any person, including the Authority staff, (B) damage to any property of any kind whatsoever and to whomsoever belonging, (C) any sanctions, penalties, or claims of damages resulting from Authority's failure to comply with the requirements set forth in the Health Insurance Portability and Accountability Act of 1996 (HIPAA) and all Federal regulations promulgated thereunder, as amended, or (D) any other loss or cost, including but not limited to that 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 the Authority 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.
2. The duty of the Authority 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.

H. Non-Discrimination

1. *Section 504 applies only to Contractors who are providing services to members of the public.* The Authority shall comply with § 504 of the Rehabilitation Act of 1973, which provides that no otherwise qualified handicapped individual shall, solely by reason of a disability, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination in the performance of this Agreement.
2. *General non-discrimination.* No person shall, on the grounds of race, color, religion, ancestry, gender, age (over 40), national origin, medical condition (cancer), physical or mental disability, sexual orientation, pregnancy, childbirth or related medical condition, marital status, or political affiliation be denied any benefits or subject to discrimination under this Agreement.
3. *Equal employment opportunity.* The Authority shall ensure equal employment opportunity based on objective standards of recruitment, classification, selection, promotion, compensation, performance evaluation, and management relations for all employees under this Agreement. The Authority's equal employment policies shall be made available to County upon request.
4. *Violation of non-discrimination provisions.* Violation of the non-discrimination provisions of this Agreement shall be considered a breach of this Agreement and subject the Authority to penalties, to be determined by the County Manager, including but not limited to:
 - i. termination of this Agreement;
 - ii. disqualification of the Authority from bidding on or being awarded a County contract for a period of up to 3 years;
 - iii. liquidated damages of \$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 section, the County Manager shall have the authority to examine Authority's employment records with respect to compliance with this paragraph and/or to set off all or any portion of the amount described in this paragraph against amounts due to Authority under the Agreement or any other agreement between Authority and County.

The Authority 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 the Authority 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. The

Authority shall provide the County with a copy of their response to the Complaint when filed.

5. *Compliance with Equal Benefits Ordinance.* With respect to the provision of employee benefits, Authority 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.
6. The Authority shall comply fully with the non-discrimination requirements required by 41 CFR 60-741.5(a), which is incorporated herein as if fully set forth.

I. Compliance with Contractor Employee Jury Service Ordinance

The Authority shall comply with the County Ordinance with respect to provision of jury duty pay to employees and have and adhere to a written policy that provides that its employees shall receive from the Authority, on an annual basis, no less than five days of regular pay for actual jury service in San Mateo County. The policy may provide that employees deposit any fees received for such jury service with the Authority or that the Authority deduct from the employees' regular pay the fees received for jury service.

In witness whereof, this Agreement has been executed by the parties hereto upon this date first above written.

COUNTY OF SAN MATEO

By: _____ Date: _____
President
Board of Supervisors, County of San Mateo

ATTEST:

Clerk of Said Board
County of San Mateo, State of California

IN-HOME SUPPORTIVE SERVICES PUBLIC AUTHORITY

By: _____ Date: _____
President,
San Mateo County Public Authority

SCHEDULE A

AUTHORITY Responsibilities

- I. Act as an "Employer of Record" for Independent Providers (IP). This activity may include, but not be limited to:
 - A. Enrollment of Providers
 1. Enrolling IPs in the State's Case Management Information and Payrolling System (CMIPS);
 2. Review application and verify identification of IP through a face-to-face meeting;
 3. Working with IP to resolve Social Security issues if the Social Security card does not verify;
 4. Receiving background checks from the Department of Justice (DOJ);
 5. Meeting State requirements regarding DOJ clearances of IPs;
 6. Providing San Mateo County's model of orientation to all IPs, including the State mandated DVD;
 7. Entering and tracking status of all IP enrollment information in CMIPS; and
 8. Contact IPs and consumers to notify status of enrollment process.
 - B. Updating and maintaining accurate IP employment and payroll records.
 - C. Responding to requests for IP employee verification.
 - D. Meeting and conferring with the recognized IP organization and adhering to the Memorandum of Understanding (MOU) with the recognized IP organization.
- II. Provide Payroll Services for IP
 - A. Receive and process IP's time cards (Process will change with the implementation of CMIPS II).
 - B. Participate in IHSS Program Integrity by reviewing timesheets and referring potential issues of fraud or quality to County.
 - C. Work with IP, consumers and social workers regarding payroll problems, questions and issues.
 - D. Update and maintain accurate IP employment and payroll records.
 - E. Submit reports or data related to the IP payroll as required by CMIPS.
- III. Maintain a Provider Registry. This activity may include, but not be limited to:

- A. Recruiting a sufficient number of qualified IPs, including substitute IPs, that meet the State requirements;
 - B. Screening and conducting State required background checks prior to placing a prospective IP on the Registry; interviewing Registry applicants in-person; reviewing applications for skills, qualifications and background; checking references as necessary; and checking documents for legal status to work in the U.S.;
 - C. Providing registry orientation including rules and regulations of IHSS, roles and responsibilities of the Registry IP and consumer, and showing the State mandated DVD;
 - D. Providing basic homecare skills training for Registry IPs; and
 - E. Maintaining all necessary and required records of Registry.
- IV. Provide a provider referral system for the consumer to hire an IP. This activity may include, but not be limited to:
- A. Providing the consumer with a list of IPs that, to the greatest extent possible, match the consumer's stated needs regarding the skills and preferences required in a worker;
 - B. Providing a list of IPs within a timeframe that meets the consumer's needs, including their needs in emergency situations;
 - C. Assisting the consumer in hiring an IP by providing support, encouragement and training to address any question or concerns the consumers may have regarding the interview/hiring process;
 - D. Providing ongoing support and assistance to the consumer and provider to establish and maintain an effective working relationship by making follow-up calls as necessary; conducting home visits at the request of the Social Worker; and attending case conferences at the request of the Social Worker; and
 - E. Implementing efficient and effective strategies for the utilization of the IPs on the Registry, including the concept of "geographically-clustered" work sites.
- V. Provide access to training for IP and consumers. This activity may include, but not be limited to:
- A. Providing training for IP through the provision of written materials, initial and periodic training sessions, and "on the job" training, as needed and as specified in the Memorandum of Understanding (MOU) with the Providers Union;

- C. Providing consumer training through the provision of written materials and agency/home visits, as requested; and
 - D. Regularly notifying IP and consumers of training opportunities in the community.
- VI. Provide IPs with information and programs to enhance their career development. This includes but is not limited to:
- A. Providing career education resources and referrals;
 - B. Offering information on educational programs to expand the training and certification of IPs;
 - C. Collaborating with other agencies and educational institutions to develop programs and incentives to enhance the career development and promotional opportunities of IPs; and
 - D. Processing and approving requests of IPs for job development reimbursement as specified in the MOU with the Providers Union.
- VII. Provide reports to the recognized IP organization as mandated by MOU, including job development and bus pass usage and registry referral reports.
- VIII. Provide staffing to the IHSS Advisory Committee.
- IX. Provide a system by which recipients and providers shall have the opportunity to express and have considered their views, grievances and complaints regarding the delivery of IHSS/Authority services.
- X. Work in coordination with the administrator for health benefits for IPs, and Health Plan of San Mateo (HPSM) to provide health, dental and vision benefits to IPs.
- XI. Administer the Consolidated Omnibus Budget Reconciliation Act (COBRA) for health continuation coverage in accordance with Federal regulation and coordinate the provision of the California COBRA (Cal-COBRA) health continuation coverage by HPSM.
- XII. Ensure that all provisions and legal requirements related to the Personal Care Services Program (PCSP) and IHSS Plus Waiver are implemented for the duration of this Agreement.
- XIII. Assist the County in developing and submitting to the California Department of Health Services (DHS) and the California Department of Social Services (DSS) materials required for DHS and DSS approval of Authority reimbursement rate and any rate adjustments.

- XIV. Prepare and assist the development of reports requested by the State or County regarding the operation of the Authority.
- XV. Assist the County in the implementation of the IHSS Quality Assurance and Program Integrity Activities.
- XVI. Provide the County with information needed in preparing the County's billing to DSS for State and Federal share of Authority costs. This information will be provided within five (5) working days for the request.
- XVII. Provide any information including, but not limited to, budget, fiscal, statistical and program information as may be required by the County.
- XVIII. Prepare and maintain all necessary and required provider payroll, registry, referral, training and statistical information.
- XIX. Perform other administrative activities related to the provider functions, the delivery of IHSS, and the provider benefits as deemed appropriate and as mutually agreed upon by the County and the Authority.
- XX. Monitor contracts as requested or authorized.
- XXI. Provide adequate administrative, supervisory and support personnel to carry out the requirements of this Agreement.
- XXII. Collaborate with and assist the County in developing an integrated long-term care system.
- XXIII. Maintain a local office at San Mateo County, California, which will remain open for business Monday through Friday between the hours of 8:00 a.m. and 5:00 p.m. except for designated holidays. The office shall be staffed at all times with appropriate personnel during business hours.
- XXIV. Ensure compliance with all applicable Federal, State and County laws, regulations, codes and Memoranda of Understanding.

SCHEDULE B

I. Billing and Payment

I. Billing

- A. The Authority will bill the County at least quarterly, in advance, based on the County's Adopted Budget for the Authority. The Authority shall be responsible for submitting required invoices and reports documenting services from the previous quarter as a condition of payment.
- B. The Authority will record time study codes of work performed on timecards in the Automated Time Keeping System for the County.

II. Payment

- A. The Authority shall be paid an amount not to exceed the amount determined by the County's final adopted budget approved by the Board of Supervisors for fiscal years 2011-12, 2012-13 and 2013-14. Payment for the first quarter of each year will be one-fourth (1/4) the maximum obligation for that year. Subsequent quarterly payments will be adjusted to reflect actual expenses but in any event will not exceed one-fourth (1/4) of the maximum obligation for that year.
- B. If the conditions set forth in this Agreement are met, the County shall pay, to the Authority, the sum of money claimed by the approved billings within 21 days following receipt of the Authority invoice. If the conditions are not met in a timely manner, the County shall pay when the necessary processing is completed.
- C. Payment for all services provided in accordance with the provisions under this Agreement shall be contingent upon the availability of Federal, State and County funds for the purpose of providing In-Home Supportive Services and a Public Authority.

Contractor Name and Address:

In-Home Supportive Services Public Authority
225 37th Avenue
San Mateo, CA 94403

Department Name and Address:

Health System / Aging and Adult Services
225 37th Avenue
San Mateo, CA 94403

It is agreed between the County of San Mateo, California, and Contractor as follows:

1. Definitions

Terms used, but not otherwise defined, in this Agreement shall have the same meaning as those terms defined in 45 Code of Federal Regulations Sections 160.103 and 164.501. (All regulatory references in this Agreement are to Title 45 of the Code of Federal Regulations unless otherwise specified.)

- (a) **Business Associate.** "Business Associate" shall mean In-Home Supportive Services Public Authority.
- (b) **Covered Entity.** "Covered Entity" shall mean that part of the County of San Mateo designated as the hybrid entity within the County of San Mateo subject to the Standards for Privacy of Individually Identifiable Health Information set forth in 45 Code of Federal Regulations Part 160 and Part 164, Subparts A and E ("County").
- (c) **Designated Record Set.** "Designated Record Set" shall have the same meaning as the term "designated record set" in Section 164.501.
- (d) **Individual.** "Individual" shall have the same meaning as the term "individual" in Section 164.501 and shall include a person who qualifies as a personal representative in accordance with Section 164.502(g).
- (e) **Privacy Rule.** "Privacy Rule" shall mean the Standards for Privacy of Individually Identifiable Health Information at 45 Code of Federal Regulations Part 160 and Part 164, Subparts A and E.
- (f) **Protected Health Information.** "Protected Health Information" shall have the same meaning as the term "protected health information" in Section 164.501 and is limited to the information created or received by Business Associate from or on behalf of Covered Entity.
- (g) **Required By Law.** "Required by law" shall have the same meaning as the term "required by law" in Section 164.501.
- (h) **Secretary.** "Secretary" shall mean the Secretary of the United States Department of Health and Human Services or his or her designee.

2. Obligations and Activities of Business Associate

- (a) Business Associate agrees to not use or further disclose Protected Health Information other than as permitted or required by the Agreement or as Required by Law.
- (b) Business Associate agrees to use appropriate safeguards to prevent the use or disclosure of the Protected Health Information other than as provided for by this Agreement.
- (c) Business Associate agrees to mitigate, to the extent practicable, any harmful effect that is known to Business Associate of a use or disclosure of Protected Health Information by Business Associate in violation of the requirements of this Agreement.
- (d) Business Associate agrees to report to Covered Entity promptly of any use or disclosure of the Protected Health Information not provided for by this Agreement.
- (e) Business Associate agrees to ensure that any agent, including a subcontractor, to whom it provides Protected Health Information received from, or created or received by Business Associate on behalf of Covered Entity, agrees to the same restrictions and conditions that apply through this Agreement to Business Associate with respect to such information.
- (f) Business Associate agrees to provide access, at the request of Covered Entity, and in the time and manner designated by Covered Entity, to Protected Health Information in a Designated Record Set, if Business Associate has Protected Health Information in a Designated Record Set to Covered Entity or, as directed by Covered Entity, to an Individual in order to meet the requirements under Section 164.524.
- (g) Business Associate agrees to make any amendment(s) to Protected Health Information in a Designated Record Set, if applicable, that the Covered Entity directs or agrees to make pursuant to Section 164.526 at the request of Covered Entity or an Individual, and in the time and manner designated by Covered Entity.
- (h) Business Associate agrees to make internal practices, books, and records relating to the use and disclosure of Protected Health Information received from, or created or received by Business Associate on behalf of Covered Entity available to the Covered Entity, or at the request of the Covered Entity, to the Secretary, in a time and manner designated by the Covered Entity or the Secretary, for purposes of the Secretary determining Covered Entity's compliance with the Privacy Rule.

- (i) Business Associate agrees to document such disclosures of Protected Health Information and information related to such disclosures as would be required for Covered Entity to respond to a request by an Individual for an accounting of disclosures of Protected Health Information in accordance with Section 164.528.
- (j) Business Associate agrees to provide to Covered Entity or an Individual, in the time and manner designated by Covered Entity, information collected in accordance with Section 2(i) of this Agreement, to permit Covered Entity to respond to a request by an Individual for an accounting of disclosures of Protected Health Information in accordance with Section 164.528.

3. Permitted Uses and Disclosures by Business Associate

- (a) Except as otherwise limited in this Agreement, Business Associate may use or disclose Protected Health Information to perform functions, activities, or services for, or on behalf of, Covered Entity as specified in the County of San Mateo Public Authority Interagency Agreement, provided that such use or disclosure would not violate the Privacy Rule if done by Covered Entity.
- (b) Except as otherwise limited in this Agreement, Business Associate may use Protected Health Information for the proper management and administration of the Business Associate or to carry out the legal responsibilities of the Business Associate.
- (c) Except as otherwise limited in this Agreement, Business Associate may disclose Protected Health Information for the proper management and administration of the Business Associate, provided that disclosures are required by law, or Business Associate obtains reasonable assurances from the person to whom the information is disclosed that it will remain confidential and used or further disclosed only as Required By Law or for the purpose for which it was disclosed to the person, and the person notifies the Business Associate of any instances of which it is aware in which the confidentiality of the information has been breached.
- (d) Except as otherwise limited in this Agreement, Business Associate may use Protected Health Information to provide Data Aggregation services to Covered Entity as permitted by 42 Code of Federal Regulations 164.504(e)(2)(i)(B).

4. Obligations of Covered Entity

- (a) Covered Entity shall provide Business Associate with the notice of privacy practices that Covered Entity produces in accordance with Section 164.520, as well as any changes to such notice.
- (b) Covered Entity shall provide Business Associate with any changes in, or revocation of, permission by Individual to use or disclose Protected Health Information, if such changes affect Business Associate's permitted or required uses and disclosures.
- (c) Covered Entity shall notify Business Associate of any restriction to the use or disclosure of Protected Health Information that Covered Entity has agreed to in accordance with Section 164.522.

5. Permissible Requests by Covered Entity

Covered Entity shall not request Business Associate to use or disclose Protected Health Information in any manner that would not be permissible under the Privacy Rule if done by Covered Entity, unless the Business Associate will use or disclose Protected Health Information for, and the service contract includes provisions for, data aggregation or management and administrative activities of Business Associate.

6. Term and Termination

- (a) Term. The Term of this Agreement shall be effective as of July 1, 2011 through June 30, 2014, and shall terminate when all of the Protected Health Information provided by Covered Entity to Business Associate, or created or received by Business Associate on behalf of Covered Entity, is destroyed or returned to Covered Entity, or, if it is infeasible to return or destroy Protected Health Information, protections are extended to such information, in accordance with the termination provisions in this Section.
- (b) Termination for Cause. Upon Covered Entity's knowledge of a material breach by Business Associate, Covered Entity shall provide an opportunity for Business Associate to cure the breach or end the violation or else the County/Covered Entity will terminate the service agreement with Business Associate.
- (c) Effect of Termination.
 - (1) Except as provided in paragraph (2) of this section, upon termination of this Agreement, for any reason, Business Associate shall return or destroy all Protected Health Information received from Covered Entity, or created or received by Business Associate

on behalf of Covered Entity. This provision shall apply to Protected Health Information that is in the possession of subcontractors or agents of Business Associate. Business Associate shall retain no copies of the Protected Health Information.

- (2) In the event that Business Associate determines that returning or destroying the Protected Health Information is infeasible, Business Associate shall provide to Covered Entity notification of the conditions that make return or destruction infeasible. Upon mutual agreement of the Parties that return or destruction of Protected Health Information is infeasible, Business Associate shall extend the protections of this Agreement to such Protected Health Information and limit further uses and disclosures of such Protected Health Information to those purposes that make the return or destruction infeasible, for so long as Business Associate maintains such Protected Health Information.

7. Indemnity

Business Associate will indemnify and hold harmless Covered Entity and any Covered Entity affiliate, officer, director, employee or agent from and against any claim, cause of action, liability, damage, cost or expense, including attorneys' fees and court or proceeding costs, arising out of or in connection with any non-permitted use or disclosure of Protected Health Information or other breach of this Addendum by Business Associate or any subcontractor, agent, person or entity under Business Associate's control.

8. Miscellaneous

- (a) **Regulatory References.** A reference in this Agreement to a section in the Privacy Rule means the section as in effect or as amended, and for which compliance is required.
- (b) **Amendment.** The Parties agree to take such action as is necessary to amend this Agreement from time to time as is necessary for Covered Entity to comply with the requirements of the Privacy Rule and the Health Insurance Portability and Accountability Act, Public Law 104-191.
- (c) **Survival.** The respective rights and obligations of Business Associate under Section 6 of this Agreement shall survive the termination of this Agreement.
- (d) **Interpretation.** Any ambiguity in this Agreement shall be resolved in favor of a meaning that permits Covered Entity to comply with the Privacy Rule.

THIS CONTRACT IS NOT VALID UNTIL SIGNED BY ALL PARTIES

_____ Contractor/Business Associate Signature	_____ Date	_____ Carole Groom Contractor/ Business Associate Name
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_____ County of San Mateo/Covered Entity Signature	_____ Date	_____ Carole Groom County of San Mateo/Covered Entity Name
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_____ County Manager Signature	_____ Date	_____ David Boesch County Manager Name
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