

THE BOARD OF SUPERVISORS OF THE COUNTY OF STANISLAUS  
ACTION AGENDA SUMMARY

DEPT: Health Services Agency *AD*

BOARD AGENDA # \*B-5

Urgent  Routine

AGENDA DATE July 14, 2015

CEO Concurs with Recommendation YES  NO   
(Information Attached)

4/5 Vote Required YES  NO

SUBJECT:

Approval of the Contract with the California Department of Public Health for the California Home Visiting Program - Nurse Family Partnership from July 1, 2015 through June 30, 2019

STAFF RECOMMENDATIONS:

1. Approve the Contract with the California Department of Public Health for the California Home Visiting Program - Nurse Family Partnership from July 1, 2015 through June 30, 2019 and any amendments.
2. Authorize the Health Services Agency Managing Director, or her Designee, to sign and execute the Contract and sign any attachments and amendments.

FISCAL IMPACT:

The Health Services Agency (H.S.A.) Public Health Division has a budget of \$26 million for Fiscal Year 2015-2016 and included within the Divisions' operational budget is the California Home Visiting Program (CHVP) which is a Federal program. The cost of the program over four years is \$3,597,038 and is funded by a combination of \$3,381,336 from the Health Resources and Services Administration and \$215,702 in other departmental revenue. There is no impact to the County General Fund as a result of the California Home Visiting Program.

BOARD ACTION AS FOLLOWS:

No. 2015-329

On motion of Supervisor Chiesa, Seconded by Supervisor Monteith

and approved by the following vote,

Ayes: Supervisors: O'Brien, Chiesa, Monteith, DeMartini, and Chairman Withrow

Noes: Supervisors: None

Excused or Absent: Supervisors: None

Abstaining: Supervisor: None

1) X Approved as recommended

2) \_\_\_\_\_ Denied

3) \_\_\_\_\_ Approved as amended

4) \_\_\_\_\_ Other:

MOTION:

*Christine Ferraro*

ATTEST: CHRISTINE FERRARO TALLMAN, Clerk

File No.

Approval of the Contract with the California Department of Public Health for the California Home Visiting Program – Nurse Family Partnership from July 1, 2015 through June 30, 2019

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## **DISCUSSION:**

An amendment to the Title V (Social Security Act) authorizes the Federal Health Resources and Services Administration to administer funding for the Maternal, Infant, and Early Childhood Home Visiting Program of which the California Home Visiting Program is a part. In March 2015, Congress extended authorization for the program until March of 2017. It is administered at the State level by the California Department of Public Health.

The purpose of the California Home Visiting Program is to use home visiting to address the diverse needs of children and families in communities at risk and provides an unprecedented opportunity for collaboration and partnership at the Federal, State, and community levels to improve health and development outcomes for at-risk children through evidence-based home visiting programs.

The Health Services Agency Public Health division implements the Nurse-Family Partnership (NFP) program as part of the California Home Visiting Program. NFP is an evidenced based program that uses public health nurse home visitors to transform the lives of first time pregnant, low-income mothers. The mothers receive support from early in her pregnancy through her child's second birthday. Randomized controlled trials of NFP in three communities around the nation demonstrate significant outcomes including: improved prenatal health, fewer childhood injuries, fewer subsequent pregnancies, increased intervals between births, increased maternal employment, and improved school readiness (<http://www.nursefamilypartnership.org/proven-results>). The Public Institute for Research and Evaluation found that Nurse-Family Partnership offers a cost benefit ratio of 4.0:1 with estimated net societal savings over program costs of \$39,129.<sup>1</sup> Government as a whole saves a total of \$19,342 of which \$13,471 is realized at the State and Local levels. Government savings are realized due to savings in criminal justice, special education, Medicaid and a reduction in families who need government financial assistance.<sup>2</sup>

Stanislaus' NFP program has 66 currently active clients. Seven clients have completed and graduated from the program. Since 2012, 140 clients have received services from the program. Money for the program funds client services including intensive nurse home visiting (ranging from one visit per week to one per month), staff training to maintain program fidelity, client and child teaching tools, and program licensing.

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<sup>1</sup> (<http://www.nursefamilypartnership.org/assets/PDF/Communities/CA-Documents/ROI-California>)

<sup>2</sup> (<http://www.nursefamilypartnership.org/assets/PDF/Communities/CA-Documents/Government-Savings-California.aspx>).

Approval of the Contract with the California Department of Public Health for the California Home Visiting Program – Nurse Family Partnership from July 1, 2015 through June 30, 2019  
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**POLICY ISSUES:**

Approval of the Agreement for Funding Application supports the Board priorities of A Healthy Community, A Safe Community, and Efficient Delivery of Public Services.

These priorities are assured through the provision of the California Home Visiting Program and Nurse-Family Partnership to the residents of Stanislaus County, based upon the evidence-based health, social and cost outcomes.

**STAFFING IMPACT:**

Existing staff will fulfill program requirements.

**CONTACT PERSON:**

Rebecca Nanyonjo, Public Health Director, (209) 558-7116

STATE OF CALIFORNIA  
**STANDARD AGREEMENT**  
 STD 213 (Rev 08/03)

REGISTRATION NUMBER <b>ep1438535</b>	AGREEMENT NUMBER 15-10173
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1. This Agreement is entered into between the State Agency and the Contractor named below:

STATE AGENCY'S NAME California Department of Public Health	(Also referred to as CDPH or the State)
CONTRACTOR'S NAME Stanislaus County Health Services Agency	(Also referred to as Contractor)

2. The term of this Agreement is: July 1, 2016 through June 30, 2019

3. The maximum amount of this Agreement is: \$ 3,381,336  
 Three Million Three Hundred Eighty One Thousand Three Hundred Thirty Six Dollars

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

Exhibit A – Scope of Work	17 pages
Exhibit B – Budget Detail and Payment Provisions	3 pages
Exhibit B, Attachment I – Budget (Year 1)	1 page
Exhibit B, Attachment II – Budget (Year 2)	1 page
Exhibit B, Attachment III – Budget (Year 3)	1 page
Exhibit B, Attachment IV – Budget (Year 4)	1 page
Exhibit C * – General Terms and Conditions	<u>GTC 610</u>
Exhibit D (F) – Special Terms and Conditions (Attached hereto as part of this agreement)	25 pages
Exhibit E – Additional Provisions	2 pages
Exhibit F – Contractor's Release	1 page
Exhibit G – HIPPA Business Associate Addendum	14 pages

Items shown above with an Asterisk (\*) are hereby incorporated by reference and made part of this agreement as if attached hereto. These documents can be viewed at <http://www.ois.dgs.ca.gov/Standard+Language>.

IN WITNESS WHEREOF, this Agreement has been executed by the parties hereto.

<b>CONTRACTOR</b>		California Department of General Services Use Only
CONTRACTOR'S NAME (If other than an individual, state whether a corporation, partnership, etc.) Stanislaus County Health Services Agency		
BY (Authorized Signature) <i>MS</i> <i>Mary Ann Lee</i>	DATE SIGNED (Do not type) 7/17/15	<div style="border: 2px solid black; padding: 10px; width: fit-content; margin: auto;"> <p style="margin: 0;"><b>APPROVED</b></p> <p style="margin: 0; font-size: 1.2em;"><b>AUG 21 2015</b></p> <p style="margin: 0; font-size: 0.8em;">OFFICE OF LEGAL SERVICES DEPT. OF GENERAL SERVICES</p> </div> <p><input type="checkbox"/> Exempt per:</p>
PRINTED NAME AND TITLE OF PERSON SIGNING Mary Ann Lee, Managing Director		
ADDRESS 830 Soenic Drive, Modesto, California 95350		
STATE OF CALIFORNIA		
AGENCY NAME California Department of Public Health		
BY (Authorized Signature) <i>ES</i> <i>Elizabeth Stone</i>	DATE SIGNED (Do not type) 8/10/15	
PRINTED NAME AND TITLE OF PERSON SIGNING Elizabeth Stone, Chief, Contracts Management Unit		
ADDRESS 1616 Capitol Avenue, Suite 74.317, MS 1802, PO Box 997377 Sacramento, CA 95899-7377		

APPROVED AS TO FORM

*MS* *Marc Hartley* DATE: 6/29/2015  
 Marc Hartley, Deputy County Counsel

Exhibit A  
Scope of Work

**1. Service Overview**

Stanislaus County Health Services Agency, agrees to provide the following services to the California Department of Public Health (CDPH).

The California Home Visiting Program was created as a result of the Patient Protection and Affordable Care Act of 2010, Social Security Act, Title V, Section 511 (42 U.S.C. §711). The purpose of this contract is to provide comprehensive, coordinated in-home services to support positive parenting, and to improve outcomes for families residing in identified at-risk communities. Programs are meant to target participant outcomes which include: improved maternal and child health, prevention of child injuries, child abuse and maltreatment, and reduction of emergency department visits, improvement in school readiness and achievement, reduction in crime or domestic violence, improvements in family economic self-sufficiency, and improvements in the coordination and referrals for other community resources and supports.

**2. Service Location**

Over 1,500 square miles in size, Stanislaus County includes rural agricultural areas, small and medium-sized towns, and the county seat of Modesto. Stanislaus County is included in the Modesto Metropolitan Statistical Area, one of the nation's 100 largest metropolitan areas.

**2. Service Hours**

The services shall be provided during normal Agency working hours, excluding holidays.

**3. Project Representatives**

A. The project representatives during the term of this agreement will be:

California Department of Public Health Dale E. Price, Contract Analyst Telephone: (916) 319-9355 Fax: (916) 650-0307 Email: Dale.Price@cdph.ca.gov	<b>Stanislaus County Health Services Agency</b> <b>Julie Falkenstein, MCAH Director</b> <b>Telephone: (209) 558-4436</b> <b>Fax: (209) 558-8315</b> <b>Email: jfalkenstein@schsa.org</b>
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Exhibit A  
Scope of Work

B. Direct all inquiries to:

<b>California Department of Public Health</b> Financial Management & Contract Operations Attention: Dale E. Price, Contract Analyst 1615 Capitol Avenue, Suite 73.560, MS 8305 P.O. Box 997420 Sacramento, CA 95899-7420 Telephone: (916) 319-9355 Fax: (916) 650-0307 Email: Dale.Price@cdph.ca.gov	<b>Stanislaus County Health Services Agency</b> Attention: Julie Falkenstein, MCAH Director 830 Scenic Drive Modesto, CA 95350 Telephone: (209) 558-4436 Fax: (209) 558-8315 Email: jfalkenstein@schsa.org
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C. Either party may make changes to the information above by giving written notice to the other party. Said changes shall not require an amendment to this agreement.

**4. Subcontracting Requirements**

All subcontracting must comply with the requirements of the State Contracting Manual, Sections 3.03, 3.06, 3.18, and 4.04, as applicable.

**5. Authority**

The Patient Protection and Affordable Care Act of 2010 established the Maternal, Infant and Early Childhood Home Visiting (MIECHV) Program to provide an opportunity for collaboration and partnership at the federal, state, and community levels to improve outcomes for families who reside in at-risk communities through evidence-based home visiting programs.

The Local Health Jurisdiction (LHJ) agrees to provide the services presented in this Scope of Work (SOW) from the California Department of Public Health, Maternal, Child and Adolescent Health (CDPH/MCAH) Division in collaboration with the California Home Visiting Program Branch for implementation of the California Home Visiting Program (CHVP). The funded LHJ/Agency is referred to as "LHJ site" in this SOW. CHVP shall strive to develop collaborative community systems that protect and improve the health and developmental outcomes for California's pregnant women, parents, and families.

The purpose of the SOW is to provide parameters for implementing or expanding an existing Nurse-Family Partnership (NFP) or Healthy Families America (HFA) home visiting program in accordance with Federal MIECHV and State requirements to achieve positive outcomes for each of the following five goals:

Exhibit A  
 Scope of Work

1. Provide leadership and coordinate maternal and early childhood systems and supports to advance federal, state, and local efforts to improve the health and well-being of families in California
2. Cultivate strong communities
3. Promote maternal health and well-being
4. Improve infant and child health development
5. Strengthen family functioning

Each LHJ site shall assure program integrity and fidelity to their selected evidenced-based model. The site shall comply with the terms of this SOW and its attachments, including CHVP Operational Requirements, in their entirety. These requirements include, but are not limited to, fulfilling all deliverables associated with benchmark constructs, attending required meetings and trainings, using a version of the Efforts to Outcomes data system (referred herein as the "CHVP ETO data system") to measure outcomes, perform continuous quality improvement, enter and submit timely data, and complete other reports as required.

LHJ site agrees to abide by the Maintenance of Effort (MOE) as defined in the Affordable Care Act Section 295:

***"Funds provided to an eligible entity receiving a grant shall supplement, and not supplant, funds from other sources for early childhood visitation programs or initiatives. The grantee must agree to maintain non-Federal funding (State General Funds) for grant activities at a level which is not less than expenditures for such activities as of the date of enactment of this legislation, March 23, 2010."***

All activities in this SOW shall take place from receipt of funding beginning July 1 through June 30 of each contracted year contingent on availability of funds and spending authority.

The table below summarizes a list of reports due to CHVP. Specifics related to the contents of reports are described further in this SOW and located under *Evaluation/Performance Measure* of each objective.

Reporting	From	To	Due Date
1 <sup>st</sup> Status Report	July 1	October 31	November 30
2 <sup>nd</sup> Status Report	November 1	February 28	March 31
3 <sup>rd</sup> Status Report	March 1	June 30	July 31

See the following pages for a detailed description of the services to be performed.

Exhibit A  
 Scope of Work

**Goal 1: Provide leadership and coordinate maternal and early childhood systems and supports to advance federal, state, and local efforts to improve the health and well-being of families in California.**

#	Short and/or Intermediate Objective(s)	Intervention Activities to Meet Objectives (Describe the steps of the intervention)	Evaluation/Performance Measures	
			Process Description and Measures	Short and/or Intermediate Outcome Measure(s)
<b>MCAH DIRECTOR'S RESPONSIBILITIES</b>				
1.1	The LHJ Maternal, Child and Adolescent Health (MCAH) Director and/or designee will provide oversight to the LHJ and/or its subcontractors with matters related to CHVP.	(.1) The MCAH Director must be designated as 0.15 Full Time Equivalent (FTE) on the CHVP budget. <sup>1</sup>	Submit organizational chart and budget with contract.	
		(.2) Provide informative advice, guidance, and assistance to LHJ site managers, supervisors, staff, and various non-profit and private entities on all matters related to the development, implementation, operation, administration, evaluation, and funding for CHVP.		
		(.3) Participate in activities to improve the local early childhood systems of services with specific emphases on enhancing cross-agency coordination, collaboration and communication; preventing duplication of services; addressing gaps in local services and supports; and integrating home visiting.		Complete all required CHVP surveys regarding change in systems of care.
		(.4) LHJ site shall hire and maintain sufficient staff to serve 100 clients and adhere to the specific evidence-based model guidelines.	Report staffing changes to CHVP.	Submit staffing changes in Status Reports.
		(.5) Conduct an annual review of policies and procedures and update policies, procedures, or processes as needed	Provide a brief description of policies that have been revised or added. <sup>2</sup>	Present to CHVP when requested at Site Visit.
<b>CULTURAL SENSITIVITY</b>				
1.2	LHJ Site will implement home	(.1) LHJ staff will participate in trainings or	Maintain a training log which	Present to CHVP when



Exhibit A  
 Scope of Work

#	Short and/or Intermediate Objective(s)	Intervention Activities to Meet Objectives (Describe the steps of the intervention)	Evaluation/Performance Measures Process, Short and/or Intermediate Measures	
			Process Description and Measures	Short and/or Intermediate Outcome Measure(s)
	visiting programs using culturally sensitive home visiting practices.	educational opportunities designed to enhance cultural sensitivity by utilizing cultural sensitivity trainings via webinars and/or attending trainings.	includes topic, trainer, and list of attendees.	requested at Site Visit.
1.2		(.2) Staffing should reflect the diverse cultures and languages of the LHJ population being served. When possible hire staff that reflect the culture and speak the language of clients.		Observe at Site Visit.
		(.3) Use culturally sensitive materials and translation services when necessary.		Present to CHVP when requested at Site Visit.
<b>NFP AND HFA CORE TRAINING</b>				
1.3	LHJ site will ensure staff completes required NFP or HFA core trainings.	(.1) LHJ site shall ensure that home visiting staff is trained in appropriate curricula, assessment tools and other items as needed. <sup>3</sup>	Maintain a training log which includes topic, trainer, and list of attendees.	Present to CHVP when requested at Site Visit.
<b>CASELOAD REQUIREMENTS</b>				
1.4	<b>NFP and HFA Sites:</b> 100 families will be enrolled within 15 months of program implementation and maintained throughout the duration of the program.	(.1) LHJ site shall receive referrals from appropriate agencies and triage as appropriate to meet the required enrollment number of families. <sup>4</sup>	Maintain an outreach log which includes program contacted, method, materials used and date of contract.	Present to CHVP when requested at Site Visit.
<b>PROGRAM FIDELITY AND QUALITY ASSURANCE</b>				
1.5	LHJ site will ensure CHVP and NFP/HFA program fidelity.	(.1) LHJ site supervisor will manage staff activities using reflective supervision based on NFP and HFA model requirements.		Observe at Site Visit.
<b>PARTICIPATION IN EXTERNAL EVALUATION</b>				
1.6	MIECHV Competitive Grant recipients (Merced County, Fresno County, Sacramento County, Los Angeles County, Nevada County, Stanislaus County, San Mateo County, and Solano County) will	(.1) Ensure all MIECHV staff cooperate and participate in external evaluation activities including: interviews, facilitating evaluator site visits, assisting in client participation, and all other meetings and/or calls/webinars/contacts associated with the external evaluation.	Program staff participated in all external evaluation activities as needed.	

Exhibit A  
 Scope of Work

#	Short and/or Intermediate Objective(s)	Intervention Activities to Meet Objectives (Describe the steps of the intervention)	Evaluation/Performance Measures	
			Process, Short and/or Intermediate Measures	Short and/or Intermediate Outcome Measure(s)
	work with the CHVP external evaluator and ensure that all data are provided as requested.			
1.7	Sites selected to participate in MIHOPE (Mother and Infant Home Visiting Program Evaluation), the national evaluation for MIECHV, will work with the MIHOPE external evaluators and ensure all operational procedures, data, and interviews are satisfied as requested.	(.1) Ensure all MIHOPE staff cooperate and participate in external evaluation activities including: interviews, randomization, client enrollment in the evaluation, facilitating evaluator site visits, assisting in client participation, and all other meetings and/or calls/webinars/contacts associated with the external evaluation.	Program staff participated in all external evaluation activities as needed.	
<b>DATA COLLECTION REQUIREMENTS</b>				
1.8	Collect participant information and outcome data using the model and CHVP-required forms through self-report and observation at each of the defined time intervals.	(.1) LHJ sites will use model required data forms and processes as defined in the model specific data collection requirements for NFP or HFA. (.2) Appropriate LHJ staff shall collect and enter the data defined in the <i>NFP or HFA ETO User Manual</i> into the secure ETO data system within seven working days of the client visit and as required by NFP or HFA. (.3) Staff shall verify the accuracy and completeness of data input into the CHVP and NFP ETO systems.	Review data system reports and discuss during regularly scheduled Continuous Quality Improvement (CQI) conference calls.	
1.9	Collect all information that will contribute to the 35 constructs that comprise the six federally-mandated benchmark domains and additional evaluation measures specified by CHVP.	(.1) LHJ sites will use CHVP required data forms and processes as defined in the <i>CHVP Data Collection Manual</i> . (.2) Appropriate LHJ staff will collect and enter the data defined in the <i>CHVP ETO User Manual</i> into the secure ETO data system on an ongoing basis and as required by CHVP. (.3) Staff will verify the accuracy and completeness	Retain audit documentation for review at site visits.	Present to CHVP when requested at Site Visit.

Exhibit A  
 Scope of Work

#	Short and/or Intermediate Objective(s)	Intervention Activities to Meet Objectives (Describe the steps of the intervention)	Evaluation/Performance Measures Process, Short and/or Intermediate Measures	
			Process Description and Measures	Short and/or Intermediate Outcome Measure(s)
		of data input into the CHVP and NFP ETO data systems. Supervisor and/or peer will audit 10% of all current charts quarterly.		
		(.4) Supervisors will use CHVP-created reports as they become available in the ETO Data System for the purposes of data cleaning, Continuous Quality Improvement, and for program management. Sites may periodically be required to run reports as directed by the QA Team.		
1.10	Assure CQI process is in place at LHJ and coordinate efforts with CHVP.	(.1) Perform model-specific and CHVP-directed CQI activities. Update LHJ site-specific CQI plan based on guidelines in the CHVP Policies and Procedure Manual.		Submit in designated Status Report.
		(.2) Identify priority program or evaluation areas for focus in CQI teleconferences; also identify strengths and best practices and create action steps for CQI. Participate in CQI teleconferences with CHVP QA team. Discuss ongoing internal CQI process	Identify and report action steps to address priority areas and ongoing internal CQI process.	
		(.3) Coordinate communication of quality assurance/improvement activities between the LHJ program and Community Advisory Board (CAB) or other community collaborative designated to address quality improvement.	On CQI calls, discuss highlights of CAB or other community group discussions related to CQI including recommendations and outcomes.	

Exhibit A  
 Scope of Work

**Goal 2: Cultivate strong communities.**

The federally required benchmarks and constructs corresponding to Goal 2 include:

Improvement in the coordination and referrals for other community resources and supports: number of families identified for necessary services; number and percentage of families that required services and received a referral to available community resources; number of completed referrals; number of Memoranda of Understanding or other formal agreements with other social service agencies in the community; number of agencies with which the home visiting provider has a clear point of contact in the collaborating community agency [that] includes regular sharing of information between agencies

#	Short and/or Intermediate Objective(s)	Intervention Activities to Meet Objectives (Describe the steps of the intervention)	Evaluation/Performance Measures	
			Process Description and Measures	Short and/or Intermediate Outcome Measure(s)
<b>COMMUNITY ADVISORY BOARD</b>				
2.1	LHJ site will maintain a Community Advisory Board (CAB)	(.1) Maintain CAB activities including: <ul style="list-style-type: none"> <li>• Recruitment of members and active participation</li> <li>• Quarterly meetings</li> <li>• Meeting minutes</li> <li>• <b>NFP</b> – refer to Model Element 17</li> <li>• <b>HFA</b> – refer to Self-Assessment Tool, Governance and Administration (GA) -1</li> <li>• CAB will assist in informing program operation, quality assurance/improvement, child and family advocacy, and public awareness of home visiting.</li> <li>• CAB will assist with efforts to improve systems integration, interagency coordination, information sharing, and referral systems.</li> </ul>	Maintain a list of current CAB members.	Submit in designated Status Report
<b>INCREASE FORMAL AGREEMENTS</b>				
2.2	LHJ site will increase or enhance the number of formal agreements, informal written agreements, and/or Memorandums of Understanding	(.1) Develop community partnerships and facilitate coordination and integration of services among MCAH and other community programs/services.	Maintain an outreach log which includes program contacted, method, materials used and date of contract.	Present to CHVP when requested at Site Visit.

Exhibit A  
 Scope of Work

#	Short and/or Intermediate Objective(s)	Intervention Activities to Meet Objectives (Describe the steps of the intervention)	Evaluation/Performance Measures		
			Process, Short and/or Intermediate Measures	Process Description and Measures	Short and/or Intermediate Outcome Measure(s)
	(MOUs) with other local social service agencies in the community.	(.2) Develop and/or maintain formal agreements, informal written agreements (e.g. letters of support) and/or MOUs with community agencies and other service providers.			Respond to CHVP Service Provider survey regarding MOUs and other agreements.
2.3	LHJ site will increase the number of collaborating community agencies with whom they have a clear point of contact.	(.1) Develop collaborative relationships with local service agencies and hospitals in the community to create and maintain ties.			
		(.2) LHJ site will develop a clear point of contact (person/s) with collaborating community agencies for purposes of making warm referrals by phone or in person on a participant's behalf.			Respond to CHVP Service Provider Survey regarding agencies with which you have warm referral relationships.
		(.3) Educate the community about CHVP services.	Maintain an outreach log which includes program contacted, method, materials used and date of contract.	Present to CHVP when requested at Site Visit.	
2.4	Clients will access services and resources in their community for each identified need through a referral process.	(.1) Home Visitor will make appropriate referrals and LHJ will develop a process to ensure follow-up to pending referrals are completed. Train staff to follow-up on referrals made to clients.	Maintain training log.		Observe at Site Visit.
		(.2) Maintain access to, or develop an updated directory of, community referral resources and services.	Maintain a current referral resources and services directory.		Present to CHVP when requested at Site Visit.

Exhibit A  
 Scope of Work

**Goal 3: Promote Maternal Health And Well-being.**  
 The federally required benchmarks and constructs corresponding to Goal 3 include:  
 Improved Maternal and Newborn Health - Prenatal care; Parental use of alcohol, tobacco, or illicit drugs; Preconception care; Inter-birth intervals; Screening for maternal depressive symptoms; Breastfeeding; Well-child visits; Maternal and child health insurance status

#	Short and/or Intermediate Objective(s)	Intervention Activities to Meet Objectives (Describe the steps of the intervention)	Evaluation/Performance Measures	
			Process Description and Measures	Short and/or Intermediate Outcome Measure(s)
<b>INCREASE NUMBER OF WOMEN RECEIVING PRENATAL CARE</b>				
3.1	Increase the number of women who receive prenatal care as a result of participating in CHVP.	(.1) Educate and reinforce the importance of early and adequate prenatal care.	Clients are provided education and referral.	Observed at Site Visit.
		(.2) Identify and address barriers to keeping prenatal appointments.	Identify and explore solutions to emerging barriers.	Update in Status Report.
<b>INCREASE MATERNAL ACCESS TO HEALTH INSURANCE</b>				
3.2	Increase the number of women with health insurance during pregnancy and postpartum.	(.1) Provide information and referrals to clients on how to access health insurance and the benefits of health care coverage.	Maintain a current referral resources and services directory.	Present to CHVP when requested at Site Visit.
		(.2) Collaborate with local programs to decrease barriers to accessing healthcare insurance.	Identify and explore solutions to emerging barriers.	Update in Status Report.
<b>DECREASE NUMBER OF MATERNAL EMERGENCY DEPARTMENT (ED) VISITS</b>				
3.3	Decrease non-emergency use of Hospital Emergency Departments (ED).	(.1) Educate families on appropriate use of EDs and patient centered medical homes for their own routine care.	Clients are provided education and referral.	Observed at Site Visit.
<b>DECREASE MATERNAL USE OF ALCOHOL, TOBACCO AND ILLICIT DRUGS</b>				
3.4	Decrease or stop maternal use of alcohol, tobacco, and illicit drugs during pregnancy and postpartum.	(.1) Assess mother for alcohol, tobacco, and illicit drug use during pregnancy and postpartum; provide information and referrals to counseling as appropriate.	Maintain a current referral resources and services directory.	Present to CHVP when requested at Site Visit.
<b>DECREASE THE NUMBER OF WOMEN WITH SUBSEQUENT PREGNANCY WITHIN 18 MONTHS</b>				
3.5	Decrease the number of women with a subsequent pregnancy within 18 months postpartum and increase the	(.1) Assist clients in reproductive life planning.	Clients are provided education and referral.	Observed at Site Visit.

Exhibit A  
 Scope of Work

#	Short and/or Intermediate Objective(s)	Intervention Activities to Meet Objectives (Describe the steps of the intervention)	Evaluation/Performance Measures Process, Short and/or Intermediate Measures	
			Process Description and Measures	Short and/or Intermediate Outcome Measure(s)
	number of women using contraception up to 12 or more months postpartum.			
<b>INCREASE THE NUMBER OF WOMEN SCREENED FOR MATERIAL DEPRESSION AND PARENTAL STRESS</b>				
3.6	Increase the number of women screened for maternal depression and parental stress; increase the number referred for services.	(.1) Educate women on the signs and symptoms of maternal depression and stress.	Clients are provided education and referral.	Observed at Site Visit.
<b>INCREASE BREASTFEEDING INITIATION, EXCLUSIVITY, AND DURATION</b>				
3.7	Increase the number of prenatally enrolled women initiating breastfeeding; increase exclusive breastfeeding up to 6 months of age; and increase the duration of the breastfeeding period in the first year of life.	(.1) Encourage and support breastfeeding: <ul style="list-style-type: none"> <li>• Educate women on the importance of initiating breastfeeding and continuing through one year postpartum.</li> <li>• Educate and support women on the importance of exclusive breastfeeding for at least 6 months.</li> <li>• Refer to breastfeeding and lactation support when appropriate (WIC Peer Counseling Program or other local resource).</li> </ul>	Processes in place to ensure client is provided education and support.	Observed at Site Visit.
<b>INCREASE NUMBER OF WOMEN RECEIVING POSTPARTUM APPOINTMENTS WITHIN 6 WEEKS</b>				
3.8	Increase number of women who have a postpartum visit within 6 weeks.	(.1) Educate women regarding the importance of a postpartum visit.	Clients are provided education.	Observed at Site Visit.
		(.2) Make an appropriate referral to women in need of postpartum care.	Maintain a current referral resources and services directory.	Present to CHVP when requested at Site Visit.

Exhibit A  
 Scope of Work

**Goal 4: Improve Infant and Child Health and Development**

The federally required benchmarks and constructs corresponding to Goal 4 include:

**Improved Maternal and Newborn Health**

Prenatal care; Parental use of alcohol, tobacco, or illicit drugs; Preconception care; Inter-birth intervals; Screening for maternal depressive symptoms; Breastfeeding; Well-child visits; Maternal and child health insurance status

**Child Injuries, Child Abuse, Neglect, or Maltreatment and Reduction of Emergency Department Visits**

Visits for children to the emergency department from all causes; Visits of mothers to the emergency department from all causes; Information provided or training of participants on prevention of child injuries; Incidence of child injuries requiring medical treatment; reported suspected maltreatment for children in the program; Reported substantiated maltreatment for children in the program; First-time victims of maltreatment for children in the program.

**Improvements in School Readiness and Achievement**

Parent support for children's learning and development; Parent knowledge of child development and of their child's developmental progress, Parenting behaviors and parent-child relationship; Parent emotional well-being or parenting stress; Child's communication, language and emergent literacy; Child's general cognitive skills

#	Short and/or Intermediate Objective(s)	Intervention Activities to Meet Objectives (Describe the steps of the intervention)	Evaluation/Performance Measures Process, Short and/or Intermediate Measures	
			Process Description and Measures	Short and/or Intermediate Outcome Measure(s)
<b>INCREASE THE NUMBER OF CHILDREN WITH HEALTH INSURANCE</b>				
4.1	Increase number of children who have health insurance continuously through two years of age.	(.1) As needed, assist parents in the referral and application process for low cost/no cost health insurance programs for their children. <sup>4</sup>	Maintain a current referral resources and services directory.	Present to CHVP when requested at Site Visit.
<b>DECREASE THE NUMBER OF EMERGENCY DEPARTMENT (ED) VISITS FOR CHILDREN</b>				
4.2	Increase parental awareness on appropriate use of Emergency Department (ED) visits for children.	(.1) Educate parents on appropriate use of ED and help establish a medical home for their child's routine care.	Clients are provided education.	Update in Status Report.
<b>INCREASE THE NUMBER OF CHILDREN RECEIVING ALL AAP RECOMMENDED WELL-CHILD VISITS</b>				
4.3	Increase the number of children who receive all recommended well-child visits from 0-2 years.	(.1) Assist families in understanding the importance of well-child visits and immunizations. Support parents to adhere to scheduled well-child visits.	Clients are provided education.	Observed at Site Visit.
<b>PROMOTE CHILD SAFETY AND INJURY PREVENTION</b>				



Exhibit A  
 Scope of Work

#	Short and/or Intermediate Objective(s)	Intervention Activities to Meet Objectives (Describe the steps of the intervention)	Evaluation/Performance Measures Process, Short and/or Intermediate Measures	
			Process Description and Measures	Short and/or Intermediate Outcome Measure(s)
4.4	Decrease the incidence of child injuries requiring medical treatment.	(.1) Educate and support families in child injury prevention. <sup>5</sup>	Clients are provided education.	Observed at Site Visit.
<b>CHILD ABUSE AND NEGLECT PREVENTION</b>				
4.5	Prevent child abuse and neglect.	(.1) Provide resources to parents to prevent child abuse.	Maintain a current referral resources and services directory.	Present to CHVP when requested at Site Visit.
		(.2) Provide support for appropriate parenting skills and refer to parenting classes, counseling, or other support resources.	Maintain a current referral resources and services directory.	Present to CHVP when requested at Site Visit.
		(.3) Provide emotional support to the family.		Observed at Site Visit.
		(.4) Look for signs of child abuse and/or neglect through observation at each home visit and report suspected abuse.		Observed at Site Visit.

Exhibit A  
 Scope of Work

**Goal 5: Strengthen family functioning**

The federally required benchmarks and constructs corresponding to Goal 5 include:

**Child Injuries, Child Abuse, Neglect, or Maltreatment and Reduction of Emergency Department Visits**

Visits for children to the ED from all causes; Visits of mothers to the ED from all causes; Information provided or training of participants on prevention of child injuries; Incidence of child injuries requiring medical treatment; Reported suspected maltreatment for child in the program; Reported substantiated maltreatment for children in the program; First-time victims of maltreatment for child in the program.

**Improvements in School Readiness and Achievement**

Parent support for children's learning and development; Parent knowledge of child development and of their children's developmental progress; Parenting behaviors and parent-child relationship; Parent emotional well-being or parenting stress; Child's communication, language and emergent literacy; Child's general cognitive skills.

**Domestic Violence**

Screening for domestic violence; Of families identified for the presence of domestic violence, number of referrals made to relevant domestic violence services; Of families identified for the presence of domestic violence, number of families for which a safety plan was completed.

**Family Economic Self-Sufficiency**

Household income and benefits; Employment or Education of adult members of the household; Health insurance status.

#	Short and/or Intermediate Objective(s)	Intervention Activities to Meet Objectives (Describe the steps of the intervention)	Evaluation/Performance Measures Process, Short and/or Intermediate Measures (Reporting Method In Red)	
			Process Description and Measures	Short and/or Intermediate Outcome Measure(s)
<b>INTEGRATE THE FIVE PROTECTIVE FACTORS OF STRENGTHENING FAMILIES</b>				
5.1	Increase family strengths, enhance child development and reduce child abuse and neglect by integrating the Five Protective Factors of Strengthening Families.	(.1) LHJ site will integrate the Strengthening Families framework into the home visiting program and also incorporate the framework into their local Policies and Procedures. <sup>6</sup>		Status Report.
<b>INCREASE SCHOOL READINESS</b>				
5.2	Parents will increase support of their child's learning and development and have an improved relationship with their child.	(.1) Assist families in improving the quality of the child's home environment.		Observed at Site Visit.
<b>IDENTIFY AND SUPPORT CHILDREN WITH SOCIAL, EMOTIONAL, COGNITIVE AND PHYSICAL DEVELOPMENT NEEDS</b>				
5.3	Parents will identify and support their children's social, emotional, cognitive and	(.1) Administer CHVP-required tools related to school readiness /		Status Report.

Exhibit A  
 Scope of Work

#	Short and/or Intermediate Objective(s)	Intervention Activities to Meet Objectives (Describe the steps of the intervention)	Evaluation/Performance Measures Process, Short and/or Intermediate Measures (Reporting Method In Red)	
			Process Description and Measures	Short and/or Intermediate Outcome Measure(s)
	physical development needs	strengthening families (see Attachment D for data collection times): 1. HOME Inventory 2. ASQ-3 3. ASQ-SE		
		(.2) Make appropriate referrals for developmental evaluation or services based on HOME Inventory, ASQ 3, or ASQ-SE. Develop policies, procedures or a process for referring and follow-up	Policies, procedures or a process for referring and follow-up on referrals were developed.	Present to CHVP when requested at Site Visit.
<b>INCREASE DOMESTIC VIOLENCE (DV) AWARENESS</b>				
5.4	Increase support for women to have healthy and safe relationships.	(.1) Participate in trainings on DV awareness. Develop policies and procedures for screening, referral and follow-up?	Maintain a training log which includes topic, trainer, and list of attendees Policies and procedures developed?	Present to CHVP when requested at Site Visit.
		(.2) Home Visitor will discuss healthy relationships, safety, and reproductive coercion.		Observed at Site Visit.
		(.3) The home visitor will screen for relationship related issues and DV using the Women's Experience with Battering (WEB) tool (see Attachment D for data collection times).		Observed at Site Visit.
		(.4) If women screen positive on the WEB or they self-disclose DV, home visitor will assist women with		Observed at Site Visit.

Exhibit A  
 Scope of Work

#	Short and/or Intermediate Objective(s)	Intervention Activities to Meet Objectives (Describe the steps of the intervention)	Evaluation/Performance Measures Process, Short and/or Intermediate Measures (Reporting Method In Red)	
			Process Description and Measures	Short and/or Intermediate Outcome Measure(s)
		the creation of a safety plan. Revisit/update the plan as needed.		
		(.5) The home visitor will refer women to DV services and follow-up as needed.	Maintain a current referral resources and services directory.	Present to CHVP when requested at Site Visit.
<b>IMPROVING INCOME, EMPLOYMENT, AND EDUCATIONAL STATUS OF CLIENTS</b>				
5.5	Increase the number of women improving employment status or educational attainment.	(.1) Assist women in identifying their educational and employment goals; provide support in achieving goals.		
5.6	Increase the number of women whose income increases.	(.1) Assist women in developing an economic self-sufficiency plan. Refer to community resources, job training, and employment events.	Maintain a current referral resources and services directory.	Present to CHVP when requested at Site Visit.

Exhibit A  
Scope of Work

**NOTES**

1. The MCAH Director may designate the MCAH Coordinator as the central point of contact for CHVP program-related administration. In this case, the MCAH Director must maintain a minimum of .05 FTE. The total FTE for both the Director and Coordinator must total .15 FTE.
2. LHJ policies and procedures will be made available to CHVP upon request.

3. **NFP Model**

- Partners in Parenting Education (PIPE)
- Dyadic Assessment of Naturalistic Caregiver-Child Experiences (DANCE)
- Nursing Child Assessment Satellite Training (NCAST)
  - Keys to Caregiving
  - How to Promote Good Sleep Habits Parent Booklets
  - Beginning Rhythms Manual
  - Personal Environmental Assessments
    - Difficult Life Circumstance
    - Network Survey
    - Community Life Skills Scale
- Ages and Stages Questionnaire (ASQ)
- Home Observation and Measurement of the Environment (HOME) Inventory
- Women's Experience of Battering (WEB)
- Any other CHVP required trainings to be announced via program letters.

**HFA Model**

- Partners for a Healthy Baby
- Ages and Stages Questionnaire (ASQ)
- Kempe Family Stress Checklist
- Home Observation and Measurement of the Environment (HOME) Inventory
- Women's Experience of Battering (WEB)

Any other CHVP required trainings to be announced via program letters.

4. Link to State Injury Prevention Website: Safe and Active Communities (SAC)  
Branch: <http://www.cdph.ca.gov/programs/SACB/Pages/default.aspx>
5. [www.strengtheningfamilies.net](http://www.strengtheningfamilies.net) LHJ site will utilize the resources and training provided by Strategies for TA regarding Strengthening Families.

**Exhibit B**  
Budget Detail and Payment Provisions

**1. Invoicing and Payment**

- A. Upon completion of project activities as provided in Exhibit A Scope of Work, and upon receipt and approval of the invoices, the State agrees to reimburse the Contractor for activities performed and expenditures incurred in accordance with the costs specified herein.
- B. Invoices shall include the Contract Number and shall be submitted in triplicate not more frequently than monthly in arrears to:

Dale E. Price  
California Department of Public Health  
Maternal, Child and Adolescent Health Division  
1615 Capitol Avenue, Suite 73.560, MS 8305  
P. O. Box 997420  
Sacramento, CA 95899-7420

C. Invoices shall:

- 1) Be prepared on Contractor letterhead. If invoices are not on produced letterhead invoices must be signed by an authorized official, employee or agent certifying that the expenditures claimed represent activities performed and are in accordance with Exhibit A Scope of Work under this Contract.
- 2) Bear the Contractor's name as shown on the agreement.
- 3) Identify the billing and/or performance period covered by the invoice.
- 4) Itemize costs for the billing period in the same or greater level of detail as indicated in this Contract. Subject to the terms of this Contract, reimbursement may only be sought for those costs and/or cost categories expressly identified as allowable and approved by CDPH.

**2. Budget Contingency Clause**

- A. It is mutually agreed that if the Budget Act of the current year and/or any subsequent years covered under this Agreement does not appropriate sufficient funds for the program, this Agreement shall be of no further force and effect. In this event, the State shall have no liability to pay any funds whatsoever to the Contractor or to furnish any other considerations under this Agreement and Contractor shall not be obligated to fulfill 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 the Contractor to reflect the reduced amount.

**3. Prompt Payment Clause**

- A. Payment will be made in accordance with, and within the time specified in, Government Code Chapter 4.5, commencing with Section 927.

**4. Amounts Payable**

- A. The amounts payable under this Contract shall not exceed:

**Exhibit B**  
**Budget Detail and Payment Provisions**

- 1) \$845,334 for the budget period of 07/01/15 through 06/30/16.
- 2) \$845,334 for the budget period of 07/01/16 through 06/30/17.
- 3) \$845,334 for the budget period of 07/01/17 through 06/30/18.
- 4) \$845,334 for the budget period of 07/01/18 through 06/30/19.

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

**5. Timely Submission of Final Invoice**

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

B. The State may, at its discretion, choose not to honor any delinquent final invoice if the Contractor fails to obtain prior written State approval of an alternate final invoice submission deadline. Written State approval shall be sought from the program contract manager prior to the expiration or termination date of this agreement.

**6. Travel and Per Diem Reimbursement**

Any reimbursement for necessary travel and per diem shall be at the rates currently in effect as established by the California Department of Human Resources (CalHR).

**7. Restrictions on the Use of Federal Block Grant Funds**

Pursuant to 42 U.S.C. Section 704, Contractor shall not use funds provided by the agreement to:

- A. Provide inpatient services;
- B. Make cash payment to intended recipients of health services;
- C. Purchase or improve land, purchase, construct or permanently improve any building or other facility or purchase major medical equipment;
- D. Satisfy any requirement for the expenditure of non-federal funds as a condition for the receipt of federal funds;
- E. Provide financial assistance to any entity other than a public or nonprofit private entity for research or training services; or
- F. Make payment for any item or service (other than an emergency item or service) furnished by;  
1) an individual or entity during the period such individual or entity is excluded from participation in any other federally funded program, or 2) at the medical direction or on the prescription of a physician during the period when the physician is excluded from participation in any other federally funded program.

**Exhibit B**  
Budget Detail and Payment Provisions

**8. Expense Allowability / Fiscal Documentation**

- A. Invoices, received from the Contractor and accepted and/or submitted for payment by the State, shall not be deemed evidence of allowable agreement costs.
- B. Contractor shall maintain for review and audit and supply to CDPH upon request, adequate documentation of all expenses claimed pursuant to this agreement to permit a determination of expense allowability.
- C. If the allowability or appropriateness of an expense cannot be determined by the State because invoice detail, fiscal records, or backup documentation is nonexistent or inadequate according to generally accepted accounting principles or practices, all questionable costs may be disallowed and payment may be withheld by the State. Upon receipt of adequate documentation supporting a disallowed or questionable expense, reimbursement may resume for the amount substantiated and deemed allowable.
- D. If travel is a reimbursable expense, receipts must be maintained to support the claimed expenditures.

**9. Recovery of Overpayments**

- A. Contractor agrees that claims based upon the term of this agreement or an audit finding and/or an audit finding that is appealed and upheld, will be recovered by the State by one of the following options:
  - 1) Contractor's remittance to the State of the full amount of the audit exception within 30 days following the State's request for repayment;
  - 2) A repayment schedule which is agreeable to both the State and the Contractor.
- B. The State reserves the right to select which option will be employed and the Contractor will be notified by the State in writing of the claim procedure to be utilized.
- C. Interest on the unpaid balance of the audit finding or debt will accrue at a rate equal to the monthly average of the rate received on investments in the Pooled Money Investment Fund commencing on the date that an audit or examination finding is mailed to the Contractor, beginning 30 days after Contractor's receipt of the State's demand for repayment.
- D. If the Contractor has filed a valid appeal regarding the report of audit findings, recovery of the overpayments will be deferred until a final administrative decision on the appeal has been reached. If the Contractor loses the final administrative appeal, Contractor shall repay, to the State, the over-claimed or disallowed expenses, plus accrued interest. Interest accrues from the Contractor's first receipt of State's notice requesting reimbursement of questioned audit costs or disallowed expenses.



**Exhibit B, Attachment I**  
Budget  
Year 1  
(07/01/15 through 6/30/16)

**Personnel**

<b>Position Title/Classification</b>	<b>Annual Salary</b>	<b>FTE %</b>	<b>Annual Cost</b>
PUBLIC HEALTH NURSE III (Supervisor)	\$ 91,911	100	\$ 91,911
PUBLIC HEALTH NURSE II	73,780	100	73,780
PUBLIC HEALTH NURSE II	83,330	100	83,330
PUBLIC HEALTH NURSE II	89,277	100	89,277
PUBLIC HEALTH NURSE I	67,593	75	50,695
PUBLIC HEALTH NURSE II	73,445	25	18,361
ADMIN CLERK II	35,069	100	35,069
MANAGER / MCAH DIRECTOR	96,824	15	14,524
			<b>Subtotal Personnel \$ 456,947</b>
			<b>\$ 249,388</b>
<b>Fringe Benefits (54.58%)</b>			
(FICA 13.52%, Health Insurance 37.87%, Retirement 4.19%)			
			<b>Total Personnel and Fringe Benefits \$ 706,335</b>

**Operating Expenses**

Training (Registration fees for CHVP required and other professional development trainings and CEUs as needed.)	\$	5,793
Advertising		4,000
Communication (Land line and Nurse Home Visitor cell phones.)		5,000
General Office Supplies.		1,888
Equipment		1,000
Printing		2,000
Program and Medical Supplies		3,000
Nurse Family Partnership Fee (Goal 1.5 in SOW)		30,393
		<b>Total Operating Expenses \$ 53,074</b>

TRAVEL (Staff travel to statewide CHVP conferences, Nurse Family Partnership or Healthy Families of America trainings (1.3 in SOW), and home visits (Goals 1.1.4, 1.4, 1.5, 2, 3, 4, 5 in SOW))	\$	12,500
		<b>Total Travel Costs \$ 12,500</b>

**Other Costs**

Client Support Materials (Educational and parenting Support Materials (e.g. pamphlets, children's books). Child safety items (e.g. Cupboard locks and car seats). (Goals 2, 3, 4, 5 in SOW))	\$	2,792
		<b>Total Other Costs \$ 2,792</b>

<b>Indirect Costs (10% of Total Personnel Costs)</b>		<b>\$ 70,633</b>
	<b>Total Budget</b>	<b>\$ 845,334</b>

**Exhibit B, Attachment II**  
Budget  
Year 2  
(07/01/16 through 6/30/17)

**Personnel**

<b>Position Title/Classification</b>	<b>Annual Salary</b>	<b>FTE %</b>	<b>Annual Cost</b>
PUBLIC HEALTH NURSE III (Supervisor) \$	91,911	100	\$ 91,911
PUBLIC HEALTH NURSE II	73,780	100	73,780
PUBLIC HEALTH NURSE II	83,330	100	83,330
PUBLIC HEALTH NURSE II	89,277	100	89,277
PUBLIC HEALTH NURSE I	67,593	75	50,695
PUBLIC HEALTH NURSE II	73,445	25	18,361
ADMIN CLERK II	35,069	100	35,069
MANAGER / MCAH DIRECTOR	96,824	15	14,524
			<b>Subtotal Personnel \$ 456,947</b>
<b>Fringe Benefits (54.58%)</b>			<b>\$ 249,388</b>
(FICA 13.52%, Health Insurance 37.87%, Retirement 4.19%)			
			<b>Total Personnel and Fringe Benefits \$ 706,335</b>

**Operating Expenses**

Training (Registration fees for CHVP required and other professional development trainings and CEUs as needed.)	\$	5,793
Advertising		4,000
Communication (Land line and Nurse Home Visitor cell phones.)		5,000
General Office Supplies.		1,888
Equipment		1,000
Printing		2,000
Program and Medical Supplies		3,000
Nurse Family Partnership Fee (Goal 1.5 in SOW)		30,393
	<b>Total Operating Expenses \$</b>	<b>53,074</b>

TRAVEL (Staff travel to statewide CHVP conferences, Nurse Family Partnership or Healthy Families of America trainings (1.3 in SOW), and home visits (Goals 1.1.4, 1.4, 1.5, 2, 3, 4, 5 in SOW))	\$	12,500
	<b>Total Travel Costs \$</b>	<b>12,500</b>

**Other Costs**

Client Support Materials (Educational and parenting Support Materials (e.g. pamphlets, children's books). Child safety items (e.g. Cupboard locks and car seats). (Goals 2, 3, 4, 5 in SOW))	\$	2,792
	<b>Total Other Costs \$</b>	<b>2,792</b>

<b>Indirect Costs (10% of Total Personnel Costs)</b>	<b>\$ 70,633</b>
<b>Total Budget</b>	<b>\$ <u>845,334</u></b>

**Exhibit B, Attachment III**  
Budget  
Year 3  
(07/01/17 through 6/30/18)

**Personnel**

<b>Position Title/Classification</b>	<b>Annual Salary</b>	<b>FTE %</b>	<b>Annual Cost</b>
PUBLIC HEALTH NURSE III (Supervisor)	\$ 91,911	100	\$ 91,911
PUBLIC HEALTH NURSE II	73,780	100	73,780
PUBLIC HEALTH NURSE II	83,330	100	83,330
PUBLIC HEALTH NURSE II	89,277	100	89,277
PUBLIC HEALTH NURSE I	67,593	75	50,695
PUBLIC HEALTH NURSE II	73,445	25	18,361
ADMIN CLERK II	35,069	100	35,069
MANAGER / MCAH DIRECTOR	96,824	15	14,524

**Subtotal Personnel** \$ **456,947**

**Fringe Benefits (54.58%)**

\$ **249,388**

(FICA 13.52%, Health Insurance 37.87%, Retirement 4.19%)

**Total Personnel and Fringe Benefits** \$ **706,335**

**Operating Expenses**

Training (Registration fees for CHVP required and other professional development trainings and CEUs as needed.)	\$ 5,793
Advertising	4,000
Communication (Land line and Nurse Home Visitor cell phones.)	5,000
General Office Supplies.	1,888
Equipment	1,000
Printing	2,000
Program and Medical Supplies	3,000
Nurse Family Partnership Fee (Goal 1.5 in SOW)	30,393

**Total Operating Expenses** \$ **53,074**

TRAVEL (Staff travel to statewide CHVP conferences, Nurse Family Partnership or Healthy Families of America trainings (1.3 in SOW), and home visits (Goals 1.1.4, 1.4, 1.5, 2, 3, 4, 5 in SOW))	\$ 12,500
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**Total Travel Costs** \$ **12,500**

**Other Costs**

Client Support Materials (Educational and parenting Support Materials (e.g. pamphlets, children's books). Child safety items (e.g. Cupboard locks and car seats). (Goals 2, 3, 4, 5 in SOW))	\$ 2,792
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**Total Other Costs** \$ **2,792**

**Indirect Costs (10% of Total Personnel Costs)**

\$ **70,633**

**Total Budget** \$ **845,334**

**Exhibit B, Attachment IV**  
Budget  
Year 4  
(07/01/18 through 6/30/19)

**Personnel**

<b>Position Title/Classification</b>	<b>Annual Salary</b>	<b>FTE %</b>	<b>Annual Cost</b>
PUBLIC HEALTH NURSE III (Supervisor) \$	91,911	100	\$ 91,911
PUBLIC HEALTH NURSE II	73,780	100	73,780
PUBLIC HEALTH NURSE II	83,330	100	83,330
PUBLIC HEALTH NURSE II	89,277	100	89,277
PUBLIC HEALTH NURSE I	67,593	75	50,695
PUBLIC HEALTH NURSE II	73,445	25	18,361
ADMIN CLERK II	35,069	100	35,069
MANAGER / MCAH DIRECTOR	96,824	15	14,524
			<b>Subtotal Personnel \$ 456,947</b>
<b>Fringe Benefits (54.58%)</b>			<b>\$ 249,388</b>
(FICA 13.52%, Health Insurance 37.87%, Retirement 4.19%)			
			<b>Total Personnel and Fringe Benefits \$ 706,335</b>

**Operating Expenses**

Training (Registration fees for CHVP required and other professional development trainings and CEUs as needed.)	\$	5,793
Advertising		4,000
Communication (Land line and Nurse Home Visitor cell phones.)		5,000
General Office Supplies.		1,888
Equipment		1,000
Printing		2,000
Program and Medical Supplies		3,000
Nurse Family Partnership Fee (Goal 1.5 in SOW)		30,393
	<b>Total Operating Expenses \$</b>	<b>53,074</b>

TRAVEL (Staff travel to statewide CHVP conferences, Nurse Family Partnership or Healthy Families of America trainings (1.3 in SOW), and home visits (Goals 1.1.4, 1.4, 1.5, 2, 3, 4, 5 in SOW))	\$	12,500
	<b>Total Travel Costs \$</b>	<b>12,500</b>

**Other Costs**

Client Support Materials (Educational and parenting Support Materials (e.g. pamphlets, children's books). Child safety items (e.g. Cupboard locks and car seats). (Goals 2, 3, 4, 5 in SOW))	\$	2,792
	<b>Total Other Costs \$</b>	<b>2,792</b>

<b>Indirect Costs (10% of Total Personnel Costs)</b>	<b>\$ 70,633</b>
<b>Total Budget</b>	<b>\$ 845,334</b>

**EXHIBIT C**

GENERAL TERMS AND CONDITIONS

1. APPROVAL: This Agreement is of no force or effect until signed by both parties and approved by the Department of General Services, if required. Contractor may not commence performance until such approval has been obtained.
2. AMENDMENT: No amendment or variation of the terms of this Agreement shall be valid unless made in writing, signed by the parties and approved as required. No oral understanding or Agreement not incorporated in the Agreement is binding on any of the parties.
3. ASSIGNMENT: This Agreement is not assignable by the Contractor, either in whole or in part, without the consent of the State in the form of a formal written amendment.
4. AUDIT: Contractor agrees that the awarding department, the Department of General Services, the Bureau of State Audits, or their designated representative shall have the right to review and to copy any records and supporting documentation pertaining to the performance of this Agreement. Contractor agrees to maintain such records for possible audit for a minimum of three (3) years after final payment, unless a longer period of records retention is stipulated. Contractor agrees to allow the auditor(s) access to such records during normal business hours and to allow interviews of any employees who might reasonably have information related to such records. Further, Contractor agrees to include a similar right of the State to audit records and interview staff in any subcontract related to performance of this Agreement. (Gov. Code §8546.7, Pub. Contract Code §10115 et seq., CCR Title 2, Section 1896).
5. INDEMNIFICATION: Contractor agrees to indemnify, defend and save harmless the State, its officers, agents and employees from any and all claims and losses accruing or resulting to any and all contractors, subcontractors, suppliers, laborers, and any other person, firm or corporation furnishing or supplying work services, materials, or supplies in connection with the performance of this Agreement, and from any and all claims and losses accruing or resulting to any person, firm or corporation who may be injured or damaged by Contractor in the performance of this Agreement.
6. DISPUTES: Contractor shall continue with the responsibilities under this Agreement during any dispute.
7. TERMINATION FOR CAUSE: The State may terminate this Agreement and be relieved of any payments should the Contractor fail to perform the requirements of this Agreement at the time and in the manner herein provided. In the event of such termination the State may proceed with the work in any manner deemed proper by the State. All costs to the State shall be deducted from any sum due the Contractor under this Agreement and the balance, if any, shall be paid to the Contractor upon demand.

**EXHIBIT C**

8. INDEPENDENT CONTRACTOR: Contractor, and the agents and employees of Contractor, in the performance of this Agreement, shall act in an independent capacity and not as officers or employees or agents of the State.

9. RECYCLING CERTIFICATION: The Contractor shall certify in writing under penalty of perjury, the minimum, if not exact, percentage of post consumer material as defined in the Public Contract Code Section 12200, in products, materials, goods, or supplies offered or sold to the State regardless of whether the product meets the requirements of Public Contract Code Section 12209. With respect to printer or duplication cartridges that comply with the requirements of Section 12156(e), the certification required by this subdivision shall specify that the cartridges so comply (Pub. Contract Code §12205).

10. NON-DISCRIMINATION CLAUSE: During the performance of this Agreement, Contractor and its subcontractors shall not unlawfully discriminate, harass, or allow harassment against any employee or applicant for employment because of sex, race, color, ancestry, religious creed, national origin, physical disability (including HIV and AIDS), mental disability, medical condition (e.g., cancer), age (over 40), marital status, and denial of family care leave. Contractor and subcontractors shall insure that the evaluation and treatment of their employees and applicants for employment are free from such discrimination and harassment. Contractor and subcontractors shall comply with the provisions of the Fair Employment and Housing Act (Gov. Code §12990 (a-f) et seq.) and the applicable regulations promulgated thereunder (California Code of Regulations, Title 2, Section 7285 et seq.). The applicable regulations of the Fair Employment and Housing Commission implementing Government Code Section 12990 (a-f), set forth in Chapter 5 of Division 4 of Title 2 of the California Code of Regulations, are incorporated into this Agreement by reference and made a part hereof as if set forth in full. Contractor and its subcontractors shall give written notice of their obligations under this clause to labor organizations with which they have a collective bargaining or other Agreement.

Contractor shall include the nondiscrimination and compliance provisions of this clause in all subcontracts to perform work under the Agreement.

11. CERTIFICATION CLAUSES: The CONTRACTOR CERTIFICATION CLAUSES contained in the document CCC 307 are hereby incorporated by reference and made a part of this Agreement by this reference as if attached hereto.

12. TIMELINESS: Time is of the essence in this Agreement.

13. COMPENSATION: The consideration to be paid Contractor, as provided herein, shall be in compensation for all of Contractor's expenses incurred in the performance hereof, including travel, per diem, and taxes, unless otherwise expressly so provided.

14. GOVERNING LAW: This contract is governed by and shall be interpreted in accordance with the laws of the State of California.

**EXHIBIT C**

15. ANTITRUST CLAIMS: The Contractor by signing this agreement hereby certifies that if these services or goods are obtained by means of a competitive bid, the Contractor shall comply with the requirements of the Government Codes Sections set out below.

a. The Government Code Chapter on Antitrust claims contains the following definitions:

1) "Public purchase" means a purchase by means of competitive bids of goods, services, or materials by the State or any of its political subdivisions or public agencies on whose behalf the Attorney General may bring an action pursuant to subdivision (c) of Section 16750 of the Business and Professions Code.

2) "Public purchasing body" means the State or the subdivision or agency making a public purchase. Government Code Section 4550.

b. In submitting a bid to a public purchasing body, the bidder offers and agrees that if the bid is accepted, it will assign to the purchasing body all rights, title, and interest in and to all causes of action it may have under Section 4 of the Clayton Act (15 U.S.C. Sec. 15) or under the Cartwright Act (Chapter 2 (commencing with Section 16700) of Part 2 of Division 7 of the Business and Professions Code), arising from purchases of goods, materials, or services by the bidder for sale to the purchasing body pursuant to the bid. Such assignment shall be made and become effective at the time the purchasing body tenders final payment to the bidder. Government Code Section 4552.

c. If an awarding body or public purchasing body receives, either through judgment or settlement, a monetary recovery for a cause of action assigned under this chapter, the assignor shall be entitled to receive reimbursement for actual legal costs incurred and may, upon demand, recover from the public body any portion of the recovery, including treble damages, attributable to overcharges that were paid by the assignor but were not paid by the public body as part of the bid price, less the expenses incurred in obtaining that portion of the recovery. Government Code Section 4553.

d. Upon demand in writing by the assignor, the assignee shall, within one year from such demand, reassign the cause of action assigned under this part if the assignor has been or may have been injured by the violation of law for which the cause of action arose and (a) the assignee has not been injured thereby, or (b) the assignee declines to file a court action for the cause of action. See Government Code Section 4554.

16. CHILD SUPPORT COMPLIANCE ACT: For any Agreement in excess of \$100,000, the contractor acknowledges in accordance with Public Contract Code 7110, that:

a. The contractor recognizes the importance of child and family support obligations and shall fully comply with all applicable state and federal laws relating to child and family support enforcement, including, but not limited to, disclosure of information and compliance with earnings assignment orders, as provided in Chapter 8 (commencing with section 5200) of Part 5 of Division 9 of the Family Code; and

**EXHIBIT C**

b. The contractor, to the best of its knowledge is fully complying with the earnings assignment orders of all employees and is providing the names of all new employees to the New Hire Registry maintained by the California Employment Development Department.

17. UNENFORCEABLE PROVISION: In the event that any provision of this Agreement is unenforceable or held to be unenforceable, then the parties agree that all other provisions of this Agreement have force and effect and shall not be affected thereby.

18. PRIORITY HIRING CONSIDERATIONS: If this Contract includes services in excess of \$200,000, the Contractor shall give priority consideration in filling vacancies in positions funded by the Contract to qualified recipients of aid under Welfare and Institutions Code Section 11200 in accordance with Pub. Contract Code §10353.

19. SMALL BUSINESS PARTICIPATION AND DVBE PARTICIPATION REPORTING REQUIREMENTS:

a. If for this Contract Contractor made a commitment to achieve small business participation, then Contractor must within 60 days of receiving final payment under this Contract (or within such other time period as may be specified elsewhere in this Contract) report to the awarding department the actual percentage of small business participation that was achieved. (Govt. Code § 14841.)

b. If for this Contract Contractor made a commitment to achieve disabled veteran business enterprise (DVBE) participation, then Contractor must within 60 days of receiving final payment under this Contract (or within such other time period as may be specified elsewhere in this Contract) certify in a report to the awarding department: (1) the total amount the prime Contractor received under the Contract; (2) the name and address of the DVBE(s) that participated in the performance of the Contract; (3) the amount each DVBE received from the prime Contractor; (4) that all payments under the Contract have been made to the DVBE; and (5) the actual percentage of DVBE participation that was achieved. A person or entity that knowingly provides false information shall be subject to a civil penalty for each violation. (Mil. & Vets. Code § 999.5(d); Govt. Code § 14841.)

20. LOSS LEADER:

If this contract involves the furnishing of equipment, materials, or supplies then the following statement is incorporated: It is unlawful for any person engaged in business within this state to sell or use any article or product as a "loss leader" as defined in Section 17030 of the Business and Professions Code. (PCC 10344(e).)



**Special Terms and Conditions**

*(For federally funded service contracts or agreements and grant agreements)*

The use of headings or titles throughout this exhibit is for convenience only and shall not be used to interpret or to govern the meaning of any specific term or condition.

The terms "contract", "Contractor" and "Subcontractor" shall also mean, "agreement", "grant", "grant agreement", "Grantee" and "Subgrantee" respectively.

The terms "California Department of Public Health" and "CDPH" shall have the same meaning and refer to the California State agency that is a party to this Agreement.

This exhibit contains provisions that require strict adherence to various contracting laws and policies. Some provisions herein are conditional and only apply if specified conditions exist (i.e., agreement total exceeds a certain amount, agreement is federally funded, etc.). The provisions herein apply to this Agreement unless the provisions are removed by reference on the face of this Agreement, the provisions are superseded by an alternate provision appearing elsewhere in this Agreement, or the applicable conditions do not exist.

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	33. Federal Requirements

**1. Federal Equal Opportunity Requirements**

(Applicable to all federally funded agreements entered into by the California Department of Public Health (CDPH).)

- a. The Contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, national origin, physical or mental handicap, disability, age or status as a disabled veteran or veteran of the Vietnam era. The Contractor will take affirmative action to ensure that qualified applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex, national origin, physical or mental handicap, disability, age or status as a disabled veteran or veteran of the Vietnam era. Such action shall include, but not be limited to the following: employment, upgrading, demotion or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and career development opportunities and selection for training, including apprenticeship. The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the Federal Government or CDPH, setting forth the provisions of the Equal Opportunity clause, Section 503 of the Rehabilitation Act of 1973 and the affirmative action clause required by the Vietnam Era Veterans' Readjustment Assistance Act of 1974 (38 U.S.C. 4212). Such notices shall state the Contractor's obligation under the law to take affirmative action to employ and advance in employment qualified applicants without discrimination based on their race, color, religion, sex, national origin physical or mental handicap, disability, age or status as a disabled veteran or veteran of the Vietnam era and the rights of applicants and employees.
- b. The Contractor will, in all solicitations or advancements for employees placed by or on behalf of the Contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, national origin physical or mental handicap, disability, age or status as a disabled veteran or veteran of the Vietnam era.
- c. The Contractor will send to each labor union or representative of workers with which it has a collective bargaining agreement or other contract or understanding a notice, to be provided by the Federal Government or the State, advising the labor union or workers' representative of the Contractor's commitments under the provisions herein and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
- d. The Contractor will comply with all provisions of and furnish all information and reports required by Section 503 of the Rehabilitation Act of 1973, as amended, the Vietnam Era Veterans' Readjustment Assistance Act of 1974 (38 U.S.C. 4212) and of the Federal Executive Order No. 11246 as amended, including by Executive Order 11375, 'Amending Executive Order 11246 Relating to Equal Employment Opportunity,' and as supplemented by regulation at 41 CFR part 60, "Office of the Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor," and of the rules, regulations, and relevant orders of the Secretary of Labor.
- e. The Contractor will furnish all information and reports required by Federal Executive Order No. 11246 as amended, including by Executive Order 11375, 'Amending Executive Order 11246 Relating to Equal Employment Opportunity,' and as supplemented by regulation at 41 CFR part 60, "Office of the Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor," and the Rehabilitation Act of 1973, and by the rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to its books, records, and accounts by the State and its designated representatives and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.
- f. In the event of the Contractor's noncompliance with the requirements of the provisions herein or with any federal rules, regulations, or orders which are referenced herein, this Agreement may be cancelled, terminated, or suspended in whole or in part and the Contractor may be declared ineligible for further federal and state contracts in accordance with procedures authorized in Federal Executive Order No. 11246 as amended and such other sanctions may be imposed and remedies invoked as provided in Federal Executive Order No. 11246 as amended, including by Executive Order 11375, 'Amending Executive Order 11246 Relating to Equal Employment Opportunity,' and as supplemented by regulation at 41 CFR part 60, "Office of the Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor," or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.

- g. The Contractor will include the provisions of Paragraphs a through g in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to Federal Executive Order No. 11246 as amended, including by Executive Order 11375, 'Amending Executive Order 11246 Relating to Equal Employment Opportunity,' and as supplemented by regulation at 41 CFR part 60, "Office of the Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor," or Section 503 of the Rehabilitation Act of 1973 or (38 U.S.C. 4212) of the Vietnam Era Veteran's Readjustment Assistance Act, so that such provisions will be binding upon each subcontractor or vendor. The Contractor will take such action with respect to any subcontract or purchase order as the Director of the Office of Federal Contract Compliance Programs or CDPH may direct as a means of enforcing such provisions including sanctions for noncompliance provided, however, that in the event the Contractor becomes involved in, or is threatened with litigation by a subcontractor or vendor as a result of such direction by CDPH, the Contractor may request in writing to CDPH, who, in turn, may request the United States to enter into such litigation to protect the interests of the State and of the United States.

## 2. Travel and Per Diem Reimbursement

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

Reimbursement for travel and per diem expenses from CDPH under this Agreement shall, unless otherwise specified in this Agreement, be at the rates currently in effect, as established by the California Department of Human Resources (CalHR), for nonrepresented state employees as stipulated in CDPH's Travel Reimbursement Information Exhibit. If the CalHR rates change during the term of the Agreement, the new rates shall apply upon their effective date and no amendment to this Agreement shall be necessary. Exceptions to CalHR rates may be approved by CDPH upon the submission of a statement by the Contractor indicating that such rates are not available to the Contractor. No travel outside the State of California shall be reimbursed without prior authorization from CDPH. Verbal authorization should be confirmed in writing. Written authorization may be in a form including fax or email confirmation.

## 3. Procurement Rules

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

### a. Equipment definitions

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

- (1) **Major equipment/property:** A tangible or intangible item having a base unit cost of **\$5,000 or more** with a life expectancy of one (1) year or more and is either furnished by CDPH or the cost is reimbursed through this Agreement. Software and videos are examples of intangible items that meet this definition.
  - (2) **Minor equipment/property:** A tangible item having a base unit cost of **less than \$5,000** with a life expectancy of one (1) year or more and is either furnished by CDPH or the cost is reimbursed through this Agreement.
- b. **Government and public entities** (including state colleges/universities and auxiliary organizations), whether acting as a contractor and/or subcontractor, may secure all commodities, supplies, equipment and services related to such purchases that are required in performance of this Agreement. Said procurements are subject to Paragraphs d through h of Provision 3. Paragraph c of Provision 3 shall also apply, if equipment purchases are delegated to subcontractors that are nonprofit organizations or commercial businesses.
- c. **Nonprofit organizations and commercial businesses**, whether acting as a contractor and/or subcontractor, may secure commodities, supplies, equipment and services related to such purchases for performance under this Agreement.

- (1) Equipment purchases shall not exceed \$50,000 annually.

To secure equipment above the annual maximum limit of \$50,000, the Contractor shall make arrangements through the appropriate CDPH Program Contract Manager, to have all remaining equipment purchased through CDPH's Purchasing Unit. The cost of equipment purchased by or

through CDPH shall be deducted from the funds available in this Agreement. Contractor shall submit to the CDPH Program Contract Manager a list of equipment specifications for those items that the State must procure. The State may pay the vendor directly for such arranged equipment purchases and title to the equipment will remain with CDPH. The equipment will be delivered to the Contractor's address, as stated on the face of the Agreement, unless the Contractor notifies the CDPH Program Contract Manager, in writing, of an alternate delivery address.

- (2) All equipment purchases are subject to Paragraphs d through h of Provision 3. Paragraph b of Provision 3 shall also apply, if equipment purchases are delegated to subcontractors that are either a government or public entity.
- (3) Nonprofit organizations and commercial businesses, shall use a procurement system that meets the following standards:
  - (a) Maintain a code or standard of conduct that shall govern the performance of its officers, employees, or agents engaged in awarding procurement contracts. No employee, officer, or agent shall participate in the selection, award, or administration of a procurement, or bid contract in which, to his or her knowledge, he or she has a financial interest.
  - (b) Procurements shall be conducted in a manner that provides, to the maximum extent practical, open, and free competition.
  - (c) Procurements shall be conducted in a manner that provides for all of the following:
    - [1] Avoid purchasing unnecessary or duplicate items.
    - [2] Equipment solicitations shall be based upon a clear and accurate description of the technical requirements of the goods to be procured.
    - [3] Take positive steps to utilize small and veteran owned businesses.
- d. Unless waived or otherwise stipulated in writing by CDPH, prior written authorization from the appropriate CDPH Program Contract Manager will be required before the Contractor will be reimbursed for any purchase of \$5,000 or more for commodities, supplies, equipment, and services related to such purchases. The Contractor must provide in its request for authorization all particulars necessary, as specified by CDPH, for evaluating the necessity or desirability of incurring such costs. The term "purchase" excludes the purchase of services from a subcontractor and public utility services at rates established for uniform applicability to the general public.
- e. In special circumstances, determined by CDPH (e.g., when CDPH has a need to monitor certain purchases, etc.), CDPH may require prior written authorization and/or the submission of paid vendor receipts for any purchase, regardless of dollar amount. CDPH reserves the right to either deny claims for reimbursement or to request repayment for any Contractor and/or subcontractor purchase that CDPH determines to be unnecessary in carrying out performance under this Agreement.
- f. The Contractor and/or subcontractor must maintain a copy or narrative description of the procurement system, guidelines, rules, or regulations that will be used to make purchases under this Agreement. The State reserves the right to request a copy of these documents and to inspect the purchasing practices of the Contractor and/or subcontractor at any time.
- g. For all purchases, the Contractor and/or subcontractor must maintain copies of all paid vendor invoices, documents, bids and other information used in vendor selection, for inspection or audit. Justifications supporting the absence of bidding (i.e., sole source purchases) shall also be maintained on file by the Contractor and/or subcontractor for inspection or audit.
- h. CDPH may, with cause (e.g., with reasonable suspicion of unnecessary purchases or use of inappropriate purchase practices, etc.), withhold, cancel, modify, or retract the delegated purchase authority granted under Paragraphs b and/or c of Provision 3 by giving the Contractor no less than 30 calendar days written notice.

#### **4. Equipment Ownership / Inventory / Disposition**

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

- a. Wherever the terms equipment and/or property are used in Provision 4, the definitions in Provision 3, Paragraph a, shall apply.

Unless otherwise stipulated in this Agreement, all equipment and/or property that are purchased/reimbursed with agreement funds or furnished by CDPH under the terms of this Agreement shall be considered state equipment and the property of CDPH.

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

Upon receipt of equipment and/or property, the Contractor shall report the receipt to the CDPH Program Contract Manager. To report the receipt of said items and to receive property tags, Contractor shall use a form or format designated by CDPH's Asset Management Unit. If the appropriate form (i.e., Contractor Equipment Purchased with CDPH Funds) does not accompany this Agreement, Contractor shall request a copy from the CDPH Program Contract Manager.

- (2) If the Contractor enters into an agreement with a term of more than twelve months, the Contractor shall submit an annual inventory of state equipment and/or property to the CDPH Program Contract Manager using a form or format designated by CDPH's Asset Management Unit. If an inventory report form (i.e., Inventory/Disposition of CDPH-Funded Equipment) does not accompany this Agreement, Contractor shall request a copy from the CDPH Program Contract Manager. Contractor shall:

- (a) Include in the inventory report, equipment and/or property in the Contractor's possession and/or in the possession of a subcontractor (including independent consultants).
- (b) Submit the inventory report to CDPH according to the instructions appearing on the inventory form or issued by the CDPH Program Contract Manager.
- (c) Contact the CDPH Program Contract Manager to learn how to remove, trade-in, sell, transfer or survey off, from the inventory report, expired equipment and/or property that is no longer wanted, usable or has passed its life expectancy. Instructions will be supplied by CDPH's Asset Management Unit.

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

- c. Unless otherwise stipulated, CDPH shall be under no obligation to pay the cost of restoration, or rehabilitation of the Contractor's and/or Subcontractor's facility which may be affected by the removal of any state equipment and/or property.

- d. The Contractor and/or Subcontractor shall maintain and administer a sound business program for ensuring the proper use, maintenance, repair, protection, insurance and preservation of state equipment and/or property.

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

- e. Unless otherwise stipulated by the program funding this Agreement, equipment and/or property purchased/reimbursed with agreement funds or furnished by CDPH under the terms of this Agreement, shall only be used for performance of this Agreement or another CDPH agreement.

- f. Within sixty (60) calendar days prior to the termination or end of this Agreement, the Contractor shall provide a final inventory report of equipment and/or property to the CDPH Program Contract Manager and

shall, at that time, query CDPH as to the requirements, including the manner and method, of returning state equipment and/or property to CDPH. Final disposition of equipment and/or property shall be at CDPH expense and according to CDPH instructions. Equipment and/or property disposition instructions shall be issued by CDPH immediately after receipt of the final inventory report. At the termination or conclusion of this Agreement, CDPH may at its discretion, authorize the continued use of state equipment and/or property for performance of work under a different CDPH agreement.

**g. Motor Vehicles**

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

- (1) If motor vehicles are purchased/reimbursed with agreement funds or furnished by CDPH under the terms of this Agreement, within thirty (30) calendar days prior to the termination or end of this Agreement, the Contractor and/or Subcontractor shall return such vehicles to CDPH and shall deliver all necessary documents of title or registration to enable the proper transfer of a marketable title to CDPH.
- (2) If motor vehicles are purchased/reimbursed with agreement funds or furnished by CDPH under the terms of this Agreement, the State of California shall be the legal owner of said motor vehicles and the Contractor shall be the registered owner. The Contractor and/or a subcontractor may only use said vehicles for performance and under the terms of this Agreement.
- (3) The Contractor and/or Subcontractor agree that all operators of motor vehicles, purchased/reimbursed with agreement funds or furnished by CDPH under the terms of this Agreement, shall hold a valid State of California driver's license. In the event that ten or more passengers are to be transported in any one vehicle, the operator shall also hold a State of California Class B driver's license.
- (4) If any motor vehicle is purchased/reimbursed with agreement funds or furnished by CDPH under the terms of this Agreement, the Contractor and/or Subcontractor, as applicable, shall provide, maintain, and certify that, at a minimum, the following type and amount of automobile liability insurance is in effect during the term of this Agreement or any extension period during which any vehicle remains in the Contractor's and/or Subcontractor's possession:

**Automobile Liability Insurance**

- (a) The Contractor, by signing this Agreement, hereby certifies that it possesses or will obtain automobile liability insurance in the amount of \$1,000,000 per occurrence for bodily injury and property damage combined. Said insurance must be obtained and made effective upon the delivery date of any motor vehicle, purchased/reimbursed with agreement funds or furnished by CDPH under the terms of this Agreement, to the Contractor and/or Subcontractor.
- (b) The Contractor and/or Subcontractor shall, as soon as practical, furnish a copy of the certificate of insurance to the CDPH Program Contract Manager. The certificate of insurance shall identify the CDPH contract or agreement number for which the insurance applies.
- (c) The Contractor and/or Subcontractor agree that bodily injury and property damage liability insurance, as required herein, shall remain in effect at all times during the term of this Agreement or until such time as the motor vehicle is returned to CDPH.
- (d) The Contractor and/or Subcontractor agree to provide, at least thirty (30) days prior to the expiration date of said insurance coverage, a copy of a new certificate of insurance evidencing continued coverage, as indicated herein, for not less than the remainder of the term of this Agreement, the term of any extension or continuation thereof, or for a period of not less than one (1) year.
- (e) The Contractor and/or Subcontractor, if not a self-insured government and/or public entity, must provide evidence, that any required certificates of insurance contain the following provisions:

[1] The insurer will not cancel the insured's coverage without giving thirty (30) calendar days prior

written notice to the State (California Department of Public Health (CDPH)).

[2] The State of California, its officers, agents, employees, and servants are included as additional insureds, but only with respect to work performed for the State under this Agreement and any extension or continuation of this Agreement.

[3] The insurance carrier shall notify CDPH, in writing, of the Contractor's failure to pay premiums; its cancellation of such policies; or any other substantial change, including, but not limited to, the status, coverage, or scope of the required insurance. Such notices shall contain a reference to each agreement number for which the insurance was obtained.

(f) The Contractor and/or Subcontractor is hereby advised that copies of certificates of insurance may be subject to review and approval by the Department of General Services (DGS), Office of Risk and Insurance Management. The Contractor shall be notified by CDPH, in writing, if this provision is applicable to this Agreement. If DGS approval of the certificate of insurance is required, the Contractor agrees that no work or services shall be performed prior to obtaining said approval.

(g) In the event the Contractor and/or Subcontractor fails to keep insurance coverage, as required herein, in effect at all times during vehicle possession, CDPH may, in addition to any other remedies it may have, terminate this Agreement upon the occurrence of such event.

## 5. Subcontract Requirements

(Applicable to agreements under which services are to be performed by subcontractors including independent consultants.)

a. Prior written authorization will be required before the Contractor enters into or is reimbursed for any subcontract for services costing \$2,500 or more. Except as indicated in Paragraph a(3) herein, when securing subcontracts for services costing \$2,500, the Contractor shall obtain at least three bids or justify a sole source award.

(1) The Contractor must provide in its request for authorization, all information necessary for evaluating the necessity or desirability of incurring such cost.

(2) The State may identify the information needed to fulfill this requirement.

(3) Subcontracts performed by the following entities or for the service types listed below are exempt from the bidding and sole source justification requirements:

(a) A local governmental entity or the federal government,

(b) A State college or university from any State,

(c) A Joint Powers Authority,

(d) An auxiliary organization of a California State University or a California community college,

(e) A foundation organized to support the Board of Governors of the California Community Colleges,

(f) An auxiliary organization of the Student Aid Commission established under Education Code § 69522,

(g) Entities of any type that will provide subvention aid or direct services to the public,

(h) Entities and/or service types identified as exempt from advertising in State Contracting Manual 5.80. View this publication at the following Internet address:

<http://www.ols.dgs.ca.gov/Contract+Manual/Chapters4through6.htm>.

(i) Entities whose name and budgeted costs have been submitted to CDPH in response to a competitive solicitation.

b. CDPH reserves the right to approve or disapprove the selection of subcontractors and with advance written notice, require the substitution of subcontractors and require the Contractor to terminate subcontracts entered into in support of this Agreement.

(1) Upon receipt of a written notice from CDPH requiring the substitution and/or termination of a subcontract, the Contractor shall take steps to ensure the completion of any work in progress and

select a replacement, if applicable, within 30 calendar days, unless a longer period is agreed to by CDPH.

- c. Actual subcontracts (i.e., written agreement between the Contractor and a subcontractor) of \$2,500 or more are subject to the prior review and written approval of CDPH. CDPH may, at its discretion, elect to waive this right. All such waivers shall be confirmed in writing by CDPH.
- d. Contractor shall maintain a copy of each subcontract entered into in support of this Agreement and shall, upon request by CDPH, make copies available for approval, inspection, or audit.
- e. CDPH assumes no responsibility for the payment of subcontractors used in the performance of this Agreement. Contractor accepts sole responsibility for the payment of subcontractors used in the performance of this Agreement.
- f. The Contractor is responsible for all performance requirements under this Agreement even though performance may be carried out through a subcontract.
- g. The Contractor shall ensure that all subcontracts for services include provision(s) requiring compliance with applicable terms and conditions specified in this Agreement.
- h. The Contractor agrees to include the following clause, relevant to record retention, in all subcontracts for services:  
  
"*(Subcontractor Name)* agrees to maintain and preserve, until three years after termination of *(Agreement Number)* and final payment from CDPH to the Contractor, to permit CDPH or any duly authorized representative, to have access to, examine or audit any pertinent books, documents, papers and records related to this subcontract and to allow interviews of any employees who might reasonably have information related to such records."
- i. Unless otherwise stipulated in writing by CDPH, the Contractor shall be the subcontractor's sole point of contact for all matters related to performance and payment under this Agreement.
- j. Contractor shall, as applicable, advise all subcontractors of their obligations pursuant to the following numbered provisions of this Exhibit: 1, 2, 3, 4, 5, 6, 7, 8, 10, 11, 12, 13, 14, 17, 19, 20, 24, and 31 or other numbered provisions herein that deemed applicable.

## 6. Income Restrictions

Unless otherwise stipulated in this Agreement, the Contractor agrees that any refunds, rebates, credits, or other amounts (including any interest thereon) accruing to or received by the Contractor under this Agreement shall be paid by the Contractor to CDPH, to the extent that they are properly allocable to costs for which the Contractor has been reimbursed by CDPH under this Agreement.

## 7. Audit and Record Retention

(Applicable to agreements in excess of \$10,000.)

- a. The Contractor and/or Subcontractor shall maintain books, records, documents, and other evidence, accounting procedures and practices, sufficient to properly reflect all direct and indirect costs of whatever nature claimed to have been incurred in the performance of this Agreement, including any matching costs and expenses. The foregoing constitutes "records" for the purpose of this provision.
- b. The Contractor's and/or subcontractor's facility or office or such part thereof as may be engaged in the performance of this Agreement and his/her records shall be subject at all reasonable times to inspection, audit, and reproduction.
- c. Contractor agrees that CDPH, the Department of General Services, the Bureau of State Audits, or their designated representatives including the Comptroller General of the United States shall have the right to review and to copy any records and supporting documentation pertaining to the performance of this Agreement. Contractor agrees to allow the auditor(s) access to such records during normal business hours and to allow interviews of any employees who might reasonably have information related to such



records. Further, the Contractor agrees to include a similar right of the State to audit records and interview staff in any subcontract related to performance of this Agreement. (GC 8546.7, CCR Title 2, Section 1896).

- d. The Contractor and/or Subcontractor shall preserve and make available his/her records (1) for a period of three years from the date of final payment under this Agreement, and (2) for such longer period, if any, as is required by applicable statute, by any other provision of this Agreement, or by subparagraphs (1) or (2) below.
  - (1) If this Agreement is completely or partially terminated, the records relating to the work terminated shall be preserved and made available for a period of three years from the date of any resulting final settlement.
  - (2) If any litigation, claim, negotiation, audit, or other action involving the records has been started before the expiration of the three-year period, the records shall be retained until completion of the action and resolution of all issues which arise from it, or until the end of the regular three-year period, whichever is later.
- e. The Contractor and/or Subcontractor shall comply with the above requirements and be aware of the penalties for violations of fraud and for obstruction of investigation as set forth in Public Contract Code § 10115.10, if applicable.
- f. The Contractor and/or Subcontractor may, at its discretion, following receipt of final payment under this Agreement, reduce its accounts, books and records related to this Agreement to microfilm, computer disk, CD ROM, or other data storage medium. Upon request by an authorized representative to inspect, audit or obtain copies of said records, the Contractor and/or Subcontractor must supply or make available applicable devices, hardware, and/or software necessary to view, copy and/or print said records. Applicable devices may include, but are not limited to, microfilm readers and microfilm printers, etc.
- g. The Contractor shall, if applicable, comply with the Single Audit Act and the audit reporting requirements set forth in OMB Circular A-133.

## 8. Site Inspection

The State, through any authorized representatives, has the right at all reasonable times to inspect or otherwise evaluate the work performed or being performed hereunder including subcontract supported activities and the premises in which it is being performed. If any inspection or evaluation is made of the premises of the Contractor or Subcontractor, the Contractor shall provide and shall require Subcontractors to provide all reasonable facilities and assistance for the safety and convenience of the authorized representatives in the performance of their duties. All inspections and evaluations shall be performed in such a manner as will not unduly delay the work.

## 9. Federal Contract Funds

(Applicable only to that portion of an agreement funded in part or whole with federal funds.)

- a. It is mutually understood between the parties that this Agreement may have been written before ascertaining the availability of congressional appropriation of funds, for the mutual benefit of both parties, in order to avoid program and fiscal delays which would occur if the Agreement were executed after that determination was made.
- b. This agreement is valid and enforceable only if sufficient funds are made available to the State by the United States Government for the fiscal years covered by the term of this Agreement. In addition, this Agreement is subject to any additional restrictions, limitations, or conditions enacted by the Congress or any statute enacted by the Congress which may affect the provisions, terms or funding of this Agreement in any manner.
- c. It is mutually agreed that if the Congress does not appropriate sufficient funds for the program, this Agreement shall be amended to reflect any reduction in funds.

- d. CDPH has the option to invalidate or cancel the Agreement with 30-days advance written notice or to amend the Agreement to reflect any reduction in funds.

## 10. Intellectual Property Rights

### a. Ownership

- (1) Except where CDPH has agreed in a signed writing to accept a license, CDPH shall be and remain, without additional compensation, the sole owner of any and all rights, title and interest in all Intellectual Property, from the moment of creation, whether or not jointly conceived, that are made, conceived, derived from, or reduced to practice by Contractor or CDPH and which result directly or indirectly from this Agreement.
- (2) For the purposes of this Agreement, Intellectual Property means recognized protectable rights and interest such as: patents, (whether or not issued) copyrights, trademarks, service marks, applications for any of the foregoing, inventions, trade secrets, trade dress, logos, insignia, color combinations, slogans, moral rights, right of publicity, author's rights, contract and licensing rights, works, mask works, industrial design rights, rights of priority, know how, design flows, methodologies, devices, business processes, developments, innovations, good will and all other legal rights protecting intangible proprietary information as may exist now and/or here after come into existence, and all renewals and extensions, regardless of whether those rights arise under the laws of the United States, or any other state, country or jurisdiction.
  - (a) For the purposes of the definition of Intellectual Property, "works" means all literary works, writings and printed matter including the medium by which they are recorded or reproduced, photographs, art work, pictorial and graphic representations and works of a similar nature, film, motion pictures, digital images, animation cells, and other audiovisual works including positives and negatives thereof, sound recordings, tapes, educational materials, interactive videos and any other materials or products created, produced, conceptualized and fixed in a tangible medium of expression. It includes preliminary and final products and any materials and information developed for the purposes of producing those final products. Works does not include articles submitted to peer review or reference journals or independent research projects.
- (3) In the performance of this Agreement, Contractor will exercise and utilize certain of its Intellectual Property in existence prior to the effective date of this Agreement. In addition, under this Agreement, Contractor may access and utilize certain of CDPH's Intellectual Property in existence prior to the effective date of this Agreement. Except as otherwise set forth herein, Contractor shall not use any of CDPH's Intellectual Property now existing or hereafter existing for any purposes without the prior written permission of CDPH. **Except as otherwise set forth herein, neither the Contractor nor CDPH shall give any ownership interest in or rights to its Intellectual Property to the other Party.** If during the term of this Agreement, Contractor accesses any third-party Intellectual Property that is licensed to CDPH, Contractor agrees to abide by all license and confidentiality restrictions applicable to CDPH in the third-party's license agreement.
- (4) Contractor agrees to cooperate with CDPH in establishing or maintaining CDPH's exclusive rights in the Intellectual Property, and in assuring CDPH's sole rights against third parties with respect to the Intellectual Property. If the Contractor enters into any agreements or subcontracts with other parties in order to perform this Agreement, Contractor shall require the terms of the Agreement(s) to include all Intellectual Property provisions. Such terms must include, but are not limited to, the subcontractor assigning and agreeing to assign to CDPH all rights, title and interest in Intellectual Property made, conceived, derived from, or reduced to practice by the subcontractor, Contractor or CDPH and which result directly or indirectly from this Agreement or any subcontract.
- (5) Contractor further agrees to assist and cooperate with CDPH in all reasonable respects, and execute all documents and, subject to reasonable availability, give testimony and take all further acts reasonably necessary to acquire, transfer, maintain, and enforce CDPH's Intellectual Property rights and interests.

### b. Retained Rights / License Rights

- (1) Except for Intellectual Property made, conceived, derived from, or reduced to practice by Contractor or CDPH and which result directly or indirectly from this Agreement, Contractor shall retain title to all of its Intellectual Property to the extent such Intellectual Property is in existence prior to the effective date of this Agreement. Contractor hereby grants to CDPH, without additional compensation, a permanent, non-exclusive, royalty free, paid-up, worldwide, irrevocable, perpetual, non-terminable license to use, reproduce, manufacture, sell, offer to sell, import, export, modify, publicly and privately display/perform, distribute, and dispose Contractor's Intellectual Property with the right to sublicense through multiple layers, for any purpose whatsoever, to the extent it is incorporated in the Intellectual Property resulting from this Agreement, unless Contractor assigns all rights, title and interest in the Intellectual Property as set forth herein.
- (2) Nothing in this provision shall restrict, limit, or otherwise prevent Contractor from using any ideas, concepts, know-how, methodology or techniques related to its performance under this Agreement, provided that Contractor's use does not infringe the patent, copyright, trademark rights, license or other Intellectual Property rights of CDPH or third party, or result in a breach or default of any provisions of this Exhibit or result in a breach of any provisions of law relating to confidentiality.

**c. Copyright**

- (1) Contractor agrees that for purposes of copyright law, all works [as defined in Paragraph a, subparagraph (2)(a) of this provision] of authorship made by or on behalf of Contractor in connection with Contractor's performance of this Agreement shall be deemed "works made for hire". Contractor further agrees that the work of each person utilized by Contractor in connection with the performance of this Agreement will be a "work made for hire," whether that person is an employee of Contractor or that person has entered into an agreement with Contractor to perform the work. Contractor shall enter into a written agreement with any such person that: (i) all work performed for Contractor shall be deemed a "work made for hire" under the Copyright Act and (ii) that person shall assign all right, title, and interest to CDPH to any work product made, conceived, derived from, or reduced to practice by Contractor or CDPH and which result directly or indirectly from this Agreement.
- (2) All materials, including, but not limited to, visual works or text, reproduced or distributed pursuant to this Agreement that include Intellectual Property made, conceived, derived from, or reduced to practice by Contractor or CDPH and which result directly or indirectly from this Agreement, shall include CDPH's notice of copyright, which shall read in 3mm or larger typeface: "© [Enter Current Year e.g., 2007, etc.], Department of Public Health. This material may not be reproduced or disseminated without prior written permission from the Department of Public Health." This notice should be placed prominently on the materials and set apart from other matter on the page where it appears. Audio productions shall contain a similar audio notice of copyright.

**d. Patent Rights**

With respect to inventions made by Contractor in the performance of this Agreement, which did not result from research and development specifically included in the Agreement's scope of work, Contractor hereby grants to CDPH a license as described under Section b of this provision for devices or material incorporating, or made through the use of such inventions. If such inventions result from research and development work specifically included within the Agreement's scope of work, then Contractor agrees to assign to CDPH, without additional compensation, all its right, title and interest in and to such inventions and to assist CDPH in securing United States and foreign patents with respect thereto.

**e. Third-Party Intellectual Property**

Except as provided herein, Contractor agrees that its performance of this Agreement shall not be dependent upon or include any Intellectual Property of Contractor or third party without first: (i) obtaining CDPH's prior written approval; and (ii) granting to or obtaining for CDPH, without additional compensation, a license, as described in Section b of this provision, for any of Contractor's or third-party's Intellectual Property in existence prior to the effective date of this Agreement. If such a license upon the these terms is unattainable, and CDPH determines that the Intellectual Property should be included in or is required for Contractor's performance of this Agreement, Contractor shall obtain a license under terms acceptable to CDPH.

**f. Warranties**

- (1) Contractor represents and warrants that:
  - (a) It is free to enter into and fully perform this Agreement.
  - (b) It has secured and will secure all rights and licenses necessary for its performance of this Agreement.
  - (c) Neither Contractor's performance of this Agreement, nor the exercise by either Party of the rights granted in this Agreement, nor any use, reproduction, manufacture, sale, offer to sell, import, export, modification, public and private display/performance, distribution, and disposition of the Intellectual Property made, conceived, derived from, or reduced to practice by Contractor or CDPH and which result directly or indirectly from this Agreement will infringe upon or violate any Intellectual Property right, non-disclosure obligation, or other proprietary right or interest of any third-party or entity now existing under the laws of, or hereafter existing or issued by, any state, the United States, or any foreign country. There is currently no actual or threatened claim by any such third party based on an alleged violation of any such right by Contractor.
  - (d) Neither Contractor's performance nor any part of its performance will violate the right of privacy of, or constitute a libel or slander against any person or entity.
  - (e) It has secured and will secure all rights and licenses necessary for Intellectual Property including, but not limited to, consents, waivers or releases from all authors of music or performances used, and talent (radio, television and motion picture talent), owners of any interest in and to real estate, sites, locations, property or props that may be used or shown.
  - (f) It has not granted and shall not grant to any person or entity any right that would or might derogate, encumber, or interfere with any of the rights granted to CDPH in this Agreement.
  - (g) It has appropriate systems and controls in place to ensure that state funds will not be used in the performance of this Agreement for the acquisition, operation or maintenance of computer software in violation of copyright laws.
  - (h) It has no knowledge of any outstanding claims, licenses or other charges, liens, or encumbrances of any kind or nature whatsoever that could affect in any way Contractor's performance of this Agreement.
- (2) CDPH MAKES NO WARRANTY THAT THE INTELLECTUAL PROPERTY RESULTING FROM THIS AGREEMENT DOES NOT INFRINGE UPON ANY PATENT, TRADEMARK, COPYRIGHT OR THE LIKE, NOW EXISTING OR SUBSEQUENTLY ISSUED.

**g. Intellectual Property Indemnity**

- (1) Contractor shall indemnify, defend and hold harmless CDPH and its licensees and assignees, and its officers, directors, employees, agents, representatives, successors, and users of its products, ("Indemnitees") from and against all claims, actions, damages, losses, liabilities (or actions or proceedings with respect to any thereof), whether or not rightful, arising from any and all actions or claims by any third party or expenses related thereto (including, but not limited to, all legal expenses, court costs, and attorney's fees incurred in investigating, preparing, serving as a witness in, or defending against, any such claim, action, or proceeding, commenced or threatened) to which any of the Indemnitees may be subject, whether or not Contractor is a party to any pending or threatened litigation, which arise out of or are related to (i) the incorrectness or breach of any of the representations, warranties, covenants or agreements of Contractor pertaining to Intellectual Property; or (ii) any Intellectual Property infringement, or any other type of actual or alleged infringement claim, arising out of CDPH's use, reproduction, manufacture, sale, offer to sell, distribution, import, export, modification, public and private performance/display, license, and disposition of the Intellectual Property made, conceived, derived from, or reduced to practice by Contractor or CDPH and which result directly or indirectly from this Agreement. This indemnity obligation shall apply irrespective of whether the infringement claim is based on a patent, trademark or copyright registration that issued after the effective date of this Agreement. CDPH reserves the right to participate in and/or control, at Contractor's expense, any such infringement action brought against CDPH.

- (2) Should any Intellectual Property licensed by the Contractor to CDPH under this Agreement become the subject of an Intellectual Property infringement claim, Contractor will exercise its authority reasonably and in good faith to preserve CDPH's right to use the licensed Intellectual Property in accordance with this Agreement at no expense to CDPH. CDPH shall have the right to monitor and appear through its own counsel (at Contractor's expense) in any such claim or action. In the defense or settlement of the claim, Contractor may obtain the right for CDPH to continue using the licensed Intellectual Property; or, replace or modify the licensed Intellectual Property so that the replaced or modified Intellectual Property becomes non-infringing provided that such replacement or modification is functionally equivalent to the original licensed Intellectual Property. If such remedies are not reasonably available, CDPH shall be entitled to a refund of all monies paid under this Agreement, without restriction or limitation of any other rights and remedies available at law or in equity.
- (3) Contractor agrees that damages alone would be inadequate to compensate CDPH for breach of any term of this Intellectual Property Exhibit by Contractor. Contractor acknowledges CDPH would suffer irreparable harm in the event of such breach and agrees CDPH shall be entitled to obtain equitable relief, including without limitation an injunction, from a court of competent jurisdiction, without restriction or limitation of any other rights and remedies available at law or in equity.

#### **h. Federal Funding**

In any agreement funded in whole or in part by the federal government, CDPH may acquire and maintain the Intellectual Property rights, title, and ownership, which results directly or indirectly from the Agreement; except as provided in 37 Code of Federal Regulations part 401.14; however, the federal government shall have a non-exclusive, nontransferable, irrevocable, paid-up license throughout the world to use, duplicate, or dispose of such Intellectual Property throughout the world in any manner for governmental purposes and to have and permit others to do so.

#### **i. Survival**

The provisions set forth herein shall survive any termination or expiration of this Agreement or any project schedule.

### **11. Air or Water Pollution Requirements**

Any federally funded agreement and/or subcontract in excess of \$100,000 must comply with the following provisions unless said agreement is exempt under 40 CFR 15.5.

- a. Government contractors agree to comply with all applicable standards, orders, or requirements issued under section 306 of the Clean Air Act [42 U.S.C. 1857(h)], section 508 of the Clean Water Act (33 U.S.C. 1368), Executive Order 11738, and Environmental Protection Agency regulations (40 CFR part 15).
- b. Institutions of higher education, hospitals, nonprofit organizations and commercial businesses agree to comply with all applicable standards, orders, or requirements issued under the Clean Air Act (42 U.S.C. 7401 et seq.), as amended, and the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.), as amended.

### **12. Prior Approval of Training Seminars, Workshops or Conferences**

Contractor shall obtain prior CDPH approval of the location, costs, dates, agenda, instructors, instructional materials, and attendees at any reimbursable training seminar, workshop, or conference conducted pursuant to this Agreement and of any reimbursable publicity or educational materials to be made available for distribution. The Contractor shall acknowledge the support of the State whenever publicizing the work under this Agreement in any media. This provision does not apply to necessary staff meetings or training sessions held for the staff of the Contractor or Subcontractor to conduct routine business matters.

### **13. Confidentiality of Information**

- a. The Contractor and its employees, agents, or subcontractors shall protect from unauthorized disclosure names and other identifying information concerning persons either receiving services pursuant to this Agreement or persons whose names or identifying information become available or are disclosed to the

Contractor, its employees, agents, or subcontractors as a result of services performed under this Agreement, except for statistical information not identifying any such person.

- b. The Contractor and its employees, agents, or subcontractors shall not use such identifying information for any purpose other than carrying out the Contractor's obligations under this Agreement.
- c. The Contractor and its employees, agents, or subcontractors shall promptly transmit to the CDPH Program Contract Manager all requests for disclosure of such identifying information not emanating from the client or person.
- d. The Contractor shall not disclose, except as otherwise specifically permitted by this Agreement or authorized by the client, any such identifying information to anyone other than CDPH without prior written authorization from the CDPH Program Contract Manager, except if disclosure is required by State or Federal law.
- e. For purposes of this provision, identity shall include, but not be limited to name, identifying number, symbol, or other identifying particular assigned to the individual, such as finger or voice print or a photograph.
- f. As deemed applicable by CDPH, this provision may be supplemented by additional terms and conditions covering personal health information (PHI) or personal, sensitive, and/or confidential information (PSCI). Said terms and conditions will be outlined in one or more exhibits that will either be attached to this Agreement or incorporated into this Agreement by reference.

#### **14. Documents, Publications and Written Reports**

(Applicable to agreements over \$5,000 under which publications, written reports and documents are developed or produced. Government Code Section 7550.)

Any document, publication or written report (excluding progress reports, financial reports and normal contractual communications) prepared as a requirement of this Agreement shall contain, in a separate section preceding the main body of the document, the number and dollar amounts of all contracts or agreements and subcontracts relating to the preparation of such document or report, if the total cost for work by nonemployees of the State exceeds \$5,000.

#### **15. Dispute Resolution Process**

- a. A Contractor grievance exists whenever there is a dispute arising from CDPH's action in the administration of an agreement. If there is a dispute or grievance between the Contractor and CDPH, the Contractor must seek resolution using the procedure outlined below.
  - (1) The Contractor should first informally discuss the problem with the CDPH Program Contract Manager. If the problem cannot be resolved informally, the Contractor shall direct its grievance together with any evidence, in writing, to the program Branch Chief. The grievance shall state the issues in dispute, the legal authority or other basis for the Contractor's position and the remedy sought. The Branch Chief shall render a decision within ten (10) working days after receipt of the written grievance from the Contractor. The Branch Chief shall respond in writing to the Contractor indicating the decision and reasons therefore. If the Contractor disagrees with the Branch Chief's decision, the Contractor may appeal to the second level.
  - (2) When appealing to the second level, the Contractor must prepare an appeal indicating the reasons for disagreement with Branch Chief's decision. The Contractor shall include with the appeal a copy of the Contractor's original statement of dispute along with any supporting evidence and a copy of the Branch Chief's decision. The appeal shall be addressed to the Deputy Director of the division in which the branch is organized within ten (10) working days from receipt of the Branch Chief's decision. The Deputy Director of the division in which the branch is organized or his/her designee shall meet with the Contractor to review the issues raised. A written decision signed by the Deputy Director of the division in which the branch is organized or his/her designee shall be directed to the Contractor within twenty (20) working days of receipt of the Contractor's second level appeal.

- b. If the Contractor wishes to appeal the decision of the Deputy Director of the division in which the branch is organized or his/her designee, the Contractor shall follow the procedures set forth in Division 25.1 (commencing with Section 38050) of the Health and Safety Code and the regulations adopted thereunder. (Title 1, Division 2, Chapter 2, Article 3 (commencing with Section 1140) of the California Code of Regulations).
- c. Disputes arising out of an audit, examination of an agreement or other action not covered by subdivision (a) of Section 20204, of Chapter 2.1, Title 22, of the California Code of Regulations, and for which no procedures for appeal are provided in statute, regulation or the Agreement, shall be handled in accordance with the procedures identified in Sections 51016 through 51047, Title 22, California Code of Regulations.
- d. Unless otherwise stipulated in writing by CDPH, all dispute, grievance and/or appeal correspondence shall be directed to the CDPH Program Contract Manager.
- e. There are organizational differences within CDPH's funding programs and the management levels identified in this dispute resolution provision may not apply in every contractual situation. When a grievance is received and organizational differences exist, the Contractor shall be notified in writing by the CDPH Program Contract Manager of the level, name, and/or title of the appropriate management official that is responsible for issuing a decision at a given level.

#### 16. Financial and Compliance Audit Requirements

- a. The definitions used in this provision are contained in Section 38040 of the Health and Safety Code, which by this reference is made a part hereof.
- b. Direct service contract means a contract or agreement for services contained in local assistance or subvention programs or both (see Health and Safety [H&S] Code section 38020). Direct service contracts shall not include contracts, agreements, grants, or subventions to other governmental agencies or units of government nor contracts or agreements with regional centers or area agencies on aging (H&S Code section 38030).
- c. The Contractor, as indicated below, agrees to obtain one of the following audits:
  - (1) If the Contractor is a nonprofit organization (as defined in H&S Code section 38040) and receives \$25,000 or more from any State agency under a direct service contract or agreement; the Contractor agrees to obtain an annual single, organization wide, financial and compliance audit. Said audit shall be conducted according to Generally Accepted Auditing Standards. This audit does not fulfill the audit requirements of Paragraph c(3) below. The audit shall be completed by the 15th day of the fifth month following the end of the Contractor's fiscal year, **and/or**
  - (2) If the Contractor is a nonprofit organization (as defined in H&S Code section 38040) and receives less than \$25,000 per year from any State agency under a direct service contract or agreement, the Contractor agrees to obtain a biennial single, organization wide financial and compliance audit, unless there is evidence of fraud or other violation of state law in connection with this Agreement. This audit does not fulfill the audit requirements of Paragraph c(3) below. The audit shall be completed by the 15th day of the fifth month following the end of the Contractor's fiscal year, **and/or**
  - (3) If the Contractor is a State or Local Government entity or Nonprofit organization (as defined by the Federal Office of Management and Budget [OMB] Circular A-133) and expends \$500,000 or more in Federal awards, the Contractor agrees to obtain an annual single, organization wide, financial and compliance audit according to the requirements specified in OMB Circular A-133 entitled "Audits of States, Local Governments, and Non-Profit Organizations". An audit conducted pursuant to this provision will fulfill the audit requirements outlined in Paragraphs c(1) and c(2) above. The audit shall be completed by the end of the ninth month following the end of the audit period. The requirements of this provision apply if:
    - (a) The Contractor is a recipient expending Federal awards received directly from Federal awarding agencies, or

- (b) The Contractor is a subrecipient expending Federal awards received from a pass-through entity such as the State, County or community based organization.
- (4) If the Contractor submits to CDPH a report of an audit other than an OMB A-133 audit, the Contractor must also submit a certification indicating the Contractor has not expended \$500,000 or more in federal funds for the year covered by the audit report.
- d. Two copies of the audit report shall be delivered to the CDPH program funding this Agreement. The audit report must identify the Contractor's legal name and the number assigned to this Agreement. The audit report shall be due within 30 days after the completion of the audit. Upon receipt of said audit report, the CDPH Program Contract Manager shall forward the audit report to CDPH's Audits and Investigations Unit if the audit report was submitted under Section 16.c(3), unless the audit report is from a City, County, or Special District within the State of California whereby the report will be retained by the funding program.
  - e. The cost of the audits described herein may be included in the funding for this Agreement up to the proportionate amount this Agreement represents of the Contractor's total revenue. The CDPH program funding this Agreement must provide advance written approval of the specific amount allowed for said audit expenses.
  - f. The State or its authorized designee, including the Bureau of State Audits, is responsible for conducting agreement performance audits which are not financial and compliance audits. Performance audits are defined by Generally Accepted Government Auditing Standards.
  - g. Nothing in this Agreement limits the State's responsibility or authority to enforce State law or regulations, procedures, or reporting requirements arising thereto.
  - h. Nothing in this provision limits the authority of the State to make audits of this Agreement, provided however, that if independent audits arranged for by the Contractor meet Generally Accepted Governmental Auditing Standards, the State shall rely on those audits and any additional audit work and shall build upon the work already done.
  - i. The State may, at its option, direct its own auditors to perform either of the audits described above. The Contractor will be given advance written notification, if the State chooses to exercise its option to perform said audits.
  - j. The Contractor shall include a clause in any agreement the Contractor enters into with the audit firm doing the single organization wide audit to provide access by the State or Federal Government to the working papers of the independent auditor who prepares the single organization wide audit for the Contractor.
  - k. Federal or state auditors shall have "expanded scope auditing" authority to conduct specific program audits during the same period in which a single organization wide audit is being performed, but the audit report has not been issued. The federal or state auditors shall review and have access to the current audit work being conducted and will not apply any testing or review procedures which have not been satisfied by previous audit work that has been completed.

The term "expanded scope auditing" is applied and defined in the U.S. General Accounting Office (GAO) issued Standards for *Audit of Government Organizations, Programs, Activities and Functions*, better known as the "yellow book".

#### 17. Human Subjects Use Requirements

(Applicable only to federally funded agreements/grants in which performance, directly or through a subcontract/subaward, includes any tests or examination of materials derived from the human body.)

By signing this Agreement, Contractor agrees that if any performance under this Agreement or any subcontract or subagreement includes any tests or examination of materials derived from the human body for the purpose of providing information, diagnosis, prevention, treatment or assessment of disease, impairment, or health of a human being, all locations at which such examinations are performed shall meet the requirements of 42 U.S.C. Section 263a (CLIA) and the regulations thereunder.



**18. Novation Requirements**

If the Contractor proposes any novation agreement, CDPH shall act upon the proposal within 60 days after receipt of the written proposal. CDPH may review and consider the proposal, consult and negotiate with the Contractor, and accept or reject all or part of the proposal. Acceptance or rejection of the proposal may be made orally within the 60-day period and confirmed in writing within five days of said decision. Upon written acceptance of the proposal, CDPH will initiate an amendment to this Agreement to formally implement the approved proposal.

**19. Debarment and Suspension Certification**

(Applicable to all agreements funded in part or whole with federal funds.)

- a. By signing this Agreement, the Contractor/Grantee agrees to comply with applicable federal suspension and debarment regulations including, but not limited to 7 CFR Part 3017, 45 CFR 76, 40 CFR 32 or 34 CFR 85.
- b. By signing this Agreement, the Contractor certifies to the best of its knowledge and belief, that it and its principals:
  - (1) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded by any federal department or agency;
  - (2) Have not within a three-year period preceding this application/proposal/agreement been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
  - (3) Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State or local) with commission of any of the offenses enumerated in Paragraph b(2) herein; and
  - (4) Have not within a three-year period preceding this application/proposal/agreement had one or more public transactions (Federal, State or local) terminated for cause or default.
  - (5) Shall not knowingly enter into any lower tier covered transaction with a person who is proposed for debarment under federal regulations (i.e., 48 CFR part 9, subpart 9.4), debarred, suspended, declared ineligible, or voluntarily excluded from participation in such transaction, unless authorized by the State.
  - (6) Will include a clause entitled, "Debarment and Suspension Certification" that essentially sets forth the provisions herein, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.
- c. If the Contractor is unable to certify to any of the statements in this certification, the Contractor shall submit an explanation to the CDPH Program Contract Manager.
- d. The terms and definitions herein have the meanings set out in the Definitions and Coverage sections of the rules implementing Federal Executive Order 12549.
- e. If the Contractor knowingly violates this certification, in addition to other remedies available to the Federal Government, the CDPH may terminate this Agreement for cause or default.

**20. Smoke-Free Workplace Certification**

(Applicable to federally funded agreements/grants and subcontracts/subawards, that provide health, day care, early childhood development services, education or library services to children under 18 directly or through local governments.)

- a. Public Law 103-227, also known as the Pro-Children Act of 1994 (Act), requires that smoking not be

permitted in any portion of any indoor facility owned or leased or contracted for by an entity and used routinely or regularly for the provision of health, day care, early childhood development services, education or library services to children under the age of 18, if the services are funded by federal programs either directly or through state or local governments, by federal grant, contract, loan, or loan guarantee. The law also applies to children's services that are provided in indoor facilities that are constructed, operated, or maintained with such federal funds. The law does not apply to children's services provided in private residences; portions of facilities used for inpatient drug or alcohol treatment; service providers whose sole source of applicable federal funds is Medicare or Medicaid; or facilities where WIC coupons are redeemed.

- b. Failure to comply with the provisions of the law may result in the imposition of a civil monetary penalty of up to \$1,000 for each violation and/or the imposition of an administrative compliance order on the responsible party.
- c. By signing this Agreement, Contractor or Grantee certifies that it will comply with the requirements of the Act and will not allow smoking within any portion of any indoor facility used for the provision of services for children as defined by the Act. The prohibitions herein are effective December 26, 1994.
- d. Contractor or Grantee further agrees that it will insert this certification into any subawards (subcontracts or subgrants) entered into that provide for children's services as described in the Act.

#### **21. Covenant Against Contingent Fees**

(Applicable only to federally funded agreements.)

The Contractor warrants that no person or selling agency has been employed or retained to solicit/secure this Agreement upon an agreement of understanding for a commission, percentage, brokerage, or contingent fee, except *bona fide* employees or *bona fide* established commercial or selling agencies retained by the Contractor for the purpose of securing business. For breach or violation of this warranty, CDPH shall have the right to annul this Agreement without liability or in its discretion to deduct from the Agreement price or consideration, or otherwise recover, the full amount of such commission, percentage, and brokerage or contingent fee.

#### **22. Payment Withholds**

(Applicable only if a final report is required by this Agreement. Not applicable to government entities.)

Unless waived or otherwise stipulated in this Agreement, CDPH may, at its discretion, withhold 10 percent (10%) of the face amount of the Agreement, 50 percent (50%) of the final invoice, or \$3,000 whichever is greater, until CDPH receives a final report that meets the terms, conditions and/or scope of work requirements of this Agreement.

#### **23. Performance Evaluation**

(Not applicable to grant agreements.)

CDPH may, at its discretion, evaluate the performance of the Contractor at the conclusion of this Agreement. If performance is evaluated, the evaluation shall not be a public record and shall remain on file with CDPH. Negative performance evaluations may be considered by CDPH prior to making future contract awards.

#### **24. Officials Not to Benefit**

No members of or delegate of Congress or the State Legislature shall be admitted to any share or part of this Agreement, or to any benefit that may arise therefrom. This provision shall not be construed to extend to this Agreement if made with a corporation for its general benefits.

#### **25. Four-Digit Date Compliance**

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

Contractor warrants that it will provide only Four-Digit Date Compliant (as defined below) Deliverables and/or services to the State. "Four Digit Date compliant" Deliverables and services can accurately process, calculate, compare, and sequence date data, including without limitation date data arising out of or relating to leap years and changes in centuries. This warranty and representation is subject to the warranty terms and conditions of this Contract and does not limit the generality of warranty obligations set forth elsewhere herein.

**26. Prohibited Use of State Funds for Software**

(Applicable to agreements in which computer software is used in performance of the work.)

Contractor certifies that it has appropriate systems and controls in place to ensure that state funds will not be used in the performance of this Agreement for the acquisition, operation or maintenance of computer software in violation of copyright laws.

**27. Use of Small, Minority Owned and Women's Businesses**

(Applicable to that portion of an agreement that is federally funded and entered into with institutions of higher education, hospitals, nonprofit organizations or commercial businesses.)

Positive efforts shall be made to use small businesses, minority-owned firms and women's business enterprises, whenever possible (i.e., procurement of goods and/or services). Contractors shall take all of the following steps to further this goal.

- (1) Ensure that small businesses, minority-owned firms, and women's business enterprises are used to the fullest extent practicable.
- (2) Make information on forthcoming purchasing and contracting opportunities available and arrange time frames for purchases and contracts to encourage and facilitate participation by small businesses, minority-owned firms, and women's business enterprises.
- (3) Consider in the contract process whether firms competing for larger contracts intend to subcontract with small businesses, minority-owned firms, and women's business enterprises.
- (4) Encourage contracting with consortiums of small businesses, minority-owned firms and women's business enterprises when a contract is too large for one of these firms to handle individually.
- (5) Use the services and assistance, as appropriate, of such organizations as the Federal Small Business Administration and the U.S. Department of Commerce's Minority Business Development Agency in the solicitation and utilization of small businesses, minority-owned firms and women's business enterprises.

**28. Alien Ineligibility Certification**

(Applicable to sole proprietors entering federally funded agreements.)

By signing this Agreement, the Contractor certifies that he/she is not an alien that is ineligible for state and local benefits, as defined in Subtitle B of the Personal Responsibility and Work Opportunity Act. (8 U.S.C. 1601, et seq.)

**29. Union Organizing**

(Applicable only to grant agreements.)

Grantee, by signing this Agreement, hereby acknowledges the applicability of Government Code Sections 16645 through 16649 to this Agreement. Furthermore, Grantee, by signing this Agreement, hereby certifies that:

- a. No state funds disbursed by this grant will be used to assist, promote or deter union organizing.
- b. Grantee shall account for state funds disbursed for a specific expenditure by this grant, to show those funds were allocated to that expenditure.

- c. Grantee shall, where state funds are not designated as described in b herein, allocate, on a pro-rata basis, all disbursements that support the grant program.
- d. If Grantee makes expenditures to assist, promote or deter union organizing, Grantee will maintain records sufficient to show that no state funds were used for those expenditures, and that Grantee shall provide those records to the Attorney General upon request.

### 30. Contract Uniformity (Fringe Benefit Allowability)

(Applicable only to nonprofit organizations.)

Pursuant to the provisions of Article 7 (commencing with Section 100525) of Chapter 3 of Part 1 of Division 101 of the Health and Safety Code, CDPH sets forth the following policies, procedures, and guidelines regarding the reimbursement of fringe benefits.

- a. As used herein fringe benefits shall mean an employment benefit given by one's employer to an employee in addition to one's regular or normal wages or salary.
- b. As used herein, fringe benefits do not include:
  - (1) Compensation for personal services paid currently or accrued by the Contractor for services of employees rendered during the term of this Agreement, which is identified as regular or normal salaries and wages, annual leave, vacation, sick leave, holidays, jury duty and/or military leave/training.
  - (2) Director's and executive committee member's fees.
  - (3) Incentive awards and/or bonus incentive pay.
  - (4) Allowances for off-site pay.
  - (5) Location allowances.
  - (6) Hardship pay.
  - (7) Cost-of-living differentials
- c. Specific allowable fringe benefits include:
  - (1) Fringe benefits in the form of employer contributions for the employer's portion of payroll taxes (i.e., FICA, SUI, SDI), employee health plans (i.e., health, dental and vision), unemployment insurance, worker's compensation insurance, and the employer's share of pension/retirement plans, provided they are granted in accordance with established written organization policies and meet all legal and Internal Revenue Service requirements.
- d. To be an allowable fringe benefit, the cost must meet the following criteria:
  - (1) Be necessary and reasonable for the performance of the Agreement.
  - (2) Be determined in accordance with generally accepted accounting principles.
  - (3) Be consistent with policies that apply uniformly to all activities of the Contractor.
- e. Contractor agrees that all fringe benefits shall be at actual cost.
- f. Earned/Accrued Compensation
  - (1) Compensation for vacation, sick leave and holidays is limited to that amount earned/accrued within the agreement term. Unused vacation, sick leave and holidays earned from periods prior to the agreement term cannot be claimed as allowable costs. See section f (3)(a) below for an example.
  - (2) For multiple year agreements, vacation and sick leave compensation, which is earned/accrued but not paid, due to employee(s) not taking time off may be carried over and claimed within the overall term of the multiple years of the Agreement. Holidays cannot be carried over from one agreement year to the next. See Provision f (3)(b) for an example.
  - (3) For single year agreements, vacation, sick leave and holiday compensation that is earned/accrued but not paid, due to employee(s) not taking time off within the term of the Agreement, cannot be claimed as an allowable cost. See Provision f (3)(c) for an example.

(a) **Example No. 1:**

If an employee, John Doe, earns/accrues three weeks of vacation and twelve days of sick leave each year, then that is the maximum amount that may be claimed during a one year agreement. If John Doe has five weeks of vacation and eighteen days of sick leave at the beginning of an agreement, the Contractor during a one-year budget period may only claim up to three weeks of vacation and twelve days of sick leave as actually used by the employee. Amounts earned/accrued in periods prior to the beginning of the Agreement are not an allowable cost.

(b) **Example No. 2:**

If during a three-year (multiple year) agreement, John Doe does not use his three weeks of vacation in year one, or his three weeks in year two, but he does actually use nine weeks in year three; the Contractor would be allowed to claim all nine weeks paid for in year three. The total compensation over the three-year period cannot exceed 156 weeks (3 x 52 weeks).

(c) **Example No. 3:**

If during a single year agreement, John Doe works fifty weeks and used one week of vacation and one week of sick leave and all fifty-two weeks have been billed to CDPH, the remaining unused two weeks of vacation and seven days of sick leave may not be claimed as an allowable cost.

### 31. Lobbying Restrictions and Disclosure Certification

(Applicable to federally funded agreements in excess of \$100,000 per Section 1352 of the 31, U.S.C.)

a. Certification and Disclosure Requirements

- (1) Each person (or recipient) who requests or receives a contract or agreement, subcontract, grant, or subgrant, which is subject to Section 1352 of the 31, U.S.C., and which exceeds \$100,000 at any tier, shall file a certification (in the form set forth in Attachment 1, consisting of one page, entitled "Certification Regarding Lobbying") that the recipient has not made, and will not make, any payment prohibited by Paragraph b of this provision.
- (2) Each recipient shall file a disclosure (in the form set forth in Attachment 2, entitled "Standard Form-LLL 'disclosure of Lobbying Activities'") if such recipient has made or has agreed to make any payment using nonappropriated funds (to include profits from any covered federal action) in connection with a contract, or grant or any extension or amendment of that contract, or grant, which would be prohibited under Paragraph b of this provision if paid for with appropriated funds.
- (3) Each recipient shall file a disclosure form at the end of each calendar quarter in which there occurs any event that requires disclosure or that materially affect the accuracy of the information contained in any disclosure form previously filed by such person under Paragraph a(2) herein. An event that materially affects the accuracy of the information reported includes:
  - (a) A cumulative increase of \$25,000 or more in the amount paid or expected to be paid for influencing or attempting to influence a covered federal action;
  - (b) A change in the person(s) or individuals(s) influencing or attempting to influence a covered federal action; or
  - (c) A change in the officer(s), employee(s), or member(s) contacted for the purpose of influencing or attempting to influence a covered federal action.
- (4) Each person (or recipient) who requests or receives from a person referred to in Paragraph a(1) of this provision a contract or agreement, subcontract, grant or subgrant exceeding \$100,000 at any tier under a contract or agreement, or grant shall file a certification, and a disclosure form, if required, to the next tier above.
- (5) All disclosure forms (but not certifications) shall be forwarded from tier to tier until received by the person referred to in Paragraph a(1) of this provision. That person shall forward all disclosure forms to CDPH Program Contract Manager.

**b. Prohibition**

Section 1352 of Title 31, U.S.C., provides in part that no appropriated funds may be expended by the recipient of a federal contract or agreement, grant, loan, or cooperative agreement to pay any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with any of the following covered federal actions: the awarding of any federal contract or agreement, the making of any federal grant, the making of any federal loan, entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal contract or agreement, grant, loan, or cooperative agreement.

**32. Additional Restrictions**

(Applicable to all contracts funded in whole or in part with funding from the federal Departments of Labor, Health and Human Services (including CDC funding), or Education.)

Contractor shall comply with the restrictions under Division F, Title V, Section 503 of the Consolidated Appropriations Act, 2012 (H.R. 2055), which provides that:

"SEC. 503.(a) No part of any appropriation contained in this Act or transferred pursuant to section 4002 of Public Law 111-148 shall be used, other than for normal and recognized executive-legislative relationships, for publicity or propaganda purposes, for the preparation, distribution, or use of any kit, pamphlet, booklet, publication, electronic communication, radio, television, or video presentation designed to support or defeat the enactment of legislation before the Congress or any State or local legislature or legislative body, except in presentation to the Congress or any State or local legislature itself, or designed to support or defeat any proposed or pending regulation, administrative action, or order issued by the executive branch of any State or local government, except in presentation to the executive branch of any State or local government itself.

(b) No part of any appropriation contained in this Act or transferred pursuant to section 4002 of Public Law 111-148 shall be used to pay the salary or expenses of any grant or contract recipient, or agent acting for such recipient, related to any activity designed to influence the enactment of legislation, appropriations, regulation, administrative action, or Executive order proposed or pending before the Congress or any State government, State legislature or local legislature or legislative body, other than for normal and recognized executive-legislative relationships or participation by an agency or officer of a State, local or tribal government in policymaking and administrative processes within the executive branch of that government.

(c) The prohibitions in subsections (a) and (b) shall include any activity to advocate or promote any proposed, pending or future Federal, State or local tax increase, or any proposed, pending, or future requirement or restriction on any legal consumer product, including its sale or marketing, including but not limited to the advocacy or promotion of gun control."

**33. Federal Requirements**

Contractor agrees to comply with and shall require all subcontractors, if any, to comply with all applicable Federal requirements including but not limited to the United States Code, the Code of Federal Regulations, the Funding Opportunity Announcement, the Notice of Award, the funding agreement, and any memoranda or letter regarding the applicable Federal requirements.

STATE OF CALIFORNIA  
CALIFORNIA DEPARTMENT OF PUBLIC HEALTH  
CERTIFICATION REGARDING LOBBYING

The undersigned certifies, to the best of his or her knowledge and belief, that:

(1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the making, awarding or entering into of this Federal contract, Federal grant, or cooperative agreement, and the extension, continuation, renewal, amendment, or modification of this Federal contract, grant, or cooperative agreement.

(2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency of the United States Government, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, or cooperative agreement, the undersigned shall complete and submit Standard Form LLL, "Disclosure of Lobbying Activities" in accordance with its instructions.

(3) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontractors, subgrants, and contracts under grants and cooperative agreements) of \$100,000 or more, and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Section 1352, Title 31, U.S.C., any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

\_\_\_\_\_

\_\_\_\_\_

Stanislaus County Health Services Agency

MARY ANN LEE

Name of Contractor

Printed Name of Person Signing for Contractor

15-10173

Contract / Grant Number

Signature of Person Signing for Contractor

MANAGING DIRECTOR

Date

Title

After execution by or on behalf of Contractor, please return to:

California Department of Public Health

APPROVED AS TO FORM:

BY: Marc Hartley DATE: 6/29/2015  
Marc Hartley, Deputy County Counsel

CDPH reserves the right to notify the contractor in writing of an alternate submission address.

**CERTIFICATION REGARDING LOBBYING**

Complete this form to disclose lobbying activities pursuant to 31 U.S.C. 1352  
(See reverse for public burden disclosure)

Approved by OMB  
0348-0046

<p>1. Type of Federal Action:  <input type="checkbox"/> a. contract  <input type="checkbox"/> b. grant  <input type="checkbox"/> c. cooperative agreement  <input type="checkbox"/> d. loan  <input type="checkbox"/> e. loan guarantee  <input type="checkbox"/> f. loan insurance</p>	<p>2. Status of Federal Action:  <input type="checkbox"/> a. bid/offer/application  <input type="checkbox"/> b. initial award  <input type="checkbox"/> c. post-award</p>	<p>3. Report Type:  <input type="checkbox"/> a. initial filing  <input type="checkbox"/> b. material change                  For Material Change Only:                  Year ____ quarter ____                  date of last report ____.</p>
<p>4. Name and Address of Reporting Entity:  <input type="checkbox"/> Prime                      <input type="checkbox"/> Subawardee                  Tier ____, if known:                   Congressional District, if known:</p>	<p>5. If Reporting Entity in No. 4 is Subawardee, Enter Name and Address of Prime:                   Congressional District, if known:</p>	
<p>6. Federal Department/Agency</p>	<p>7. Federal Program Name/Description:                   CDFA Number, if applicable: ____</p>	
<p>8. Federal Action Number, if known:</p>	<p>9. Award Amount, if known:                  \$</p>	
<p>10.a. Name and Address of Lobbying Registrant                  (If individual, last name, first name, MI):</p>	<p>b. Individuals Performing Services (including address if different from 10a.                  (Last name, First name, MI):</p>	
<p>11. Information requested through this form is authorized by title 31 U.S.C. section 1352. This disclosure of lobbying activities is a material representation of fact upon which reliance was placed by the tier above when this transaction was made or entered into. This disclosure is required pursuant to 31 U.S.C. 1352. This information will be available for public inspection. required disclosure shall be subject to a not more than \$100,000 for each such failure.</p>	<p>Signature: _____                  Print Name: _____                  Title: _____                  Telephone No.: _____ Date: _____</p>	
<p><b>Federal Use Only</b></p>		<p>Authorized for Local Reproduction                  Standard Form-LLL (Rev. 7-97)</p>



**INSTRUCTIONS FOR COMPLETION OF SF-LLL, DISCLOSURE OF LOBBYING ACTIVITIES**

This disclosure form shall be completed by the reporting entity, whether subawardee or prime Federal recipient, at the initiation or receipt of a covered Federal action, or a material change to a previous filing, pursuant to title 31 U.S.C. section 1352. The filing of a form is required for each payment or agreement to make payment to any lobbying entity for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with a covered Federal action. Complete all items that apply for both the initial filing and material change report. Refer to the implementing guidance published by the Office of Management and Budget for additional information.

1. Identify the type of covered Federal action for which lobbying activity is and/or has been secured to influence the outcome of a covered Federal action.
2. Identify the status of the covered Federal action.
3. Identify the appropriate classification of this report. If this is a follow-up report caused by a material change to the information previously reported, enter the year and quarter in which the change occurred. Enter the date of the last previously submitted report by this reporting entity for this covered Federal action.
4. Enter the full name, address, city, State and zip code of the reporting entity. Include Congressional District, if known. Check the appropriate classification of the reporting entity that designates if it is, or expects to be a prime or subaward recipient. Identify the tier of the subawardee, e.g., the first subawardee of the prime is the 1st tier. Subawards include but are not limited to subcontracts, subgrants and contract awards under grants.
5. If the organization filing the report in item 4 checks "Subawardee," then enter the full name, address, city, State and zip code of the prime Federal recipient. Include Congressional District, if known.
6. Enter the name of the Federal agency making the award or loan commitment. Include at least one organizational level below agency name, if known. For example, Department of Transportation, United States Coast Guard.
7. Enter the Federal program name or description for the covered Federal action (item 1). If known, enter the full Catalog of Federal Domestic Assistance (CFDA) number for grants, cooperative agreements, loans, and loan commitments.
8. Enter the most appropriate Federal identifying number available for the Federal action identified in item 1 (e.g., Request for Proposal (RFP) number; Invitation for Bid (IFB) number; grant announcement number; the contract, grant, or loan award number; the application/proposal control number assigned by the Federal agency). Include prefixes, e.g., "RFP-DE-90-001."
9. For a covered Federal action where there has been an award or loan commitment by the Federal agency, enter the Federal amount of the award/loan commitment for the prime entity identified in item 4 or 5.
10. (a) Enter the full name, address, city, State and zip code of the lobbying registrant under the Lobbying Disclosure Act of 1995 engaged by the reporting entity identified in item 4 to influence the covered Federal action.  
 (b) Enter the full names of the individual(s) performing services, and include full address if different from 10 (a). Enter Last Name, First Name, and Middle Initial (MI).
11. The certifying official shall sign and date the form, print his/her name, title, and telephone number.

According to the Paperwork Reduction Act, as amended, no persons are required to respond to a collection of information unless it displays a valid OMB Control Number. The valid OMB control number for this information collection is OMB No. 0348-0046. Public reporting burden for this collection of information is estimated to average 10 minutes per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Office of Management and Budget, Paperwork Reduction Project (0348-0046), Washington, DC 20503.

**Exhibit E**  
Additional Provisions

**1. Additional Incorporated Exhibits**

A. The following documents and any subsequent updates are not attached, but are incorporated herein and made a part hereof by this reference. These documents may be updated periodically by CDPH, as required by program directives. CDPH shall provide the Grantee with copies of said documents and any periodic updates thereto, under separate cover. CDPH will maintain on file, all documents referenced herein and any subsequent updates.

1. *NFP and HFA Policies and Procedures*
2. *Fiscal Administration Policy and Procedure Manual*

**2. Cancellation / Termination**

A. This Agreement may be cancelled by CDPH without cause upon 30 calendar days advance written notice to the Contractor.

B. CDPH reserves the right to cancel or terminate this Agreement immediately for cause. The Contractor may submit a written request to terminate this Agreement only if CDPH substantially fails to perform its responsibilities as provided herein.

C. The term "for cause" shall mean that the Contractor fails to meet the terms, conditions, and/or responsibilities of this Agreement.

- 1) If the Contractor knowingly furnishes any statement, representation, warranty, or certification in connection with the agreement, which representation is materially false, deceptive, incorrect, or incomplete.
- 2) If the Contractor fails to perform any material requirement of this agreement or defaults in performance of this agreement.
- 3) If the Contractor files for bankruptcy, or if CDPH determines that the Contractor becomes financially incapable of completing this agreement.

D. Agreement termination or cancellation shall be effective as of the date indicated in CDPH's notification to the Contractor. The notice shall stipulate any final performance, invoicing, or payment requirements.

E. Upon receipt of a notice of termination or cancellation, the Contractor shall take immediate steps to stop performance and to cancel or reduce subsequent Agreement costs.

F. In the event of early termination or cancellation, the Contractor shall be entitled to compensation for services performed satisfactorily under this Agreement and expenses incurred up to the date of cancellation and any non-cancelable obligations incurred in support of this Agreement.

**Exhibit E**  
Additional Provisions

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

- A. CDPH intends to avoid any real or apparent conflict of interest on the part of the Contractor, subcontractors, or employees, officers and directors of the Contractor or subcontractors. Thus, CDPH reserves the right to determine, at its sole discretion, whether any information, assertion or claim received from any source indicates the existence of a real or apparent conflict of interest; and, if a conflict is found to exist, to require the Contractor to submit additional information or a plan for resolving the conflict, subject to CDPH review and prior approval.
- B. Conflicts of interest include, but are not limited to:
  - 1) An instance where the Contractor or any of its subcontractors, or any employee, officer, or director of the Contractor or any subcontractor has an interest, financial or otherwise, whereby the use or disclosure of information obtained while performing services under the contract would allow for private or personal benefit or for any purpose that is contrary to the goals and objectives of the Agreement.
  - 2) An instance where the Contractor's or any subcontractor's employees, officers, or directors use their positions for purposes that are, or give the appearance of being, motivated by a desire for private gain for themselves or others, such as those with whom they have family, business or other ties.
- C. If CDPH is or becomes aware of a known or suspected conflict of interest, the Contractor will be given an opportunity to submit additional information or to resolve the conflict. A Contractor with a suspected conflict of interest will have five (5) working days from the date of notification of the conflict by CDPH to provide complete information regarding the suspected conflict. If a conflict of interest is determined to exist by CDPH and cannot be resolved to the satisfaction of CDPH, the conflict will be grounds for terminating the contract. CDPH may, at its discretion upon receipt of a written request from the Contractor, authorize an extension of the timeline indicated herein.
- D. Any costs (including legal costs) incurred as a result of a conflict of interest determined by the court or by the State shall be the responsibility of the Contractor.

## Contractor's Release

### Instructions to Contractor:

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

### Submission of Final Invoice

Pursuant to contract number 15-10173 entered into between the State of California Department of Public Health (CDPH) and the Contractor (identified below), the Contractor does acknowledge that final payment has been requested via invoice number(s) \_\_\_\_\_, in the amount(s) of \$ \_\_\_\_\_ and dated \_\_\_\_\_. If necessary, enter "See Attached" in the appropriate blocks and attach a list of invoice numbers, dollar amounts and invoice dates.

### Release of all Obligations

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

### Repayments Due to Audit Exceptions / Record Retention

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

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

### Recycled Product Use Certification

By signing this form, Contractor certifies under penalty of perjury that a minimum of 0% unless otherwise specified in writing of post consumer material, as defined in the Public Contract Code Section 12200, in products, materials, goods, or supplies offered or sold to the State regardless of whether it meets the requirements of Public Contract Code Section 12209. Contractor specifies that printer or duplication cartridges offered or sold to the State comply with the requirements of Section 12156(e).

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

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

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

### Patents / Other Issues

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

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**ONLY SIGN AND DATE THIS DOCUMENT WHEN ATTACHING TO THE FINAL INVOICE**

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

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

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

CDPH Distribution: Accounting (Original) Program

Exhibit G  
HIPAA Business Associate Addendum

**I. Recitals**

- A. The underlying contract (Agreement), to which this HIPAA Business Associate Addendum is attached to and made a part of, has been determined to constitute a business associate relationship under the Health Insurance Portability and Accountability Act of 1996, Public Law 104-191 ("HIPAA"), the Health Information Technology for Economic and Clinical Health Act, Public Law 111-005 ("the HITECH Act"), 42 U.S.C. section 17921 et seq., and their implementing privacy and security regulations at 45 CFR Parts 160 and 164 ("the HIPAA regulations").
- B. The Department of Public Health ("CDPH") wishes to disclose to Business Associate certain information pursuant to the terms of the Agreement, some of which may constitute Protected Health Information ("PHI"), including protected health information in electronic media ("ePHI"), under federal law, and personal information ("PI") under state law.
- C. As set forth in the Agreement, Contractor, here and after, is the Business Associate of CDPH acting on CDPH' behalf and provides services, arranges, performs or assists in the performance of functions or activities on behalf of CDPH and creates, receives, maintains, transmits, uses or discloses PHI and PI. CDPH and Business Associate are each a party to the Agreement and are collectively referred to as the "parties."
- D. The purpose of this Addendum is to protect the privacy and security of the PHI and PI that may be created, received, maintained, transmitted, used or disclosed pursuant to the Agreement, and to comply with certain standards and requirements of HIPAA, the HITECH Act and the HIPAA regulations, including, but not limited to, the requirement that CDPH must enter into a contract containing specific requirements with Contractor prior to the disclosure of PHI to Contractor, as set forth in 45 CFR Parts 160 and 164 and the HITECH Act.
- E. The terms used in this Addendum, but not otherwise defined, shall have the same meanings as those terms have in the HIPAA regulations. Any reference to statutory or regulatory language shall be to such language as in effect or as amended.

**II. Definitions**

- A. Breach shall have the meaning given to such term under HIPAA, the HITECH Act, and the HIPAA regulations.
- B. Business Associate shall have the meaning given to such term under HIPAA, the HITECH Act, and the HIPAA regulations.
- C. Covered Entity shall have the meaning given to such term under HIPAA, the HITECH Act, and the HIPAA regulations.
- D. Electronic Health Record shall have the meaning given to such term in the HITECH Act, including, but not limited to, 42 U.S.C Section 17921 and implementing regulations.
- E. Electronic Protected Health Information (ePHI) means individually identifiable health information transmitted by electronic media or maintained in electronic media, including but not limited to electronic media as set forth under 45 CFR section 160.103.
- F. Individually Identifiable Health Information means health information, including demographic information collected from an individual, that is created or received by a health care provider, health plan, employer or health care clearinghouse, and relates to the past, present or future physical or mental health or

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condition of an individual, the provision of health care to an individual, or the past, present, or future payment for the provision of health care to an individual, that identifies the individual or where there is a reasonable basis to believe the information can be used to identify the individual, as set forth under 45 CFR section 160.103.

- G. Privacy Rule shall mean the HIPAA Regulation that is found at 45 CFR Parts 160 and 164.
- H. Personal Information shall have the meaning given to such term in California Civil Code section 1798.29.
- I. Protected Health Information means individually identifiable health information that is transmitted by electronic media, maintained in electronic media, or is transmitted or maintained in any other form or medium, as set forth under 45 CFR section 160.103.
- J. Required by law, as set forth under 45 CFR section 164.103, means a mandate contained in law that compels an entity to make a use or disclosure of PHI that is enforceable in a court of law. This includes, but is not limited to, court orders and court-ordered warrants, subpoenas or summons issued by a court, grand jury, a governmental or tribal inspector general, or an administrative body authorized to require the production of information, and a civil or an authorized investigative demand. It also includes Medicare conditions of participation with respect to health care providers participating in the program, and statutes or regulations that require the production of information, including statutes or regulations that require such information if payment is sought under a government program providing public benefits.
- K. Secretary means the Secretary of the U.S. Department of Health and Human Services ("HHS") or the Secretary's designee.
- L. Security Incident means the attempted or successful unauthorized access, use, disclosure, modification, or destruction of PHI or PI, or confidential data that is essential to the ongoing operation of the Business Associate's organization and intended for internal use; or interference with system operations in an information system.
- M. Security Rule shall mean the HIPAA regulation that is found at 45 CFR Parts 160 and 164.
- N. Unsecured PHI shall have the meaning given to such term under the HITECH Act, 42 U.S.C. section 17932(h), any guidance issued pursuant to such Act and the HIPAA regulations.

### III. Terms of Agreement

#### A. Permitted Uses and Disclosures of PHI by Business Associate

***Permitted Uses and Disclosures.*** Except as otherwise indicated in this Addendum, Business Associate may use or disclose PHI only to perform functions, activities or services specified in the Agreement, for, or on behalf of CDPH, provided that such use or disclosure would not violate the HIPAA regulations, if done by CDPH. Any such use or disclosure must, to the extent practicable, be limited to the limited data set, as defined in 45 CFR section 164.514(e)(2), or, if needed, to the minimum necessary to accomplish the intended purpose of such use or disclosure, in compliance with the HITECH Act and any guidance issued pursuant to such Act, and the HIPAA regulations.

1. ***Specific Use and Disclosure Provisions.*** Except as otherwise indicated in this Addendum, Business Associate may:

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- a. **Use and disclose for management and administration.** Use and disclose PHI for the proper management and administration of the Business Associate provided that such disclosures are required by law, or the Business Associate obtains reasonable assurances from the person to whom the information is disclosed that it will remain confidential and will be 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 that the confidentiality of the information has been breached.
- b. **Provision of Data Aggregation Services.** Use PHI to provide data aggregation services to CDPH. Data aggregation means the combining of PHI created or received by the Business Associate on behalf of CDPH with PHI received by the Business Associate in its capacity as the Business Associate of another covered entity, to permit data analyses that relate to the health care operations of CDPH.

## B. Prohibited Uses and Disclosures

1. Business Associate shall not disclose PHI about an individual to a health plan for payment or health care operations purposes if the PHI pertains solely to a health care item or service for which the health care provider involved has been paid out of pocket in full and the individual requests such restriction, in accordance with 42 U.S.C. section 17935(a) and 45 CFR section 164.522(a).
2. Business Associate shall not directly or indirectly receive remuneration in exchange for PHI, except with the prior written consent of CDPH and as permitted by 42 U.S.C. section 17935(d)(2).

## C. Responsibilities of Business Associate

Business Associate agrees:

1. **Nondisclosure.** Not to use or disclose Protected Health Information (PHI) other than as permitted or required by the Agreement or as required by law.
2. **Safeguards.** To implement administrative, physical, and technical safeguards that reasonably and appropriately protect the confidentiality, integrity, and availability of the PHI, including electronic PHI, that it creates, receives, maintains, uses or transmits on behalf of CDPH, in compliance with 45 CFR sections 164.308, 164.310 and 164.312, and to prevent use or disclosure of PHI other than as provided for by the Agreement. Business Associate shall implement reasonable and appropriate policies and procedures to comply with the standards, implementation specifications and other requirements of 45 CFR section 164, subpart C, in compliance with 45 CFR section 164.316. Business Associate 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 Business Associate's operations and the nature and scope of its activities, and which incorporates the requirements of section 3, Security, below. Business Associate will provide CDPH with its current and updated policies.
3. **Security.** To take any and all steps necessary to ensure the continuous security of all computerized data systems containing PHI and/or PI, and to protect paper documents containing PHI and/or PI. These steps shall include, at a minimum:
  - a. Complying with all of the data system security precautions listed in Attachment A, the Business Associate Data Security Requirements;

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- b. Achieving and maintaining compliance with the HIPAA Security Rule (45 CFR Parts 160 and 164), as necessary in conducting operations on behalf of CDPH under the Agreement;
- c. Providing a level and scope of security that is at least comparable to the level and scope of security established by the Office of Management and Budget in OMB Circular No. A-130, Appendix III - Security of Federal Automated Information Systems, which sets forth guidelines for automated information systems in Federal agencies; and
- d. In case of a conflict between any of the security standards contained in any of these enumerated sources of security standards, the most stringent shall apply. The most stringent means that safeguard which provides the highest level of protection to PHI from unauthorized disclosure. Further, Business Associate must comply with changes to these standards that occur after the effective date of the Agreement.

Business Associate shall designate a Security Officer to oversee its data security program who shall be responsible for carrying out the requirements of this section and for communicating on security matters with CDPH.

**D. *Mitigation of Harmful Effects.*** To mitigate, to the extent practicable, any harmful effect that is known to Business Associate of a use or disclosure of PHI by Business Associate or its subcontractors in violation of the requirements of this Addendum.

**E. *Business Associate's Agents and Subcontractors.***

1. To enter into written agreements with any agents, including subcontractors and vendors, to whom Business Associate provides PHI or PI received from or created or received by Business Associate on behalf of CDPH, that impose the same restrictions and conditions on such agents, subcontractors and vendors that apply to Business Associate with respect to such PHI and PI under this Addendum, and that comply with all applicable provisions of HIPAA, the HITECH Act and the HIPAA regulations, including the requirement that any agents, subcontractors or vendors implement reasonable and appropriate administrative, physical, and technical safeguards to protect such PHI and PI. Business Associate shall incorporate, when applicable, the relevant provisions of this Addendum into each subcontract or subaward to such agents, subcontractors and vendors, including the requirement that any security incidents or breaches of unsecured PHI or PI be reported to Business Associate.
2. In accordance with 45 CFR section 164.504(e)(1)(ii), upon Business Associate's knowledge of a material breach or violation by its subcontractor of the agreement between Business Associate and the subcontractor, Business Associate shall:
  - a. Provide an opportunity for the subcontractor to cure the breach or end the violation and terminate the agreement if the subcontractor does not cure the breach or end the violation within the time specified by CDPH; or
  - b. Immediately terminate the agreement if the subcontractor has breached a material term of the agreement and cure is not possible.

**F. *Availability of Information to CDPH and Individuals.*** To provide access and information:

1. To provide access as CDPH may require, and in the time and manner designated by CDPH (upon reasonable notice and during Business Associate's normal business hours) to PHI in a Designated



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Record Set, to CDPH (or, as directed by CDPH), to an Individual, in accordance with 45 CFR section 164.524. Designated Record Set means the group of records maintained for CDPH that includes medical, dental and billing records about individuals; enrollment, payment, claims adjudication, and case or medical management systems maintained for CDPH health plans; or those records used to make decisions about individuals on behalf of CDPH. Business Associate shall use the forms and processes developed by CDPH for this purpose and shall respond to requests for access to records transmitted by CDPH within fifteen (15) calendar days of receipt of the request by producing the records or verifying that there are none.

2. If Business Associate maintains an Electronic Health Record with PHI, and an individual requests a copy of such information in an electronic format, Business Associate shall provide such information in an electronic format to enable CDPH to fulfill its obligations under the HITECH Act, including but not limited to, 42 U.S.C. section 17935(e).
3. If Business Associate receives data from CDPH that was provided to CDPH by the Social Security Administration, upon request by CDPH, Business Associate shall provide CDPH with a list of all employees, contractors and agents who have access to the Social Security data, including employees, contractors and agents of its subcontractors and agents.

**G. *Amendment of PHI.*** To make any amendment(s) to PHI that CDPH directs or agrees to pursuant to 45 CFR section 164.526, in the time and manner designated by CDPH.

**H. *Internal Practices.*** To make Business Associate's internal practices, books and records relating to the use and disclosure of PHI received from CDPH, or created or received by Business Associate on behalf of CDPH, available to CDPH or to the Secretary of the U.S. Department of Health and Human Services in a time and manner designated by CDPH or by the Secretary, for purposes of determining CDPH' compliance with the HIPAA regulations. If any information needed for this purpose is in the exclusive possession of any other entity or person and the other entity or person fails or refuses to furnish the information to Business Associate, Business Associate shall so certify to CDPH and shall set forth the efforts it made to obtain the information.

**I. *Documentation of Disclosures.*** To document and make available to CDPH or (at the direction of CDPH) to an Individual such disclosures of PHI, and information related to such disclosures, necessary to respond to a proper request by the subject Individual for an accounting of disclosures of PHI, in accordance with the HITECH Act and its implementing regulations, including but not limited to 45 CFR section 164.528 and 42 U.S.C. section 17935(c). If Business Associate maintains electronic health records for CDPH as of January 1, 2009, Business Associate must provide an accounting of disclosures, including those disclosures for treatment, payment or health care operations, effective with disclosures on or after January 1, 2014. If Business Associate acquires electronic health records for CDPH after January 1, 2009, Business Associate must provide an accounting of disclosures, including those disclosures for treatment, payment or health care operations, effective with disclosures on or after the date the electronic health record is acquired, or on or after January 1, 2011, whichever date is later. The electronic accounting of disclosures shall be for disclosures during the three years prior to the request for an accounting.

**J. *Breaches and Security Incidents.*** During the term of the Agreement, Business Associate agrees to implement reasonable systems for the discovery and prompt reporting of any breach or security incident, and to take the following steps:

1. ***Notice to CDPH.*** (1) To notify CDPH **immediately by telephone call plus email or fax** upon the discovery of a breach of unsecured PHI or PI in electronic media or in any other media if the PHI or PI was, or is reasonably believed to have been, accessed or acquired by an unauthorized person,

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or upon the discovery of a suspected security incident that involves data provided to CDPH by the Social Security Administration. (2) To notify CDPH **within 24 hours by email or fax** of the discovery of any suspected security incident, intrusion or unauthorized access, use or disclosure of PHI or PI in violation of the Agreement and this Addendum, or potential loss of confidential data affecting the Agreement. A breach shall be treated as discovered by Business Associate as of the first day on which the breach is known, or by exercising reasonable diligence would have been known, to any person (other than the person committing the breach) who is an employee, officer or other agent of Business Associate.

Notice shall be provided to the CDPH Program Contract Manager, the CDPH Privacy Officer and the CDPH Information Security Officer. If the incident occurs after business hours or on a weekend or holiday and involves electronic PHI, notice shall be provided by calling the CDPH ITSD Service Desk. Notice shall be made using the "CDPH Privacy Incident Report" form, including all information known at the time. Business Associate shall use the most current version of this form, which is posted on the CDPH Privacy Office website ([www.CDPH.ca.gov](http://www.CDPH.ca.gov)),

Upon discovery of a breach or suspected security incident, intrusion or unauthorized access, use or disclosure of PHI or PI, Business Associate shall take:

- a. Prompt corrective action to mitigate any risks or damages involved with the breach and to protect the operating environment; and
  - b. Any action pertaining to such unauthorized disclosure required by applicable Federal and State laws and regulations.
2. **Investigation and Investigation Report.** To immediately investigate such security incident, breach, or unauthorized access, use or disclosure of PHI or PI. Within 72 hours of the discovery, Business Associate shall submit an updated "CDPH Privacy Incident Report" containing the information marked with an asterisk and all other applicable information listed on the form, to the extent known at that time, to the CDPH Program Contract Manager, the CDPH Privacy Officer, and the CDPH Information Security Officer:
3. **Complete Report.** To provide a complete report of the investigation to the CDPH Program Contract Manager, the CDPH Privacy Officer, and the CDPH Information Security Officer within ten (10) working days of the discovery of the breach or unauthorized use or disclosure. The report shall be submitted on the "CDPH Privacy Incident Report" form and shall include an assessment of all known factors relevant to a determination of whether a breach occurred under applicable provisions of HIPAA, the HITECH Act, the HIPAA regulations and/or state law. The report shall also include a full, detailed corrective action plan, including information on measures that were taken to halt and/or contain the improper use or disclosure. If CDPH requests information in addition to that listed on the "CDPH Privacy Incident Report" form, Business Associate shall make reasonable efforts to provide CDPH with such information. If necessary, a Supplemental Report may be used to submit revised or additional information after the completed report is submitted, by submitting the revised or additional information on an updated "CDPH Privacy Incident Report" form. CDPH will review and approve the determination of whether a breach occurred and individual notifications are required, and the corrective action plan.
4. **Notification of Individuals.** If the cause of a breach of PHI or PI is attributable to Business Associate or its subcontractors, agents or vendors, Business Associate shall notify individuals of the breach or unauthorized use or disclosure when notification is required under state or federal law and shall pay any costs of such notifications, as well as any costs associated with the breach. The notifications shall comply with the requirements set forth in 42 U.S.C. section 17932 and its implementing regulations, including, but not limited to, the requirement that the notifications be

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made without unreasonable delay and in no event later than 60 calendar days. The CDPH Program Contract Manager, the CDPH Privacy Officer, and the CDPH Information Security Officer shall approve the time, manner and content of any such notifications and their review and approval must be obtained before the notifications are made.

5. **Responsibility for Reporting of Breaches.** If the cause of a breach of PHI or PI is attributable to Business Associate or its agents, subcontractors or vendors, Business Associate is responsible for all required reporting of the breach as specified in 42 U.S.C. section 17932 and its implementing regulations, including notification to media outlets and to the Secretary. If a breach of unsecured PHI involves more than 500 residents of the State of California or its jurisdiction, Business Associate shall notify the Secretary of the breach immediately upon discovery of the breach. If Business Associate has reason to believe that duplicate reporting of the same breach or incident may occur because its subcontractors, agents or vendors may report the breach or incident to CDPH in addition to Business Associate, Business Associate shall notify CDPH, and CDPH and Business Associate may take appropriate action to prevent duplicate reporting. The breach reporting requirements of this paragraph are in addition to the reporting requirements set forth in subsection 1, above.
  
6. **CDPH Contact Information.** To direct communications to the above referenced CDPH staff, the Contractor shall initiate contact as indicated herein. CDPH reserves the right to make changes to the contact information below by giving written notice to the Contractor. Said changes shall not require an amendment to this Addendum or the Agreement to which it is incorporated.

CDPH Program Contract Manager	CDPH Privacy Officer	CDPH Information Security Officer
See the Scope of Work exhibit for Program Contract Manager information	Privacy Officer Privacy Office, c/o Office of Legal Services California Department of Public Health P.O. Box 997377, MS 0506 Sacramento, CA 95899-7377  Email: <a href="mailto:privacy@cdph.ca.gov">privacy@cdph.ca.gov</a> Telephone: (877) 421-9634	Chief Information Security Officer Information Security Office California Department of Public Health P.O. Box 997413, MS 6302 Sacramento, CA 95899-7413  Email: <a href="mailto:cdphiso@cdph.ca.gov">cdphiso@cdph.ca.gov</a> Telephone: IT Service Desk (916) 440-7000 or (800) 579-0874

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- K. *Termination of Agreement.*** In accordance with Section 13404(b) of the HITECH Act and to the extent required by the HIPAA regulations, if Business Associate knows of a material breach or violation by CDPH of this Addendum, it shall take the following steps:
1. Provide an opportunity for CDPH to cure the breach or end the violation and terminate the Agreement if CDPH does not cure the breach or end the violation within the time specified by Business Associate; or
  2. Immediately terminate the Agreement if CDPH has breached a material term of the Addendum and cure is not possible.
- L. *Due Diligence.*** Business Associate shall exercise due diligence and shall take reasonable steps to ensure that it remains in compliance with this Addendum and is in compliance with applicable provisions of HIPAA, the HITECH Act and the HIPAA regulations, and that its agents, subcontractors and vendors are in compliance with their obligations as required by this Addendum.
- M. *Sanctions and/or Penalties.*** Business Associate understands that a failure to comply with the provisions of HIPAA, the HITECH Act and the HIPAA regulations that are applicable to Business Associate may result in the imposition of sanctions and/or penalties on Business Associate under HIPAA, the HITECH Act and the HIPAA regulations.

#### IV. Obligations of CDPH

CDPH agrees to:

- A. *Notice of Privacy Practices.*** Provide Business Associate with the Notice of Privacy Practices that CDPH produces in accordance with 45 CFR section 164.520, as well as any changes to such notice.
- B. *Permission by Individuals for Use and Disclosure of PHI.*** Provide the Business Associate with any changes in, or revocation of, permission by an Individual to use or disclose PHI, if such changes affect the Business Associate's permitted or required uses and disclosures.
- C. *Notification of Restrictions.*** Notify the Business Associate of any restriction to the use or disclosure of PHI that CDPH has agreed to in accordance with 45 CFR section 164.522, to the extent that such restriction may affect the Business Associate's use or disclosure of PHI.
- D. *Requests Conflicting with HIPAA Rules.*** Not request the Business Associate to use or disclose PHI in any manner that would not be permissible under the HIPAA regulations if done by CDPH.

#### V. Audits, Inspection and Enforcement

- A.** From time to time, CDPH may inspect the facilities, systems, books and records of Business Associate to monitor compliance with the Agreement and this Addendum. Business Associate shall promptly remedy any violation of any provision of this Addendum and shall certify the same to the CDPH Privacy Officer in writing. The fact that CDPH inspects, or fails to inspect, or has the right to inspect, Business Associate's facilities, systems and procedures does not relieve Business Associate of its responsibility to comply with this Addendum, nor does CDPH's:

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1. Failure to detect or
  2. Detection, but failure to notify Business Associate or require Business Associate's remediation of any unsatisfactory practices constitute acceptance of such practice or a waiver of CDPH' enforcement rights under the Agreement and this Addendum.
- B.** If Business Associate is the subject of an audit, compliance review, or complaint investigation by the Secretary or the Office of Civil Rights, U.S. Department of Health and Human Services, that is related to the performance of its obligations pursuant to this HIPAA Business Associate Addendum, Business Associate shall notify CDPH and provide CDPH with a copy of any PHI or PI that Business Associate provides to the Secretary or the Office of Civil Rights concurrently with providing such PHI or PI to the Secretary. Business Associate is responsible for any civil penalties assessed due to an audit or investigation of Business Associate, in accordance with 42 U.S.C. section 17934(c).

## VI. Termination

- A. *Term.*** The Term of this Addendum shall commence as of the effective date of this Addendum and shall extend beyond the termination of the Agreement and shall terminate when all the PHI provided by CDPH to Business Associate, or created or received by Business Associate on behalf of CDPH, is destroyed or returned to CDPH, in accordance with 45 CFR 164.504(e)(2)(ii)(I).
- B. *Termination for Cause.*** In accordance with 45 CFR section 164.504(e)(1)(ii), upon CDPH' knowledge of a material breach or violation of this Addendum by Business Associate, CDPH shall:
1. Provide an opportunity for Business Associate to cure the breach or end the violation and terminate the Agreement if Business Associate does not cure the breach or end the violation within the time specified by CDPH; or
  2. Immediately terminate the Agreement if Business Associate has breached a material term of this Addendum and cure is not possible.
- C. *Judicial or Administrative Proceedings.*** Business Associate will notify CDPH if it is named as a defendant in a criminal proceeding for a violation of HIPAA. CDPH may terminate the Agreement if Business Associate is found guilty of a criminal violation of HIPAA. CDPH may terminate the Agreement if a finding or stipulation that the Business Associate has violated any standard or requirement of HIPAA, or other security or privacy laws is made in any administrative or civil proceeding in which the Business Associate is a party or has been joined.
- D. *Effect of Termination.*** Upon termination or expiration of the Agreement for any reason, Business Associate shall return or destroy all PHI received from CDPH (or created or received by Business Associate on behalf of CDPH) that Business Associate still maintains in any form, and shall retain no copies of such PHI. If return or destruction is not feasible, Business Associate shall notify CDPH of the conditions that make the return or destruction infeasible, and CDPH and Business Associate shall determine the terms and conditions under which Business Associate may retain the PHI. Business Associate shall continue to extend the protections of this Addendum to such PHI, and shall 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 Business Associate.

## VII. Miscellaneous Provisions

- A. *Disclaimer.*** CDPH makes no warranty or representation that compliance by Business Associate with this Addendum, HIPAA or the HIPAA regulations will be adequate or satisfactory for Business Associate's own purposes or that any information in Business Associate's possession or control, or

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transmitted or received by Business Associate, is or will be secure from unauthorized use or disclosure. Business Associate is solely responsible for all decisions made by Business Associate regarding the safeguarding of PHI.

- B. Amendment.** The parties acknowledge that federal and state laws relating to electronic data security and privacy are rapidly evolving and that amendment of this Addendum 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 HITECH Act, the HIPAA regulations and other applicable laws relating to the security or privacy of PHI. Upon CDPH' request, Business Associate agrees to promptly enter into negotiations with CDPH concerning an amendment to this Addendum embodying written assurances consistent with the standards and requirements of HIPAA, the HITECH Act, the HIPAA regulations or other applicable laws. CDPH may terminate the Agreement upon thirty (30) days written notice in the event:
1. Business Associate does not promptly enter into negotiations to amend this Addendum when requested by CDPH pursuant to this Section; or
  2. Business Associate does not enter into an amendment providing assurances regarding the safeguarding of PHI that CDPH in its sole discretion, deems sufficient to satisfy the standards and requirements of HIPAA and the HIPAA regulations.
- C. Assistance in Litigation or Administrative Proceedings.** Business Associate shall make itself and any subcontractors, employees or agents assisting Business Associate in the performance of its obligations under the Agreement, available to CDPH at no cost to CDPH to testify as witnesses, or otherwise, in the event of litigation or administrative proceedings being commenced against CDPH, its directors, officers or employees based upon claimed violation of HIPAA, the HIPAA regulations or other laws relating to security and privacy, which involves inactions or actions by the Business Associate, except where Business Associate or its subcontractor, employee or agent is a named adverse party.
- D. No Third-Party Beneficiaries.** Nothing express or implied in the terms and conditions of this Addendum is intended to confer, nor shall anything herein confer, upon any person other than CDPH or Business Associate and their respective successors or assignees, any rights, remedies, obligations or liabilities whatsoever.
- E. Interpretation.** The terms and conditions in this Addendum shall be interpreted as broadly as necessary to implement and comply with HIPAA, the HITECH Act, the HIPAA regulations and applicable state laws. The parties agree that any ambiguity in the terms and conditions of this Addendum shall be resolved in favor of a meaning that complies and is consistent with HIPAA, the HITECH Act and the HIPAA regulations.
- F. Regulatory References.** A reference in the terms and conditions of this Addendum to a section in the HIPAA regulations means the section as in effect or as amended.
- G. Survival.** The respective rights and obligations of Business Associate under Section VI.D of this Addendum shall survive the termination or expiration of the Agreement.
- H. 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.

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**Attachment A**  
Business Associate Data Security Requirements

**I. Personnel Controls**

- A. *Employee Training.*** All workforce members who assist in the performance of functions or activities on behalf of CDPH, or access or disclose CDPH PHI or PI must complete information privacy and security training, at least annually, at Business Associate's expense. Each workforce member who receives information privacy and security training must sign a certification, indicating the member's name and the date on which the training was completed. These certifications must be retained for a period of six (6) years following contract termination.
- B. *Employee Discipline.*** Appropriate sanctions must be applied against workforce members who fail to comply with privacy policies and procedures or any provisions of these requirements, including termination of employment where appropriate.
- C. *Confidentiality Statement.*** All persons that will be working with CDPH PHI or PI must sign a confidentiality statement that includes, at a minimum, General Use, Security and Privacy Safeguards, Unacceptable Use, and Enforcement Policies. The statement must be signed by the workforce member prior to access to CDPH PHI or PI. The statement must be renewed annually. The Contractor shall retain each person's written confidentiality statement for CDPH inspection for a period of six (6) years following contract termination.
- D. *Background Check.*** Before a member of the workforce may access CDPH PHI or PI, a thorough background check of that worker must be conducted, with evaluation of the results to assure that there is no indication that the worker may present a risk to the security or integrity of confidential data or a risk for theft or misuse of confidential data. The Contractor shall retain each workforce member's background check documentation for a period of three (3) years following contract termination.

**II. Technical Security Controls**

- A. *Workstation/Laptop encryption.*** All workstations and laptops that process and/or store CDPH PHI or PI must be encrypted using a FIPS 140-2 certified algorithm which is 128bit or higher, such as Advanced Encryption Standard (AES). The encryption solution must be full disk unless approved by the CDPH Information Security Office.
- B. *Server Security.*** Servers containing unencrypted CDPH PHI or PI must have sufficient administrative, physical, and technical controls in place to protect that data, based upon a risk assessment/system security review.
- C. *Minimum Necessary.*** Only the minimum necessary amount of CDPH PHI or PI required to perform necessary business functions may be copied, downloaded, or exported.
- D. *Removable media devices.*** All electronic files that contain CDPH PHI or PI data must be encrypted when stored on any removable media or portable device (i.e. USB thumb drives, floppies, CD/DVD, Blackberry, backup tapes etc.). Encryption must be a FIPS 140-2 certified algorithm which is 128bit or higher, such as AES.
- E. *Antivirus software.*** All workstations, laptops and other systems that process and/or store CDPH PHI or PI must install and actively use comprehensive anti-virus software solution with automatic updates scheduled at least daily.

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- F. Patch Management.** All workstations, laptops and other systems that process and/or store CDPH PHI or PI must have critical security patches applied, with system reboot if necessary. There must be a documented patch management process which determines installation timeframe based on risk assessment and vendor recommendations. At a maximum, all applicable patches must be installed within 30 days of vendor release.
- G. User IDs and Password Controls.** All users must be issued a unique user name for accessing CDPH PHI or PI. Username must be promptly disabled, deleted, or the password changed upon the transfer or termination of an employee with knowledge of the password, at maximum within 24 hours. Passwords are not to be shared. Passwords must be at least eight characters and must be a non-dictionary word. Passwords must not be stored in readable format on the computer. Passwords must be changed every 90 days, preferably every 60 days. Passwords must be changed if revealed or compromised. Passwords must be composed of characters from at least three of the following four groups from the standard keyboard:
- Upper case letters (A-Z)
  - Lower case letters (a-z)
  - Arabic numerals (0-9)
  - Non-alphanumeric characters (punctuation symbols)
- H. Data Destruction.** When no longer needed, all CDPH PHI or PI must be wiped using the Gutmann or US Department of Defense (DoD) 5220.22-M (7 Pass) standard, or by degaussing. Media may also be physically destroyed in accordance with NIST Special Publication 800-88. Other methods require prior written permission of the CDPH Information Security Office.
- I. System Timeout.** The system providing access to CDPH PHI or PI must provide an automatic timeout, requiring re-authentication of the user session after no more than 20 minutes of inactivity.
- J. Warning Banners.** All systems providing access to CDPH PHI or PI must display a warning banner stating that data is confidential, systems are logged, and system use is for business purposes only by authorized users. User must be directed to log off the system if they do not agree with these requirements.
- K. System Logging.** The system must maintain an automated audit trail which can identify the user or system process which initiates a request for CDPH PHI or PI, or which alters CDPH PHI or PI. The audit trail must be date and time stamped, must log both successful and failed accesses, must be read only, and must be restricted to authorized users. If CDPH PHI or PI is stored in a database, database logging functionality must be enabled. Audit trail data must be archived for at least 3 years after occurrence.
- L. Access Controls.** The system providing access to CDPH PHI or PI must use role based access controls for all user authentications, enforcing the principle of least privilege.



Exhibit G  
HIPAA Business Associate Addendum

- M. *Transmission encryption.*** All data transmissions of CDPH PHI or PI outside the secure internal network must be encrypted using a FIPS 140-2 certified algorithm which is 128bit or higher, such as AES. Encryption can be end to end at the network level, or the data files containing PHI can be encrypted. This requirement pertains to any type of PHI or PI in motion such as website access, file transfer, and E-Mail.
- N. *Intrusion Detection.*** All systems involved in accessing, holding, transporting, and protecting CDPH PHI or PI that are accessible via the Internet must be protected by a comprehensive intrusion detection and prevention solution.

### III. Audit Controls

- A. *System Security Review.*** All systems processing and/or storing CDPH PHI or PI must have at least an annual system risk assessment/security review which provides assurance that administrative, physical, and technical controls are functioning effectively and providing adequate levels of protection. Reviews should include vulnerability scanning tools.
- B. *Log Reviews.*** All systems processing and/or storing CDPH PHI or PI must have a routine procedure in place to review system logs for unauthorized access.
- C. *Change Control.*** All systems processing and/or storing CDPH PHI or PI must have a documented change control procedure that ensures separation of duties and protects the confidentiality, integrity and availability of data.

### IV. Business Continuity / Disaster Recovery Controls

- A. *Emergency Mode Operation Plan.*** Contractor must establish a documented plan to enable continuation of critical business processes and protection of the security of electronic CDPH PHI or PI in the event of an emergency. Emergency means any circumstance or situation that causes normal computer operations to become unavailable for use in performing the work required under the Agreement for more than 24 hours.
- B. *Data Backup Plan.*** Contractor must have established documented procedures to backup CDPH PHI to maintain retrievable exact copies of CDPH PHI or PI. The plan must include a regular schedule for making backups, storing backups offsite, an inventory of backup media, and an estimate of the amount of time needed to restore CDPH PHI or PI should it be lost. At a minimum, the schedule must be a weekly full backup and monthly offsite storage of CDPH data.

### V. Paper Document Controls

- A. *Supervision of Data.*** CDPH PHI or PI in paper form shall not be left unattended at any time, unless it is locked in a file cabinet, file room, desk or office. Unattended means that information is not being observed by an employee authorized to access the information. CDPH PHI or PI in paper form shall not be left unattended at any time in vehicles or planes and shall not be checked in baggage on commercial airplanes.
- B. *Escorting Visitors.*** Visitors to areas where CDPH PHI or PI is contained shall be escorted and CDPH PHI or PI shall be kept out of sight while visitors are in the area.
- C. *Confidential Destruction.*** CDPH PHI or PI must be disposed of through confidential means, such as cross cut shredding and pulverizing.

Exhibit G  
HIPAA Business Associate Addendum

- D. **Removal of Data.** CDPH PHI or PI must not be removed from the premises of the Contractor except with express written permission of CDPH.
- E. **Faxing.** Faxes containing CDPH PHI or PI shall not be left unattended and fax machines shall be in secure areas. Faxes shall contain a confidentiality statement notifying persons receiving faxes in error to destroy them. Fax numbers shall be verified with the intended recipient before sending the fax.
- F. **Mailing.** Mailings of CDPH PHI or PI shall be sealed and secured from damage or inappropriate viewing of PHI or PI to the extent possible. Mailings which include 500 or more individually identifiable records of CDPH PHI or PI in a single package shall be sent using a tracked mailing method which includes verification of delivery and receipt, unless the prior written permission of CDPH to use another method is obtained.

STATE OF CALIFORNIA  
**STANDARD AGREEMENT AMENDMENT**  
 STD 213A (Rev 6/09)

Check here if additional pages are added: \_\_\_ Page(s)

Agreement Number <b>15-10173</b>	Amendment Number <b>A01</b>
Registration Number:	

1. This Agreement is entered into between the State Agency and Contractor named below:
- |  |                                  |
|--|----------------------------------|
| State Agency's Name<br><b>California Department of Public Health</b> | Also known as CDPH or the State  |
| Contractor's Name<br><b>Stanislaus County Health Services Agency</b> | (Also referred to as Contractor) |
2. The term of this Agreement is: **July 1, 2015 through June 30, 2019**
3. The maximum amount of this Agreement is: **\$ 3,366,860**  
 Agreement after this amendment is: **Three Million Three Hundred Sixty-Six Thousand Eight Hundred Sixty Dollars**
4. The parties mutually agree to this amendment as follows. All actions noted below are by this reference made a part of the Agreement and incorporated herein:

- I. **Purpose of Amendment** – This amendment will replace Exhibit A in its entirety. Exhibit A is amended to clarify and condense the original scope of work into three main goals in order to ensure compliance with implementation and evaluation requirements of the Maternal, Infant, and Early Childhood Home Visiting Grant. Exhibit B, Budget Year 2 reflects a funding decrease of \$14, 476 and shifts to accommodate actual implementation of the program that was unknown at time of original contract development.
- II. Certain Changes made in this amendment are shown as: Text additions are displayed in **bold and underlined**. Text deletions are displayed as strike through text (i.e. ~~Strike~~).
- III. Exhibit B- Budget Detail and Payment Provisions #4A, Amounts Payable, is hereby amended as follows:
  - A. The amounts payable under this Contract shall not exceed:
    - 1) \$845,334 for the budget period of 07/01/15 through 06/30/16.
    - 2) **\$845,334 \$830,858** for the budget period of 07/01/16 through 06/30/17.
    - 3) \$845,334 for the budget period of 07/01/17 through 06/30/18.
    - 4) \$845,334 for the budget period of 07/01/18 through 06/30/19.

All other terms and conditions shall remain the same.

**IN WITNESS WHEREOF, this Agreement has been executed by the parties hereto.**

CONTRACTOR		CALIFORNIA Department of General Services Use Only
Contractor's Name (If other than an individual, state whether a corporation, partnership, etc.) <b>Stanislaus County Health Services Agency</b>		
By (Authorized Signature) 	Date Signed (Do not type) <b>2/9/17</b>	
Printed Name and Title of Person Signing <b>Mary Ann Lee, Managing Director</b>		
Address <b>830 Scenic Drive, Modesto CA 95350</b>		
STATE OF CALIFORNIA		<input type="checkbox"/> Exempt per:
Agency Name <b>California Department of Public Health</b>		
By (Authorized Signature) 	Date Signed (Do not type) <b>3/3/17</b>	
Printed Name and Title of Person Signing <b>Jeffrey Mapes, Chief, Contracts Management Unit</b>		
Address <b>1616 Capitol Avenue, Suite 74.317, MS 1802, P.O. Box 997377, Sacramento, CA 95833</b>		

BY: Marc Hartley DATE: 2/7/2017  
 Marc Hartley, Deputy County Counsel

## **NURSE-FAMILY PARTNERSHIP IMPLEMENTATION AGREEMENT**

This Agreement ("Agreement"), for the period July 1, 2015, through June 30, 2018, is by and between Stanislaus County Health Services Agency ("Agency") and Nurse-Family Partnership, a Colorado nonprofit corporation ("NFP") (together, the "Parties").

### **RECITALS:**

- A. The Parties understand and agree that the Nurse-Family Partnership® Program (the "Program") is an evidence-based program developed on the basis of randomized controlled trial research to yield certain benefits for low-income, first-time mothers and their children ("Program Benefits").
- B. The Parties understand and agree that Program Benefits can be described generally as helping low-income, first-time mothers develop behaviors that enable them to have healthier pregnancies, be better parents, have emotionally and physically healthier children, and attain greater economic self-sufficiency.
- C. The Parties understand and agree that Program implementation by Agency must be based upon key parameters ("Model Elements") identified through research and refined based upon the Program's experience since 1997 and attached to this Agreement as Exhibit A, Nurse-Family Partnership Model Elements.
- D. Agency desires and intends to implement the Program to serve low-income, first-time mothers in the geographic area it serves and to be known to the public as Nurse-Family Partnership.
- E. NFP desires and intends to guide and support the Program implementation process in order to help Agency obtain Program Benefits for the mothers and children that Agency serves.
- F. Accordingly, the Parties wish to enter into this Agreement in order to memorialize the mechanisms and means by which Agency shall implement the Program and NFP shall support such implementation. The Parties intend to remain in a contractual relationship for the period described in Section V herein and thereafter, so long as funding is available to both of the Parties for this purpose.

### **AGREEMENT:**

In consideration of the foregoing recitals, which are incorporated herein, and for other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, the Parties agree as follows:

#### **I. DEFINITIONS.**

- A. Agreement-Specific Definitions. In addition to terms defined above and elsewhere in this Agreement, the following terms shall have the meanings set forth below:
  - 1. "ETO™" means the Efforts to Outcomes™ software system that NFP makes available to Agency, into which designated, NFP-approved Agency personnel enter data collected about Clients and the Program, and from which the Parties can obtain reports to help manage and evaluate program implementation and results.
  - 2. "ETO Website" means the Internet URL through which designated, NFP-approved Agency personnel can access the ETO to enter data and obtain certain reports and other services. ETO software is secured against unauthorized use by VeriSign®

128-bit Security Encryption, the industry standard in Internet site protection. Authorized access to the ETO Website can only be provided by NFP

3. "Administrator" means a person with fiscal and quality oversight, operational coordination responsibilities, and/or evaluation responsibility for the Program's management.
  4. "Client" means a low-income, first-time mother who is enrolled in the Program implemented by Agency.
  5. "Effective Date" means the date first noted above and upon which this Agreement becomes effective.
  6. "Fidelity to the Model" means implementing the Program in a manner consistent with the Model Elements and therefore maximizing the likelihood of achieving results comparable to those measured in research.
  7. "Visit-to-Visit Guidelines®" means a written guide or guides for how a Nurse Home Visitor schedules and conducts visits with Clients during their participation in the Program.
  8. "Location" means the work address of a Program Supervisor.
  9. "Program Supervisor" means a person who supervises up to eight Nurse Home Visitors who implement the Program on behalf of Agency.
  10. "Research" means any activity, including program evaluation and/or quality improvement activities, (i) that would, according to Federal regulations, require review by an Institutional Review Board ("IRB"), or (ii) that could be expected to yield generalizable knowledge that could be shared publicly with the professional, academic, and/or lay communities.
  11. "Team" means a half- to full-time Program Supervisor and up to eight (8) Nurse Home Visitors who report to the Program Supervisor.
- B. "Proprietary Property" means all of (i) the Program, including facilitators and handouts, (ii) the Model Elements, (iii) the name "Nurse-Family Partnership" and the acronym "NFP" when used in connection with the NFP Logo and the goodwill associated therewith, (iv) all NFP Community Website and ETO website content, and (v) the copyrighted materials and other materials used in the Program as of the date hereof that would be designated as protectable intellectual property under applicable law, including, but not limited to, all modifications, additions, updates, and derivative works thereof and all of the rights of NFP and its licensors associated with this property. Proprietary Property shall also include, individually and collectively, all ideas, concepts, designs, methods, inventions, modifications, improvements, new uses, and discoveries which are conceived and/or made in the performance of the responsibilities stated under this Agreement by one or more of Agency, NFP, or its licensors, whether or not they are incorporated into the Program or the Proprietary Property. NFP and its licensors reserve the right to modify the Proprietary Property from time to time in accordance with the data, research, and current modalities of delivery of the Program and for any other reason NFP or its licensors, in their sole and absolute discretion, deem appropriate. NFP will provide Agency with reasonable notice of those modifications. NFP and its licensors shall retain ownership and all rights to all Proprietary Property, whether modified or not by Agency.
- C. General Application. Unless a clear contrary intention appears, words used with initial-capitalized letters shall have the meanings set forth in this Agreement, and (i) the singular includes the plural and vice versa, (ii) reference to any document means such document as amended from time to time, (iii) "include" or "including" means including without limiting the generality of any description preceding such term, and (iv) the term "or" is not exclusive.

## II. NFP OBLIGATIONS

- A. NFP grants to Agency a non-exclusive limited right and license to use the Proprietary Property for the purpose of carrying out Agency's obligations under this Agreement in the geographic area within which Agency Nurse Home Visitors serve Clients. Agency shall not use the Proprietary Property in connection with any social impact bond or pay-for-success contract, including responses to solicitations for such agreements, without NFP's prior written consent.
- B. NFP will provide support to help Agency implement the Program as described in Exhibit B, Nurse-Family Partnership Support for an Agency.
- C. NFP shall submit invoices to Agency for services provided to Agency, listing a date of provision, a description of each such service, and amounts based upon the fee schedule provided in Exhibit C, Fees for Nurse-Family Partnership Services.
- D. NFP may, from time to time, request that Agency collect additional data and/or participate in Research initiated by NFP and intended to improve the NFP model or implementation of the model. NFP may provide the public with information about Agency's NFP-related Research, publications, and presentations.
- E. NFP, independently or jointly with Agency, may publish or present NFP-related information or Program results in research reports, books, book chapters, peer-reviewed journal articles, and at academic or professional conferences, always giving due credit to the Parties involved and recognizing the rights of the individuals doing the work.
- F. NFP understands that pursuant to this Agreement, NFP and its employees may have access to patients' Protected Health Information ("PHI") and Agency's business information. NFP acknowledges that this information has a high level of confidentiality, and NFP and its employees agree to keep all information made available to its employees confidential and not to disclose this information. NFP will instruct its employees/staff/affiliates to follow Agency's policies regarding patient and business confidentiality. Further, NFP acknowledges that Agency is bound by law to have written agreements with its business partners who may have access to patient information requiring compliance with the Health Insurance Portability and Accountability Act of 1996 (HIPAA) and the rules and regulations promulgated thereunder. Accordingly, NFP warrants and represents that NFP is in compliance with HIPAA and all relevant federal statutes, rules, regulations, and applicable interpretive rulings promulgated under HIPAA, or will become compliant to regulations and requirements effective at future dates according to the applicable timetables. Exhibit D, HIPAA Business Associate Addendum, is hereby incorporated in this Agreement. Failure by NFP to comply with this provision and the provisions of Exhibit D, HIPAA Business Associate Addendum, shall result in immediate and automatic termination of this Agreement without penalty or cost to Agency. NFP will cooperate with any Agency program(s) instituted in the future to bring Agency into compliance with HIPAA.

## III. AGENCY OBLIGATIONS

- A. Agency will make best efforts to implement the Program with Fidelity to the Model and will undertake the steps described in Exhibit E, Agency Responsibilities, in order to do so.
- B. Agency will take all appropriate steps to maintain client confidentiality and obtain any necessary written client consents for data analysis or disclosure of protected health

information, in accordance with applicable federal and state laws, including, but not limited to, authorizations, data use agreements, business associate agreements, as necessary.

- C. Agency assumes responsibility for knowledge of and compliance with the State Nurse Practice Act of its state, state laws, regulations, and licensing requirements pertaining to nursing practice and state laws and regulations pertaining to mandatory reporting.
- D. Agency will ensure that nurses whom it employs to implement that Program are able to provide care to clients in a manner consistent with the NFP Visit-to-Visit Guidelines.
- E. Data Collection. In the event Agency chooses a software system other than ETO:
  - 1. Agency shall not stop entering data into ETO and switch to another data system until a verification process is approved in writing by NFP;
  - 2. Agency shall upload data into NFP's data warehouse at least once per week;
  - 3. If Agency's data are not uploaded properly to NFP's data warehouse at least once per week, for whatever reason, Agency shall have sixty (60) days from the date it receives notice from NFP that NFP has not received Agency's data to remedy the problem to NFP's satisfaction;
  - 4. If Agency does not remedy the problem to NFP's satisfaction within thirty (30) days of receiving notice of NFP's dissatisfaction, Agency shall begin entering data, including entering all historical data that may have lapsed during this period, into ETO;
  - 5. Agency's selected third party vendor must execute a contract with NFP to change its systems to accommodate NFP form changes within ninety (90) days' notice;
  - 6. Agency acknowledges that the third party vendor, not NFP, is responsible for technical support; and
  - 7. Any discrepancies between Agency reports and NFP reports, must be reconciled by the third party vendor, since the third party vendor's software would be the source system.
- F. When requested by NFP, Agency will make reasonable efforts to collect additional data and/or participate in Research intended to improve the NFP model or implementation of the model.
- G. In order to avoid becoming involved in Research that conflicts with implementing the Program with Fidelity to the Model, Agency will request NFP's permission prior to participating in any Research that is (1) initiated by a party other than NFP and (2) that involves Program staff or explicitly targets the families that are enrolled in the Program. NFP will review and approve or disapprove Agency's request for participation in such Research on a timely basis and will not unreasonably withhold such approval.
- H. Agency will inform NFP of Agency proposals to publish or present NFP-related information in research reports, books, book chapters, peer-reviewed journal articles, and at academic or professional conferences. Results of the Program herein outlined may be published by Agency, or jointly by Agency and NFP, always giving due credit to the Parties involved and recognizing the rights of the individuals doing the work.
- I. Agency is authorized to reproduce certain published materials specified below and used in the implementation of the Program so long as (1) this Agreement is in effect, (2) Agency uses the reproductions solely for Program implementation, and (3) Agency does not sell or otherwise distribute the reproductions to any third party not involved in Agency's implementation of the Program.

1. The published materials covered by this authorization are delivered to Nurse Home Visitors as part of the Nurse-Family Partnership Home Visitor education materials in sets referred to as follows:
    - a) Pregnancy Facilitators and Handouts
    - b) Infancy Facilitators and Handouts
    - c) Toddler Facilitators and Handouts
  2. The handouts bear notices indicating copyright by any of the following:
    - a) University of Colorado
    - b) University of Colorado Health Sciences Center
    - c) University of Colorado at Denver and Health Sciences Center
    - d) Nurse-Family Partnership
  3. NFP has the right to grant permission to reproduce materials specified above and that bear the University copyright notice under the terms of a Memorandum of Understanding ("MOU") dated March 31, 2003, between the University of Colorado Health Sciences Center, now known as University of Colorado at Denver and Health Sciences Center, and NFP. The MOU gives NFP an exclusive, perpetual, royalty-free right and license to use copyrighted materials and other materials used in the Program for the purpose of implementing the Program to serve low-income, first-time mothers and their families.
  4. The corresponding Spanish-language versions of these materials are also covered by this authorization.
  5. Agency may not authorize any other entity to reproduce the materials without prior written permission from NFP.
- J. Agency understands and agrees that all Proprietary Property is owned exclusively by NFP and its licensors, including all intellectual property rights therein. Agency shall use the Proprietary Property solely for the purpose of carrying out Agency's obligations under this Agreement and shall not modify any Proprietary Property without the prior express written permission of NFP. Agency shall protect all Proprietary Property that belongs to NFP or its licensors. Agency shall not duplicate and shall prohibit distribution of or access to Visit-to-Visit Guidelines and the ETO to any individual or organization not party to the implementation, administration, and operation of the Program, except as authorized by this Agreement. Agency shall not change or alter the ETO software, and shall allow only trained, NFP-authorized users to access the ETO Website. If a person leaves Agency's employ, Agency shall retrieve all Proprietary Property that the person may have in his or her possession.

#### IV. FEES AND PAYMENT

- A. Fees associated with NFP services in support of an implementing agency are as follows:
1. Initial Education Services. NFP provides initial Nurse-Family Partnership education for nurse home visitors, Program Supervisors, and Agency Administrators. This fee applies once for each individual nurse home visitor, nurse supervisor, and administrator at an agency. Fees are due upon completion of the face-to-face session.
    - a) Nurse Home Visitor Initial Education Tuition. Education for nurse home visitors (NHV) consists of one face-to-face education unit supported by distance



education components. All Program Supervisors who have never taken NHV Education or who completed it more than two years prior to being promoted to Supervisor are required to attend NHV Education as well as Supervisor Education.

- b) Supervisor Initial Education Tuition. For Program Supervisors, education consists of Nurse Home Visitor Initial Education plus two face-to-face education units supported by distance education components and nurse consultation.
  - c) Agency Administrator Orientation Tuition. A two day face-to-face session in Denver, required for new administrators and recommended for experienced administrators.
  - d) Nurse-Family Partnership Education Materials Fee. Contributes toward the cost of the following materials :
    - (1) Nurse-Family Partnership Orientation Materials
    - (2) Set of Prenatal, Infancy and Toddler Guidelines
    - (3) A series of additional nursing practice and program management resources tied to implementation of Nurse-Family Partnership.
2. Implementation Support Services. Fees are due on the Effective Date and each anniversary thereof and are based on the number of Program Supervisor Positions (the greater of (1) the number of individuals with supervisory responsibility at the agency or (2) the number of supervisor FTEs that are required to be implementing the model with fidelity (at least one per eight nurse home visitors). Fees are as follows:
- a) Program Support. Fees are per Program Supervisor Position per year and contribute to covering costs associated with the following:
    - (1) Data system (ETO) operation and use, Program Quality System, and Reporting.
    - (2) Ongoing Nurse-Family Partnership nurse home visitor, supervisor, and administrator education; resource library; conference calls; web forums; Nurse-Family Partnership Community resources; and updating of Nurse-Family Partnership Education and Visit-to-Visit Guidelines and supporting materials.
    - (3) Marketing and Communications consultation and support, including marketing and community outreach materials (brochures, posters, Client Referral Kits (with wallet cards, counter display, posters, and other program information); health fair bags, and nurse recruitment packets. The agency, however, is responsible for printing, stamping or affixing labels with their local contact information to the majority of these materials. Client Referral Kits are customized/printed at no additional charge to the agency. Also provided are the NFP marketing and communications resources and guidance and a copy of the NFP Public Awareness Video, as well as updates and regular monthly communications from the NFP National Service Office.
    - (4) Policy and Government Affairs, including advocacy and educational work at federal and state levels.
  - b) Nurse Consultation. The fee is per Program Supervisor Position per year. The full fee is charged for the first Program Supervisor Position at a geographic location and a reduced fee is charged for each additional Program Supervisor Position at that same location. The fees contribute to covering costs associated

with a Nurse-Family Partnership Nurse Consultant providing the following support to Program Supervisors:

- (1) Helping each Program Supervisor develop an annual plan for implementation.
  - (2) Monitoring reports based on each Program Supervisor and her/his team's activity and performance.
  - (3) Ongoing email support for each Program Supervisor and periodic regular calls with each Program Supervisor.
  - (4) Periodic visits to each Program Supervisor with potential travel with each Program Supervisor and/or selected nurse home visitors.
  - (5) Clinical and supervisory coaching and consultation with each Program Supervisor.
- c) Program Supervisor Expansion or Replacement Fee. A one-time fixed fee is charged for extra support when a new Program Supervisor Position is added or a vacant position is filled.
- d) Data Transmission and Custom Reports. (Optional) NFP may develop custom reports or supply secure access to a data file upon reasonable request from Agency, as long as Agency provides detailed specifications and agrees to fees quoted in advance by NFP.
- (i) Data Transmission Fees. A one-time Set-Up fee plus an annual Transmission Fee for creating and periodically transmitting a file that contains raw data from the ETO database for State. NFP will not manipulate the data in any way, and any data filtering requests could increase the set-up cost. Data will be provided as delimited text files with variable names and made available via NFP's FTP site for download. Instructions for downloading data will be provided when the data files are ready. The Set-Up Fee is due when State approves NFP undertaking the work. The Transmission Fee is due upon the first transmission (prorated for part years) and on each contract anniversary thereafter for so long as the transmission continues.
  - (ii) Four hours of NFP support are included in the cost of a data file. Any assistance beyond four hours will require a work order and an additional charge to the customer. Please note that data files are provided solely for the benefit of the agency and the NSO cannot support the following:
    1. Reporting and analysis efforts conducted by the agency
    2. Developing an import process for the agency
    3. Customizing the data file for specific agency needs.

B. Prices are subject to change in accordance with Section IV E below.

C. All fees are based upon NFP's standard terms of invoicing and payment, as follows:

1. Program Support and Nurse Consultation Fees are invoiced on the Effective Date and each anniversary thereof to cover each ensuing year and are due in 30 days. No special reporting or documentation is provided with the invoice(s).
2. Education Fees are invoiced when individuals attend in-person education sessions. No special reporting or documentation is provided with the invoice(s).
3. Program Supervisor Expansion or Replacement Fees are invoiced when the new supervisor is hired. No special reporting or documentation is provided with the invoice(s).

D. NFP shall invoice, without limitation, for services provided to Agency based upon the fee schedule set forth in Exhibit C, Fees for Nurse-Family Partnership Services. NFP reserves the right to change the fees set forth in Exhibit C during the term of this Agreement but not more often than annually. NFP will notify Agency at least one year prior to any such change becoming effective.

E. Invoices will be sent to:

Agency: Stanislaus County Health Services Agency  
Attention: Finance Department  
Address: 1030 Scenic Drive, Modesto, CA 95353

Telephone: (209) 558-7513  
Facsimile: (209) 558-7517  
Email: vanderson@schsa.org

F. Agency will send payments, identifying the NFP invoice, within 30 days of invoice to:  
Nurse-Family Partnership  
Attention: Finance Department  
1900 Grant Street, Suite 400  
Denver, CO 80203

## V. TERM AND DEFAULT

- A. **Term of Agreement.** This Agreement shall remain in full force and effect through June 30, 2018, unless it is terminated by mutual agreement of the Parties or as otherwise provided below.
- B. **Term Extension.** Upon July 1, 2018, and each anniversary of that date, this Agreement shall automatically extend for an additional year unless either party has provided not less than sixty (60) days' notice to the other of its intention to terminate the Agreement on the upcoming anniversary date.
- C. **Early Termination.** The Parties agree that they intend to and will engage in mutual efforts to keep this Agreement in force. Recognizing, however, that circumstances beyond the control of the Parties may compel one Party to desire termination before completion of the term or an extension thereof, either Agency or NFP may terminate this Agreement at any time by giving the other party written notice of not less than sixty (60) days.
- D. **Default.** A party shall be in default under this Agreement if a party (i) breaches a material provision of this Agreement, which breach is not cured to the non-breaching party's reasonable satisfaction within thirty (30) days of written notice given to the breaching party by the non-breaching party or (ii) the bankruptcy of a party.
- E. **Remedies upon Default.** The Parties shall use commercially reasonable efforts to take steps necessary to cause the breaching party to cure the applicable default. If such default is not cured to the reasonable satisfaction of the other party, and both of the

Parties do not agree to terminate this Agreement, the Parties shall proceed in accordance with the dispute resolution process set forth in Section VI.

**F. Effect of Termination.**

1. If this Agreement is terminated by notice of one party to the other, Agency will pay NFP for all work performed up to the date of termination and all non-cancelable obligations incurred in accordance with this Agreement. Payment shall be due within thirty (30) days of termination.
2. If this Agreement is terminated through the dispute resolution process, the rights and obligations of each of the Parties upon termination shall be spelled out in the dispute resolution process.
3. Upon termination of this Agreement, regardless of the timing, cause, or mechanism of such termination:
  - a) Agency will no longer have access to ETO or the ETO Website;
  - b) All software and ETO Website content, excluding data which has been collected by Agency in the course of implementing the Program, shall remain the sole property of NFP;
  - c) NFP may retain a record of all data which has been collected by Agency in the course of implementing the Program and may use that data and reports derived from it to evaluate the overall progress in national replication of the Program;
  - d) Agency and NFP will continue to comply with all relevant state, federal laws and all other provisions of this Agreement with respect to maintaining Client confidentiality;
  - e) All materials in Agency's possession that utilize the Nurse-Family Partnership logo, tag line, or other protected marks must be returned to NFP or destroyed;
  - f) All copies of Proprietary Property that have been provided to Agency by NFP or that have come into Agency's possession from other sources must be returned to NFP or destroyed; and
  - g) Agency will cease to implement the Program and will cease to represent that it is implementing the Program.

**VI. DISPUTE RESOLUTION.** If a dispute arises relating to this Agreement, the Parties shall attempt to resolve that dispute at the lowest possible level. If the dispute cannot be resolved at that level, the dispute shall be elevated to the Director, Program Development, of NFP and the Program Supervisor. If these persons cannot resolve the dispute, it shall be elevated to the next organizational level of NFP and Agency. If the dispute is not resolved through the foregoing process within a reasonable period of time, not to exceed any period of time that could reasonably be deemed to have a detrimental impact on the implementation of the Program by Agency, either party may initiate dispute resolution through any avenue permitted in law or in equity.

**VII. LIABILITY.**

- A. Each party hereto agrees to be responsible and assume liability for its own wrongful or negligent acts or omissions, or those of its officers, agents, or employees to the full extent allowed by law.
- B. No liability hereunder shall result to a party by reason of delay in performance caused by force majeure, that is, circumstances beyond the reasonable control of the party.

**VIII. ASSIGNMENT; SUBCONTRACTING.** Except as provided herein, this Agreement and the rights, obligations, interests and benefits hereunder shall not be assigned, transferred, pledged or hypothecated in any way to any third party, including financing institutions,

without the prior written consent of NFP. Agency shall not respond to social impact bond or "pay for success" solicitations or enter into contracts or funding arrangements that link Program implementation performance to repayment of funding and name the Program as the targeted service without NFP's prior written consent. Agency shall not engage or utilize the services of any subcontractor to perform any of Agency's services hereunder without the prior written consent of NFP.

**IX. MISCELLANEOUS PROVISIONS.**

- A. **Consents.** Whenever a Party's consent or approval is required under this Agreement, such consent or approval shall not be unreasonably withheld. If consent or approval is required by an employee of a Party, the Party who employs such employee shall cause the employee to give or withhold such consent or approval in accordance with this Paragraph. If no response is received by the requesting Party within ten business days after delivery of the applicable request, consent shall be deemed given.
- B. **Notices.** All notices and other communications that are required or permitted to be given to the Parties under this Agreement shall be sufficient in all respects if given in writing and delivered by overnight courier or certified mail, postage prepaid, return receipt requested, to the receiving party at the following address:

For NFP:

Original to:

Nurse-Family Partnership  
1900 Grant Street, Suite400  
Denver, CO 80203  
Attention: Chief Executive Officer  
Telephone: 303-327-4274  
Facsimile: 303-327-4260  
Email:

Roxane.white@NurseFamilyPartnership.org

With a copy to:

Nurse-Family Partnership  
1900 Grant Street, Suite400  
Denver, CO 80203  
Attention: Legal Affairs Manager  
Telephone: 303-327-4271  
Facsimile: 303-327-4260  
Email:

Elizabeth.Jasper@NurseFamilyPartnership.org

For Agency:

Original to:

Agency: Health Services Agency  
Attention: Managing Director  
Address: 830 Scenic Drive

Modesto, CA 95353

Telephone: (209) 558-7163

Facsimile: (209) 558-7123

Email: mlee@schsa.org

With a copy to:

Agency: Health Services Agency  
Attention: Associate Director of Public  
Health

Address: 830 Scenic Drive

Modesto, CA 95353

Telephone: (209) 558-7116

Facsimile: (209) 558-7123

Email: rmanyonjo@schsa.org

or to such other address as such party may have given to the other by notice pursuant to this Paragraph. Notice shall be deemed given on the delivery or refusal date, as specified on the return receipt in the case of certified mail or on the tracking report in the case of overnight courier.

- C. Binding Upon Successors and Assigns. This Agreement, and all covenants, terms, provisions, and agreements contained herein, shall be binding upon and shall inure to the benefit of the Parties' respective successors and permitted assigns.
- D. Waivers. No covenant, term, or condition, or the breach thereof, shall be deemed waived, except by written consent of the party against whom the waiver is claimed; and any waiver of the breach of any covenant, term, or condition shall not be deemed to be a waiver of any preceding or succeeding breach of the same or any other covenant, term, or condition.
- E. Responsibility for Debts and Obligations. Neither party shall be responsible either directly or indirectly for any of the debts or obligations of the other party except as provided under this Agreement.
- F. No Third Party Beneficiary. This Agreement does not create any third party beneficiary rights in any person or entity, including without limitation financing institutions.
- G. Authority to Contract. The undersigned individuals represent that they are fully authorized to execute this Agreement on behalf of the respective Parties and make all representations, warranties, and covenants set forth herein. The Parties represent and warrant that the execution, delivery, and performance of this Agreement have been duly authorized by all necessary corporate actions of the Parties and do not violate any laws or any provisions of any agreement to which the Parties are bound.
- H. No Joint Venture. Nothing contained in this Agreement shall be deemed or construed as creating a joint venture or partnership among the Parties. No party shall have the power to control the activities or operations of another party and their status is, and at all times shall continue to be, that of independent contractors with respect to each other. No party shall hold itself out as having authority or relationship in contravention of this Paragraph.
- I. Attorneys' Fees. If a party shall commence any action or proceeding against another party in order to enforce the provisions of this Agreement, or to recover damages as a result of the alleged breach of any of the provisions of this Agreement, the prevailing party shall be entitled to recover all reasonable costs in connection therewith, including reasonable attorneys' fees.
- J. Further Assurances. The Parties shall cooperate fully with each other and execute such further instruments, documents, and agreements, and shall give such further written assurances, as may be reasonably requested by another party to better evidence and reflect the transactions described herein and contemplated hereby, and to carry into effect the intent and purposes of this Agreement.
- K. Entire Agreement. This Agreement (together with Exhibits hereto, which are hereby incorporated by this reference) constitutes the entire agreement between the Parties relating to the subject matter hereof and supersedes all prior or contemporaneous agreements, whether written or oral, among themselves or their agents and representatives relating to the subject hereof. This Agreement may be altered, amended, or revoked only by an instrument in writing signed by all the Parties hereto.
- L. Severability. If any term or provision of this Agreement shall, to any extent, be determined to be invalid or unenforceable by a court or body of competent jurisdiction, the remainder of this Agreement shall not be affected thereby, and each term and

provision of this Agreement shall be valid and enforceable to the fullest extent permitted by law.

- M. Applicable Law. This Agreement shall be governed by and construed according to the internal laws of the State of Colorado. By execution of this Agreement, each party submits and irrevocably waives any objection to in personam jurisdiction in the State of Colorado and the forum and convenience of the state and federal courts thereof.
- N. Survival. The terms and conditions of this Agreement shall survive the expiration or termination of this Agreement to the full extent necessary for their enforcement and for the protection of the party in whose favor they operate.
- O. Counterparts and Facsimile Signatures. This Agreement may be executed in two or more counterparts, each of which shall be deemed an original and all of which, taken together, shall constitute one agreement. A facsimile signature to this Agreement shall be deemed an original and binding upon the party against whom enforcement is sought.
- P. Social Impact Bonds. The Parties acknowledge and agree that, because of nature of the outcome payments associated with social impact bonds and other "pay for success" arrangements, investors will be more likely to select programs with proven records and evaluation techniques that maximize the chances of demonstrating positive outcomes, such as the Program. Recognizing that investors may want to have more control over Program implementation to shore up investment, Agency shall request NFP's prior written consent before entering into any such agreements, including responses to solicitations for such agreements.

IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be executed as of the date set forth herein by their duly authorized representatives.

For NFP:  
Nurse-Family Partnership

By: Roxane White  
Signature  
Roxane White President + CEO  
Printed Name & Title

Date: 8/15/17  
Federal EIN/ 20-0234163

For Agency:  
Stanislaus County Health Services Agency

By: Mary Ann Lee  
Signature  
Mary Ann Lee, Managing Director  
Printed Name & Title

Date: 8/16/15

APPROVED AS TO FORM:  
STANISLAUS COUNTY COUNSEL  
BY Wendy Hartley  
DATE: 7-27-2015

## **EXHIBIT A. NURSE-FAMILY PARTNERSHIP MODEL ELEMENTS**

When the Program is implemented in accordance with these Model Elements, the Parties can reasonably have a high level of confidence that results will be comparable to those measured in research. Conversely, if implementation does not incorporate these Model Elements, results may be different from research results.

Element 1 Client participates voluntarily in the Nurse-Family Partnership program.

Element 2 Client is a first-time mother.

Element 3 Client meets low- income criteria at intake.

Element 4 Client is enrolled in the program early in her pregnancy and receives her first home visit by no later than the end of the 28<sup>th</sup> week of pregnancy.

Element 5 Client is visited one to one, one Nurse Home Visitor to one first-time mother/ family.

Element 6 Client is visited in her home.

Element 7 Client is visited throughout her pregnancy and the first two years of her child's life in accordance with the current Nurse-Family Partnership Guidelines.

Element 8 Nurse Home Visitors and Nursing Supervisors are registered professional nurses with a minimum of a Baccalaureate degree in nursing.

Element 9 Nurse Home Visitors and Nursing Supervisors complete educational sessions required by NFP NSO and deliver the intervention with fidelity to the NFP Model.

Element 10 Nurse Home Visitors, using professional knowledge, judgment, and skill, apply the Nurse-Family Partnership Visit-to-Visit Guidelines individualizing them to the strengths and challenges of each family and apportioning time across defined program domains.

Element 11 Nurse Home Visitors apply the theoretical frameworks that underpin the program, emphasizing Self-Efficacy, Human Ecology, and Attachment theories, through current clinical methods

Element 12 A full time Nurse Home Visitor carries a case load of no more than 25 active clients.

Element 13 A full-time Nursing Supervisor provides supervision to no more than 8 individual Nurse Home Visitors

Element 14 Nursing Supervisors provide Nurse Home Visitors clinical supervision with reflection, demonstrate integration of the theories, and facilitate professional development essential to the Nurse Home Visitor role through specific supervisory activities including 1:1 clinical supervision, case conferences, team meetings and field supervision.

Element 15 Nurse Home Visitor and Supervisors collect data as specified by the NFP NSO and use NFP Reports to guide their practice, assess and guide program implementation, inform clinical supervision, enhance program quality, and demonstrate program fidelity.



**Element 16** Nurse-Family Partnership Implementing Agency is located in and operated by an organization known in the community for being a successful provider of prevention services to low-income families.

**Element 17** Nurse-Family Partnership Implementing Agency convenes a long-term Community Advisory Board that meets at least quarterly to promote a community support system to the program and to promote program quality and sustainability.

**Element 18** Adequate support and structure shall be in place to support Nurse Home Visitors and Nursing Supervisors to implement the program and to assure that data is accurately entered into the data base in a timely manner.

## **EXHIBIT B. NURSE-FAMILY PARTNERSHIP SUPPORT FOR AN AGENCY**

To help Agency implement the Program with Fidelity to the Model, NFP provides the following support to Agency:

- I. NFP provides support to help Agency prepare to implement the Program including:
  - A. Materials to help Agency:
    1. Maintain Agency's work space;
    2. Maintain telecommunications and computer capabilities;
    3. Recruit, hire, and retain Program Supervisors, Nurse Home Visitors, and administrative support staff;
    4. Maintain and improve a network of sources who may refer low-income, first-time mothers to Agency;
    5. Facilitate enrollment of Clients;
    6. Maintain and improve a network of social services that can provide support to Agency's Clients;
    7. Work with media;
    8. Inform the community and build support for Agency, the Program, and Program Benefits;
    9. Establish and maintain strong, stable, and sustainable funding for Agency operations.
  - B. An ETO users' manual, which provides instructions describing what data must be collected for ETO by Agency staff, how that data must be entered into ETO, and how reports can be obtained. NFP may modify the ETO users' manual from time to time and will provide Agency with updated versions on a timely basis.
  - C. Access to an Internet-based discussion forum with other entities that are implementing the Program.
  - D. A visit to Agency by a member of NFP staff to offer direct consultation on Program implementation.
- II. NFP provides ongoing support to Agency via telephone and email during Program implementation and operation, including:
  - A. Consultation with respect to topics such as human resources, developing community support, keeping interested constituencies informed about progress and results, planning and implementing expansion, and sustaining and increasing funding;
  - B. Clinical consultation for Program Supervisors and Nurse Home Visitors;
  - C. Consultation regarding data collection, entry, management, and interpretation.
  - D. On-site consultation as is mutually deemed necessary and appropriate.
- III. NFP provides a description of education programs, both required and optional, and a schedule of upcoming education events and locations. NFP may modify the specific names, descriptions, and content of education programs, as well as their schedule and locations from time to time and will inform Agency of such modifications on a timely basis.
- IV. NFP provides education to Program Supervisors and Nurse Home Visitors at dates and locations to be determined by NFP. Education will cover the following topics:
  - A. The Program, Program Benefits, and Model Elements;
  - B. Use of ETO, including data collection, entry, management, and interpretation;
  - C. Implementation of the Program using the NFP Visit-to-Visit Guidelines and associated tools and materials;
  - D. Knowledge and skills needed by the NFP Program Supervisor; and
  - E. Other aspects of the Program that NFP believes are warranted for successful Program implementation by the staff at Agency.

- V. NFP provides Visit-to-Visit Guidelines and other materials to help Program Supervisors and Nurse Home Visitors implement the Program with Fidelity to the Model Elements. NFP may modify the Visit-to-Visit Guidelines from time to time and will provide Agency with updated versions on a timely basis.
- VI. NFP provides support for Agency's use of ETO, including:
  - A. Monitoring the Agency's data collection and entry activity and quality and providing feedback to Agency as appropriate;
  - B. Maintaining and supporting ETO software;
  - C. Upgrading ETO software when deemed necessary by NFP; and
  - D. Technical assistance via telephone or e-mail to support Agency's use of ETO.
- VII. NFP provides implementation reports and evaluation reports at such times as NFP deems commercially reasonable and necessary to meet the needs of Agency and entities to which Agency may be obligated to provide such information. Subject to applicable federal and state laws, if any, such reports cover:
  - A. Agency activity. Reports designed primarily for Program Supervisors and Nurse Home Visitors to help them manage Nurse Home Visitor activity.
  - B. Quality improvement. Reports aimed to help Agency improve Fidelity to the Model including reports designed (i) to assist Program Supervisors and Nurse Home Visitors identify and prioritize actions for improving Program outcomes, and (ii) to help NFP staff assess how Agencies are performing with respect to Fidelity to the Model.
  - C. Program outcomes. Reports designed to help Program Supervisors and funding decision makers assess the effectiveness of the Program as applied to Agency's particular circumstances.
  - D. These reports are available on a pre-defined schedule or from the ETO Website on demand. NFP may modify the Program Reports from time to time.
- VIII. NFP will provide art work and color and usage guidelines to help Agency develop and produce communications materials that properly use the NFP trademark, logo, tag lines, and other copyrighted or otherwise protected language, images, and materials controlled by NFP.
- IX. From time to time, NFP may engage either internal or external auditors to evaluate the performance of the Agency. Agency will cooperate fully with any quality audit that is undertaken by or on behalf of NFP.

**EXHIBIT C. FEES FOR NURSE-FAMILY PARTNERSHIP SERVICES**

NFP FEES FOR SERVICES PROVIDED UNDER THIS AGREEMENT WILL BE AS FOLLOWS, SUBJECT TO CHANGE IN ACCORDANCE WITH SECTION IV E:

<b>Initial NFP Education Fee (Invoiced upon completion of the face-to-face session)</b>			
Price Effective Date	End Date	Unit Price	Unit of Measure
7/1/2015	6/30/2016	\$4,272.00	One time per NHV or Supervisor
7/1/2016	6/30/2017	\$4,400.00	
7/1/2017	6/30/2018	\$4,532.00	
<b>Initial NFP Program Supervisor Education Fee (Invoiced upon completion of the first face-to-face session)</b>			
Price Effective Date	End Date	Unit Price	Unit of Measure
7/1/2015	6/30/2016	\$771.00	One time per Supervisor
7/1/2016	6/30/2017	\$794.00	
7/1/2017	6/30/2018	\$818.00	
<b>NFP Agency Administrator Education Fee (Invoiced upon completion of the first face-to-face session)</b>			
Price Effective Date	End Date	Unit Price	Unit of Measure
7/1/2015	6/30/2016	\$504.00	One time per Administrator
7/1/2016	6/30/2017	\$519.00	
7/1/2017	6/30/2018	\$535.00	
<b>Initial NFP Educational Materials Fee (Invoiced upon completion of the face-to-face NHV Education session)</b>			
Price Effective Date	End Date	Unit Price	Unit of Measure
7/1/2015	6/30/2016	\$543.00	One time per NHV Trainee
7/1/2016	6/30/2017	\$559.00	
7/1/2017	6/30/2018	\$576.00	
<b>Annual Program Support Fee (Invoiced annually on the Price Effective Date)</b>			
Price Effective Date	End Date	Unit Price	Unit of Measure
7/1/2015	6/30/2016	\$7,398.00	Per Program Supervisor Position per Year
7/1/2016	6/30/2017	\$7,620.00	
7/1/2017	6/30/2018	\$7,848.00	
<b>Annual Nurse Consultation Fee for Each First Program Supervisor at a Location (Invoiced annually on the Price Effective Date)</b>			
Price Effective Date	End Date	Unit Price	Unit of Measure
7/1/2015	6/30/2016	\$8,669.00	Per Program Supervisor Position per Year
7/1/2016	6/30/2017	\$9,132.00	
7/1/2017	6/30/2018	\$9,408.00	
<b>Annual Nurse Consultation Fee for Each Additional Program Supervisor at a Location (Invoiced annually on the Price Effective Date)</b>			
Price Effective Date	End Date	Unit Price	Unit of Measure
7/1/2015	6/30/2016	\$5,321.00	Per Program Supervisor Position per Year
7/1/2016	6/30/2017	\$5,484.00	
7/1/2017	6/30/2018	\$5,640.00	
<b>Program Supervisor Expansion or Replacement Fee (Invoiced at the time of hire)</b>			
Price Effective Date	End Date	Unit Price	Unit of Measure
7/1/2015	6/30/2016	\$2,902.00	One time per Expansion or Replacement Program Supervisor per Year
7/1/2016	6/30/2017	\$2,988.00	
7/1/2017	6/30/2018	\$3,078.00	
<b>Data Transmission (Invoiced on the Price Effective Date)</b>			
Price Effective Date	End Date	Unit Price	Unit of Measure
7/1/2015	6/30/2016	\$3,439.00	Data Transfer Set-Up Fee
7/1/2015		\$575.00	Quarterly transmission
7/1/2016	6/30/2017	\$588.00	Quarterly transmission
7/1/2017	6/30/2018	\$612.00	Quarterly transmission

#### **EXHIBIT D. HIPAA BUSINESS ASSOCIATE ADDENDUM**

- I. NFP is considered a Business Associate of Agency, as NFP either: (A) performs certain functions on behalf of or for Agency that may involve the use or disclosure of protected individually identifiable health information by Agency to NFP, or the creation or receipt of PHI by NFP on behalf of Agency; or (B) provides legal, actuarial, accounting, consulting, data aggregation, management, administrative, accreditation, financial or social services for Agency involving the disclosure of PHI.
- II. Agency and NFP mutually agree to incorporate the terms of this Exhibit into the Agreement to comply with the requirements of the Health Insurance Portability and Accountability Act of 1996 ("HIPAA") and HIPAA's implementing regulations, Title 45, Parts 160 and 164 of the Code of Federal Regulations ("Security and Privacy Rule"), as amended by HITECH. If any conflict exists between the terms of the Agreement and this Exhibit, the terms of this Exhibit shall govern.
- III. This Exhibit is specific to those services and programs included in the Agreement where it has been concluded that NFP is performing specific functions on behalf of Agency that have been determined to be covered under the HIPAA Security and Privacy Rule. NFP's activities within the Agreement may include, but are not limited to the following: (i) data analysis, processing or administration, (ii) quality assurance, (iii), billing, and (iv) other management or administrative functions where NFP may not otherwise be subject to the HIPAA Security and Privacy Rule, including also health services functions.
- IV. Definitions:
  - A. Protected Health Information (PHI) means any information, whether oral or recorded in any form or medium, including Electronic Health Records (EHR), that: (i) relates to the past, present or future physical or mental condition of any Individual; the provision of health care to an Individual; or the past, present or future payment of the provision of health care to an Individual; and (ii) identifies the Individual, or with respect to which there is a reasonable basis to believe the information can be used to identify the Individual. PHI includes demographic information unless such information is de-identified according to the Security and Privacy Rule.
  - B. Individual means the person who is the subject of PHI, and shall include a person who qualifies under the Security and Privacy Rule as a personal representative of the Individual.
- V. Capitalized terms used in this Exhibit, but not otherwise defined, shall have the same meaning as those terms in the Security and Privacy Rule, as amended from time to time.
- VI. Prohibition on Unauthorized Use or Disclosure of PHI: NFP shall not use or disclose any PHI received from or on behalf of Agency except as permitted by the Security or Privacy Rule, or as required by law, or as otherwise authorized in writing by Agency.
- VII. Use and Disclosure of Protected Health Information: Except as described in Section IV, NFP may use or disclose PHI only for the following purpose(s):
  - A. For the proper management and administration of the functions and activities related to the provision of healthcare services specified within the Agreement.
  - B. For meeting its obligations as set forth in any agreements between the parties evidencing their business relationship.
  - C. As would be permitted by the HIPAA Security and Privacy Rule if such use or disclosure were made by Agency or as required by applicable law, rule or regulation.
  - D. For Data Aggregation purposes for the Health Care Operations of Agency.

- E. For use in NFP's operations as described in the Agreement.
- VIII. Disclosures of PHI shall, to the extent practicable, be limited to the applicable limited data set and to the minimum necessary information to accomplish the intended purpose of the use, disclosure or request unless otherwise determined by guidance of the Secretary of the U.S. Department of Health and Human Services ("Secretary").
- IX. Use of PHI for Certain of NFP's Operations: NFP may use and/or disclose PHI it creates for, or receives from, Agency to the extent necessary for NFP's proper management and administration, or to carry out NFP's legal responsibilities, only if:
- A. The disclosure is required by law.
  - B. NFP obtains reasonable assurances, evidenced by written contract, from any person or organization to which NFP shall disclose such PHI that such person or organization shall:
  - C. Hold such PHI in confidence and use or further disclose it only for the purpose for which NFP disclosed it to the person or organization, or as required by law; and
  - D. Notify NFP, who shall in turn promptly notify Agency, of any instance which the person or organization becomes aware of in which the confidentiality of such PHI was breached.
- X. Safeguarding of PHI: NFP shall develop, implement, maintain, and use appropriate administrative, technical, and physical safeguards to prevent the improper use or disclosure of all PHI, in any form or media, received from or created or received by Agency on behalf of, Agency. NFP shall document and keep these security measures current, consistent with HIPAA Security regulations. NFP shall cooperate and respond in good faith to any reasonable request from Agency to discuss and review NFP's safeguards.
- XI. Subcontractors and Agents: If NFP provides any PHI which was received from, or created for Agency, to a subcontractor or agent, then NFP shall require such subcontractor or agent to agree to the same restrictions and conditions as are imposed on NFP by this Exhibit and by sections 164.502 and 164.504(e) of Title 45 of the Code of Federal Regulation, as amended from time to time. NFP shall keep Agency informed of the identities of all subcontractors having access to PHI created, received, maintained or transmitted on behalf of Agency.
- XII. Access to PHI: At the direction of Agency, NFP agrees to provide access to any PHI held by NFP which Agency has determined to be part of Agency's Designated Record Set, in the time and manner designated by Agency. This access will be provided to Agency or, as directed by Agency, to an individual, in order to meet the requirements under the Security and Privacy Rule.
- XIII. Reporting of Unauthorized Disclosures or Misuse of PHI: NFP shall report to Agency any unauthorized acquisition, access, use or disclosure of PHI. NFP shall make the report to Agency not less than three (3) business days after NFP learns of such use or disclosure. NFP's report shall identify: (i) each individual protected by this Exhibit whose PHI has been, or is reasonably believed by NFP to have been, accessed, acquired or disclosed, (ii) the nature of the unauthorized use or disclosure, (iii) the PHI used or disclosed, (iv) who made the unauthorized use or received the unauthorized disclosure, (v) what NFP has done or shall do to mitigate any deleterious effect of the unauthorized use or disclosure, and (vi) what corrective action NFP has taken or shall take to prevent future similar unauthorized use or disclosure. NFP shall provide such other information, including a written report, as reasonably requested by NFP.

- XIV. **Mitigating Effect of Unauthorized Disclosure or Misuse of PHI:** NFP agrees to mitigate, to the extent practicable, any harmful effect that is known to NFP of a misuse or unauthorized disclosure of PHI by NFP in violation of the requirements of this Exhibit.
- XV. **Notification Requirements In the event of Unauthorized Disclosure or Misuse of PHI.** In the event of a Breach, NFP agrees to take the following steps within 60 days:
- A. Provide written notice by first-class mail to the Individual or next of kin if the Individual is deceased, at the last known address of the Individual or next of kin, or if specified as a preference by the Individual, by electronic mail.
  - B. If contact information is insufficient to provide notice to an Individual, provide a substitute form of notice; and, where there are 10 or more Individuals with insufficient contact information, make a conspicuous posting as required by the Secretary as provided on the Secretary's official web site.
  - C. If the Breach involves the PHI of more than 500 Individual residents of the state, notify prominent media outlets.
  - D. Include in notice to individuals: (i) a brief description of what happened; (ii) a description of the type of information involved; (iii) steps Individuals should take to protect themselves from potential harm resulting from the Breach; a description of what is being done to investigate the Breach, mitigate losses and protect against further breaches; and (iv) contact procedures for Individuals to obtain further information.
  - E. Comply with any other notice requirements of the Security and Privacy Rule, the ARRA of 2009 or guidance statements of the Secretary, as amended from time to time.
- XVI. **Log of Unauthorized Disclosure or Misuse of PHI:** NFP shall maintain a log of any Breach covered by this Exhibit and shall annually submit such log to the Secretary of the U.S. Department of Health and Human Services as required by section 13400 of the ARRA of 2009 and to Agency. NFP shall provide immediate notice to the Secretary and Agency of any breach of the PHI of 500 or more Individuals.
- XVII. **Accounting to Agency and to Government Agencies:** NFP shall make its internal practices, books, and records relating to the use and disclosure of PHI available to Agency, or at the request of Agency, to the Secretary or his/her designee, in a time and manner designated by Agency or the Secretary or his/her designee, for the purpose of determining NFP's compliance with the Security and Privacy Rule. NFP shall promptly notify Agency of communications with the Secretary regarding PHI provided by or created by Agency and shall provide Agency with copies of any information NFP has made available to the Secretary under this provision.
- XVIII. **Prohibition on Sale of Electronic Health Records or Protected Health Information:** NFP shall not receive remuneration in exchange for any EHR or PHI of an Individual received from or on behalf of Agency.
- XIX. **Term and Termination:** In addition to the rights of the parties established by the Agreement, if Agency reasonably determines in good faith that NFP has materially breached any of its obligations under this Addendum, Agency, in its sole discretion, shall have the right to:
- A. exercise any of its rights to reports, access and inspection under this Exhibit; and/or
  - B. require NFP to submit to a plan of monitoring and reporting, as Agency may determine necessary to maintain compliance with this Exhibit, and/or
  - C. provide NFP with a 30 day period to cure the breach; or
  - D. terminate the Agreement immediately.
- XX. **Before exercising any of these options,** Agency shall provide written notice to NFP describing the violation and the action it intends to take.

XXI. **Return or Destruction of PHI:** The Parties agree that the return or destruction of PHI or Health Information is not feasible, due to data integrity and ongoing Program evaluation. Therefore, NFP shall extend the protections of this Exhibit to PHI and Health Information received from or created on behalf of Agency, and limit further uses and disclosures of such PHI, for so long as NFP maintains the PHI.

XXII. **Miscellaneous:**

- A. **Automatic Amendment:** Upon the effective date of any amendment to the regulations promulgated by the Secretary with regard to PHI, this Exhibit shall automatically amend so that the obligations imposed on NFP remain in compliance with such regulations.
- B. **Interpretation:** Any ambiguity in this Exhibit shall be resolved in favor of a meaning that permits Agency to comply with the Security and Privacy Rule.

XXIII. The Parties acknowledge that, in the course of providing the services to Agency under the terms of the Agreement, NFP will be enabling the Prevention Research Center for Family and Child Health ("PRC"), an organization which is part of the University of Colorado at Denver and Health Sciences Center, to access data that may be PHI for the purposes of research, analysis, and reporting. NFP will ensure that PRC and its employees and NFP's agents, employees, subcontractors or others to whom it provides PHI received by or created by NFP on behalf of Agency agree to the same restrictions and conditions that apply to NFP with respect to such information. NFP also agrees to take all reasonable steps to ensure that its employees', agents', or subcontractors' actions or omissions do not cause NFP to breach the terms of this Addendum. NFP will use all appropriate safeguards to prevent the use or disclosure of PHI other than pursuant to the terms and conditions of this Agreement and Exhibit.



## **EXHIBIT E. AGENCY RESPONSIBILITIES**

To ensure that the Nurse-Family Partnership Program is implemented with Fidelity to the Model, Agency will undertake the following actions during initial implementation and ongoing operation:

- I. Agency will:
  - A. Maintain an appropriate work space for staff who are to implement the Program;
  - B. Maintain appropriate telecommunications and computer capabilities for staff;
  - C. Recruit, hire, and retain Program Supervisors, Nurse Home Visitors, and administrative support staff;
  - D. Maintain and improve a network of referral sources who may refer low-income, first-time mothers to Agency;
  - E. Enroll clients that meet the criteria specified in the Model Elements.
  - F. Maintain and improve a network of social services that can provide support to Agency's Clients;
  - G. Work with media to ensure timely and accurate communication to the public about the Program and its implementation by Agency;
  - H. Inform the community and build support for Agency, the Program, and Program Benefits;
  - I. Establish and maintain strong, stable, and sustainable funding for Agency operations.
  - J. Utilize NFP's Internet-based discussion forum to share learning with other entities that are implementing the Program.
- II. Agency will keep NFP informed of implementation issues that arise.
- III. Agency will ensure that all Program Supervisors, nurses, and administrative staff attend, participate in, and/or complete education programs required by NFP, do so on a timely basis, and, upon completion, demonstrate a level of competence deemed satisfactory by NFP.
- IV. Agency will ensure that no Nurse Home Visitor is assigned a case load or makes a Client visit (except in the company of an NFP-educated Nurse Home Visitor) until after she/he has completed education on the Program, Program Benefits, Model Elements, use of the ETO, and implementation of the Program for mothers who are pregnant.
- V. Agency will implement the Program in accordance with Visit-to-Visit Guidelines including:
  - A. Ensure enrollment of 25 first-time mothers per full-time Nurse Home Visitor within nine months of beginning implementation and make best efforts to maintain that level of enrollment on an ongoing basis;
  - B. Ensure that each full-time Nurse Home Visitor carries a caseload of not more than 25 active families;
  - C. Maintain the established visit schedule; and
  - D. Ensure that the essential Program content as described in the Visit-to-Visit Guidelines is covered with Clients by Nurse Home Visitors.
- VI. Agency will ensure the availability of appropriate, fully functioning computer systems and software at Agency for use of ETO and for communication with NFP by email.
- VII. Agency will ensure that Program Supervisors and Nurse Home Visitors (a) collect required data on client visits and enter it in ETO completely and accurately within one week of each client visit and (b) enter any other data for ETO completely and accurately on or

before the last day of each calendar month, taking all appropriate steps to maintain client confidentiality and obtain any necessary written permissions or agreements for data analysis or disclosure of protected health information, in accordance with HIPAA (Health Insurance Portability and Accountability Act of 1996) regulations, including, but not limited to, authorizations, data use agreements, business associate agreements, as necessary. Failure of Agency to comply with any applicable provision of HIPAA will constitute a breach of this Agreement.

VIII. Agency will ensure that Program Supervisors:

A. Aim to develop a supportive relationship with the Nurse Home Visitors she/he supervises;

B. Meet one-on-one with each Nurse Home Visitor at least weekly to provide clinical supervision using reflection, preferably in person but by telephone where travel constraints limit nurse or Program Supervisor mobility;

C. Run activity reports and quality improvement reports from the ETO Website on a timely basis (typically monthly); use such reports to assess areas where systems, organizational, or operational changes are needed in order to enhance the overall quality of program operations; and develop and implement action plans based on such assessments.

IX. Agency will develop a Community Advisory Board with diverse representation (for example, health, mental health, education, criminal justice, youth, business, social services, faith-based leaders, other prominent community organization leaders) to ensure broad-based community support for Agency's implementation of the Program.

X. NFP will periodically assess the extent to which Agency is implementing the Program with Fidelity to the Model. When such assessment indicates opportunities for Agency to improve its results by strengthening Fidelity to the Model, NFP staff will meet with Agency supervision and mutually develop a plan to do so.