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Memo

To Board of Education

From Antwan Wilson, Superintendent

Board Meeting Date December 14, 2016
(To be completed by Procurement)

Subject Memorandum of Understanding - Alameda County Health Care Services Agency (contractor) - 922/Community Schools and Student Services Department (site/department)

Action Requested Approval of a Memorandum of Understanding contract between Oakland Unified School District and Alameda County Health Care Services Agency (ACHCSA). Services to be primarily provided to Community Schools and Student Services Department for the period of July 1, 2016 through June 30, 2017.

Background
A one paragraph explanation of why the consultant's services are needed.

Alameda County Health Care Services Agency (ACHCSA) has entered a contract with the State Department of Health Services (SDHS) to establish a means of claiming Title XIX federal financial participation for administrative costs necessary for the proper and efficient administration of Medi-Cal program. The SDHS has designated the ACHCSA as the Local Government Agency (LGA) for submitting Medi-Cal Administrative Activity (MAA) claims to the state. MAA is a federal program designed to reimburse school districts, county offices of education, and other governmental agencies for certain costs incurred in the administration of Medi-Cal funded activities. Reimbursement through the MAA program is based on time spent administering these activities. DHCS has authorized the County of Plumas to create a MAA consortium and act as a host county to other LGA's. They will hold the contracts with the third party vendors Fairbanks, LLC and Public Consulting Group (PCG). ACHCSA has a contract with the host agency, County of Plumas, and ACHCSA will pay all applicable fees to them on our behalf.

Discussion
One paragraph summary of the scope of work.

Approval by the Board of Education of a Memorandum of Understanding between the District and the Alameda County Health Care Service Agency, San Leandro, CA, for the latter to process and submit Medi-Cal Administrative Activity (MAA) claims to the State for reimbursement to the District, for an administrative fee of \$75,000 - \$99,950.00 of which is 5.0% of the projected MAA reimbursement the District expects to receive for the period of July 1, 2016 through June 30, 2017.

Recommendation

Approval of a Memorandum of Understanding between Oakland Unified School District and Alameda County Health Care Service Agency. Services to be primarily provided to 922/Community Schools and Student Services Department for the period of July 1, 2016 through June 30, 2017.

Fiscal Impact

Funding resource name: 0099/Medi-Cal Administrative Activity not to exceed the maximum amount of \$99,950.00.



Attachments

- Memorandum of Understanding, Fiscal Year 2016-2017
(3 Sets of Originals)
- Plumas County Public Health Agency, Authorized Host Entity, Condition Letter
- Agreement between the County of Plumas and Alameda County
- Services Agreement between the Public Consulting Group, Inc. and Alameda County
- Services Agreement between the County of Plumas and Fairbanks, LLC



CONTRACT JUSTIFICATION FORM
This Form Shall Be Submitted to the Board Office
With *Every* Consent Agenda Contract.

Legislative File ID No. 16-2575

Department: 922/Community Schools and Student Services Department

Vendor Name: Alameda County Health Care Service Agency

Contract Term: Start Date: 07/01/2016 End Date: 06/30/2017

Annual Cost: \$ 99,950.00

Approved by: Jeremy Ford, Andrea Bustamante

Is Vendor a local Oakland business? Yes No

Why was this Vendor selected?

The Department of Health Care services required that Local Education Agencies (LEA) contract with Local Governmental Agencies (LGA) to participate in School-Based Medi-Cal Administrative Activities(SMAA). Alameda County Health Care Service Agency is the LGA for our region and they are the only one we can select.

Summarize the services this Vendor will be providing.

Alameda County holds the contracts with the agencies that will provide the Random Moment Time Survey (RMTS) software needed to participate in the SMAA program. Additionally they will train the LEA SMAA Coordinators, certify the list of Time Survey Participants (TSPs), coordinate certify and submit SMAA invoices, assist RMTS central coding staff, and provide oversight of the RMTS time survey process.

Was this contract competitively bid? Yes No

If No, answer the following:

1) How did you determine the price is competitive?

The Department of Health Care Services requires this contract with our regional LGA to participate in School-Based Medi-Cal Administrative Activities. The consortium of California LGAs determined the price, which is 5% of any MAA reimbursement received plus a flat fee of \$25,000.00, not to exceed \$99,950.00.

2) Please check the competitive bid exception relied upon:

- Educational Materials**
- Special Services** contracts for financial, economic, accounting, legal or administrative services
- CUPCCAA exception** (Uniform Public Construction Cost Accounting Act)
- Professional Service Agreements** of less than \$87,800 (increases a small amount on January 1 of each year)
- Construction related Professional Services** such as Architects, DSA Inspectors, Environmental Consultants and Construction Managers (require a "fair, competitive selection process)
- Energy** conservation and alternative energy supply (e.g., solar, energy conservation, co-generation and alternate energy supply sources)
- Emergency** contracts [requires Board resolution declaring an emergency]
- Technology** contracts
 - electronic data-processing systems, supporting software and/or services (including copiers/printers) over the \$87,800 bid limit, must be competitively advertised, but any one of the three lowest responsible bidders may be selected
 - contracts for computers, software, telecommunications equipment, microwave equipment, and other related electronic equipment and apparatus, including E-Rate solicitations, may be procured through an RFP process instead of a competitive, lowest price bid process
 - Western States Contracting Alliance Contracts (WSCA)
 - California Multiple Award Schedule Contracts (CMAS) [contracts are often used for the purchase of information technology and software]
- Piggyback" Contracts** with other governmental entities
- Perishable Food**
- Sole Source**
- Change Order for Material and Supplies** if the cost agreed upon in writing does not exceed ten percent of the original contract price
- Other, please provide specific exception**

**MEDI-CAL ADMINISTRATIVE ACTIVITIES (MAA)
MEMORANDUM OF UNDERSTANDING**

Between the

ALAMEDA COUNTY HEALTH CARE SERVICES AGENCY

And

Oakland Unified School District

FOR FISCAL YEAR 2016-2017

ARTICLE I - PURPOSE OF AGREEMENT

- A. The Alameda County Health Care Services Agency hereinafter referred to as the HCSA has entered into a contract with the State Department of Health Care Services hereinafter referred to as the State to establish a means of claiming Title XIX federal financial participation (FFP) for administrative costs necessary for the proper and efficient administration of the Medi-Cal program as set forth in W&I Code Section 14132.47.
- B. The purpose of the State-HCSA contract is to assist the State in the proper and efficient administration of the Medi-Cal Program. Assistance by the HCSA in providing Medi-Cal administration has been determined to be an effective method of assuring the availability and accessibility of Medi-Cal services to Medi-Cal eligible individuals served by the LGA and their subcontractors.
- C. The State recognizes the unique relationship that the HCSA has with Medi-Cal eligible individuals. It further recognizes the expertise of the Centers for Medicare and Medicaid Services (CMS) in identifying and assessing the health care needs of Medi-Cal eligible individuals it serves. The State, in order to take advantage of this expertise and relationship, has, by contract, designated the HCSA as the Local Government Agency (LGA) for purposes of submitting Medi-Cal Administrative Activity (MAA) claims to the State.
- D. HCSA, as LGA, recognizes the unique relationship that certain other departments and entities in the County have with Medi-Cal eligible individuals. It further recognizes their expertise in identifying and assessing the health care needs of the Medi-Cal eligible individuals they serve. As the LGA, the HCSA is authorized to enter into agreements with a department/entity performing MAA, hereinafter referred to as the Contractor, in support of HCSA, as the LGA claiming administrative reimbursement. The HCSA, in order to take advantage of the Contractor's expertise and relationship, enters into this agreement herewith.

ARTICLE II - MUTUAL OBJECTIVES

Both parties to the Agreement agree:

- A. To ensure that Medi-Cal potentially eligible individuals, and their families where appropriate, served by the Contractor are informed of the Medi-Cal Program, how to access it, and assisted in accessing the Medi-Cal program, if needed.
- B. To ensure that assistance is provided to Medi-Cal eligible individuals and their families where appropriate, in facilitating their receipt of services and activities in the Medi-Cal program.

- C. That this Agreement is governed by 42 USC, Section 1396 et seq., 42 Code of Federal Regulations (CFR) Part 400 et seq., and 45 CFR Part 95, California Welfare and Institutions Code, Division 9, Part 3, Chapter 7 (commencing with Section 14000) and Chapter 8 (commencing with Section 14200), and Title 22 California Code of Regulations (CCR), Division 3 (commencing with Section 50000), all as periodically amended; State issued policy directives; and by federal Office of Management and Budget (OMB) circular A-87, as periodically amended.

ARTICLE III - CONTRACTOR RESPONSIBILITIES

- A. Perform Medi-Cal administrative activities (MAA) on behalf of the HCSA to assist in the proper and efficient administration of the Medi-Cal Program by improving the availability and accessibility of Medi-Cal services to Medi-Cal eligible and potentially eligible individuals, and their families (where appropriate) served by the Contractor.
- B. Assess MAA claiming potential within the district and determine which staff in the district will participate in the Random Moment Time Survey (RMTS) and what direct charges, if applicable, will be claimed.
- C. Provide the identified time survey staff with training on MAA and the RMTS system, program procedures, and requirements in order to account for the activities of the staff conducting MAA activities via the State approved RMTS tool and process.
- D. Ensure that all MAA claiming is conducted in accordance with applicable County, State, and Federal legislation, regulations, administrative claiming process directives, policies, procedures, and program letters of the Medi-Cal Policy Division and the Administrative Division of the State Department of Health Care Services, which define program specific allowable Medi-Cal administrative activities and processes.
- E. MAA performed by Contractor will be eligible for FFP only when they are identified in a MAA claiming plan approved by the State and the federal CMS. Provide to the HCSA, a comprehensive Medi-Cal administrative Claiming Plan in the format specified by the State. The claiming plan must be approved by the HCSA, State and federal CMS prior to the submission of MAA invoices. Invoices received by the HCSA prior to the approval of the MAA claiming plan will be rejected.
- F. Provide the HCSA with complete invoice and expenditure information to include in the County MAA claim no later than twelve (12) months after the end of the quarter for which the claim was submitted. This information shall be provided in a standardized Summary Invoice and Detailed Invoice as identified in Article IV, HCSA Responsibilities, Item C.

The Summary Invoice must be submitted to the State under the LGA's original letterhead and have an original signature of a person who has been granted the authority by the LGA to sign this invoice on behalf of the LGA.

The Detailed Invoice identifies the claim categories to which expenditure data must adhere for insertion into the CMS 64. A separate detailed invoice shall be submitted for each program, clinic, non-governmental entity and subcontractor claiming MAA costs pursuant to this Agreement, except for contracted employees under the direct control of the LGA. Contracted employees' costs shall be aggregated and reported in accordance with the MAA Invoice instructions. The Detailed Invoice(s) for each of the programs being claimed shall correspond to the name of the claiming programs identified in the LGA's MAA Claiming Plan.

- G. Obtain certification for the non-federal match from the LGA's or other governmental entity's General Fund, or from any other funds allowed under federal law and regulation, for Title XIX funds claimed for Medi-Cal administrative activities performed pursuant to Welfare and

Institutions Code Section 14132.47. The following certification statement shall be made on each invoice submitted to the HCSA for payment for the performance of Medi-Cal administrative activities:

"I certify under penalty of perjury that the information provided on this invoice is true and correct, based on actual expenditures for the period claimed, and that the funds/contributions have been expended as necessary for federal matching funds pursuant to the requirements of 42 CFR 433.51 for allowable administrative activities and that these claimed expenditures have not been nor will not subsequently be used for federal match in this or any other program. I have notice that the information is to be used for filing of a claim with the Federal Government for federal funds and knowing misrepresentation constitutes violation of the Federal False Claims Act."

The HCSA shall deny submission or payment of any claim submitted under this Agreement if it determines that the certification is not adequately supported for purposes of federal financial participation.

- H. The Contractor must also determine the appropriate methodologies to compute the percentage of Medi-Cal recipients in the district, on a quarterly basis.
- K. Develop procedures for establishing and maintaining files that are consistent with procedures outlined by State and County and ensure that audit files are kept in a current status. The Contractor must retain all necessary records for a minimum of five (5) years after the end of the quarter in which the expenditures were incurred for the Medi-Cal administrative activities and, if an audit is in progress, all records relevant to the audit shall be retained until the completion of the audit or the final resolution of all audit exceptions, deferrals and/or disallowances, whichever is later. The records shall fully disclose the type and extent of administrative activities performed by appropriate staff. The Contractor shall furnish said documentation, and any other information regarding payments for performing Medi-Cal administrative activities, upon request, to the HCSA, State and the federal government.
- L. Be responsible to the HCSA for all requirements under this Agreement even though the requirements are carried out pursuant to a Contractor subcontract. All Contractors' subcontracts shall include provisions requiring compliance with the terms and conditions of this Agreement. All non-governmental entities performing Medi-Cal administrative activities pursuant to the provisions of this Agreement shall be deemed true subcontractors of the Contractor.
- M. Enter into Interagency Agreements or Memoranda of Understanding with all departments/entities performing Medi-Cal administrative activities in support of the Contractor claiming administrative reimbursement. The Contractor shall have available for HCSA, State and/or federal review, any Interagency Agreement or Memoranda of Understanding to perform administrative activities under the auspices of the Medi-Cal Program.
- N. Designate an employee to act as the liaison with the HCSA for ongoing program management and issues concerning this Agreement.
- O. Not discriminate against any eligible person because of race, religion, political beliefs, color, national or ethnic origin, ancestry, mental or physical disability, medical condition, marital status, age or sex.
- P. Ensure all applicable HCSA, State and federal requirements, as identified in Article II. C, are met in performing MAA under this Agreement. It is understood and agreed that failure by the Contractor to ensure all applicable HCSA, State and federal requirements are met in performing MAA under this Agreement shall be sufficient cause for the HCSA to deny or recoup payments to the Contractor and/or to terminate this Agreement.
- Q. Submit a letter of intent to participate in the MAA program six (6) months prior to the termination of contract or the beginning of a new fiscal year. Refer to the attachment titled: DHCS RMTS

Condition Letter_LGA Host County confirming the Contractor involvement in SMAA.

- R. Ensure all participating Contractor staff claiming reimbursement through Title XIX Medi-Cal administrative claiming receives copies of applicable correspondence sent to Contractor by HCSA.
- S. Ensure all participating Contractor staff receives clear instructions in all areas of MAA Claiming, consistent with Federal, State and county-wide policies regarding MAA.
- T. Ensure that no duplicate billings occur.

ARTICLE IV - HCSA RESPONSIBILITIES

- A. Make available to the Contractor the State MAA/TCM Provider Manual, State Policy and Procedure Letters (PPLs) and any other instructions, information and forms necessary for the Contractor to perform and submit claims for MAA; training and technical support related to documenting MAA, preparing and submitting the MAA Claiming Plan and MAA claims.
- B. Upon the Contractor's compliance with all provisions pursuant to this Agreement, and upon the submission of a quarterly claim, according to the provisions of Article III, items D, E and F of this Agreement, based on valid and substantiated information, the HCSA agrees to accept, review, process and forward to the State as part of the County MAA claim, Contractor claims for reimbursement of the allowable actual costs of providing administrative activities necessary for the proper and efficient administration of the Medi-Cal Program. Costs may include the expenses of staff and the operating expenses and equipment costs necessary to carry out the staff activities outlined in this Agreement.
 - 1. The maximum rate of federal reimbursement for compensation (salary and benefits), of activities qualifying under federal regulations shall be 50 percent of such costs for activities identified.
- C. Provide the Contractor with a standardized format for the **Summary Invoice, Detailed Invoice and Claiming Plan**, which will be disseminated through policy directives issued by the State, via HCSA.
- D. Review Claiming Plans and Contractor initiated amendment(s) to the Claiming Plan. Any amendment that cannot be approved shall be returned to the Contractor with a written explanation of the basis for disapproval.
- E. Submit HCSA approved claiming plans and amendments to the State for review and approval.
- F. Make available to contractors, training and technical support on proper administrative activities to be claimed, identifying costs related to these activities, and billing procedures.
- G. Act as a pass-through agency for Contractor MAA claims. Any changes in any federal regulation affecting the matching percentage, and/or costs eligible for enhanced or administrative match, which become effective subsequent to the execution of this Agreement, will be applied herein as provided in such changes to the regulations. As the State becomes aware of changes in applicable federal regulations, it will forward such information to HCSA, who in turn will forward the information to the Contractor.
- H. Act as a pass-through entity for collecting the Public Consulting Group (PCG) RMTS software and Fairbanks LLC coding fees as outlined in the school-based Medi-Cal Administrative Activities (SMAA) RMTS agreement HCSA has agreed to as part of the LGA SMAA Consortium, hosted by the County of Plumas (attached). HCSA will withhold fees from all MAA reimbursements received

for Contractor as outlined in Article VIII J. Refer to the three (3) attachments titled: Host County Agmt_1416 Alameda, PCG Software Agmt_Signed, and Fairbanks Coder Agmt_Signed. These attachments outline the agreement and roles between the LGA Host County, PCG Software Service, and Fairbanks Coding.

- I. Maintain a copy of claims and backup documentation provided to HCSA by the Contractor as audit files for a period of five (5) years after claim submission; or, if an audit is in process, five years after the completion of the audit.
- J. Respond to inquiries from State and/or Federal audits and coordinate responses with Contractor. HCSA and the Contractor will make Contractor audit files available to the State or Federal auditors and will respond to questions in conjunction with the Contractor.
- K. Designate a liaison with the Contractor for ongoing program management and this Agreement. All items shall be directed to:

Alameda County Health Care Services Agency
LGA MAA/TCM Coordinator
1000 San Leandro Blvd., Suite 300
San Leandro, CA 94577

ARTICLE V - JOINT RESPONSIBILITIES

- A. The HCSA and the Contractor hereby agree to comply with all applicable laws governing the confidentiality of client information for Medi-Cal clients served by the Contractor, or subcontractor, under this Agreement. Applicable laws include, but are not limited to, 42 USC Section 1396a(a)7, 42 CFR Section 431.300, Welfare and Institutions Code, Section 14100.2, and 22 California Code of Regulations Section 51009.
- B. County and Contractor hereby agree to comply with the use of the RMTS system and process as outlined in the three (3) attachments titled: Host County Agmt_1416 Alameda, PCG Software Agmt_Signed, and Fairbanks Coder Agmt_Signed. These attachments outline the agreement and roles between the LGA Host County, PCG Software Service, and Fairbanks Coding.
- D. County and Contractor hereby agree to pay for the additional RMTS Software and Coding services as identified in the three (3) attachments titled: Host County Agmt_1416 Alameda, PCG Software Agmt_Signed, and Fairbanks Coder Agmt_Signed. These attachments outline the agreement and roles between the LGA Host County, PCG Software Service, and Fairbanks Coding.

ARTICLE VI - TERM OF AGREEMENT

- A. The term of this Agreement is **July 1, 2016 through June 30, 2017**
- B. This Agreement may be amended at any time by mutual written agreement of the two parties to this Agreement. The Contractor must address a written request for amendment to the HCSA per Article IV, Item J.
- C. Either party may terminate this Agreement without cause by delivering written notice of termination to the other party at least thirty (30) days prior to the effective date of termination.

ARTICLE VII – NOTIFICATION

Any notice, demand, request, consent, or approval that either party hereto may or is required to give the other pursuant to this Agreement shall be in writing and shall be either personally delivered or sent by mail, addressed as follows:

TO COUNTY

Alameda County Health Care Services Agency
LGA MAA/TCM Coordinator
1000 San Leandro Blvd., Suite 300
San Leandro, CA 94577

TO CONTRACTOR

_____ Contractor Name
_____ Contact Name
_____ Address
_____ City, State, Zip Code

ARTICLE VIII - FISCAL PROVISIONS

Reimbursement under this Agreement shall be made in the following manner:

- A. Upon the Contractor's compliance with all provisions pursuant to this Agreement, and upon the submission of a quarterly Summary Invoice and Detailed Invoice(s), the HCSA agrees to process claims for reimbursement. Reimbursement is conditioned on the Contractor supplying the aforementioned valid and substantiated information, satisfactory to the State within the time limits specified in this Agreement. Reimbursement shall not be withheld pending the submission of similar claims by other Contractors who have entered into a similar Agreement.
- B. The Summary Invoice and Detailed Invoice shall be submitted quarterly to:

Alameda County Health Care Services Agency
Countywide MAA/TCM Coordinator
1000 San Leandro Blvd., Suite 300
San Leandro, CA 94577
- C. Both the HCSA and the Contractor agree that the validity and enforceability of this Agreement are contingent upon the availability of funds appropriated by the US Congress.
- D. The Agreement will automatically terminate, without penalty by operation by law, at the end of the term for which funds are appropriated by the U.S. Congress.
- E. Transfer of funds is contingent upon the availability of Federal Financial Participation.
- F. This Agreement is valid and enforceable only if Contractor certifies that sufficient matching funds are available for the purpose of this program. Agreement is also subject to any additional restrictions, limitations or conditions enacted by the appropriate governing body, which may affect the provisions, term, or funding of this Agreement in any manner.

- G. This Agreement will terminate without penalty at the end of any fiscal year in the event funds are not appropriated by the US Congress for the next succeeding fiscal year. If funds are appropriated for a portion of the fiscal year, this Agreement will terminate, without penalty, at the end of the term for which funds are appropriated.
- H. The Contractor shall reply in a timely manner, to any request for information by HCSA, or by the State, or to any audit exceptions by state and federal audit agencies that directly relate to the Medi-Cal administrative activities to be performed under this Agreement.

Both parties to this Agreement recognize that the HCSA is liable only for an audit exception which relates to administrative activities under this Agreement, and has no liability for any other Contractor which may enter into a similar Agreement with the HCSA for the performance of MAA.

- I. After the HCSA has received reimbursement from the State for a quarterly MAA claim, the HCSA agrees to pay Contractor an amount equal to the Federal reimbursement of Contractor's expenditures, subject to the other provisions in this section of the Agreement.

All fees received as a result of claim submittal will be retained by HCSA to support:

- a) The administration of the MAA program, including the payment of the required annual LGA Consortium MAA Participation Fee.
- b) All fees for Random Moment Time Survey (RMTS) software services provided by Public Consulting Group (PCG), as outlined in the school-based Medi-Cal Administrative Activities (SMAA) RMTS agreement HCSA has agreed to as part of the LGA SMAA Consortium, hosted by the County of Plumas (attached).
- c) All fees for Random Moment Time Survey (RMTS) software services provided by Fairbanks, LLC, as outlined in the school-based Medi-Cal Administrative Activities (SMAA) RMTS agreement HCSA has agreed to as part of the LGA SMAA Consortium, hosted by the County of Plumas (attached).

The HCSA will withhold from all MAA reimbursements received for Contractor, an HCSA administrative fee in the amount of **five (5) percent** of the total reimbursement received. The HCSA administrative fee covers the following: payment of the State participation fee, provision of training, materials and technical assistance, processing and submission of the Contractor portions of the County MAA Claiming Plan, processing/submission of Contractor's quarterly claim, audit review and support.

Starting in FY14/15, HCSA will also withhold from Contractor an **additional** LGA SMAA Consortium administrative fee from all MAA reimbursements received for Contractor for the Public Consulting Group (PCG) RMTS software and Fairbanks LLC coding fees. The SMAA Collaborative administrative fees covers the following: the use of the PCG RMTS software system and services for tracking and maintaining the time study participant shifts, lists, and random moment generation, tracking, maintenance, and coding, and the use of Fairbanks' Centralized Coding staff to review and code each random moment. Please refer to the three (3) attachments titled: Host County Agmt_1416 Alameda, PCG Software Agmt_Signed, and Fairbanks Coder Agmt_Signed. These attachments outline the agreement and roles between the LGA Host County, PCG Software Service, and Fairbanks Coding.

Article IX - LIMITATION OF HCSA LIABILITY

- A. Notwithstanding any other provision of this Agreement, the HCSA shall be held harmless by Contractor, in accordance with paragraphs B and C below, from any federal audit disallowance and interest resulting from payments made to the Contractor pursuant to W&I Code Section 14132.47, and this Agreement, less the amounts already submitted to the HCSA pursuant to W&I Code Section 14132.47(m) for the disallowed claim and from any and all liabilities, claims, actions or judgments arising out of Contractor's performance under this Agreement.

- B. To the extent that a federal audit disallowance and interest results from a claim or claims for which the Contractor has received reimbursement for Medi-Cal administrative activities, the HCSA shall recoup from the Contractor which submitted the disallowed claim, through offsets or by direct billing, amounts equal to the amount of the disallowance plus interest in that fiscal year, less the amounts already remitted to the HCSA pursuant to W&I Code Section 14132.47(m) for the disallowed claim. All subsequent claims submitted to the HCSA applicable to any previously disallowed Medi-Cal administrative activity or claim, may be held in abeyance, with no payment made, until the federal disallowance issue is resolved.
- C. To the extent that a federal audit disallowance and interest results from a claim or claims for which the Contractor has received reimbursement for Medi-Cal administrative activities performed by a non-governmental entity under Agreement with, and on behalf of, the Contractor, the HCSA shall be held harmless by that particular Contractor for 100 percent of the amount of any such final federal audit disallowance and interest, less the amounts already remitted to the HCSA pursuant to W&I Code Section 14132.47(m) for the disallowed claim.
- D. Both parties to this Agreement recognize that the Contractor is liable only for an audit exception which relates to administrative activities under this Agreement, and has no liability for any other Contractor which may enter into a similar Agreement with the HCSA for the performance of Medi-Cal administrative activities.

ARTICLE X- GENERAL PROVISIONS

- A. This Contract constitutes the entire contract between the parties. Any condition, provision, agreement or understanding not stated in this Agreement shall not affect any rights, duties or privileges in connection with this Agreement.
- B. The HCSA shall have the right to access, examine, monitor and audit all records, documents, conditions and activities of the Contractor and their subcontractors related to the programs funded by this Agreement.
- C. The term "days" as used in this Agreement shall mean calendar days unless specified otherwise.
- D. Should any disagreement arise between the HCSA and the Contractor on any provisions of this Agreement, the parties agree that the same shall be submitted in writing to each other and be the subject of discussion between the HCSA liaison and Contractor liaison herewith designated, and in a good faith effort to achieve resolution. If mutual agreement cannot be reached within 30 days after receipt of the written issue of dispute, the Contractor may request a meeting with the Director, or his or her designee, to present its concerns. If the Director or his or her designee cannot meet, the HCSA shall respond in writing to the Contractor, with the HCSA's position. Thereafter, the decision of the Director shall be final. The date of "receipt" shall be the date the written disagreement is postmarked.
- E. None of the provisions of this Agreement are or shall be construed as for the benefit of, or enforceable by, any person not a party to this Agreement.
- F. No covenant, condition, duty, obligation, or undertaking continued or made a part of this Agreement shall be waived except by Agreement amendment by the parties hereto, and forbearance or indulgence in any other form or manner by either party in any regard whatsoever shall not constitute a waiver of the covenant, condition, duty, obligation, or undertaking to be kept, performed or discharged by the party to which the same may apply; and, until performance or satisfaction of all covenants, conditions, duties, obligations, or undertakings is complete, the other party shall have the right to invoke any remedy available under this Agreement, or under law, notwithstanding such forbearance or indulgence.

G. The Contractor is responsible for the acts or omissions of its employees and/or subcontractors.

Submission of a falsified Summary Invoice or Detailed Invoice by a Contractor shall constitute a breach of Agreement. Submission of a Summary Invoice or Detailed Invoice for which there is no supporting documentation by a Contractor may constitute a material breach of Agreement and ground for immediate termination of this Agreement.

The conviction of an employee or subcontractor of the Contractor, or of an employee of a subcontractor, of any felony or of a misdemeanor involving fraud, abuse of any Medi-Cal applicant or beneficiary, or abuse of the Medi-Cal Program, shall result in the exclusion of that employee or subcontractor, or employee of a subcontractor, from participation in the Medi-Cal administrative claiming process. Failure of a Contractor to exclude a convicted individual from participation in the Medi-Cal administrative claiming process shall constitute a material breach of Agreement and ground for immediate termination of this Agreement.

Exclusion after conviction shall result regardless of any subsequent order under Section 1203.4 of the Penal Code allowing a person to withdraw his or her plea of guilty and to enter a plea of not guilty, or setting aside the verdict of guilty, or dismissing the accusation, information, or indictment.

Suspension or exclusion of an employee or subcontractor, or of an employee of a subcontractor, from participation in the Medi-Cal Program, the Medicaid Program, or the Medicare Program, shall result in the exclusion of that employee or subcontractor, or employee of a subcontractor, from participation in the Medi-Cal administrative claiming process. Failure of a Contractor to exclude a suspended or excluded individual from participation in the Medi-Cal administrative claiming process shall constitute a material breach of Agreement and ground for immediate termination of this Agreement.

Revocation, suspension, or restriction of the license, certificate, or registration of any employee, subcontractor, or employee of a subcontractor, shall result in exclusion from the Medi-Cal Administrative Claiming process, when such license, certificate, or registration is required for the performance of Medi-Cal administrative activities. Failure of a Contractor to exclude an individual whose license, certificate, or registration has been revoked, suspended, or restricted, from participation in the Medi-Cal Administrative Claiming process, may constitute a material breach of Agreement and ground for immediate termination of this Agreement.

H. **Child Support Compliance Act Acknowledgement**

Effective January 1, 1999, by signing an MOU that exceeds \$100,000.00, the Contractor acknowledges that:

1. 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
2. The Contractor, to the best of its knowledge is fully complying with the earnings assignment orders of all employees and providing the names of all new employees to the New Hire Registry maintained by the California Employment Development Department.
3. Questions about the New Employee Registry and reporting requirements are to be directed to the California Employment Development Department.

I. **Year 2000 Compliance Requirements**

The Contractor represents and warrants fault-free performance in processing of date and date related data (including, but not limited to, calculating, comparing, and sequencing) by all hardware, software, and firmware products delivered and used under this contract individually and in combination, upon installation. Fault-free includes the manipulation of this data with dates prior to, through and beyond January 1, 2000, and shall be transparent to the user.

J. **Timely Submission of Final Invoice**

1. A final undisputed invoice shall be submitted for final payment as soon as practical, following the contract expiration or termination date and, in no case, later than twelve (12) calendar months following the expiration or termination date of this contract, unless a later or alternate deadline is negotiated and agreed upon in writing by the HCSA. Said invoice should be clearly marked "Final Invoice", to indicate that all payment obligations of the HCSA under this contract have ceased and that no further payments are due or outstanding.
2. HCSA, at its discretion, may elect not to honor any delinquent final invoice; if the Contractor fails to obtain prior written HCSA approval of an alternate final invoice submission deadline. Written HCSA approval to extend the final invoice submission deadline shall be sought prior to the expiration or termination date of this contract.

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

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.

L. **Claiming Overhead Costs**

If one of the components of cost to be claimed as part of MAA is Contractor's overhead costs, then there are certain federal requirements that must be met. In order to claim administrative overhead, also referred to as "External Administrative Overhead" costs, County and City governments must have a State Controller's Office approved LGA administrative overhead cost allocation plan for the applicable period and these costs must be claimed in accordance with the plan. A local governmental agency's plan is submitted to the California State Controller's Office, which has delegated authority from the Federal Government to approve it.

Internal (departmental) administrative overhead costs are allowable for FFP only if there is a departmental overhead indirect cost allocation plan prepared and on file for audit purposes for the applicable period and costs are claimed in accordance with it following Federal Office of Management and Budget (OMB) Circular A-87 guidelines.

Contractor administrative overhead costs are allowable for FFP only if there is an overhead indirect cost allocation plan prepared and on file for audit purposes for the applicable period and costs are claimed in accordance with it following Federal Office of Management and Budget (OMB) Circular A-87 guidelines.

NOTE: Both external and internal administrative cost allocation plans for all agencies must comply with provisions of the federal OMB Circular A-87, entitled "Cost principles applicable to grants and contracts with State and local governments" and Federal Publication OASC-10, entitled "A Guide for State and Local Governments/Cost Principles and Procedures for Establishing Cost Allocation Plans and Indirect Cost Rates for Grants and Contracts with the Federal Government."

M. Requirements of Enhanced Federal Financial Participation

Stipulation for enhanced funding: Per 42CFR, Section 432.2 et seq., and Section 433.1 et seq., Skilled Professional Medical Personnel (SPMP), and directly supporting staff, eligible for enhanced funding are defined as physicians, dentists, nurses, and other specialized personnel who have professional education and training in the field of medical care or appropriate medical practice and who are in an employer-employee relationship with the LGA. SPMP's do not include other non-medical health professionals such as public administrators, medical analysts, lobbyists, senior managers or administrators of public assistance programs or of the Medi-Cal program.

The seventy-five percent (enhanced) federal matching rate is only available for an LGA that is contractually linked to the Department of Health Care Services to perform MAA. The enhanced federal matching rate can be claimed for salaries, benefits, travel and training of SPMP and their directly supporting clerical staff who are in an employee-employer relationship with the LGA and are involved in activities that are necessary for the proper and efficient administration of the Medi-Cal Program.

Fifty percent (non-enhanced) federal matching rate can be claimed for any of the LGA's other staff, or subcontractors, involved in the performance of activities that are necessary for the proper and efficient administration of the Medi-Cal Program.

N. None of the provisions of this Agreement are or shall be construed as for the benefit of, or enforceable by, any person not a party to this Agreement.

ARTICLE XI - EXECUTION

The undersigned hereby warrants that s/he has the requisite Authority to enter into this Agreement on behalf of the Contractor and thereby bind the Contractor to the terms and conditions of the same.

CONTRACTOR

HCSA

Authorized Representative's Signature

Authorized Representative's Signature

James Harris
President, Board of Education

Date

Printed Name

Rebecca Gebhart

Printed Name

Title

Interim Director

Title

Antwan Wilson
Secretary, Board of Education

Health Care Services Agency

Agency

Address

1000 San Leandro Blvd., Suite 300.

Address

City, State, Zip code

San Leandro, California 94577

City, State, Zip code

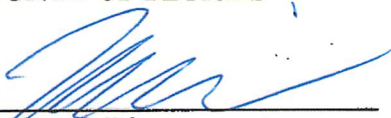
OAKLAND UNIFIED SCHOOL DISTRICT
Office of General Counsel
APPROVED FOR FORM & SUBSTANCE

Attorney at Law

OUSD or the District verifies that the Contractor does not appear on the Excluded Parties List at www.epls.gov/eplsearch.do.

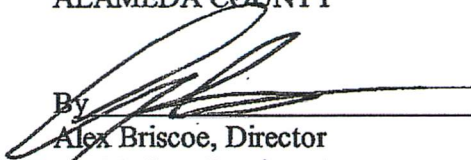
"HOST ENTITY"
Duly Authorized

COUNTY OF PLUMAS

By 
Mimi Hall, Director
Public Health Agency
270 County Hospital Road, Suite 206
Quincy, California 95971

"LGA"
Duly Authorized

ALAMEDA COUNTY

By 
Alex Briscoe, Director
Health Care Services Agency
100 San Leandro Blvd, Suite 300
San Leandro, California 94577
Attn: David Huey

DEBARMENT AND SUSPENSION CERTIFICATION

COUNTY OF ALAMEDA

For Procurements Over \$25,000

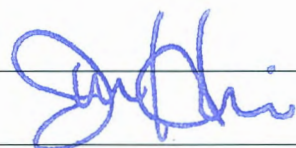

The contractor, under penalty of perjury, certifies that, except as noted below, contractor, its principals, and any named and unnamed subcontractor:

- Is not currently under suspension, debarment, voluntary exclusion, or determination of ineligibility by any federal agency;
- Has not been suspended, debarred, voluntarily excluded or determined ineligible by any federal agency within the past three years;
- Does not have a proposed debarment pending; and
- Has not been indicted, convicted, or had a civil judgment rendered against it by a court of competent jurisdiction in any matter involving fraud or official misconduct within the past three years.

If there are any exceptions to this certification, insert the exceptions in the following space.

Exceptions will not necessarily result in denial of award, but will be considered in determining bidder responsibility. For any exception noted above, indicate below to whom it applies, initiating agency, and dates of action.

Notes: Providing false information may result in criminal prosecution or administrative sanctions. The above certification is part of the Proposal. Signing this Proposal on the signature portion thereof shall also constitute signature of this Certification.

BIDDER: _____
PRINCIPAL:  _____ TITLE:  _____
SIGNATURE: James Harris _____ DATE: Antwan Wilson _____
President, Board of Education Secretary, Board of Education



Plumas County Public Health Agency

270 County Hospital Road, Quincy, California 95971

Mimi Hall, MPH, CHES, Director

Administration & Health Education
Suite 206
Quincy, CA 95971
(530) 283-6337
(530) 283-6425 Fax

Clinic & Nursing Services
Suite 111
Quincy, CA 95971
(530) 283-6330
(530) 283-6110 Fax

Senior Nutrition & Transportation
Suite 206
Quincy, CA 95971
(530) 283-3546
(530) 283-6425 Fax

Veterans Services
Quincy Office
Suite 206
Quincy, CA 95971
(530) 283-6275
(530) 283-6425 Fax

November 25, 2014

Michelle Kristoff, Chief
Administrative Claiming Local and School Services Branch
Safety Net Financing Division, MS 4603
1501 Capitol Avenue, Suite 71.3024
Sacramento, CA 95814

RE: RMTS Condition letter

Hi Michelle,

Please accept this letter as the LGA Collaborative submitting a Condition for Consortium RMTS Participation (Condition) letter agreeing to all processes and procedures described in the SMAA RMTS plan.

This condition letter includes:

- The specific LGAs participating in the consortium
 - Alameda
 - Riverside
 - Sacramento
 - San Francisco
 - Tulare
 - San Luis Obispo
 - Pasadena
- The individual designated as the single point of contact for DHCS
 - Les Hall, Plumas County
- All contracts between entities, including sub-recipient entities
 - Plumas County contract with PCG
 - Plumas County contract with Fairbanks
 - Plumas County contract with the LGA SMAA Collaborative participants (general)
- The process for oversight of all RMTS activities
 - Training regarding RMTS
- Ensure claiming unit has participated in required RMTS training;

- Review of RMTS compliance rate; ensure each claiming unit meets the 85% compliance level requirement;
- Ensure claiming unit coordinator understands how critical response rate is per claiming unit and that the claiming unit is aware of non-compliance consequences.
 - Roster Updates
 - Receive electronic updated roster from claiming unit;
 - Review updated roster to validate TSPs are accurately placed in the correct cost pools;
 - Ensure that the individual claiming unit rosters are uploaded quarterly into a database with all other participating claiming units.
 - Time Study Tasks
 - Randomly select TSPs from the Participant Universe of eligible participants and assign each TSP to an individual moment from the pool of eligible moments to establish a Master Moments list;
 - Maintain confidentiality of Master Moment List;
 - Notify selected TSPs no sooner than five student attendance days prior to their selected moment and on the day of the moment;
 - Review TSP responses to the random moment questions and assign MAA codes;
 - Pose clarifying questions to TSPs if necessary for the determination of the appropriate time study code;
 - Quality check coded time study data;
 - Follow up with participants who submitted incomplete samples;
 - Review all data and prepare it for the claim.
 - Financial Tasks
 - Conduct financial training with claiming units, as needed;
 - Maintain all source documentation;
 - If necessary, resubmit to contact for revisions;
 - Receive completed CPE forms from district and submit to DHCS.
 - Miscellaneous Tasks
 - Participate in LEC/LGA and DHCS Advisory Committee meetings;
 - Answer general questions from claiming units throughout the quarter;
 - Submit quarterly MAA claim to DHCS;
 - Conduct quality assurance reviews, as needed;
 - Serve as liaison between claiming units and DHCS.
- A detailed list of all job classifications that comprise each sample pool
 - *Will submit by December 5, 2014 deadline.*

Sincerely,



Les Hall, MAA/TCM Coordinator
 Plumas County
 SMAA Collaborative Administrative Hub

**SECOND AMENDMENT TO AGREEMENT
BY AND BETWEEN
PUBLIC CONSULTING GROUP, INC.**

This Second Amendment to Agreement ("Amendment") is made on this 1st day of July, 2016, between PLUMAS COUNTY, a political subdivision of the State of California, hereinafter referred to as "COUNTY", and PUBLIC CONSULTING GROUP, INC, a Massachusetts Corporation, hereinafter referred to as "CONTRACTOR" who agrees as follows:

1. **Recitals:** This Amendment is made with reference to the following facts and objectives:

- a. COUNTY and CONTRACTOR have entered into a written Agreement dated July 1, 2014, (the "Agreement"), in which CONTRACTOR, agrees to provide Random Moment Survey software system that can be rapidly customized to the final regulations of RMTS as approved by the Federal Centers for Medicare and Medicaid Services.
- b. County and Contractor have agreed to extend the agreement through June 30, 2017.

2. **Amendments:** The parties agree to amend the Agreement as follows:

- a. Paragraph 2.1 Compensation is amended to read as follows:

Compensation. Contractor shall be paid in accordance with the Fee Schedule and Budget attached hereto as Exhibit "A-1" and incorporated herein by reference. Contractor's compensation shall in no case exceed Five Hundred Eighty Thousand Eight Hundred Dollars (\$580,800.00) through the term July 1, 2014 through June 30, 2017.

- b. Section 2.0 COMPENSATION AND BILLING is amended to add Paragraph 2.5 to read as follows:

2.5 Contingency of Funding. Consultant acknowledges that funding or portions of funding for this agreement may also be contingent upon receipt of funds from, and/or appropriation of funds by the State of California to County and/or the MAA-TCM Local Government Consortium. If such funding and/or appropriations are not forthcoming, or otherwise limited, County may immediately terminate or modify this Agreement and will issue payment for services rendered to date.

- c. Paragraph 4.0 Term and Termination is amended to read as follows:

Term. This Agreement shall commence on the Effective Date and continue for a period of three (3) years, ending on June 30, 2017, unless previously terminated as provided herein or as otherwise agreed to in writing by the parties.

- d. EXHIBIT A-1 Fee Schedule and Budget, page 1 is amended to eliminate the following:

Pricing Option 2 – Quarterly fee based on student enrollment

DATES	QUARTERLY COUNT	FEE PER STUDENT
July 1, 2015- June 30, 2016	Students 400,000 – 699,999	\$0.10
	Students 700,000 +	\$0.08

Should the County opt to allow PCG to invoice for services at the close of the RMTS quarter, a 15% discount in pricing will be applied (30 day payment terms apply).

- a. EXHIBIT A-1 Fee Schedule and Budget, page 2, Pricing Assumptions item 8., is amended to read as follows:

8. Payments to PCG for services are due 60 days from invoice date. Invoices will be accepted and approved by County on September 15, 2015 for RMTS time survey quarters occurring in Fiscal Year 2014-2015 (July 1, 2014 through June 30, 2015), September 15, 2016 for RMTS time survey quarters occurring in Fiscal Year 2015-2016 (July 1, 2015 through June 30, 2016) and September 15, 2017 for RMTS time survey quarters occurring in Fiscal Year 2016-2017 (July 1, 2016 through June 30, 2017). Invoices will be accepted by County up to one calendar year after the date of termination of this agreement.

IN WITNESS WHEREOF, this Agreement has been executed as of the date set forth below.

SUBCONTRACTOR:

PUBLIC CONSULTING GROUP, INC, a Massachusetts Corporation

By: *Chi J. Wong*

Date: 7/11/16

By: _____

Date: _____

COUNTY OF PLUMAS:

Approve as to form:

By: *Steve Mansell*
Steve Mansell, Deputy County Counsel

Date: 6/27/16

By: *Mimi*
Mimi Khin Hall, Director of Public Health

Date: 7/16/16

By: *Lori Simpson*
Chair, Board of Supervisors

Date: _____

**FIRST AMENDMENT TO AGREEMENT
BY AND BETWEEN
PUBLIC CONSULTING GROUP, INC.**

This First Amendment to Agreement ("Amendment") is made on this 1st day of July, 2015, between PLUMAS COUNTY, a political subdivision of the State of California, hereinafter referred to as "COUNTY", and PUBLIC CONSULTING GROUP, INC, a Massachusetts Corporation, hereinafter referred to as "CONTRACTOR" who agrees as follows:

1. **Recitals:** This Amendment is made with reference to the following facts and objectives:

- a. COUNTY and CONTRACTOR have entered into a written Agreement dated July 1, 2014, (the "Agreement"), in which CONTRACTOR, agrees to provide Random Moment Survey software system that can be rapidly customized to the final regulations of RMTS as approved by the Federal Centers for Medicare and Medicaid Services.
- b. County and Contractor have agreed to extend the agreement through June 30, 2016.

2. **Amendments:** The parties agree to amend the Agreement as follows:

- a. Paragraph 2.1 Compensation is amended to read as follows:

Compensation. Contractor shall be paid in accordance with the Fee Schedule and Budget attached hereto as Exhibit "A-1" and incorporated herein by reference. Contractor's compensation shall in no case exceed Three Hundred Seventy Five Thousand Dollars (\$375,000.00) through the term July 1, 2014 through June 30, 2016.

- b. Section 2.0 **COMPENSATION AND BILLING** is amended to add Paragraph 2.5 to read as follows:

2.5 **Contingency of Funding.** Consultant acknowledges that funding or portions of funding for this agreement may also be contingent upon receipt of funds from, and/or appropriation of funds by the State of California to County and/or the MAA-TCM Local Government Consortium. If such funding and/or appropriations are not forthcoming, or otherwise limited, County may immediately terminate or modify this Agreement and will issue payment for services rendered to date.

- c. Paragraph 4.0 Term and Termination is amended to read as follows:

Term. This Agreement shall commence on the Effective Date and continue for a period of two (2) years, ending on June 30, 2016, unless previously terminated as provided herein or as otherwise agreed to in writing by the parties.

- d. EXHIBIT A-1 Fee Schedule and Budget, page 1 is amended to eliminate the following:

Pricing Option 2 – Quarterly fee based on student enrollment

DATES	QUARTERLY COUNT	FEE PER STUDENT
July 1, 2014- June 30, 2015	Students 400,000 – 699,999	\$0.10
	Students 700,000 +	\$0.08

Should the County opt to allow PCG to invoice for services at the close of the RMTS quarter, a 15% discount in pricing will be applied (30 day payment terms apply).

a. EXHIBIT A-1 Fee Schedule and Budget, page 2, Pricing Assumptions item 8., is amended to read as follows:

8. Payments to PCG for services are due 60 days from invoice date. Invoices will be accepted and approved by County on September 15, 2015 for RMTS time survey quarters occurring in Fiscal Year 2014-2015 (July 1, 2014 through June 30, 2015), and on September 15, 2016 for RMTS time survey quarters occurring in Fiscal Year 2015-2016 (July 1, 2015 through June 30, 2016). Invoices will be accepted by County up to one calendar year after the date of termination of this agreement.

IN WITNESS WHEREOF, this Agreement has been executed as of the date set forth below.

SUBCONTRACTOR:

PUBLIC CONSULTING GROUP, INC, a Massachusetts Corporation

By: *Flint J. Woy*

Date: 8/19/15

By: _____

Date: _____

COUNTY OF PLUMAS:

Approve as to form:

By: *Steve Mansell*
Steve Mansell, Deputy County Counsel

Date: 8/18/15

By: *Mimi Khin Hall*
Mimi Khin Hall, Director of Public Health

Date: 8/19/15

By: *[Signature]*
Chair, Board of Supervisors

Date: 8/18/15

**SERVICES AGREEMENT
FOR
PUBLIC CONSULTING GROUP, INC**

THIS AGREEMENT is made and entered into this 1st day of July, 2014 ("Effective Date"), by and between the COUNTY OF PLUMAS, a political subdivision of the State of California, hereinafter referred to as "County", and PUBLIC CONSULTING GROUP, INC, a Massachusetts Corporation, hereinafter referred to as "Contractor".

WITNESSETH:

- A. **WHEREAS**, County proposes to have Contractor provide a Random Moment Survey software system that can be rapidly customized to the final regulations of RMTS as approved by the Federal Government; and
- B. **WHEREAS**, Contractor represents that it has that degree of specialized expertise contemplated within California Government Code, Section 37103, and holds all necessary licenses to practice and perform the services herein contemplated; and
- C. **WHEREAS**, County and Contractor desire to contract for specific services in connection with the project described below (the "Project") and desire to set forth their rights, duties and liabilities in connection with the services to be performed; and
- D. **WHEREAS**, no official or employee of County has a financial interest, within the provisions of California Government Code, Sections 1090-1092, in the subject matter of this Agreement.

NOW, THEREFORE, for and in consideration of the mutual covenants and conditions contained herein, the parties hereby agree as follows:

1.0. SERVICES PROVIDED BY CONTRACTOR

1.1. Scope of Services. Contractor shall provide the professional services described in the Scope of Work attached hereto as Exhibit "A" in response to RFP-SMAA-2104, shall license its proprietary software in accordance with the license agreement attached hereto as Appendix A and incorporated herein by reference.

1.2. Professional Practices. All professional services to be provided by Contractor pursuant to this Agreement shall be provided by personnel experienced in their respective fields and in a manner consistent with the standards of care, diligence and skill ordinarily exercised by professional Contractors in similar fields and circumstances in accordance with sound professional practices. Contractor also warrants that it is familiar with all laws that may affect its performance of this Agreement and shall advise County of any changes in any laws that may affect Contractor's performance of this Agreement.

1.3. Warranty. Contractor warrants that it shall perform the services required by this Agreement in compliance with all applicable Federal and California employment laws including, but not limited to, those laws related to minimum hours and wages; occupational health and safety;

fair employment and employment practices; workers' compensation insurance and safety in employment; and all other Federal, State and local laws and ordinances applicable to the services required under this Agreement. Contractor shall indemnify and hold harmless County from and against all claims, demands, payments, suits, actions, proceedings, and judgments of every nature and description including attorneys' fees and costs, presented, brought, or recovered against County for, or on account of any liability under any of the above-mentioned laws, which may be incurred by reason of Contractor's performance under this Agreement.

1.4. Non-discrimination. In performing this Agreement, Contractor shall not engage in, nor permit its agents to engage in, discrimination in employment of persons because of their race, religion, color, national origin, ancestry, age, physical handicap, medical condition, marital status, sexual gender or sexual orientation, except as permitted pursuant to Section 12940 of the Government Code. Violation of this provision may result in the imposition of penalties referred to in Labor Code, Section 1735.

1.5. Non-Exclusive Agreement. Contractor acknowledges that County may enter into agreements with other Contractors for services similar to the services that are subject to this Agreement or may have its own employees perform services similar to those services contemplated by this Agreement.

1.6. Delegation and Assignment. This is a personal service contract, and the duties set forth herein shall not be delegated or assigned to any person or entity without the prior written consent of County. Contractor may engage a Contractor(s) as permitted by law and may employ other personnel to perform services contemplated by this Agreement at Contractor's sole cost and expense.

2.0. COMPENSATION AND BILLING

2.1. Compensation. Contractor shall be paid in accordance with the Fees and Payment Schedule set forth in Exhibit A-1, attached hereto and incorporated herein by reference. Contractor shall provide County with a completed Federal W-9 form prior to submitting the first invoice. Compensation shall in no case exceed Three Hundred Thousand Dollars (\$300,000.00) through initial term, June 2015.

2.2. Additional Services. Contractor shall not receive compensation for any services provided outside the scope of work specified in Exhibit "A" unless the County, prior to Contractor performing the additional services, approves such additional services in writing. It is specifically understood that oral requests and/or approvals of such additional services or additional compensation shall be barred and are unenforceable.

2.3. Method of Billing. Contractor may submit invoices to County for approval on a progress basis, but no more often than monthly. Said invoice shall be based on the total of all Contractors' services which have been completed to County's reasonable satisfaction, provided County notifies Contractor of dissatisfaction within 30 days of Contractor providing such services. Each invoice shall describe in detail, the services performed and the associated time for completion. Any additional services approved and performed pursuant to this Agreement shall be designated as "Additional Services" and shall identify the number of the authorized change order, where applicable, on all invoices.

2.4. Records and Audits. Records of Contractor's services relating to this Agreement shall be maintained in accordance with generally recognized accounting principles and shall be made available to County for inspection and/or audit at mutually convenient times for a period of four (4) years from the Effective Date.

3.0. TIME OF PERFORMANCE

3.1. Commencement. The professional services to be performed pursuant to this Agreement shall commence within five (5) days from the Effective Date of this Agreement. Failure to commence work in a timely manner and/or diligently pursue work to completion may be grounds for termination of this Agreement.

3.2. Excusable Delays. Neither party shall be responsible for delays or lack of performance resulting from acts beyond the reasonable control of the party or parties. Such acts shall include, but not be limited to, acts of God, fire, strikes, material shortages, compliance with laws or regulations, riots, acts of war, or any other conditions beyond the reasonable control of a party.

4.0. TERM AND TERMINATION

4.1. Term. This Agreement shall commence on the Effective Date and continue for a period of one (1) year, ending on June 30, 2015, unless previously terminated as provided herein or as otherwise agreed to in writing by the parties. The County reserves the right to exercise extension options for four (4) additional terms of up to one (1) year each for a potential total contract term of five (5) years through June 30, 2019.

4.2. Notice of Termination. The County reserves and has the right and privilege of canceling, suspending or abandoning the execution of all or any part of the work contemplated by this Agreement, with or without cause, at any time, by providing written notice to Contractor. The termination of this Agreement shall be deemed effective upon receipt of the notice of termination. In the event of such termination, Contractor shall immediately stop rendering services under this Agreement unless directed otherwise by the County.

4.3. Compensation. In the event of termination, County shall pay Contractor for reasonable costs incurred and professional services satisfactorily performed up to and including the date of County's written notice of termination. Compensation for work in progress shall be prorated as to the percentage of work completed as of the effective date of termination in accordance with the fees set forth herein. In ascertaining the professional services actually rendered hereunder up to the effective date of termination of this Agreement, consideration shall be given to both completed work and work in progress, to complete and incomplete drawings, and to other documents pertaining to the services contemplated herein whether delivered to the County or in the possession of the Contractor.

4.4. Documents. In the event of termination of this Agreement, all documents prepared by Contractor in its performance of this Agreement including, but not limited to, finished or unfinished design, development and construction documents, data studies, drawings, maps and reports, shall be delivered to the County within ten (10) days of delivery of termination notice to Contractor, at no cost to County. Any use of uncompleted documents without specific written authorization from Contractor shall be at County's sole risk and without liability or legal expense to

Contractor.

5.0. INSURANCE

5.1. **Insurance.** Contractor agrees to maintain the following insurance coverage throughout the term of this Agreement:

- a. Commercial general liability (and professional liability, if applicable to the services provided) coverage, with minimum per occurrence limit of the greater of (i) the limit available on the policy, or (ii) one million dollars (\$1,000,000).
- b. Automobile liability coverage (including non-owned automobiles), with minimum bodily injury limit of the greater of (i) the limit available on the policy, or (ii) two-hundred fifty thousand dollars (\$250,000) per person and five hundred thousand dollars (\$500,000) per accident, as well as a minimum property damage limit of the greater of (i) the limit available on the policy, or (ii) fifty thousand dollars (\$50,000) per accident.
- c. Each policy of commercial general liability (and professional liability, if applicable to the services provided) coverage and automobile liability coverage (including non-owned automobiles) shall meet the following requirements:
 - i. Each policy shall be endorsed to name the County, its officers, officials, employees, representatives and agents (collectively, for the purpose of this section 9, the "County") as additional insureds. The Additional Insured endorsement shall be at least as broad as ISO Form Number CG 20 38 04 13; and
 - ii. All coverage available under such policy to Contractor, as the named insured, shall also be available and applicable to the County, as the additional insured; and
 - iii. All of Contractor's available insurance proceeds in excess of the specified minimum limits shall be available to satisfy any and all claims of the County, including defense costs and damages; and
 - iv. Any insurance limitations are independent of and shall not limit the indemnification terms of this Agreement; and
 - v. Contractor's policy shall be primary insurance as respects the County, its officers, officials, employees, representatives and agents, and any insurance or self-insurance maintained by the County, its officers, officials, employees, representatives and agents shall be in excess of the Contractor's insurance and shall not contribute with it, and such policy shall contain any endorsements necessary to effectuate this provision. The primary and non-contributory endorsement shall be at least as broad as ISO Form 20 01 04 13; and
 - vi. To the extent that Contractor carries any excess insurance policy applicable to the work performed under this Agreement, such excess insurance policy

shall also apply on a primary and non-contributory basis for the benefit of the County before the County's own primary insurance policy or self-insurance shall be called upon to protect it as a named insured, and such policy shall contain any endorsements necessary to effectuate this provision.

- d. Workers Compensation insurance in accordance with California state law.

If requested by County in writing, Contractor shall furnish a certificate of insurance satisfactory to County as evidence that the insurance required above is being maintained. Said certificate of insurance shall include a provision stating that the insurers will not cancel the insurance coverage without thirty (30) days' prior written notice to the County. County reserves the right to require complete, certified copies of all required insurance policies, including endorsements affecting the coverage required by these specifications at any time. Contractor shall require all subcontractors to comply with all indemnification and insurance requirements of this agreement, and Contractor shall verify subcontractor's compliance.

6.0. GENERAL PROVISIONS

6.1. Entire Agreement. This Agreement constitutes the entire Agreement between the parties with respect to any matter referenced herein and supersedes any and all other prior writings and oral negotiations. This Agreement may be modified only in writing, and signed by the parties in interest at the time of such modification. The terms of this Agreement shall prevail over any inconsistent provision in any other contract document appurtenant hereto, including exhibits to this Agreement.

6.2. Representatives. The County Administrative Officer or his designee shall be the representative of County for purposes of this Agreement and may issue all consents, approvals, directives and agreements on behalf of the County, called for by this Agreement, except as otherwise expressly provided in this Agreement.

Contractor shall designate a representative for purposes of this Agreement who shall be authorized to issue all consents, approvals, directives and agreements on behalf of Contractor called for by this Agreement, except as otherwise expressly provided in this Agreement.

6.25 HIPAA Business Associate Addendum. Exhibit G attached hereto sets forth a Business Associate Agreement between the Department of Health Care Services and the County. Contractor agrees to comply with the terms of Exhibit G as if it were acting as the County, and all references in Exhibit G to the Department of Health Care Services shall be deemed to refer to both the Department of Health Care Services and the County.

6.3. Project Managers. County shall designate a Project Manager to work directly with Contractor in the performance of this Agreement.

Contractor shall designate a Project Manager who shall represent it and be its agent in all consultations with County during the term of this Agreement. Contractor or its Project Manager shall attend and assist in all coordination meetings called by County.

6.4. Notices. Any notices, documents, correspondence or other communications concerning this Agreement or the work hereunder may be provided by personal delivery, facsimile

or mail and shall be addressed as set forth below. Such communication shall be deemed served or delivered: a) at the time of delivery if such communication is sent by personal delivery; b) at the time of transmission if such communication is sent by facsimile; and c) 48 hours after deposit in the U.S. Mail as reflected by the official U.S. postmark if such communication is sent through regular United States mail.

Project Managers for the Term of this Agreement:

COUNTY OF PLUMAS:

Les Hall, Management Analyst
Plumas County Public Health Agency
270 County Hospital Road, Suite 206
Quincy, CA 95971-9174
(530) 283-6086

CONTRACTOR:

Public Consulting Group, Inc.
Florie J. Wong
4370 La Jolla Village Drive, Suite 400
San Diego, CA 92122
(617) 733-2257

6.5. Drug Free Workplace. Contractor certifies that it provides a drug-free workplace by complying with all provisions of California's Drug Free Workplace Act of 1990. Contractor's failure to conform to these requirements shall constitute a material breach of this Agreement and shall be cause for immediate termination of this Agreement by County.

6.6. Attorneys' Fees. In the event that litigation is brought by any party in connection with this Agreement, the prevailing party shall be entitled to recover from the opposing party all costs and expenses, including reasonable attorneys' fees, incurred by the prevailing party in the exercise of any of its rights or remedies hereunder or the enforcement of any of the terms, conditions, or provisions hereof.

6.7. Governing Law. This Agreement shall be governed by and construed under the laws of the State of California without giving effect to that body of laws pertaining to conflict of laws. In the event of any legal action to enforce or interpret this Agreement, the parties hereto agree that the sole and exclusive venue shall be a court of competent jurisdiction located in Plumas County, California.

6.8. Assignment. Contractor shall not voluntarily or by operation of law assign, transfer, sublet or encumber all or any part of Contractor's interest in this Agreement without County's prior written consent. Any attempted assignment, transfer, subletting or encumbrance shall be void and shall constitute a breach of this Agreement and cause for termination of this Agreement. Regardless of County's consent, no subletting or assignment shall release Contractor of Contractor's obligation to perform all other obligations to be performed by Contractor hereunder for the term of this Agreement.

6.9. Indemnification and Hold Harmless. To the fullest extent permitted by law, Contractor shall protect, defend with counsel approved in writing by County, indemnify and hold harmless County and its elected and appointed officials, officers, employees, agents and those special districts and agencies which County's Board of Supervisors acts as the governing Board ("County Indemnities") from any and all claims, liabilities, expenses, including attorney fees, damage to property or injuries to or death of any person or persons or damages of any nature including, but not by way of limitation, all civil claims or workers' compensation claims arising out of, pertaining to, or relating in any way with the intentional or negligent acts, error or omissions of

Contractor, its employees, agents or Contractors in the performance of this Agreement. If judgment is entered against Contractor and County by a court of competent jurisdiction because of concurrent active negligence of Contractor and County Indemnities, Contractor and County agree that liability will be apportioned as determined by the court. Notwithstanding anything stated above, nothing contained herein shall relieve Contractor of any insurance requirements or obligations created elsewhere in this Agreement.

6.10. Independent Contractor. Contractor is and shall be acting at all times as an independent contractor and not as an employee of County. Contractor shall secure, at his expense, and be responsible for any and all payment of Income Tax, Social Security, State Disability Insurance Compensation, Unemployment Compensation, and other payroll deductions for Contractor and its officers, agents, and employees, and all business licenses, if any are required, in connection with the services to be performed hereunder.

6.11. PERS Eligibility Indemnification. In the event that Contractor or any employee, agent, or Contractor of Contractor providing services under this Agreement claims or is determined by a court of competent jurisdiction or the California Public Employees Retirement System (PERS) to be eligible for enrollment in PERS as an employee of the County, Contractor shall indemnify, defend, and hold harmless County for the payment of any employee and/or employer contributions for PERS benefits on behalf of Contractor or its employees, agents, or Contractors, as well as for the payment of any penalties and interest on such contributions, which would otherwise be the responsibility of County.

Notwithstanding any other agency, state or federal policy, rule, regulation, law or ordinance to the contrary, Contractor and any of its employees, agents, and Contractors providing service under this Agreement shall not qualify for or become entitled to, and hereby agree to waive any claims to, any compensation, benefit, or any incident of employment by County, including but not limited to eligibility to enroll in PERS as an employee of County and entitlement to any contribution to be paid by County for employer contribution and/or employee contributions for PERS benefits.

6.12. Ownership of Documents. All findings, reports, documents, information and data including, but not limited to, computer tapes or discs, files and tapes furnished or prepared by Contractor or any of its Contractors in the course of performance of this Agreement, shall be and remain the sole property of County. Contractor agrees that any such documents or information shall not be made available to any individual or organization without the prior consent of County. Any use of such documents for other projects not contemplated by this Agreement, and any use of incomplete documents, shall be at the sole risk of County and without liability or legal exposure to Contractor. County shall indemnify and hold harmless Contractor from all claims, damages, losses, and expenses, including attorneys' fees, arising out of or resulting from County's use of such documents for other projects not contemplated by this Agreement or use of incomplete documents furnished by Contractor. Contractor shall deliver to County any findings, reports, documents, information, data, in any form, including but not limited to, computer tapes, discs, files audio tapes or any other Project related items as requested by County or its authorized representative, at no additional cost to the County.

6.13. Public Records Act Disclosure. Contractor has been advised and is aware that all reports, documents, information and data including, but not limited to, computer tapes, discs or files furnished or prepared by Contractor, or any of its Contractors, and provided to County may be subject to public disclosure as required by the California Public Records Act (California

Government Code Section 6250 et. seq.). Exceptions to public disclosure may be those documents or information that qualify as trade secrets, as that term is defined in the California Government Code Section 6254.7, and of which Contractor informs County of such trade secret. The County will endeavor to maintain as confidential all information obtained by it that is designated as a trade secret. The County shall not, in any way, be liable or responsible for the disclosure of any trade secret including, without limitation, those records so marked if disclosure is deemed to be required by law or by order of the Court.

6.14. Responsibility for Errors. Contractor shall be responsible for its work and results under this Agreement. Contractor, when requested, shall furnish clarification and/or explanation as may be required by the County's representative, regarding any services rendered under this Agreement at no additional cost to County. In the event that an error or omission attributable to Contractor occurs, then Contractor shall, at no cost to County, provide all necessary design drawings, estimates and other Contractor professional services necessary to rectify and correct the matter to the sole satisfaction of County and to participate in any meeting required with regard to the correction.

6.15. Prohibited Employment. Contractor will not employ any regular employee of County while this Agreement is in effect.

6.16. Order of Precedence. In the event of an inconsistency in this Agreement and any of the attached Exhibits, the terms set forth in this Agreement shall prevail. If, and to the extent this Agreement incorporates by reference any provisions of the Exhibits such provisions shall be deemed a part of this Agreement. Nevertheless, if there is any conflict among the terms and conditions of this Agreement and those of any such provision or provisions so incorporated by reference, this Agreement shall govern over the attachments.

6.17. Costs. Each party shall bear its own costs and fees incurred in the preparation and negotiation of this Agreement and in the performance of its obligations hereunder except as expressly provided herein.

6.18. No Third Party Beneficiary Rights. This Agreement is entered into for the sole benefit of County and Contractor and no other parties are intended to be direct or incidental beneficiaries of this Agreement and no third party shall have any right in, under or to this Agreement.

6.19. Headings. Paragraphs and subparagraph headings contained in this Agreement are included solely for convenience and are not intended to modify, explain or to be a full or accurate description of the content thereof and shall not in any way affect the meaning or interpretation of this Agreement.

6.20. Construction. The parties have participated jointly in the negotiation and drafting of this Agreement. In the event an ambiguity or question of intent or interpretation arises with respect to this Agreement, this Agreement shall be construed as if drafted jointly by the parties and in accordance with its fair meaning. There shall be no presumption or burden of proof favoring or disfavoring any party by virtue of the authorship of any of the provisions of this Agreement.

6.21. Amendments. Only a writing executed by the parties hereto or their respective successors and assigns may amend this Agreement.

6.22. Waiver. The delay or failure of either party at any time to require performance or compliance by the other of any of its obligations or agreements shall in no way be deemed a waiver of those rights to require such performance or compliance. No waiver of any provision of this Agreement shall be effective unless in writing and signed by a duly authorized representative of the party against whom enforcement of a waiver is sought. The waiver of any right or remedy in respect to any occurrence or event shall not be deemed a waiver of any right or remedy in respect to any other occurrence or event, nor shall any waiver constitute a continuing waiver.

6.23. Severability. If any provision of this Agreement is determined by a court of competent jurisdiction to be unenforceable in any circumstance, such determination shall not affect the validity or enforceability of the remaining terms and provisions hereof or of the offending provision in any other circumstance. Notwithstanding the foregoing, if the value of this Agreement, based upon the substantial benefit of the bargain for any party is materially impaired, which determination as made by the presiding court or arbitrator of competent jurisdiction shall be binding, then both parties agree to substitute such provision(s) through good faith negotiations.

6.24. Counterparts. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original. All counterparts shall be construed together and shall constitute one agreement.

6.25. Corporate Authority. The persons executing this Agreement on behalf of the parties hereto warrant that they are duly authorized to execute this Agreement on behalf of said parties and that by doing so, the parties hereto are formally bound to the provisions of this Agreement.

To the extent that their provisions apply to Contractor of the County, Contractor agrees to comply with the terms and conditions of the exhibits listed below, which are by this reference made a part of this Agreement. Contractor agrees to provide the required certifications, and not to act, or fail to act, so as to cause the County to violate the terms and conditions of these exhibits.

Exhibit A – Scope of Work

Exhibit A1– Fees and Payment Schedule (Consortia and Non-Consortia)

Exhibit G – HIPAA Business Associate Addendum

Appendix –SMAA RMTS – PCG Claiming System License Agreement

[SIGNATURES TO FOLLOW ON NEXT PAGE]

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by and through their respective authorized officers, as of the date first above written.

CONTRACTOR:
Public Consulting Group, Inc., a Massachusetts Corporation

Grant Blair (FN) Date: 9/15/2014
Grant Blair, Practice Area Director PCG

_____ Date: _____

COUNTY OF PLUMAS:

Stephen J. Mansell Date: 8/26/14
Steve Mansell, Deputy County Counsel

Mimi Hall Date: 9/10/14
Mimi Hall, Director of Public Health

[Signature] Date: 9/9/14
Chair, Plumas County Board of Supervisors

**EXHIBIT A – STATEMENT OF WORK
RANDOM MOMENT TIME SURVEY SOFTWARE SERVICES**

1. Scope of Work/Purpose

PCG will provide a Random Moment Time Survey (RMTS) software system that can be rapidly customized to the final regulations of RMTS as approved by the Federal Government at no additional cost to the SMAA collaborative and deployed to meet the requirements of the California School Based Medi-Cal Administrative Activities (SMAA) program. PCG has an existing RMTS system that is entirely web-based for the end-user, with no hardware or software installation requirements within the LEAs and will not interface with any Plumas County IT systems.

2. Outcome Objectives

A. Goal:

PCG will assist the Plumas County SMAA /TCM Program to provide a RMTS software system including implementation and on-going support of the system for local SMAA providers. PCG has an existing RMTS system that will be configured to handle approximately fifty-five (55) LEA participants among the members of the SMAA Collaborative with seven (7) of LGAs participating in SMAA program. PCG will manage on-going maintenance and support of the RMTS system for all participating LEAs in the County.

1) Outcome Objectives

- a. PCG will work with participating LEAs from July 1, 2014 to September 30, 2014 on implementing a RMTS system. We will work to appropriately identify staff to include on their roster and develop their LEA specific calendar to account for their scheduled work time. During the implementation phase, PCG will work with the LEAs on understanding the various system user roles and security settings as well as training on the functionality of the RMTS system
- b. PCG will be prepared to go live with a RMTS system by October 1, 2014 for all participating LEAs in the County. PCG has an existing RMTS system that will be configured to meet CA requirements.
- c. PCG will manage on-going maintenance and support of the RMTS system for all participating LEAs in the County. PCG is available to support LEAs throughout the project via email, phone and in-person trainings.

3. Target Population and Geographic Area

A. Target Population

PCG is uniquely positioned to work with all the various stakeholders throughout the lifecycle of this contract. PCG understands many of the unique challenges LEAs face due to the population and demographics of their students, local economics, and geography. PCG will work to meet the programmatic needs of LEAs regardless of these challenges.

B. Geographic/Region Service Area

PCG has a tremendous amount of experience working with federal, state, county, and LEA level personnel throughout the country and especially in the West Coast region. PCG will leverage the knowledge we have gained from working with the LEAs in California and their neighboring states to best service Plumas County's LEAs.

4. General Requirement for Service Delivery

A. Contractor shall:

- 1) Using our real time, web-based solution, PCG's RMTS sampling process is comprehensive with regard to meeting all Centers for Medicare & Medicaid Services (CMS), Department of Healthcare Services (DHCS) and Plumas County Public Health Agency requirements and is user friendly for the LEA to navigate. PCG eliminates the burden on the LEA through the use of our robust system. PCG's configurable and established RMTS website offers a compliance driven process based on years of experience.
- 2) Initially LEAs will complete a Staff Pool list template, an Excel file that will be uploaded into the RMTS system. LEA coordinators will receive training on the RMTS system, specifically on how to navigate the system, monitor completion of time study moments, pull and read system generated reports, and how to make updates to the staff pool list in the RMTS system. For ongoing quarters LEA coordinators will make all changes and/or updates to staff members participating in the RMTS universe on-line directly in the RMTS system.
- 3) PCG's RMTS system will support the upload of the SMAA Codes as defined in the California School-Based Medi-Cal Administrative Activities Manual
- 4) PCG's RMTS system has the capability to generate all required reports. Please refer to Section 6D for detailed information on the PCG RMTS system generated reports.

- 5) PCG's RMTS system will provide data storage, maintenance, and upgrades for the RMTS software system for all SMAA providers in the county.
- 6) PCG has a field-tested approach for accomplishing training that combines live training with optional web-based teleconferencing. LEA personnel have responded well to having several training options available to them. We are uniquely positioned to easily accomplish this critical task. For live trainings, we first work with local LEAs see if they have an interest and available facilities to host sessions for attendees in their area. This allows for training in a location that is familiar to staff in the area. In the event that a local LEA is unable to host a training session, PCG would identify suitable locations in the area and coordinate the training at those locations. We have found that the most effective training combines presentation with question and answer and interactive components.

When district users log into the RMTS website, the first screen that they see is a dashboard, including training dates, links to recorded trainings, any system or program updates, as well as manuals and user guides for the contacts to download from the system. Contacts have found this screen helpful for quick and easy access to this information.

When LEA participants log into the RMTS system to complete the time survey moment the participant must complete an on-line training that provides information on the SMAA program and how to complete the RMTS moments. The participant completes the on-line training every time they log into the system to complete a moment.

PCG has created several guides to assist LEA Coordinators and participants with navigating the RMTS system. The guides are available to LEA Coordinators on the RMTS dashboard screen when first logging into the system.

- 7) PCG currently operates a statewide Random Moment Time Study (RMTS) through an online application that districts can access through the Internet called EasyRMTS™. The EasyRMTS™ system supports the entire RMTS quarterly life cycle from roster submission, to moment generation and notification, response collection, and response coding. All notifications regarding time survey moments are sent to via email to selected participants and LEA contacts.
- 8) PCG currently operates a statewide Random Moment Time Study (RMTS) through an online application that districts can access through the Internet called EasyRMTS™. There is no hardware or software installation required by the LEAs to access or use EasyRMTS™.

- 9) PCG's RMTS system has the capability of managing both electronic and paper moments. For paper moments, PCG will work with the LEA to understand the operational requirements associated with their time study participants to complete their assigned paper moments.
- 10) PCG will provide training materials for participants using the hard copy system. PCG has training materials and resources to ensure participants understand the program and how to complete the RMTS moments on-line in the web-based RMTS system and using the hard copy system.
- 11) PCG conducts an extensive pre-testing of the RMTS system to identify system issues and to make certain any issues are addressed and resolved prior to the start of the RMTS implementation quarter. PCG will include pre-testing documentation of the RMTS system in the audit binder.
- 12) PCG Education is the national leader in Medicaid Administrative Claiming activities, with successful implementation and supported increased reimbursement for client partners. RMTS is a major component of Medicaid Administrative Claiming of which PCG is well versed in all system components. Our staff have a depth of knowledge to identify standard and exceptional scenarios to provide participants with the best training foundation and training resources. PCG Education has helped clients in California such as Monterey Peninsula Unified School District, Sunnyvale School District, Milpitas Unified School District, and Coachella Valley Unified School District to better understand the actual reimbursable SMAA time that is surveyed across staff pools and school sites and set goals to increase sample accuracy and consistent SMAA time survey participation.
- 13) PCG Education has helped clients such as Monterey Peninsula Unified School District, Sunnyvale School District, Milpitas Unified School District, and Coachella Valley Unified School District to better understand the actual reimbursable SMAA time that is surveyed across staff pools and school sites and set goals to increase sample accuracy and consistent SMAA time survey participation. Our attention to detail and multiple layers of quality assurance achieve compliant results:

Time survey/Sample reviews

The SMAA invoice is built around participants' time surveys and samples. PCG works closely with the SMAA Coordinator, who conducts the initial time survey review. The second time survey review is PCG's responsibility. Together, we check for reasonable reimbursable time and corresponding activity samples that are compliant and properly coded. Throughout the process, PCG tracks non-reimbursable participants, and shares with the SMAA Coordinator as appropriate. This report can serve as a way to streamline the list of reimbursable participants, used at the discretion of the SMAA

Coordinator. Conversely, once all time surveys are reviewed and accepted, we also compile the final list of participants with reimbursable time. This serves as a useful reference for securing only the signatures of participants who will be included on the invoice, alleviating unnecessary footwork on the part of the SMAA Coordinator.

Invoice QA

Invoice preparation is an in-depth quarterly process that begins with assuring compliant time surveys. PCG uses the list of reimbursable participants to populate our own data request template that we send to the district. This template was created in direct correlation with the State's SMAA invoice, which we use for completion and submission. Once the invoice is complete, we assure its quality through two levels of internal review, the ultimate being conducted by our Quality Assurance Team. The invoice is submitted to the Local Education Agency (LEC) at least one month prior to the State's deadline, and PCG facilitates any edits deemed necessary by the LEC.

Audit binder reviews

On an annual basis, PCG guides the SMAA Coordinator through an Audit Binder Review. With the SMAA Manual Audit Binder Checklist in hand, together we verify that all necessary documents are present and compliant.

5. Specific Requirements for Service Delivery

A. The following Central Coding duties shall be performed by Contractor's professional staff:

- 1) PCG's RMTS will generate the sufficient number of moments each quarter, which will include over-sampling, to be statistically valid for a minimum of two cost pools.
- 2) PCG's RMTS system has the functionality of allowing additional cost pools to be added while maintaining the data from previous and subsequent quarters.
- 3) PCG's RMTS system has the functionality of allowing additional LEAs, regardless of county, to be added to subsequent quarters. LEAs cannot be added to past time studies nor in the midst of an active time study once the sample has been generated.
- 4) PCG's RMTS system has real time access to our web-based solution for all access levels.
- 5) PCG will work with each of the participating LEAs to establish a LEA specific calendar which will include defining non-working days such as designated federal, state, or local holidays or days in which students and district staff will not be in attendance as well as start and end times for time study participants. PCG's RMTS system will have the functionality to account for multiple work schedules within the LEA.

- 6) PCG will work with DHCS to determine the deadline for generating the RMTS time study sample to make sure that the time survey participant list is available no later than 14 days before the quarter begins.
- 7) PCG's RMTS system will use district specific calendars, as well as start and end times, when generating the quarterly sample. Using district specific calendars results in a more accurate sample and reduces significantly the times when a staff person at a LEA may be sampled at a time in which they are not working, while allowing the full universe of work time to be included in the sample universe.
 - a. See above response in A.5.
 - b. See above response in A.6.
- 8) See above responses in A.5 and A.7.
- 9) PCG's RMTS system will take into account each LEA's calendar, and start / end times for time study participants in order to properly generate moments only for those time periods in which school districts are in session. Our sampling then uses a random sampling with replacement in which moments from the available universe are randomly selected and then randomly matched with staff eligible on that date and time. This sampling process meets the CMS sampling rules as outlined in the California School-Based Medi-Cal Administrative Activities Manual.
- 10) Due to the replacement feature described in the section above, A.9, each staff person has equal chance of being selected for each moment. In addition, the sample moments are random across all job categories. Each of the job category has the same proportional opportunity to be selected amongst the sample universe for each cost pool.
- 11) PCG's RMTS system has the functionality to automatically notify a selected participant of their moment via valid email address 5 days prior to the moment and again 24 hours prior to the moment. PCG can configure the frequency and content according to County requirements.
- 12) PCG's RMTS system will assign a unique username and password for each user accessing the system, which includes both LEA Coordinators and time study participants. PCG will configure the RMTS system to ask the following three question to every time study participant:
 - a. Who were you with?
 - b. What were you doing?
 - c. Why were you performing this activity?

- 13) PCG's RMTS system has the functionality to establish a time limited response window for time study participants to complete their sampled moment.
- 14) PCG's RMTS system has the capability of preserving the quarterly time study sample universe, sampled moments, time study participant responses, and clarifying questions.
- 15) PCG's web-based RMTS system provides automatic notification to the LEA SMAA Coordinator when the TSP has not responded to the moment. If the random moment is not completed within the predetermined timeframe following the time of the random moment, the TSP receives a late notification in which the LEA SMAA Coordinator is copied on the email notification. This gives the LEA SMAA Coordinator an alert that the participant has not yet completed their random moment.
- 16) PCG's RMTS system has the functionality for a certification function for each sample moment. The certification function provides an additional opportunity for the time study participant to quality check their responses. Participants are required to attest to understanding the purpose of the SMAA program, their role in the program, and how to accurately complete their random moment.
- 17) PCG's RMTS system has the capability of managing both electronic and paper moments. For paper moments, PCG will work with the LEA to understand the operational requirements associated with their time study participants to complete their assigned paper moments. PCG will work with the LEA contact so paper forms are received timely for distribution to the time study participant and returned from the time study participant to the LEA contact. The LEA contact will send paper moments to the county for data entry into the RMTS system. The participant's signature and date on the paper form is equivalent to the date electronic moments are submitted and are subject to the same submission timeframes.
 - a. The RMTS system generates an Individual Master Sample File Report. This report provides a list of all sampled participants sampled for their LEA within all cost pools by the LEA name, school location, moment date and time. This report is specific to the LEA. This report can be used to identify TSP that require a hard copy RMTS moment.
 - b. PCG's RMTS system is equipped to allow centralized coders access to code certified moments.
 - c. PCG will provide instructions to TSP on submitting the certified moments within the required 3 attendance days of the moment in time.
 - d. PCG will provide instructions to TSP on how to submit hard copy moments to the LGA after the moment has been certified.

- e. To monitor that the LGA has input the certified moment no later than 5 student attendance days from the occurrence of the moment, PCG's RMTS system generates a time stamp of when the moment was completed and allows for documentation of who entered the moment.
- f. See above response in 16.

6. Staff Pool List Management

- A. Initially LEAs will complete a staff pool list template that is an Excel file that will be uploaded into the RMTS system. PCG will provide LEA Coordinators with training on the RMTS system, specifically on how to navigate the system, monitor completion of time study moments, pull and read system generated reports, and how to make updates to the staff pool list in the RMTS system. For ongoing quarters LEA Coordinators will make all changes and/or updates to staff pool lists and participant information on-line directly in the RMTS system. LEAs will also have the option to download their prior roster and make changes to the downloaded file. LEA can then upload revised file into RMTS. This feature is especially helpful for larger LEAs that may want to update their list using reports from Human Resources, business office or finance.
 - 1) PCG will provide the LEA Coordinators with an Excel file that will contain the data elements that are needed to upload a staff pool list into the RMTS system. PCG will provide training and support materials to the LEA Coordinators and claiming units on how to construct a Staff Pool list and how to complete the upload file.
 - 2) After the initial upload of the Staff Pool list, the LEA participant data is stored in PCG's RMTS system. The LEA Coordinator is provided training on the RMTS system and then issued login credentials. LEA Coordinators have access to the RMTS system to make real-time changes to their participant lists. LEA Coordinators can inactivate participants, add new participants, update school locations, update email addresses, make name changes/corrections, and update job titles using the Staff Pool screen with in the RMTS system.
 - 3) PCG's RMTS System is a real time web-based system which allows LEA coordinators 24/7 access to the system. LEA Coordinators/claiming units can make updates within the RMTS system without requesting the Contractor to make the change.
 - 4) PCG's RMTS system is designed to allow for updates to the staff pool list for subsequent quarters. Once a time study sample has been generated for a specific quarter any changes made to the Staff Pool list will be effective with the subsequent quarter.

The RMTS universe cannot be altered after time study sample is generated and the quarter has started. The RMTS system "locks" the Staff Pool list prior to sample generation. After the time study sample is generated the RMTS system is "unlocked" to allow LEA Coordinators and/or Claiming Units the ability to make updates to the staff pool list in preparation for the subsequent quarter with no impact on the current time study participant data.

- 5) The Staff Pool screen within the RMTS system is where participant data entered. The required participant data includes the cost pool (sampling universe), claiming unit name, school name, participant first name and last name, job code, job title, email address, and employment type. Optional participant data includes the participant's middle initial name, phone number, and employee number. The participant will be issued a system generated PCG ID at the time the participant is added to the RMTS system. The standard work hours are entered at a district level. LEA Coordinators complete the PCG calendar template listing the non-working days (legal holidays and district breaks/vacation days). The data from the calendar template is uploaded into the RMTS system for each LEA.
- 6) PCG's RMTS system has the capability of maintaining a LEA specific profile, which includes LEA name, unique identifier, calendar, and coordinator.

B. PCG's RMTS system will support the assignment of all approved SMAA Codes.

- 1) PCG recognizes the impact the centralized coding functionality has on overall program results. Centralized coding is a critical function as the capabilities of those coders will determine the accuracy of the program results. PCG's RMTS system includes three fields to address coding from the initial coder's response to the final assigned code for the moment.
 - a. The details are essential as the determination between two activity codes often is based on the clarity of the response and the level of information provided. Auditors can often have a different interpretation of a moment as well. Allowing the sampled participant to answer in a narrative format, versus dropdowns, ensures that the participant is not being "guided" to a particular activity as well as creating the necessary documentation needed for a review. The initial coder identifies the appropriate activity code for the moment under review within the web based RMTS system. If the second level reviewer is in agreement with the initial code the moment is passed during the quality assurance process (senior coder).

- b. If an activity code discrepancy is identified between the initial coder and the secondary coder, the moment is placed in a failed status. A flagged failed status is identified through a system report allowing the SMAA County RMTS Coder manager to determine the most appropriate activity code for the moment under review.
 - c. When a sampled moment is placed in a failed status coders have the capability to run a report to identify moments in a flagged status. In addition, the system has an option allowing the coder to select "For Review" which flags the moment as well allowing for the quality assurance team to assist with determining the appropriate activity code.
 - d. The RMTS system generates a report which will show all data in the database associated with each moment selected, the staff person assigned the moment, and any data collected in the process of the response such as the narrative responses to the questions and the code assigned, including notes on follow up with the participant, and notes on coder conflict and resolution.
- 2) PCG notifies the participant via e-mail if additional information is needed to accurately code the completed sample moment. When the participant's response does not provide enough information to accurately code the moment, PCG will send the participant a request for follow-up via e-mail. The follow-up e-mail is initiated from a dedicated PCG RMTS email address.
- a. The web-based RMTS system maintains a history of when (date and time) the participant completed the moment. In addition, the system provides an audit trail that includes the participant's initial response and; all follow-up correspondence from the centralized coder as well as the participant's follow-up response(s).
- C. The RMTS system includes all the fields to store and track participant responses. The system also generates a report which will show all data in the database associated with each moment selected, the staff person assigned the moment, and any data collected in the process of the response such as the narrative responses to the questions and the code assigned, including notes on follow up with the participant, and notes on coder conflict and resolution.
- D. The RTMS system shall have the capability of generating the following reports:
- 1) PCG's RMTS system generates the Time Study Results Summary Report. This report summarizes the time study results by cost pool and assigned code counts.
 - 2) At the LEA level, PCG's RMTS system generates the Individual Master Sample File Report. This report provides a list of all sampled participants sampled for their LEA

within all cost pools by the LEA name, school location, and moment date and time. This report is specific to the LEA.

For the LGA or DHCS level, PCG's RMTS system generates the Master Sample File. This report provides a list of all sampled participants sorted by LEA, school location, job title, moment date and time. This report contains moment information for all participating LEAs.

- 3) PCG's RMTS system generates the Times Study Results Report. This report provides a list of sampled participants who have submitted their time study moments by LEA name, school site, claiming unit, participant demographics, moment date / time, submitted date/time, and code determinations. This report provides the questions asked to each participant as well as the response the participant entered into the RMTS system. Any follow-up information received is also included in this report.
- 4) PCG's RMTS system generates a Compliance Report. The Compliance Report includes the LEA name, the claiming unit, and the participant's name. The report provides a list of all participants sampled with the date/time of the moment and the submitted date/time.
- 5) PCG's RMTS system generated Compliance Report includes the LEA name, the claiming unit, the participant's name, the date/time of the moment and the submitted date/time. When a moment is submitted by a TSP, the system provides a date/time stamp showing the moment was completed. This report can be used as a RMTS Tutorial Attendance Report showing the participant completed the RMTS training prior to completing the time survey moment.
- 6) PCG's RMTS system generates the Times Study Results Report. This report provides a list of sampled participants who have submitted their time study moments by LEA name, school site, claiming unit, participant demographics, moment date / time, submitted date/time, and code determinations. This report provides the questions asked to each participant as well as the response the participant entered into the RMTS system. Any follow-up information received is also included in this report.
- 7) PCG's RMTS system generates the Times Study Results Report. This report provides a list of sampled participants who have submitted their time study moments by LEA name, school site, claiming unit, participant demographics, moment date / time, submitted date/time, and code determinations. This report also provides the questions asked to each participant as well as the response the participant entered into the RMTS system. Coder clarifying questions and any follow-up information received is also included in this report.

- 8) PCG's RMTS system generates a Master Sample File. This report provides a list of all sampled participants sorted by LEA, school site, and date/time of the moment. The report also includes participant usernames/password. LEA coordinators have access to an Individual Master Sample File which provides a list of all participants sampled within all Cost Pools by LEA and date/time of the moments. The Individual Master Sample only displays the LEAs information that is generating the report.
 - 9) PCG's RMTS system generates a Staff Pool List History Report. This report is a list of participants that were used in the sample generation for the selected sample period. This report is sorted by Cost Pool, LEA name, and school name. Using the Staff Pool List History Report, PCG will work with the Plumas County to create a report comparing participants by LEA for past quarters.
 - 10) PCG's RMTS system generates an Active Participants Report. The Active Participants Report shows all currently active participants with the RMTS system at the time of running the report.
 - 11) PCG will work with the county to appropriately identify discrepancies so that the RMTS Administrator (PCG) will send a report of all coding discrepancies to the County Coordinator. The report will include the LEA name, the claiming unit, the participant's name, and the specific coded moment.
 - 12) PCG's RMTS system generates the Times Study Results Report. This report provides a list of sampled participants who have submitted their time study moments by LEA name, school site, claiming unit, participant demographics, moment date / time, submitted date/time, and code determinations. This report also provides the questions asked to each participant as well as the response the participant entered into the RMTS system. Coder clarifying questions and any follow-up information received is also included in this report. PCG uses the information from the Time Study Results Report to create a monthly and quarterly compliance report detailing each LEA's response rate to ensure LEAs are achieving the required 85% response rate to meet the statistical requirements of the program.
 - 13) PCG will work with the Plumas County Public Health Agency with determining the need for additional reports.
- E. PCG will be responsible for data storage and all maintenance upgrades for the RMTS system.
- 1) PCG will maintain and host a web-based RMTS system off-site from the county.

- 2) PCG will provide a back-up and recovery process for the RMTS system and the applicable data. The key structural component of PCG's disaster plan is related to a comprehensive and expeditious recovery, being the adaptation of the Functional Area Recovery Management (FARM) approach. It facilitates the breaking down of enterprise components into functional areas, and where appropriate, a further breakdown within enterprise functional areas to specialized functional areas to facilitate Business Continuity Planning for business and data center recovery. This approach allows for quicker recovery time. The RMTS data will be stored for a period of up to 7 years.
- 3) PCG will perform comprehensive data validation checks of the RMTS system. The validation checks will support the overall integrity of the RMTS system. PCG's RMTS system does have a spell-check feature on time study participant responses to sample moments and follow up responses.
- 4) PCG will maintain a web-based RMTS system that will be available to all user types with established system credentials 24 hours a day, 7 days a week. The system will be available unless otherwise communicated for routine maintenance that will be scheduled outside of standard business hours. In the event maintenance is required during regular business hours due an unforeseen issue, all the applicable stakeholders will be notified with as much advance notice as possible. PCG will strive to meet the minimum of 99% up-time reliability of system's hardware and software.
- 5) In partnership with the county, PCG will work to ensure ongoing compliance of the RMTS system with any Federal or State of California reporting mandates applicable to School Based SMAA.

F. Ongoing training and support shall:

- 1) After a participant logs in, he/she is presented with a series of online training screens. The participant must read through screens before completing his/her moment to ensure that the participant fully understands the random moment time study process.
- 2) PCG will work with the county to develop the RMTS training screens prior to system implementation.
- 3) The RMTS training screens provide instructions on how to use the system to respond to the assigned moment and an overview of the random moment time study process. PCG will work with the County to incorporate any additional information into the customized training screens.

- 4) Participants are required to login to the RMTS system with a unique username and password and proceed through all training screens before they are given the option to respond to their moment.
- 5) A toll free customer service help desk will be accessible during normal business hours, every business day. PCG will also work with each client to determine the specific customer support needs to ensure we have the appropriate coverage for customer support. PCG staff are also accessible by email at any time. PCG responds to all client inquiries within one business day of receipt.

7. Data Collection and Reporting Requirements

- A. PCG has prepared a preliminary work plan in section IV.1, Plan for Performing Services, page 9, identifying the key tasks and detailing the sequence of events to complete the deliverables identified in this proposal.
- B. If PCG is selected to perform the statement of work, we will collaborate with the County to finalize the project work plan and maintain it as a living document. PCG will provide updates to the work plan regularly, and also during scheduled status meetings. Any changes to timelines will be officially communicated through the work plan.
- C. PCG will provide the reports requested based on the required due date with accurate information and according to the guidelines set forth by the county.
- D. PCG will collaborate with the county to develop additional agreed upon reports and update the work plan accordingly.
- E. PCG will provide the reports requested based on the required due date with accurate information and according to the guidelines set forth by the county. If an extension is requested the project work plan will be updated accordingly once approval is received from the County.

8. Quality Assurance Process

- A. Following the completion of a time study quarter a Random Moment Time Study Results Report can be extracted from the RMTS system to create a RMTS validation report that is sent to the client for final approval. The RMTS validation report is customizable can be modified to meet the requirements of LGA.
- B. The RMTS validation report includes all clarifying questions asked by the Central Coders. A RMTS Follow-Up Report is also available which includes only moments that required

follow up by a central coder. A report of all clarifying questions can be accessed directly via the RMTS system by LGA or provided as a separate quarterly report.

- C. PCG has a quality assurance process that runs in parallel to the RMTS quarterly life cycle, from roster submission, to moment generation, notification, and response collection. The quality assurance plan is built into the overall work plan as key steps in accomplishing the program goals. PCG also uses an internal check-list each quarter to confirm all steps in the sample generation and quality assurance process are completed within the established deadlines.

- D. The quality assurance plan will include the provision of a QA Summary Report to be provided to the County on the 15th of May following each contract year. The report will address any areas of concern identified during the year, RMTS performance as it relates to the program objectives, and any corrective actions if needed.
 - 1) Areas of concern identified by the Contractor and County
 - 2) Program performance
 - 3) Results of process and outcomes objectives, and
 - 4) Results of plan of corrective action

END OF EXHIBIT A -- STATEMENT OF WORK

1. Cost Criteria (Revised)**EXHIBIT A-1
FEE SCHEDULE AND BUDGET
RANDOM MOMENT TIME SURVEY SOFTWARE SERVICES**

The following Pricing Proposal includes pricing for the full scope of services outlined in Exhibit A – Random Moment Time Survey Software Services (RMTS). Pricing provided is inclusive of all related project costs including but not limited to travel and training, system design and implementation, incidental expenses, overhead costs, and status meetings. Because PCG is a nationwide vendor, we are able to offer our services and system at a competitive price which reflect economies of scale. The table below represents PCG's proposed pricing fee options available to the County based on quarterly per participant count and per student enrollment.

Pricing Option 1 – Quarterly fee based on number of participants

DATES	QUARTERLY COUNT	FEE PER PARTICIPANT
July 1, 2014- June 30, 2015	Participants 3,600 – 4,999	\$10.50
	Participants 5,000+	\$8.50

Pricing Option 2 – Quarterly fee based on student enrollment

DATES	QUARTERLY COUNT	FEE PER STUDENT
July 1, 2014- June 30, 2015	Students 400,000 – 699,999	\$0.10
	Students 700,000 +	\$0.08

Should the County opt to allow PCG to invoice for services at the close of the RMTS quarter, a **15% discount in pricing** will be applied (30 day payment terms apply).

Fees Include:

1. All system hosting and maintenance fees.
2. Advanced reporting module to create ad-hoc reports.
3. Periodic system enhancements and features such as dashboard reporting and unique participant email log-in link.
4. Help desk support (email and toll-free phone) to LGA, LEA SMAA coordinators and participants.
5. Year 1 Training
 - a. Implementation training (8 days onsite)

- i. LGA/Host County
 - ii. LEA SMAA Coordinator
 - iii. Coder training
 - iv. Webinar
 - b. Quarterly refresher training for SMAA LEA Coordinators – webinars
 - c. Participant – Online training conducted with sampled moment
6. Trainings conducted by webinar will be recorded and provided electronically for later playback. Link to trainings will be added to system dashboard. In addition LGA(s) can post link to other locations.
 7. Additional onsite trainings can be provided at \$2,000/day.

Pricing Assumptions

1. PCG will configure the RMTS system to meet DHCS/CMS requirements.
2. Option 1 Pricing is based on number of participants included in the sample universe at the time of the time study sample generation. Minimum quarterly participant count is 3,600.
3. Option 2 Pricing is based on the total student enrollment. PCG and LGA will determine appropriate student count report to be utilized for each quarter such as the CDE count.
4. Pricing is based on current proposed methodology, including 2 Cost Pools. Any significant changes to the methodology or number of Cost Pools may result in fee changes.
5. Optional year pricing will be evaluated 45 days prior to the end of the current contract year. PCG reserves the right to renegotiate pricing for optional years based on program changes as a result of DHCS requirements, changes to scope of work or quarterly count changes (based on RFP estimates). In no significant changes, year 1 pricing will carry over.
6. All LGA's associated with RFP are part of one consortium and will be conducting one RMTS per quarter (includes 2 Cost Pools).
7. Individual LEAs and/or individual LGA's will not be conducting a separate time study.
8. Payments to PCG for services are due 30 days from invoice date.
9. All existing reports in the RMTS are included in the pricing. All required reports by DHCS are included in system fees. In the event the County requests additional reports, development rate of \$150/hr will apply.
10. Plumas County will provide a designated project manager to work with PCG on this engagement.

Exhibit G
HIPAA Business Associate Addendum

I. Recitals

- A. This Contract (Agreement) 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 Health Care Services ("DHCS") wishes to disclose to Business Associate certain information pursuant to the terms of this 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 this Agreement, Contractor, here and after, is the Business Associate of DHCS acting on DHCS' behalf and provides services, arranges, performs or assists in the performance of functions or activities on behalf of DHCS and creates, receives, maintains, transmits, uses or discloses PHI and PI. DHCS and Business Associate are each a party to this 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 this 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 DHCS 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

Exhibit G
HIPAA Business Associate Addendum

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 this Agreement, for, or on behalf of DHCS, provided that such use or disclosure would not violate the HIPAA regulations, if done by DHCS. 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:

Exhibit G
HIPAA Business Associate Addendum

- 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 DHCS. Data aggregation means the combining of PHI created or received by the Business Associate on behalf of DHCS 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 DHCS.

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 DHCS 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 this 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 DHCS, 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 this 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 DHCS 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;

Exhibit G
HIPAA Business Associate Addendum

- b. Achieving and maintaining compliance with the HIPAA Security Rule (45 CFR Parts 160 and 164), as necessary in conducting operations on behalf of DHCS under this 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 this 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 DHCS.

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 DHCS, 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 DHCS; 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 DHCS and Individuals. To provide access and information:

Exhibit G
HIPAA Business Associate Addendum

1. To provide access as DHCS may require, and in the time and manner designated by DHCS (upon reasonable notice and during Business Associate's normal business hours) to PHI in a Designated Record Set, to DHCS (or, as directed by DHCS), to an Individual, in accordance with 45 CFR section 164.524. Designated Record Set means the group of records maintained for DHCS that includes medical, dental and billing records about individuals; enrollment, payment, claims adjudication, and case or medical management systems maintained for DHCS health plans; or those records used to make decisions about individuals on behalf of DHCS. Business Associate shall use the forms and processes developed by DHCS for this purpose and shall respond to requests for access to records transmitted by DHCS 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 DHCS 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 DHCS that was provided to DHCS by the Social Security Administration, upon request by DHCS, Business Associate shall provide DHCS 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 DHCS directs or agrees to pursuant to 45 CFR section 164.526, in the time and manner designated by DHCS.
- H. Internal Practices.** To make Business Associate's internal practices, books and records relating to the use and disclosure of PHI received from DHCS, or created or received by Business Associate on behalf of DHCS, available to DHCS or to the Secretary of the U.S. Department of Health and Human Services in a time and manner designated by DHCS or by the Secretary, for purposes of determining DHCS' 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 DHCS and shall set forth the efforts it made to obtain the information.
- I. Documentation of Disclosures.** To document and make available to DHCS or (at the direction of DHCS) 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 DHCS 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 DHCS 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 this 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:

Exhibit G
HIPAA Business Associate Addendum

1. **Notice to DHCS.** (1) To notify DHCS 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, or upon the discovery of a suspected security incident that involves data provided to DHCS by the Social Security Administration. (2) To notify DHCS 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 this Agreement and this Addendum, or potential loss of confidential data affecting this 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 DHCS Program Contract Manager, the DHCS Privacy Officer and the DHCS 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 DHCS ITSD Service Desk. Notice shall be made using the "DHCS 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 DHCS Privacy Office website (www.dhcs.ca.gov, then select "Privacy" in the left column and then "Business Use" near the middle of the page) or use this link: <http://www.dhcs.ca.gov/formsandpubs/laws/priv/Pages/DHCSBusinessAssociatesOnly.aspx>

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 "DHCS 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 DHCS Program Contract Manager, the DHCS Privacy Officer, and the DHCS Information Security Officer:
 3. **Complete Report.** To provide a complete report of the investigation to the DHCS Program Contract Manager, the DHCS Privacy Officer, and the DHCS 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 "DHCS 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 DHCS requests information in addition to that listed on the "DHCS Privacy Incident Report" form, Business Associate shall make reasonable efforts to provide DHCS 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 "DHCS Privacy Incident Report" form. DHCS will review and approve the determination of whether a breach occurred and individual notifications are required, and the corrective action plan.

Exhibit G
 HIPAA Business Associate Addendum

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 made without unreasonable delay and in no event later than 60 calendar days. The DHCS Program Contract Manager, the DHCS Privacy Officer, and the DHCS 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 DHCS in addition to Business Associate, Business Associate shall notify DHCS, and DHCS 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. **DHCS Contact Information.** To direct communications to the above referenced DHCS staff, the Contractor shall initiate contact as indicated herein. DHCS 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.

DHCS Program Contract Manager	DHCS Privacy Officer	DHCS Information Security Officer
See the Scope of Work exhibit for Program Contract Manager information	Privacy Officer c/o: Office of HIPAA Compliance Department of Health Care Services P.O. Box 997413, MS 4722 Sacramento, CA 95899-7413 Email: privacyofficer@dhcs.ca.gov Telephone: (916) 445-4646 Fax: (916) 440-7680	Information Security Officer DHCS Information Security Office P.O. Box 997413, MS 6400 Sacramento, CA 95899-7413 Email: iso@dhcs.ca.gov Fax: (916) 440-5537 Telephone: ITSD Service Desk (916) 440-7000 or (800) 579-0874

Exhibit G
HIPAA Business Associate Addendum

- 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 DHCS of this Addendum, it shall take the following steps:
1. Provide an opportunity for DHCS to cure the breach or end the violation and terminate the Agreement if DHCS does not cure the breach or end the violation within the time specified by Business Associate; or
 2. Immediately terminate the Agreement if DHCS 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 DHCS

DHCS agrees to:

- A. Notice of Privacy Practices.** Provide Business Associate with the Notice of Privacy Practices that DHCS produces in accordance with 45 CFR section 164.520, as well as any changes to such notice. Visit the DHCS Privacy Office to view the most current Notice of Privacy Practices at: <http://www.dhcs.ca.gov/formsandpubs/laws/prlv/Pages/default.aspx> or the DHCS website at www.dhcs.ca.gov (select "Privacy" in the left column and "Notice of Privacy Practices" on the right side of the page).
- 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 DHCS 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 DHCS.

V. Audits, Inspection and Enforcement

- A.** From time to time, DHCS may inspect the facilities, systems, books and records of Business Associate to monitor compliance with this Agreement and this Addendum. Business Associate shall promptly remedy any violation of any provision of this Addendum and shall certify the same to the DHCS Privacy Officer in writing. The fact that DHCS 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 DHCS'.

Exhibit G
HIPAA Business Associate Addendum

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 DHCS' enforcement rights under this 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 DHCS and provide DHCS 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 contract and shall terminate when all the PHI provided by DHCS to Business Associate; or created or received by Business Associate on behalf of DHCS, is destroyed or returned to DHCS, 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 DHCS' knowledge of a material breach or violation of this Addendum by Business Associate, DHCS shall:
1. Provide an opportunity for Business Associate to cure the breach or end the violation and terminate this Agreement if Business Associate does not cure the breach or end the violation within the time specified by DHCS; or
 2. Immediately terminate this 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 DHCS if it is named as a defendant in a criminal proceeding for a violation of HIPAA. DHCS may terminate this Agreement if Business Associate is found guilty of a criminal violation of HIPAA. DHCS may terminate this 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 this Agreement for any reason, Business Associate shall return or destroy all PHI received from DHCS (or created or received by Business Associate on behalf of DHCS) 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 DHCS of the conditions that make the return or destruction infeasible, and DHCS 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.** DHCS 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

Exhibit G
HIPAA Business Associate Addendum

Associate's own purposes or that any information in Business Associate's possession or control, or 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 DHCS' request, Business Associate agrees to promptly enter into negotiations with DHCS 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. DHCS may terminate this 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 DHCS pursuant to this Section; or
 2. Business Associate does not enter into an amendment providing assurances regarding the safeguarding of PHI that DHCS 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 this Agreement, available to DHCS at no cost to DHCS to testify as witnesses, or otherwise, in the event of litigation or administrative proceedings being commenced against DHCS, 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 DHCS 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 this 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.

Exhibit G
HIPAA Business Associate Addendum

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 DHCS, or access or disclose DHCS 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 DHCS 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 DHCS PHI or PI. The statement must be renewed annually. The Contractor shall retain each person's written confidentiality statement for DHCS inspection for a period of six (6) years following contract termination.
- D. *Background Check.*** Before a member of the workforce may access DHCS 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 DHCS 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 DHCS Information Security Office.
- B. *Server Security.*** Servers containing unencrypted DHCS 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 DHCS PHI or PI required to perform necessary business functions may be copied, downloaded, or exported.
- D. *Removable media devices.*** All electronic files that contain DHCS 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.

Exhibit G
HIPAA Business Associate Addendum

- E. **Antivirus software.** All workstations, laptops and other systems that process and/or store DHCS PHI or PI must install and actively use comprehensive anti-virus software solution with automatic updates scheduled at least daily.
- F. **Patch Management.** All workstations, laptops and other systems that process and/or store DHCS 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 DHCS 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 DHCS 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 DHCS Information Security Office.
- I. **System Timeout.** The system providing access to DHCS 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 DHCS 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 DHCS PHI or PI, or which alters DHCS 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 DHCS 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 DHCS 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 DHCS 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 DHCS 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 DHCS 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 DHCS 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 DHCS 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 DHCS 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 this Agreement for more than 24 hours.
- B. *Data Backup Plan.*** Contractor must have established documented procedures to backup DHCS PHI to maintain retrievable exact copies of DHCS 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 DHCS PHI or PI should it be lost. At a minimum, the schedule must be a weekly full backup and monthly offsite storage of DHCS data.

V. Paper Document Controls

- A. *Supervision of Data.*** DHCS 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. DHCS 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 DHCS PHI or PI is contained shall be escorted and DHCS PHI or PI shall be kept out of sight while visitors are in the area.

Exhibit G
HIPAA Business Associate Addendum

- C. **Confidential Destruction.** DHCS PHI or PI must be disposed of through confidential means, such as cross cut shredding and pulverizing.
- D. **Removal of Data.** DHCS PHI or PI must not be removed from the premises of the Contractor except with express written permission of DHCS.
- E. **Faxing.** Faxes containing DHCS 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 DHCS 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 DHCS 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 DHCS to use another method is obtained.

**Appendix A
To the Services Agreement**

**PUBLIC CONSULTING GROUP, INC.
SMAA RMTS – PCG CLAIMING SYSTEM LICENSE AGREEMENT**

This LICENSE AGREEMENT, including all exhibits hereto (collectively “the Agreement”), is entered into as of July 1, 2014 (the “Effective Date”), by and between Public Consulting Group, Inc., a Massachusetts corporation headquartered in Boston, MA (“PCG”) and County of Plumas, a political subdivision of the State of California, with its offices located at 270 County Hospital Road, Suite 206, Quincy, CA 95971-9174 (“Agency”).

WHEREAS, the parties have signed, or will soon sign, a Services Agreement for RMTS services and require access to PCG’s proprietary Internet-based random moment time study tool, the PCG Claiming System (“System”) hosted by PCG to help Agency determine, administer, and tally random moment surveys, and to grant a license to access PCG’s related proprietary systems and documentation; and

WHEREAS, Agency desires to provide System to its selected employees and authorized users for their use in conducting a Random Moment Time Study of the Agency and its local education agencies (“LEAs”) (the “Purpose”), subject to the terms of this Agreement; and

WHEREAS, in connection with the Services Agreement, PCG will provides access to System pursuant to this license Agreement;

NOW, THEREFORE, for and in consideration of the mutual covenants set forth in this Agreement and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

1. DEFINITIONS. In addition to the terms defined elsewhere in this Agreement, terms appearing in initial capital letters shall have the following meanings:

1.1. “Confidential Information” means information designated or treated as confidential by either party, or which under the circumstances surrounding disclosure should in good faith be treated as confidential, including, without limitation: (a) computer programs, electronic codes, algorithms, know-how, formulas, processes, ideas, data, inventions (whether or not patentable or registerable under patent, copyright, or similar statutes), schematics, teaching and development techniques, trade secrets, improvements, research projects, and code; (b) information about costs, profits, markets, sales, customers, or clients; (c) technical, business, and financial plans; (d) employee personnel files and compensation information; (e) discoveries, developments, designs, improvements, regardless of the form of communication in each case, including extracts or summaries; and (f) any record (whether in print, electronic, or any other medium) maintained by Agency, an Agency employee or agent, or a party acting on Agency’s behalf, which is directly related to an identified client. “Confidential Information” also specifically includes System, any third-party information disclosed to either party under obligations of confidentiality, and the identity of or any medical, financial, or personal information pertaining to anyone within PCG or Agency. Notwithstanding the foregoing, however, “Confidential Information” does not include information that: (i) was rightfully in possession of or known to the receiving party without any obligation of confidentiality prior to receiving it from the disclosing party; (ii) is, or subsequently becomes, legally and publicly available without breach of this Agreement; (iii) is rightfully obtained by the receiving party from a source other than the disclosing party without any obligation of confidentiality; or (iv) is disclosed by the receiving party under a valid order of a court or government agency, provided that the receiving party provides prior written notice to the disclosing party of such obligation and the opportunity to oppose such disclosure.

1.2. "Documentation" means all technical information, training materials, instructions, manuals, and diagrams (in printed, electronic, or other media) pertaining to the System Service.

1.3. "System Service" means: (i) the Internet-based services identified in this Agreement including Attachment A; (ii) all products related to such services; (iii) all New Releases, Updates, and Upgrades applicable to the foregoing and generally released by PCG; and (iv) the Documentation developed by PCG for distribution and use in combination with the foregoing.

1.4. "Intellectual Property Rights" means patent rights, copyrights (including but not limited to copyrights in audiovisual works and applicable Moral Rights), trade secret rights, trademark rights, and any other intellectual property rights recognized by the law of each applicable jurisdiction in which licenses for the System Service are marketed and licensed by PCG.

1.5. "Moral Rights" means any right to claim authorship of a work, any right to object to any distortion or other modification of a work, and any similar right existing under the law of any country in the world or under any treaty.

1.6. "New Releases" means any new revision of System Service that includes significant enhancements which add new features to the System Service and which generally will be designated by a new version number either to the left of the decimal point (e.g., from v2.03 to v3.00) or one decimal place to the right of the decimal point (e.g., from v2.03 to v2.10).

1.7. "Permitted Use" means use of the System Service by an Agency User solely for the Purpose.

1.8. "Agency User" means any employee, agent or contractor of the Agency authorized to access the System pursuant to Section 3.3 of this Agreement.

1.9. "Trademarks" means all trademarks, trade names, service marks, and logos now owned or hereinafter acquired by either party, and all other trademarks, trade names, service marks, and logos identifying or used in connection with their product or service offerings, whether or not registered under the laws of a particular jurisdiction or territory.

1.10. "Updates" means any new revisions and/or modifications required to be made to the System Service and/or Documentation in order to correct operational errors.

1.11. "Upgrades" means any new revision of the System Service that includes corrections and minor modifications to existing features and which generally will be designated by a new version number which has changed from the prior number only two places to the right of the decimal point (e.g., from v2.02 to v2.03).

2. TERM

2.1. The term of this License Agreement will be coterminous with the Services Agreement (the "Term").

3. GRANT OF RIGHTS.

2.1. Grant of License for System Service. In consideration of the Compensation defined in Attachment A and subject to the other terms and provisions of this Agreement and Agency's performance of all its obligations under this Agreement and the Contract, PCG hereby grants to Agency, and Agency hereby accepts, a non-exclusive, non-transferable right and license, during the Term only, to access via the Internet and use the System Service to the extent reasonably necessary.

2.2. Grant of License for Documentation. PCG hereby grants to Agency, and Agency hereby accepts, a non-exclusive, royalty-free license under PCG's copyrights in PCG's Documentation, during the Term only:

2.2.1. to incorporate PCG's Documentation, in whole or in part, into other written materials prepared by or for Agency with respect to the System Service solely for Agency's internal use; and

2.2.2. to reproduce and distribute modified and original versions of PCG's Documentation, in hard copy or in an on-line format, as part of Agency's Documentation for the System Service, and, if such Agency's Documentation is in an on-line format, allow Agency Users to make print copies of the same solely for Agency's internal use.

2.3. Authorized Users; Restrictions on License Grant.

2.3.1. The System may be accessed only by i) employees of Agency who have a need to access the System Service for the Purpose; or ii) contractors of the Agency subject to prior notification to PCG and PCG's express approval of such access by contractors, (collectively "Agency Users"). PCG may require authorized contractors to execute appropriate confidentiality and non-use agreements at any time before or after being approved as Agency Users. Authorized Users may access the System solely for the Purpose and shall be required to maintain the System Service and Documentation as confidential and proprietary to PCG. Agency shall not use or grant to any person or entity other than authorized Agency Users the right to use the System Service. Agency and Agency Users shall not distribute, market, or sublicense the System Service. PCG may restrict access or require Agency restrict access of the System Service by any Agency User who violates the confidentiality or proprietary rights of PCG in the System Service.

2.3.2. Agency shall ensure that appropriate proprietary notices indicating PCG's Intellectual Property Rights in the System Service and related Documentation are placed on all copies of written materials distributed by Agency relating thereto. Examples of such documentation include training materials and manuals.

2.3.3. Agency shall not distribute or knowingly permit distribution of System documentation or intellectual property to any individual or organization that is not an authorized Agency User.

2.3.4. Agency shall not transfer or permit access to the System Service to any third party or permit any Agency User to transfer or allow access the System Service to any unauthorized person.

2.3.5. Agency shall not decompile, disassemble, or otherwise attempt to reverse engineer the System Service or any portion thereof and shall not permit any Agency User to decompile, disassemble, or otherwise attempt to reverse engineer the System Service or any portion thereof.

2.3.6. Agency will take reasonable steps to protect the System Service from unauthorized access, copying, dissemination, and disclosure, and from other unauthorized use, and will report promptly to PCG any such use of which Agency becomes aware. Agency shall be responsible for the quality, integrity, and accuracy of all data entered and used in connection with the System Service, including all deletions of such data by Agency Users.

2.4. Reservation of Rights.

2.4.1. Subject to the license rights granted to Agency by this Section 2, all right, title, and interest in and to the System Service, including the Intellectual Property Rights and technology inherent in System Service, are and at all times will remain, the sole and exclusive property of PCG. No right to use, print, copy, distribute, integrate, or display the System Service, in whole or in part, is granted in this Agreement, except as is explicitly provided in this Agreement. Nothing contained in this Agreement will directly or indirectly be construed to assign or grant to Agency any right, title, or interest in or to PCG's Intellectual Property Rights or other rights in and to the System Service or PCG's Trademarks.

2.4.2. Except as expressly authorized by this Agreement, Agency shall not use, display, copy, distribute, modify, or sublicense the System Service. In addition, Agency shall not modify, transfer, rent, lease, reverse engineer, decompile, or disassemble the System Service. PCG reserves all rights not expressly granted to Agency by this Agreement. Agency will not alter, remove, modify, or suppress any confidentiality legends or proprietary notices placed on, or contained within the System Service and expressly agrees not to circumvent, or knowingly permit third parties to circumvent, any security or other protections within the System Service.

3. ACCESS TO SYSTEM SERVICE. PCG will provide access to the System Service to Agency via a private account accessed through the Internet, from which Agency will be capable of using the System Service as permitted by this Agreement. PCG will not provide the Internet connectivity to Agency, and obtaining and maintaining such connectivity will be the sole responsibility of Agency. PCG will, as soon as practicable, provide Agency with advance notice of each New Release, Upgrade, or Update, and provide notice whether such New Release, Upgrade, or Update will be provided via the Internet.

4. SUPPORT.

4.1. General Technical Support. PCG will make available qualified personnel to Agency during the Term to provide technical support to Agency. Such personnel will be skilled in the functioning and application of the System Service sufficient to answer questions and provide support.

4.2. Project Support. Project support will be provided via email and telephone. PCG will establish a project specific email account and a toll-free telephone number. The email and telephone number will connect the Agency User with the System help desk. Telephone and help desk support is available to the LGA SMAA representative(s) and LEA SMAA representative. Help desk support to the RMTS participants can be provided as an additional service/fee.

4.3. Implementation Support. PCG agrees to provide implementation support services as defined by the RFP and proposal response. PCG can provide consulting services and support to Agency for

unique projects on an as-available basis, upon Agency's request and subject to agreed-upon additional compensation.

5. PAYMENTS. PCG will be paid in accordance with the Compensation outlined in Attachment A-1 as part of the contract between the Agency and Public Consulting Group. If the arrangement changes, the payment terms in this agreement will be modified by written agreement of the parties. LGA must identify which pricing option will be exercised at start of contract term. Payments for services are due 30 days from receipt of invoice unless otherwise noted. PCG will invoice agency, at a minimum, quarterly throughout the life of the contract term.

6. WARRANTIES.

6.1. Limited Warranty. PCG represents and warrants that it has the right to license the System Service as specified by this Agreement, and that the use of the System Service contemplated in this Agreement does not infringe upon, violate, or constitute a misappropriation of any copyright, trademark, trade secret, or any other proprietary right of any third party. Further, PCG represents and warrants that, the System Service will operate in accordance with the applicable Documentation, provided that the System Service is operated in compliance with such Documentation. Under no circumstances will PCG be responsible for Agency's hardware, software, browsers, or Internet connections that provide access to the System Service. PCG shall use reasonable efforts to maintain the System Service and to correct any problems that may arise with the use of the System Service.

6.2. DISCLAIMER. PCG SPECIFICALLY DISCLAIMS ANY OTHER WARRANTIES, WHETHER WRITTEN OR ORAL, EXPRESS OR IMPLIED, WITH RESPECT TO THE SYSTEM SERVICE, PRODUCTS OR ANY OTHER GOODS OR SERVICES PROVIDED BY PCG, INCLUDING ANY IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. PCG expressly disclaims any liability for the accuracy or correctness of any data, program rules, training, coding or any other process or information provided by the Agency for the Purpose or resulting from such process or information provided by Agency.

7. PROPRIETARY RIGHTS; PROTECTION OF CONFIDENTIAL INFORMATION; DATA STORAGE.

7.1. Ownership. Agency acknowledges that PCG owns the System Service, that the System Service is not generally published, and that the System Service embodies the Confidential Information of PCG. All right, title, and interest in and to the System Service, including, without limitation, all copyrights, trade secret rights, and other intellectual property rights pertaining in and to the System Service shall remain vested in PCG and its third-party licensors. PCG acknowledges that Agency owns all of the data inputted by each Agency User and any and all reports produced as a result of using the System Service. Agency acknowledges that PCG shall have the right to aggregate any data input by Agency or Agency Users for PCG's own purposes, but shall not use or disclose personal or individual identifying information where the use or disclosure would constitute a breach of a known privacy policy adopted by either PCG or Agency.

7.2. Confidentiality Obligations. Each party agrees that: (i) neither party will disclose to any third party any of the other party's Confidential Information except to the receiving party's employees and contractors with a need to know and who have agreed in writing to confidentiality obligations substantially the same as those set forth herein; (ii) each party will use the same degree of care it uses to maintain the confidentiality of its own information of similar importance in its possession or control, but in no event less than a reasonable degree of care; and (iii) neither party will use or authorize the use of Confidential Information for any purpose other than to fulfill such party's obligations hereunder. Each party agrees that neither party will disclose to any third party any of the terms of this Agreement, which will be treated as

Confidential Information, except to the receiving party's employees, contractors, and advisors with a need to know and who have agreed in writing to confidentiality obligations substantially the same as those set forth herein, and neither party will use the terms of this Agreement for any purpose other than to fulfill such party's obligations under this Agreement, except as either party is otherwise required by law. The parties may modify these obligations through express written agreements.

7.3. Injunctive Relief. Each party acknowledges that the other party's Confidential Information contains trade secrets of such other party, the disclosure of which would cause substantial harm to such other party that could not be remedied by the payment of damages alone. Accordingly, such other party will be entitled to seek preliminary and permanent injunctive relief and other equitable relief for any breach of this Section 9.

7.4. Agency Duties. Agency will take reasonable steps to protect the System Service from unauthorized access, copying, dissemination, and disclosure, and from other unauthorized use, and will report promptly to PCG any such use of which Agency becomes aware. Agency shall be responsible for the quality, integrity, and accuracy of all data entered and used in connection with the System Service, including all deletions of such data by Agency Users.

7.5. PCG Duties. PCG will take reasonable steps to protect the data that Agency enters as part of its use of the System Service. PCG will use technical, administrative, and physical safeguards to protect against unintentional loss and against unauthorized access, destruction, misuse, modification, and disclosure. Although no computer system or information can ever be fully protected against every possible hazard, PCG is committed to providing reasonable and appropriate security controls to protect information against foreseeable hazards. PCG recognizes that Agency data is the property of Agency. Upon contract termination, or at Agency's request, PCG will provide all data to Agency. PCG may keep a backup copy of the data unless otherwise agreed by the parties, subject to applicable law.

7.6. Third Party Infringement. PCG reserves the sole and exclusive right at its discretion to assert claims against third parties for infringement or misappropriation of its Intellectual Property Rights in the System Service.

7.7. Data Storage and Retention. Agency data provided or created using the System Service is available during the Term of the Agreement. After the termination or expiration of this Agreement, PCG will transfer such data to Agency or destroy such data, upon Agency's written direction, or Agency may request PCG maintain storage of such data at PCG's then current rates.

8. PRODUCT MARKING.

8.1. Ownership of PCG Trademarks. Agency acknowledges that PCG is and shall remain the owner of all right, title, and interest in and to each of PCG's Trademarks in any form or embodiment thereof, and is also the owner of all goodwill associated with PCG's Trademarks. All goodwill generated by Agency use of the System Service with respect to PCG's Trademarks shall inure exclusively to the benefit of PCG.

8.2. Infringements. Agency shall promptly notify PCG of any third-party infringements of any of the PCG Trademarks used in connection with the System Service, or any act of unfair competition by third parties relating to the PCG Trademarks, within a reasonable time of Agency's knowledge of such infringements or acts.

9. INDEMNIFICATION.

9.1. PCG Indemnification Obligations. PCG shall defend, indemnify, and hold harmless Agency from and against any suit, proceeding, assertion, damage, cost, liability, and expense (including court costs and reasonable attorneys' fees) incurred as a result of claims by a third party against Agency or its affiliates, employees, or agents arising from or connected with a claim, related to this Agreement, that any System Service infringes any valid patent, copyright, trade secret, or other intellectual property right under the laws of the United States, provided that Agency promptly notifies PCG, in writing, of the suit, claim, or proceeding, or threat of suit, claim, or proceeding, and provides PCG with reasonable assistance for the defense of the suit, claim, or proceeding. PCG will have sole control of the defense of any claim and all negotiations for settlement or compromise.

9.2. Agency Indemnification Obligations. Agency shall defend, indemnify, and hold harmless PCG from and against any suit, proceeding, assertion, damage, cost, liability, and expense (including court costs and reasonable attorneys' fees) incurred as a result of claims of Agency or third parties against PCG or its affiliates, licensors, suppliers, officers, directors, employees, or agents arising from or connected with Agency's misuse of the System Service, errors in data or other process or information provided by Agency, unauthorized modification of System Service, or unauthorized combination of the System Service with any hardware, software, products, data, or other materials not specified or provided by PCG, provided that PCG promptly notifies Agency, in writing, of the suit, claim, or proceeding, or threat of suit, claim, or proceeding, and provides Agency with reasonable assistance for the defense of the suit, claim, or proceeding. Agency will have sole control of the defense of any claim and all negotiations for settlement or compromise.

10. TERMINATION.

10.1. Termination. PCG may terminate this Agreement on or after the thirtieth (30th) day after written notice of a material breach by Agency of any obligation hereunder, unless such breach is cured within thirty (30) days following the breaching party's receipt of such written notice.

10.2. Effect of Termination. Upon termination or expiration of this Agreement: (i) all licenses granted to Agency by PCG will terminate; and (ii) all Agency User access to the System Service will terminate. PCG will destroy or return to Agency, at the option of Agency, all copies of Agency data entered into the System Service.

10.3. No Damages for Termination. NEITHER PARTY WILL BE LIABLE TO THE OTHER FOR DAMAGES OF ANY KIND, INCLUDING INCIDENTAL OR CONSEQUENTIAL DAMAGES, OR LOST PROFITS, ON ACCOUNT OF THE TERMINATION OR EXPIRATION OF THIS AGREEMENT IN ACCORDANCE WITH ITS TERMS. EACH PARTY WAIVES ANY RIGHT IT MAY HAVE TO RECEIVE ANY COMPENSATION OR REPARATIONS ON TERMINATION OR EXPIRATION OF THIS AGREEMENT, OTHER THAN AS EXPRESSLY PROVIDED IN THIS AGREEMENT. Neither party will be liable to the other on account of termination or expiration of this Agreement for reimbursement or damages for the loss of goodwill, prospective profits, or anticipated income, or on account of any expenditures, investments, leases, or commitments made by either party or for any other reason whatsoever based upon or growing out of such termination or expiration.

11. ADDITIONAL SERVICES. The parties to this Agreement may expand the scope of this Agreement to include other products or services offered by PCG, and to specify rates of payment for such products or services, by means of amendments to this Agreement signed by an authorized representative of each party and referencing this Agreement.

12. COOPERATIVE PURCHASING. The terms and conditions of this Agreement may be extended to any other agency or other entity to permit those other entities to contract with PCG for the goods or services

set forth in this Agreement, subject to the mutual agreement of PCG and the other entity, which may include different payment terms. Agency assumes no authority, liability, or obligation to PCG or to any other entity with respect to any such resulting contract.

13. WAIVER AND NONEXCLUSIVE REMEDY. No failure of either party to exercise or enforce any of its rights under this Agreement will act as a waiver of such rights. Except as otherwise specified in this Agreement, the exercise by either party of any remedy under this Agreement is without prejudice to its other remedies under this Agreement or otherwise.

14. COMPLIANCE WITH LAWS. Each party agrees to comply with all applicable laws, rules, and regulations in connection with its activities under this Agreement.

15. ADDITIONAL TERMS

15.1. Assignment. This Agreement will bind and inure to the benefit of each party's permitted successors and assigns, provided, however, that neither party may assign this Agreement, in whole or in part, without the other party's written consent. Any attempt to assign this Agreement without such consent will be null and void. A change of control of a party will not be deemed an assignment.

15.2. Governing Law. This Agreement is governed by the laws of California, without regard to its conflict of law provisions, and the parties hereby consent to jurisdiction and venue therein.

15.3. Severability. If any provision of this Agreement is found invalid or unenforceable by a court or other tribunal of competent jurisdiction, that provision will be enforced to the maximum extent permissible, and the other provisions of this Agreement will remain in full force and effect.

15.4. Force Majeure. Neither party will be responsible for any failure to perform due to causes beyond its reasonable control (each a "*Force Majeure*"), including, but not limited to, acts of God, war, terrorism, riot, embargoes, acts of civil or military authorities, fire, floods, earthquakes, accidents, strikes, or fuel crises, provided that such party gives prompt written notice thereof to the other party. The time for performance will be extended for a period equal to the duration of the Force Majeure, but in no event longer than thirty (30) days.

15.5. Notices. All notices under this Agreement will be deemed given when delivered personally, or when sent by certified or registered U.S. mail, return receipt requested, or by nationally recognized express courier, to the address shown below the signature blocks of this Agreement or as may otherwise be specified by either party to the other in accordance with this section.

15.6. Independent Contractors. The parties to this Agreement are independent contractors. There is no relationship of partnership, joint venture, employment, franchise, or agency between the parties. Neither party will have the power to bind the other or incur obligations on the other's behalf without the other's prior written consent.

15.7. Entire Agreement. This Agreement and the Contract are the complete and exclusive agreement between the parties with respect to the subject matter hereof, superseding and replacing any and all prior agreements, communications, and understandings (both written and oral) regarding such subject matter. Provisions of this Agreement may be modified or waived only by a written document executed by authorized representatives of both parties.

**SECOND AMENDMENT TO AGREEMENT
BY AND BETWEEN
FAIRBANKS, LLC**

This Second Amendment to Agreement ("Amendment") is made on this 1st day of July, 2016, between PLUMAS COUNTY, a political subdivision of the State of California, hereinafter referred to as "COUNTY", and FAIRBANKS, LLC, a Limited Liability Corporation, hereinafter referred to as "CONTRACTOR" who agrees as follows:

1. **Recitals:** This Amendment is made with reference to the following facts and objectives:
 - a. COUNTY and CONTRACTOR have entered into a written Agreement dated January 1, 2015, (the "Agreement"), in which Fairbanks, LLC, agrees to provide a Random Moment Time Survey coding services in compliance with the final regulations of RMTS as approved by the Federal Centers for Medicare and Medicaid Services.
 - b. County and Contractor have agreed to extend the agreement through June 30, 2017.

2. **Amendments:** The parties agree to amend the Agreement as follows:

- a. Paragraph 2.1 Compensation is amended to read as follows:

Compensation. Subcontractor shall be paid in accordance with the Fee Schedule attached hereto as Exhibit "B" and incorporated herein by reference. Subcontractor's compensation shall in no case exceed One Hundred Three Thousand One Hundred Twenty Five Dollars (103,125.00).

- b. Section 2.0 COMPENSATION AND BILLING is amended to add Paragraph 2.5 to read as follows:

2.5 Contingency of Funding. Consultant acknowledges that funding or portions of funding for this agreement may also be contingent upon receipt of funds from, and/or appropriation of funds by the State of California to County and/or the MAA-TCM Local Government Consortium. If such funding and/or appropriations are not forthcoming, or otherwise limited, County may immediately terminate or modify this Agreement and will issue payment for services rendered to date.

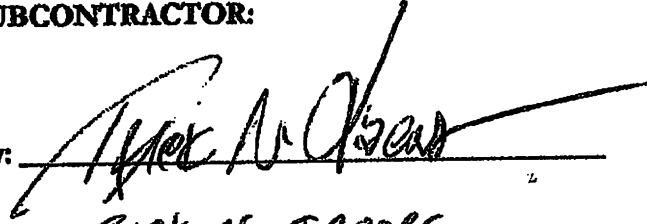
- c. Paragraph 4.0 Term and Termination is amended to read as follows:

Term. This Agreement shall commence on the Effective Date and continue for a period of two (2) years and six (6) months, ending on June 30, 2017, unless previously terminated as provided herein or as otherwise agreed to in writing by the parties.

{SIGNATURES TO FOLLOW ON NEXT PAGE}

IN WITNESS WHEREOF, this Agreement has been executed as of the date set forth below.

SUBCONTRACTOR:

By: 

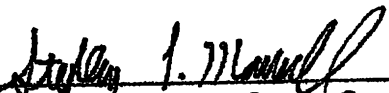
Date: 7/11/2016

By: RICK N. JACOBS
FAIRBANKS LLC

Date: _____

COUNTY OF PLUMAS:

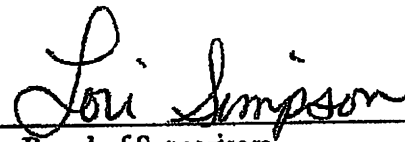
Approve as to form:

By: 
Steve Mansell, Deputy County Counsel

Date: 6/23/16

By: 
Mimi Khin Hall, Director of Public Health

Date: 7/16/16

By: 
Chair, Board of Supervisors

Date: _____

**FIRST AMENDMENT TO AGREEMENT
BY AND BETWEEN
FAIRBANKS, LLC**

This First Amendment to Agreement ("Amendment") is made on this 1st day of July, 2015, between PLUMAS COUNTY, a political subdivision of the State of California, hereinafter referred to as "COUNTY", and FAIRBANKS, LLC, a Limited Liability Corporation, hereinafter referred to as "CONTRACTOR" who agrees as follows:

1. **Recitals:** This Amendment is made with reference to the following facts and objectives:
 - a. COUNTY and CONTRACTOR have entered into a written Agreement dated January 1, 2015, (the "Agreement"), in which Fairbanks, LLC, agrees to provide a Random Moment Time Survey coding services in compliance with the final regulations of RMTS as approved by the Federal Centers for Medicare and Medicaid Services.
 - b. County and Contractor have agreed to extend the agreement through June 30, 2016.
2. **Amendments:** The parties agree to amend the Agreement as follows:
 - a. Paragraph 2.1 Compensation is amended to read as follows:

Compensation. Subcontractor shall be paid in accordance with the Fee Schedule attached hereto as Exhibit "B" and incorporated herein by reference. Subcontractor's compensation shall in no case exceed Sixty Two Thousand Four Hundred Thirty Four Dollars and Twelve Cents (62,434.12).

- b. Section 2.0 **COMPENSATION AND BILLING** is amended to add Paragraph 2.5 to read as follows:

2.5 **Contingency of Funding.** Consultant acknowledges that funding or portions of funding for this agreement may also be contingent upon receipt of funds from, and/or appropriation of funds by the State of California to County and/or the MAA-TCM Local Government Consortium. If such funding and/or appropriations are not forthcoming, or otherwise limited, County may immediately terminate or modify this Agreement and will issue payment for services rendered to date.


- c. Paragraph 4.0 **Term and Termination** is amended to read as follows:

Term. This Agreement shall commence on the Effective Date and continue for a period of one (1) year and six (6) months, ending on June 30, 2016, unless previously terminated as provided herein or as otherwise agreed to in writing by the parties.

{SIGNATURES TO FOLLOW ON NEXT PAGE}

IN WITNESS WHEREOF, this Agreement has been executed as of the date set forth below.

SUBCONTRACTOR:

By: 

Date: 11/04/2015

By: Rick N. Jacobs

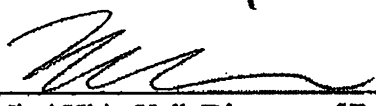
Date: _____

COUNTY OF PLUMAS:

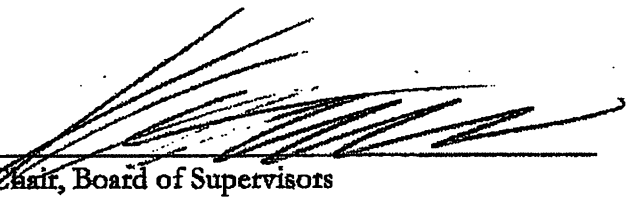
Approve as to form:

By: 
Steve Mansell, Deputy County Counsel

Date: 10/16/15

By: 
Mimi Khin Hall, Director of Public Health

Date: 08/20/15

By: 
Chair, Board of Supervisors

Date: _____

**SERVICES AGREEMENT
FOR
FAIRBANKS, LLC**

THIS AGREEMENT is made and entered into this 1st day of January, 2015 ("Effective Date"), by and between the COUNTY OF PLUMAS, a political subdivision of the State of California, hereinafter referred to as "County", and FAIRBANKS, LLC, a Limited Liability Corporation, hereinafter referred to as "Contractor".

WITNESSETH:

- A. **WHEREAS**, County proposes to have Contractor provide Random Moment Time Survey ("RMTS") coding services in compliance with the final regulations of RMTS as approved by the Federal Centers for Medicare and Medicaid Services; and
- B. **WHEREAS**, Contractor represents that it has that degree of specialized expertise contemplated within California Government Code, Section 37103, and holds all necessary licenses to practice and perform the services herein contemplated; and
- C. **WHEREAS**, County and Contractor desire to contract for specific services in connection with the project described below (the "Project") and desire to set forth their rights, duties and liabilities in connection with the services to be performed; and
- D. **WHEREAS**, no official or employee of County has a financial interest, within the provisions of California Government Code, Sections 1090-1092; in the subject matter of this Agreement.

NOW, THEREFORE, for and in consideration of the mutual covenants and conditions contained herein, the parties hereby agree as follows:

1.0. SERVICES PROVIDED BY CONTRACTOR

1.1. Scope of Services. Contractor shall provide the professional services described in the Scope of Work attached hereto as Exhibit "A" and incorporated herein by reference.

1.2. Professional Practices. All professional services to be provided by Contractor pursuant to this Agreement shall be provided by personnel experienced in their respective fields and in a manner consistent with the standards of care, diligence and skill ordinarily exercised by professional contractors in similar fields and circumstances in accordance with sound professional practices. Contractor also warrants that it is familiar with all laws that may affect its performance of this Agreement and shall advise County of any changes in any laws that may affect Contractor's performance of this Agreement.

1.3. Warranty. Contractor warrants that it shall perform the services required by this Agreement in compliance with all applicable Federal and California employment laws including, but not limited to, those laws related to minimum hours and wages; occupational health and safety; fair employment and employment practices; workers' compensation insurance and safety in employment; and all other Federal, State and local laws and ordinances applicable to the services

required under this Agreement. Contractor shall indemnify and hold harmless County from and against all claims, demands, payments, suits, actions, proceedings, and judgments of every nature and description including attorneys' fees and costs, presented, brought, or recovered against County for, or on account of any liability under any of the above-mentioned laws, which may be incurred by County, by reason of Contractor's performance under this Agreement.

1.4. Non-discrimination. In performing this Agreement, Contractor shall not engage in, nor permit its agents to engage in, discrimination in employment of persons because of their race, religion, color, national origin, ancestry, age, physical handicap, medical condition, marital status, sexual gender or sexual orientation, except as permitted pursuant to Section 12940 of the California Government Code. Violation of this provision may result in the imposition of penalties referred to in California Labor Code, Section 1735.

1.5. Non-Exclusive Agreement. Contractor acknowledges that County may enter into agreements with other contractors for services similar to the services that are the subject of this Agreement or may have its own employees perform services similar to those services contemplated by this Agreement.

1.6. Delegation and Assignment. This is a personal service contract, and the duties set forth herein shall not be delegated or assigned to any person or entity without the prior written consent of County. Contractor may engage a Contractor(s) as permitted by law and may employ other personnel to perform services contemplated by this Agreement at Contractor's sole cost and expense.

2.0. COMPENSATION AND BILLING

2.1. Compensation. Contractor shall be paid in accordance with the Fees and Payment Schedule set forth in Exhibit A-1, attached hereto and incorporated herein by reference. Contractor shall provide County with a completed Federal W-9 form prior to submitting the first invoice. Compensation shall in no case exceed Twenty Thousand Six Hundred Twenty Five Dollars (\$20,625.00).

2.2. Additional Services. Contractor shall not receive compensation for any services provided outside the scope of work specified in Exhibit "A" unless the County, prior to Contractor performing the additional services, approves such additional services in writing in an authorized, numbered change order. It is specifically understood that oral requests and/or approvals of such additional services or additional compensation shall be barred and are unenforceable.

2.3. Method of Billing. Contractor may submit invoices to County for approval no more often than quarterly. Said invoice shall be based on the total of all Contractors' services which have been completed to County's sole satisfaction. Each invoice shall describe in detail, the services performed and the associated time for completion. Any additional services approved and performed pursuant to this Agreement shall be designated as "Additional Services" and shall identify the number of the authorized change order, where applicable, on all invoices.

2.4. Records and Audits. Records of Contractor's services relating to this Agreement shall be maintained in accordance with generally recognized accounting principles and shall be made available to County for inspection and/or audit at mutually convenient times for a period of four (4) years from the Effective Date.

3.0. TIME OF PERFORMANCE

3.1. Commencement. The professional services to be performed pursuant to this Agreement shall commence within five (5) days from the Effective Date of this Agreement. Failure to commence work in a timely manner and/or diligently pursue work to completion may be grounds for termination of this Agreement.

3.2. Excusable Delays. Neither party shall be responsible for delays or lack of performance resulting from acts beyond the reasonable control of the party or parties. Such acts shall include, but not be limited to, acts of God, fire, strikes, material shortages, compliance with laws or regulations, riots, acts of war, or any other conditions beyond the reasonable control of the party seeking the delay.

4.0. TERM AND TERMINATION

4.1. Term. This Agreement shall commence on the Effective Date and continue for a period of six (6) months, ending on June 30, 2015 unless previously terminated as provided herein or as otherwise agreed to in writing by the parties.

4.2. Notice of Termination. The County reserves and has the right and privilege of canceling, suspending or abandoning the execution of all or any part of the work contemplated by this Agreement, with or without cause, at any time, by providing written notice to Contractor. The termination of this Agreement shall be deemed effective upon receipt of the notice of termination. In the event of such termination, Contractor shall immediately stop rendering services under this Agreement unless directed otherwise by the County.

4.3. Compensation. In the event of termination, County shall pay Contractor for reasonable costs incurred and professional services satisfactorily performed up to and including the date of County's written notice of termination. Compensation for work in progress shall be prorated as to the percentage of work completed as of the effective date of termination in accordance with the Fees and Payment Schedule set forth in Exhibit A-1. In ascertaining the professional services actually rendered hereunder up to the effective date of termination of this Agreement, consideration shall be given to both completed work and work in progress, to complete and incomplete drawings, and to other documents pertaining to the services contemplated herein whether delivered to the County or in the possession of the Contractor.

4.4. Documents. In the event of termination of this Agreement, all documents prepared by Contractor in its performance of this Agreement including, but not limited to, finished or unfinished data studies and reports, shall be delivered to the County within ten (10) days of delivery of termination notice to Contractor, at no cost to County. Any use of uncompleted documents without specific written authorization from Contractor shall be at County's sole risk and without liability or legal expense to Contractor.

5.0. INSURANCE

5.1. Insurance. Contractor agrees to maintain the following insurance coverage throughout the term of this Agreement:

- a. **Commercial general liability (and professional liability, if applicable to the services provided) coverage, with minimum per occurrence limit of the greater of (i) the limit available on the policy, or (ii) one million dollars (\$1,000,000).**
- b. **Automobile liability coverage (including non-owned automobiles), with minimum bodily injury limit of the greater of (i) the limit available on the policy, or (ii) two-hundred fifty thousand dollars (\$250,000) per person and five hundred thousand dollars (\$500,000) per accident, as well as a minimum property damage limit of the greater of (i) the limit available on the policy, or (ii) fifty thousand dollars (\$50,000) per accident.**
- c. **Each policy of commercial general liability (and professional liability, if applicable to the services provided) coverage and automobile liability coverage (including non-owned automobiles) shall meet the following requirements:**
 - i. **Each policy shall be endorsed to name the County, its officers, officials, employees, representatives and agents (collectively, for the purpose of this section 9, the "County") as additional insureds. The Additional Insured endorsement shall be at least as broad as ISO Form Number CG 20 38 04 13; and**
 - ii. **All coverage available under such policy to Contractor, as the named insured, shall also be available and applicable to the County, as the additional insured; and**
 - iii. **All of Contractor's available insurance proceeds in excess of the specified minimum limits shall be available to satisfy any and all claims of the County, including defense costs and damages; and**
 - iv. **Any insurance limitations are independent of and shall not limit the indemnification terms of this Agreement; and**
 - v. **Contractor's policy shall be primary insurance as respects the County, its officers, officials, employees, representatives and agents, and any insurance or self-insurance maintained by the County, its officers, officials, employees, representatives and agents shall be in excess of the Contractor's insurance and shall not contribute with it, and such policy shall contain any endorsements necessary to effectuate this provision. The primary and non-contributory endorsement shall be at least as broad as ISO Form 20 01 04 13; and**
 - vi. **To the extent that Contractor carries any excess insurance policy applicable to the work performed under this Agreement, such excess insurance policy shall also apply on a primary and non-contributory basis for the benefit of the County before the County's own primary insurance policy or self-insurance shall be called upon to protect it as a named insured, and such policy shall contain any endorsements necessary to effectuate this provision.**
- d. **Workers Compensation insurance in accordance with California state law.**

Project Managers for the Term of this Agreement:

COUNTY OF PLUMAS:

Les Hall, Management Analyst
Plumas County Public Health Agency
270 County Hospital Road, Suite 206
Quincy, CA 95971-9174
FAX: (530) 283-6086

CONTRACTOR:

Fairbanks, LLC
Rick Jacobs
3880 Salem Lake Road, Suite A
Long Grove, IL 60047
FAX: (312) 321-1225

6.5. Drug Free Workplace. Contractor certifies that it provides a drug-free workplace by complying with all provisions of California's Drug Free Workplace Act of 1990. Contractor's failure to conform to these requirements shall constitute a material breach of this Agreement and shall be cause for immediate termination of this Agreement by County.

6.6. Attorneys' Fees. In the event that litigation is brought by any party in connection with this Agreement, the prevailing party shall be entitled to recover from the opposing party all costs and expenses, including reasonable attorneys' fees, incurred by the prevailing party in the exercise of any of its rights or remedies hereunder or the enforcement of any of the terms, conditions, or provisions hereof.

6.7. Governing Law. This Agreement shall be governed by and construed under the laws of the State of California without giving effect to that body of laws pertaining to conflict of laws. In the event of any legal action to enforce or interpret this Agreement, the parties hereto agree that the sole and exclusive venue shall be a court of competent jurisdiction located in Plumas County, California.

6.8. Assignment. Contractor shall not voluntarily or by operation of law assign, transfer, sublet or encumber all or any part of Contractor's interest in this Agreement without County's prior written consent. Any attempted assignment, transfer, subletting or encumbrance shall be void and shall constitute a breach of this Agreement and cause for termination of this Agreement. Regardless of County's consent, no subletting or assignment shall release Contractor of Contractor's obligation to perform all other obligations to be performed by Contractor hereunder for the term of this Agreement.

6.9. Indemnification and Hold Harmless. To the fullest extent permitted by law, Contractor shall protect, defend with counsel approved in writing by County, indemnify and hold harmless County and its elected and appointed officials, officers, employees, agents and those special districts and agencies which County's Board of Supervisors acts as the governing Board ("County Indemnities") from any and all claims, liabilities, expenses, including attorney fees, damage to property or injuries to or death of any person or persons or damages of any nature including, but not by way of limitation, all civil claims or workers' compensation claims arising out of, pertaining to, or relating in any way with the intentional or negligent acts, error or omissions of Contractor, its employees, agents or Contractors in the performance of this Agreement. If judgment is entered against Contractor and County by a court of competent jurisdiction because of concurrent active negligence of Contractor and County Indemnities, Contractor and County agree that liability will be apportioned as determined by the court. Notwithstanding anything stated above, nothing contained herein shall relieve Contractor of any insurance requirements or obligations created elsewhere in this Agreement.

If requested by County in writing, Contractor shall furnish a certificate of insurance satisfactory to County as evidence that the insurance required above is being maintained. Said certificate of insurance shall include a provision stating that the insurers will not cancel the insurance coverage without thirty (30) days' prior written notice to the County. County reserves the right to require complete, certified copies of all required insurance policies, including endorsements affecting the coverage required by these specifications at any time. Contractor shall require all subcontractors to comply with all indemnification and insurance requirements of this agreement, and Contractor shall verify subcontractor's compliance.

6.0. GENERAL PROVISIONS

6.1. Entire Agreement. This Agreement constitutes the entire Agreement between the parties with respect to any matter referenced herein and supersedes any and all other prior writings and oral negotiations. This Agreement may be modified only in writing, and signed by the parties in interest at the time of such modification.

6.2. Representatives. The County Administrative Officer or his designee shall be the representative of County for purposes of this Agreement and may issue all consents, approvals, directives and agreements on behalf of the County, called for by this Agreement, except as otherwise expressly provided in this Agreement.

Contractor shall designate a representative for purposes of this Agreement who shall be authorized to issue all consents, approvals, directives and agreements on behalf of Contractor called for by this Agreement, except as otherwise expressly provided in this Agreement.

6.25 HIPAA Business Associate Addendum. Exhibit G attached hereto sets forth a Business Associate Agreement between the Department of Health Care Services and the County. Contractor agrees to comply with the terms of Exhibit G as if it were acting as the County, and all references in Exhibit G to the Department of Health Care Services shall be deemed to refer to both the Department of Health Care Services and the County.

6.3. Project Managers. County shall designate a Project Manager to work directly with Contractor in the performance of this Agreement.

Contractor shall designate a Project Manager who shall represent it and be its agent in all consultations with County during the term of this Agreement. Contractor or its Project Manager shall attend and assist in all coordination meetings called by County.

6.4. Notices. Any notices, documents, correspondence or other communications concerning this Agreement or the work hereunder may be provided by personal delivery, facsimile or mail and shall be addressed as set forth below. Such communication shall be deemed served or delivered: a) at the time of delivery if such communication is sent by personal delivery; b) at the time of transmission if such communication is sent by facsimile; and c) 48 hours after deposit in the U.S. Mail as reflected by the official U.S. postmark if such communication is sent through regular United States mail.

6.10. Independent Contractor. Contractor is and shall be acting at all times as an independent contractor and not as an employee of County. Contractor shall secure, at its expense, and be responsible for any and all payment of Income Tax, Social Security, State Disability Insurance Compensation, Unemployment Compensation, and other payroll deductions for Contractor and its officers, agents, and employees, and all business licenses, if any are required, in connection with the services to be performed hereunder.

6.11. PERS Eligibility Indemnification. In the event that Contractor or any employee, agent, or Contractor of Contractor providing services under this Agreement claims or is determined by a court of competent jurisdiction or the California Public Employees Retirement System (PERS) to be eligible for enrollment in PERS as an employee of the County, Contractor shall indemnify, defend, and hold harmless County for the payment of any employee and/or employer contributions for PERS benefits on behalf of Contractor or its employees, agents, or Contractors, as well as for the payment of any penalties and interest on such contributions, which would otherwise be the responsibility of County.

Notwithstanding any other agency, state or federal policy, rule, regulation, law or ordinance to the contrary, Contractor and any of its employees, agents, and Contractors providing service under this Agreement shall not qualify for or become entitled to, and hereby agree to waive any claims to, any compensation, benefit, or any incident of employment by County, including but not limited to eligibility to enroll in PERS as an employee of County and entitlement to any contribution to be paid by County for employer contribution and/or employee contributions for PERS benefits.

6.12. Ownership of Documents. All findings, reports, documents, information and data including, but not limited to, computer tapes or discs, files and tapes furnished or prepared by Contractor or any of its subcontractors in the course of performance of this Agreement, shall be and remain the sole property of County. Contractor agrees that any such documents or information shall not be made available to any non-County individual or organization without the prior consent of County. Any use of such documents for other projects not contemplated by this Agreement, and any use of incomplete documents, shall be at the sole risk of County and without liability or legal exposure to Contractor. County shall indemnify and hold harmless Contractor from all claims, damages, losses, and expenses, including attorneys' fees, arising out of or resulting from County's use of such documents for other projects not contemplated by this Agreement or use of incomplete documents furnished by Contractor. Contractor shall deliver to County any findings, reports, documents, information, data, in any form, including but not limited to, computer tapes, discs, files audio tapes or any other Project related items as requested by County or its authorized representative, at no additional cost to the County.

6.13. Public Records Act Disclosure. Contractor has been advised and is aware that all reports, documents, information and data including, but not limited to, computer tapes, discs or files furnished or prepared by Contractor, or any of its subcontractors, and provided to County may be subject to public disclosure as required by the California Public Records Act (California Government Code Section 6250 et. seq.). Exceptions to public disclosure may be those documents or information that qualify as trade secrets, as that term is defined in the California Government Code Section 6254.7, and, provided that Contractor informs County of such trade secret. The County will endeavor to maintain as confidential all information obtained by it that is designated as a trade secret. The County shall not, in any way, be liable or responsible for the disclosure of any trade secret including, without limitation, those records so marked if disclosure is deemed to be required by law or by order of the Court.

6.14. Responsibility for Errors. Contractor shall be responsible for its work and results under this Agreement. Contractor, when requested, shall furnish clarification and/or explanation as may be required by the County's representative, regarding any services rendered under this Agreement at no additional cost to County. In the event that an error or omission attributable to Contractor occurs, then Contractor shall, at no cost to County, provide all necessary professional services necessary to rectify and correct the matter to the satisfaction of County and to participate in any meeting required with regard to the correction.

6.15. Prohibited Employment. Contractor will not employ any regular employee of County while this Agreement is in effect.

6.16. Order of Precedence. In the event of an inconsistency in this Agreement and any of the attached Exhibits, the terms set forth in this Agreement shall prevail. If, and to the extent this Agreement incorporates by reference any provisions of the Exhibits such provisions shall be deemed a part of this Agreement. Nevertheless, if there is any conflict among the terms and conditions of this Agreement and those of any such provision or provisions so incorporated by reference, this Agreement shall govern over the attachments.

6.17. Costs. Each party shall bear its own costs and fees incurred in the preparation and negotiation of this Agreement and in the performance of its obligations hereunder except as expressly provided herein.

6.18. No Third Party Beneficiary Rights. This Agreement is entered into for the sole benefit of County and Contractor and no other parties are intended to be direct or incidental beneficiaries of this Agreement and no third party shall have any right in, under or to this Agreement.

6.19. Headings. Paragraphs and subparagraph headings contained in this Agreement are included solely for convenience and are not intended to modify, explain or to be a full or accurate description of the content thereof and shall not in any way affect the meaning or interpretation of this Agreement.

6.20. Construction. The parties have participated jointly in the negotiation and drafting of this Agreement. In the event an ambiguity or question of intent or interpretation arises with respect to this Agreement, this Agreement shall be construed as if drafted jointly by the parties and in accordance with its fair meaning. There shall be no presumption or burden of proof favoring or disfavoring any party by virtue of the authorship of any of the provisions of this Agreement.

6.21. [Intentionally left blank]

6.22. Waiver. The delay or failure of either party at any time to require performance or compliance by the other of any of its obligations or agreements shall in no way be deemed a waiver of those rights to require such performance or compliance. No waiver of any provision of this Agreement shall be effective unless in writing and signed by a duly authorized representative of the party against whom enforcement of a waiver is sought. The waiver of any right or remedy in respect to any occurrence or event shall not be deemed a waiver of any right or remedy in respect to any other occurrence or event, nor shall any waiver constitute a continuing waiver.

6.23. Severability. If any provision of this Agreement is determined by a court of

competent jurisdiction to be unenforceable in any circumstance, such determination shall not affect the validity or enforceability of the remaining terms and provisions hereof or of the offending provision in any other circumstance. Notwithstanding the foregoing, if the value of this Agreement, based upon the substantial benefit of the bargain for any party is materially impaired, which determination as made by the presiding court or arbitrator of competent jurisdiction shall be binding, then both parties agree to substitute such provision(s) through good faith negotiations.

6.24. Counterparts. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original. All counterparts shall be construed together and shall constitute one agreement. Electronically executed or electronically transmitted (including via facsimile transmission) signatures have the full force and effect of original signatures.

6.25. Corporate Authority. The persons executing this Agreement on behalf of the parties hereto warrant that they are duly authorized to execute this Agreement on behalf of said parties and that by doing so, the parties hereto are formally bound to the provisions of this Agreement.

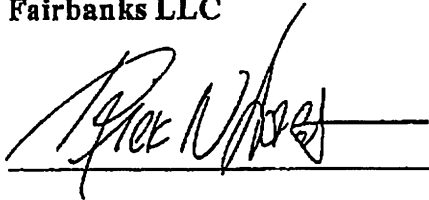
To the extent that their provisions apply to Contractor or the County, Contractor agrees to comply with the terms and conditions of the exhibits listed below, which are by this reference made a part of this Agreement. Contractor agrees to provide the required certifications, and not to act, or fail to act, so as to cause the County to violate the terms and conditions of these exhibits.

Exhibit A – Scope of Work	5 Pages
Exhibit A1– Fees and Payment Schedule	1 Page
Exhibit G – HIPAA Business Associate Addendum	7 Pages

[SIGNATURES TO FOLLOW ON NEXT PAGE]

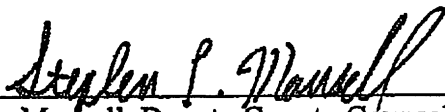
IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by and through their respective authorized officers, as of the date first above written.

CONTRACTOR:
Fairbanks LLC



Date: 11/07/2014

COUNTY OF PLUMAS:



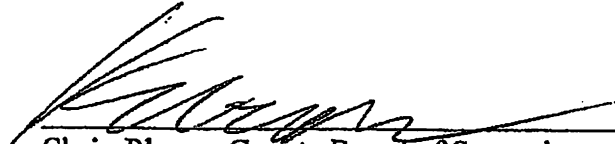
Steve Mansell, Deputy County Counsel

Date: 10/30/14



Mimi Hall, Director of Public Health

Date: _____



Chair, Plumas County Board of Supervisors

Date: _____

Exhibit A:

Scope of Work (Centralized Coding)

Fairbanks developed and deployed our Centralized Coding system for the administration of region wide RMTS processes since 2007. More importantly, Fairbanks is the only contractor in the State of California that currently reviews and approves central coding on a quarterly basis for the Los Angeles Unified School District (LAUSD). Based on a multi-year contract with the Los Angeles County Office of Education (LACOE), Fairbanks currently reviews the LAUSD program and quarterly claims/invoices prior to payment. The review includes a thorough review of RMTS responses, clarifying questions and final assignment of coding. As a result, Fairbanks has a pre-existing team that is familiar with the California MAA Activity Codes, the coding requirements from DHCS, and the review and finalization of appropriate time study coding. Fairbanks has worked directly with DHCS, LACOE and LAUSD in its review of the coding, interpretation of the activity codes and appropriate assignment of time study coding.

Once the sampled participant completes the RMTS, the Random Moment Coders (RMCs) have access to Fairbanks integrated coding system to determine the appropriate activity code for each random moment completed based on the information provided by the sampled participant. The system will be set up to ensure all moments should be coded separately by at least two RMCs, and allows a third final assigned coding field.

For the LGA Collaborative, Fairbanks will staff three individuals to serve as RMCs. This is a coding team structure familiar to Fairbanks, as Fairbanks currently provides RMC coding services for each state in which we provide RMTS services following this same three-coder approach. The Centralized Coder Team shall be a two tier, two-coder system, comprised of two primary coders (Tier 1) and one senior coder (Tier 2). The primary coders shall individually code each random moment separately, known as dual coding, to ensure that sample moments are assigned to the correct activity code. The senior coder shall verify the results and resolve any differences in the codes assigned by the primary coders. Coders shall be responsible for assigning MAA codes to two cost pools: Direct Service Providers (Cost Pool 1) and Administrative Services Providers (Cost Pool 2). It is our understanding that each Cost Pool shall consist of 2761 moments.

In the event both independent RMCs are unable to determine the appropriate activity code due to insufficient information, one of the RMCs will contact the participant via an email generated from the Fairbanks system to receive additional information about the moment. Once the information is received, the moment will be coded and included in the final time study percentage calculation. All communications between the RMCs and sampled participants are stored within the Fairbanks system.

If the coder 1 response matches the coder 2 response field, the system shall auto-populate the final assigned code field. If the coder 1 and coder 2 responses do not match, the system shall create a "flag" to indicate a tiebreaker is needed. In that case, the final assigned code field shall be manually completed by the SMAA County RMTS Coder manager. Fairbanks has developed several reports to help all key stakeholders monitor and manage compliance real-time as well as review and approve the RMTS coding process.

The Fairbanks system is a comprehensive web-based solution that enables the entire coding and follow-up processes to be completed on-line efficiently and accurately for all stakeholders. The Fairbanks system was designed to be flexible, and as such allows for differences in state requirements and variances in processes.

Central Coder Training

Fairbanks currently conducts annual centralized coder training for every RMC and for every state project in which Fairbanks provides services. Two types of training are provided: (1) Fairbanks centralized coding system training and (2) State-specific coding training.

The Fairbanks coding system training is provided to all RMCs on an annual basis to provide a detailed understanding of the Fairbanks coding system, process requirements and coding methodology. The State-specific coding training is unique to each state and typically includes detailed training on specific state program requirements, detailed walk through of the approved activity codes and examples, a review of sample responses and coding with an emphasis on those areas that required additional follow-up or clarification. This training is focused on coding issues previously identified, common follow-up requirements by the state and state-specific coding guidelines and interpretations. The goal of these trainings is to promote consistency and accuracy of coding by the RMCs, ensure all state and federal regulations are followed, and ensure appropriate documentation is in place.

The following items will be included in annual coder training:

- Methods that assure consistent coding outcomes
- Hands-on coding sessions
- Discussions about the coding rules to be employed during the coding process
- Resolution processes to be used when the parallel coding results in a code choice conflict, as well as methods for documenting coding conflict resolution for audit purposes

In addition to these two internal annual Central Coder trainings conducted by Fairbanks, we also have significant experience in participating in annual coder training supplied by the state. As such, Fairbanks would be pleased to share its internal coding documentation with the SMAA Collaborative on an annual basis at the beginning of each contract year for its review and approval and is also willing to participate in any coder training provided by the state or the SMAA Collaborative. It is Fairbanks goal to conduct consistent and accurate coding and we believe training is an integral function in achieving this goal, especially in collaboration with the SMAA Collaborative and the state.

Central Coding Process

All coding conducted by the Central Coders will be consistent with the California SMAA manual and Implementation Plan and adhere to all State approved activity codes. In order to complete RMTS coding, Central Coders will login to the Fairbanks system using a secure and unique login and password. Upon login, each Central Coder has access to their queue of moments that are ready to be reviewed and coded.

The Central Coders will review the information provided in the responses to the questions by the sampled RMTS participant and determine the appropriate activity code. For the purpose of quality control, two Central Coders dually code all completed random moments. Discrepancies in coding

shall be identified, reviewed and resolved by the Senior Coder, who serves as both a tiebreaker and supervisor. If insufficient information is provided to determine the appropriate activity code, one of the central coders submits via email a clarifying question about the moment. In order to maintain program integrity, the clarifying questions are non-leading to ensure the participant is providing a completely unbiased response. Once a clarifying question has been answered, the moment is coded in the Fairbanks system and included in the final time study results. Additionally, the clarifying question submitted and response received from the participant are stored in the Fairbanks system for review and reporting purposes.

A monthly coding report is provided that shows coding completed, coding discrepancies, coding emails sent for clarifying questions and any coding changes completed by the Senior Coder as a tie breaker or in the event of their review of coding.

Data Collection & Reporting Requirements

The Fairbanks web-based system is designed to provide real-time reports to program administrators. As an integral part of the RMTS process, there are several reports that are available for the Collaborative Coordinator regarding central coding. In particular, a real-time report is available that includes:

- Sampled moment date
- Sampled moment time
- Sampled participant name
- Sampled participant category
- Sampled participant cost pool
- RMTS Why Response
- RMTS Who Response
- RMTS What Response
- RMTS Completed date
- RMTS Completed time
- RMC 1 – Assigned activity code
- RMC 2 – Assigned activity code
- RMC 3 – Final/tiebreaking code
- Final assigned code
- Clarifying email date
- Clarifying email time
- Clarifying email text
- Clarifying email response

This report will indicate the number of moments coded across the consortium, per LEA and per coder. Given the amount of data housed in this report, it can be used to glean RMTS compliance consortium-wide, per LEA along with trending regarding response times, coder emails for follow-up, and RMTS results.

Additionally, Fairbanks will provide reports, such as the report of the number of moments coded per LEA and labor report per coder, on an agreed upon schedule with the SMAA Collaborative. Fairbanks will also work with the SMAA Collaborative if additional or ad hoc reports are required for assuring program integrity.

Fairbanks Coding Quality Assurance Process

Fairbanks recognizes the importance of accurate coding and its significant impact on the quarterly MAA claims and invoices. In each state in which we work, Fairbanks administers an internal quality assurance program along with participating in ongoing program review and monitoring requirements as required by the state Medicaid agency.

The Fairbanks internal coding review process includes the Fairbanks Coding Supervisor conducting a minimum 10% review of coded moments. The review is focused on ensuring consistent coding outcomes, the correct application of approved activity codes, and a review of clarifying questions and responses. The internal review process is subsequently used for any necessary follow-up coder training, mentoring and determining coder performance.

Evaluation reports will also be provided to the SMAA Collaborative on a monthly basis including the number of discrepancies by individual coder as well as number of clarifying questions sent by the individual coder compared to the entire number of moments coded for that month. If additional data or reporting is required, Fairbanks will work with the SMAA Collaborative to support their separate quality assurance review.

Fairbanks Quality Assurance Program

The Fairbanks system has been specifically designed to ensure program integrity and accuracy. The project team will consistently assess our planning, design, development, production, and service to ensure that the program is achieving its goals. Fairbanks believes in the early identification and mitigation of issues/risks. We feel that this offers the best process and system in place to help meet our stakeholder's needs. As part of our Quality Assurance Program, Fairbanks incorporates different tools within the website in conjunction with internal processes to validate the data submitted from the LEAs. This process includes verifying the submitted data passes certain systematic edit checks, following further evaluations conducted by experienced team members.

For example, the system will not consider a time study moment as certified until all questions are completed and the moment has submitted their response. Only upon completion will the certified time study be available for the RMC's to begin their review.

Throughout each component of the RMTS, Fairbanks team members monitor, assess, and verify the data submitted by the LEA as the data is received. The team members will not only be monitoring the submissions to ensure the data is received in a timely fashion to meet required deadlines, but the team will be assessing any common issues identified to determine if training, process, website, etc. need to be updated to help eliminate these types of errors. Further, the Fairbanks team will be verifying the data submitted by the LEA. They will review the responses received from the system to ensure the responses are logical and provide sufficient information to code based on the California SMAA manual and Implementation Plan. If the response is unclear or further follow-up is required, the Fairbanks team member will work directly with the appropriate party to confirm the information.

The RMTS process enables a thorough review of all submitted responses and clarifying centralized coder questions. The system allows for a 10% review of all coded moments by the Centralized Coders, the Collaborative Coordinator or DHCS. All data related to RMTS responses and follow-up are also accessible via the Fairbanks web-based system in real time for the LGA to complete any additional reviews of the Fairbanks coding process

Fairbanks uses statistical analysis to identify any potential outliers, anomalies, and trends. Fairbanks has several metrics that are used to assess each LEA in relation to its peers and all LEAs within the State. If any of these LEAs are flagged as potential outliers, Fairbanks will contact the LEAs directly to assess that they are complying with program requirements, collecting and reporting all the allowable participants, managing time study compliance, etc. Because of the diversity amongst all the LEAs within a State, there is no direct correlation to an LEA being flagged as an outlier compared to their peers. The Fairbanks team will follow up directly to determine if the data is valid and sufficient clarification has been provided to explain the reasons why the LEA is an outlier.

Finally, the Fairbanks team will be continuously monitoring the process, flagged issues that need follow-up, questions from the Fairbanks Client Information Center, etc. to identify any potential trends. If there are any trends identified, the team will work closely with Project Manager, Technology Team, Client Information Center, SMAA Collaborative and DHCS to make any necessary enhancements to the process and/or system. A Quality Assurance Plan will be provided to the SMAA Collaborative thirty days after contract execution as well as thirty days after each contract renewal. Fairbanks will work directly with the Collaborative Coordinator to finalize the details and agree upon the annual report requirements due on May 15th of each contract year

Fairbanks prides itself on the robust quality assurance program that we have implemented and evolved over the years. We feel we have the most thorough process and web-based tool to help ensure an efficient and accurate RMTS and coding process. We believe that the results of our Quality Assurance Program are evidenced in our successful time study reviews with our other clients and audit history. If Fairbanks is selected, these benefits will be immediately available as we implement our processes to ensure accurate time study reporting and coding results.

The parties hereby agree that for the purposes of this agreement, Fairbanks shall be provided a login, training and access to the software licensed to the SMAA Collaborative for conducting Random Moment Time Studies (RMTS) by PCG. Access to the PCG software is a requirement under this agreement to fulfill the required scope of work included as Exhibit A. Access to the PCG system shall enable Fairbanks centralized coders to review Time Study Participant(s) responses to sampled moments, determine the appropriate activity codes related to the Time Study Participant responses, validate Coder 1 and Coder 2 coding results, communicate with Time Study Participants electronically if necessary to obtain additional information needed for coding or for tie break decisions, finalize coding decisions for review by the SMAA Collaborative and to produce reports and data extracts as necessary.

Exhibit A-1

Centralized Coding Fee

Quarterly Centralized Coder Fee: \$10,312.50

The Fairbanks Quarterly Centralized Coder Fee ("Fee") will be billed to the County of Plumas (acting on behalf of the participating LGAs) quarterly upon the completion of the scope of work by Fairbanks for each quarter in which the contract is in effect.

The Fee shall be due and payable each quarter thirty (30) days after the submission by the LGA(s) of any SMAA invoice to the California Department of Health Care Services for processing and payment.