

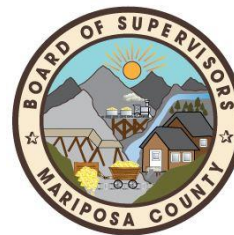


MARIPOSA COUNTY

P.O. Box 784 Mariposa, CA 95338 (209) 966-3222

5100 Bullion Street

<http://www.mariposacounty.org/>



ROSEMARIE SMALLCOMBE, CHAIR
MILES MENETREY, VICE-CHAIR
VACANT
MARSHALL LONG
WAYNE FORSYTHE

DISTRICT I
DISTRICT V
DISTRICT II
DISTRICT III
DISTRICT IV

ACTION SUMMARY MINUTES

September 27, 2022

A. 9:00 AM Called to Order

Attendee Name	Title	Status	Arrived
Rosemarie Smallcombe	District I Supervisor	Present	9:00 AM
Marshall Long	District III Supervisor	Present	9:00 AM
Wayne Forsythe	District IV Supervisor	Present	9:00 AM
Miles Menetrey	District V Supervisor	Present	9:00 AM

B. Pledge of Allegiance

Chair Smallcombe led the pledge.

C. Introductions

Danielle Bondshu/Clerk of the Board introduced Elizabeth Alexander, the new Deputy Clerk of the Board II.

D. Approval of Consent Agenda (Items designated by "CA")

Chair Smallcombe noted CA.13 was withdrawn from the agenda.

Public comment was received from Jonathan Noel/community member who asked where the match was coming from on CA.11. Danielle Bondshu noted the match would come from the County but could be monetary or staff time.

RESULT: **ADOPTED [UNANIMOUS]**
MOVER: Marshall Long, District III Supervisor
SECONDER: Wayne Forsythe, District IV Supervisor
AYES: Rosemarie Smallcombe, Marshall Long, Wayne Forsythe, Miles Menetrey

CA1. **Health and Human Services** **RES-2022-541**

Resolution Continuing a Shelter Crisis Local Emergency in Mariposa County

CA2. **Health and Human Services** **RES-2022-542**

Resolution Continuing the Local Health Emergency Due to the Oak Fire

CA3. Sheriff's Office RES-2022-543

Resolution Continuing the Local Emergency Due to the Oak Fire

CA4. Administration RES-2022-544

Approve the Response of the Board of Supervisors to the 2021-2022 Mariposa County Grand Jury Final Report; Authorize the Board of Supervisors Chair to Sign the Response; and Direct the Clerk of the Board to Transmit the Response to the Presiding Judge of the Mariposa County Superior Court

CA5. Administration/Community Development 2022-95

Appoint Lori Dixon to the Childcare Task Force (CCTF) as the Childcare Representative for a Term that Will Expire on September 27, 2023

CA6. Auditor RES-2022-545

Adopt a Resolution Adopting the Property Tax Rate and Voter-Approved Debt Service Rates for the County of Mariposa 2022-23 Fiscal Year Secured Tax Roll

CA7. Auditor RES-2022-546

Adopt a Resolution Adopting the Tax Rate of 0.009079% (0.9079 Cents Per \$100 Assessed Valuation) for the Yosemite High School Bond in the Bass Lake Elementary/Yosemite High School Tax Rate Areas of Mariposa County

CA8. Auditor RES-2022-547

Adopt a Resolution Adopting the Tax Rate of 0.022158% (2.2158 Cents Per \$100 Assessed Valuation) for the Bass Lake Joint Elementary School District Bond in the Bass Lake Elementary/Yosemite High School Tax Rate Areas of Mariposa County

CA9. Board of Supervisors RES-2022-548

Ratify a Letter of Support for Sierra Foothill Conservancy's (SFC) Waltz-Turner Ranch Conservation Easement Project

CA10. Board of Supervisors

Approve the Minutes of Wednesday, May 25, 2022

CA11. Clerk of the Board of Supervisors RES-2022-549

Authorize the Submission of a Historic Documents Preservation Grant Application with the National Historical Publications and Records Commission (NHPRC) for the Funding of Preserving Critical Historical Documents for an Amount Up to \$150,000 with a 25% Match; and Authorize the Clerk of the Board to Submit the Application

CA12. County Counsel RES-2022-550

Approve Budget Action Reducing General Fund Contingency and Increasing the Legal Services Budget to Cover Greater Than Anticipated Expenditures for Conflict Indigent Defense Counsel in Fiscal Year 2021-2022 (\$7,000) 4/5ths Vote Required

CA13. District Attorney/Victim Witness RES-2022-551

Approve a Memorandum of Understanding (MOU) Between Mariposa County Health and Human Services Agency, Mariposa County Probation Department, Mariposa County Sheriff's Office and the Alliance for Community Transformations to Work Together Toward the Mutual Goal of Addressing the Gaps in Victim Services in Mariposa County; and Authorize the Mariposa County Administrative Officer to Sign the MOU

CA14. District Attorney/Victim Witness RES-2022-552

Adopt a Resolution Authorizing the District Attorney to Sign Any Amendments and Extensions to the January 01, 2023 - December 31, 2023 County Victim Services (XC) Grant (Subject to Approval as to Legal Form by County Counsel)

CA15. HHS/Behavioral Health & Recovery Services RES-2022-553

Approve a Business Associate Agreement (BAA) Between the County of Mariposa (HHS) and XFERALL, LLC to Provide Privacy Protection Related to Patient Health Information; and Authorize the Board of Supervisors Chair to Sign the Agreement

CA16. HHS/Behavioral Health & Recovery Services RES-2022-554

Approve Subcontract Agreement with Advocates for Human Potential Acting on Behalf of the California Department of Health Care Services to Implement the Behavioral Health County and Tribal Planning Grant Program in the Amount Not to Exceed \$150,000; and Authorize the Board of Supervisors Chair to Sign the Subcontractor Agreement

CA17. HHS/Behavioral Health & Recovery Services RES-2022-555

Approve First Amendment to Agreement with Mariposa Safe Families Increasing the Amount by \$10,000 to a New Amount Not to Exceed \$177,962 and Including Additional Services; and Authorize the Board of Supervisors Chair to Sign the Amendment

CA18. Public Works RES-2022-556

Approve Right of Entry Permission Forms for Work to be Completed in Yosemite West, and Authorize the Director of Public Works to Sign the Permission Forms

CA19. Public Works RES-2022-557

Approve Waiver of Encroachment Permit Fee for the Annual Trunk or Treat Event to be Held at the Mariposa Courthouse on October 31, 2022 from 2:30 PM to 8:30 PM

CA20. HHS/Public Health RES-2022-558

Approve a Learning Service Agreement with California State University Stanislaus (CSU); and Authorize the Board of Supervisors Chair to Sign the Agreement

CA21. Treasurer-Tax Collector-County Clerk RES-2022-559

Approve Agreement with Hinderliter, De Llamas, & Associates (HDL) in the Amount of \$46,000 for the Analysis and Forecasting of Sales, Use and Transactions Taxes; and Authorize the Board of Supervisor's Chair to Sign the Agreement

E. Departmental Presentation

Kari Kisela/Mariposa Chamber of Commerce announced the ribbon cutting ceremony for Sierra Cider. She noted the ribbon cuttings are to get the public out to the venue to celebrate. The ribbon cutting will be on October 7th at Sierra Cider.

Jacob Hawley/Mariposa Visitors Center noted the reservation system will be ending soon and currently, there are 530 more people coming through the visitor center than last year. He noted we are looking at almost 20,000 visitors to the center this year. Mr. Hawley announced a benefit concert for the Oak Fire victims on Oct. 1st at the High School.

Dr. Kristina Allen/Deputy Director of Public Health gave an update on the Flu Clinics that took place at the Fairgrounds and Greeley Hill/Coulterville.

Alison Tudor/Alliance for Community Transformation Executive Director noted they are hosting a rebuilding workshop on Sunday at the High-school from 12:00 PM to 5:00 PM with Health and Human Services Agency.

Dallin Kimble/County Administrative Officer gave an update on the recruitment of the Librarian and the Human Resources Director.

1. Clerk of the Board of Supervisors (ID # 13488)

Handouts from Departmental Presentation Portion of the September 27Th, 2022, Meeting

RESULT: INFORMATION RECEIVED

F. Public Comment on Non-Agenda Items

None.

G. Regular Agenda Items

1. Health and Human Services RES-2022-560

Approve the United States Department of Agriculture (USDA) Planning Grant, Mariposa County Community Gardens; and Authorize the Health and Human Services Agency Director to Sign the Agreement; Approve Budget Action Increasing Unanticipated Revenue and Appropriations in the USDA Fund 3458-402 Budget to Correspond with Agreement Amount (\$50,000) 4/5ths Vote Required

Andrew Carter/Health and Human Services Agency gave the staff report. No public comment. Board discussion ensued.

RESULT: **ADOPTED [UNANIMOUS]**
MOVER: Marshall Long, District III Supervisor
SECONDER: Miles Menetrey, District V Supervisor
AYES: Rosemarie Smallcombe, Marshall Long, Wayne Forsythe, Miles Menetrey

2. Planning RES-2022-561

Authorize the Destruction of Planning Department Vacation Rental Application Files (Hard Copy Files) that Are More Than Two (2) Years Old
4/5ths Vote Required

Sarah Williams/Planning Director gave the staff report. No public comment.

RESULT: **ADOPTED [UNANIMOUS]**
MOVER: Wayne Forsythe, District IV Supervisor
SECONDER: Marshall Long, District III Supervisor
AYES: Rosemarie Smallcombe, Marshall Long, Wayne Forsythe, Miles Menetrey

3. Planning (ID # 13359)

Discussion and Possible Direction to Staff Regarding Waiving Fees for Oak Fire Permits

Dr. Eric Sergienko/County Health Officer gave an update on Oak Fire Recovery. He noted we are on to phase two, however, some areas are still in phase 1 due to hazardous materials. Dr. Sergienko announced that the lowest responsible bidder for debris removal came in around \$8 million and noted the approval of the contract will be coming to the Board. He announced that at the Bootjack Auxiliary there will be a giveaway to Oak Fire victims and the following day it would be a yard sale with proceeds going to Oak Fire victims.

Sarah Williams gave the staff report, noting they are looking for Board direction on if they want to waive the fees.

Public comment was received from Jonathan Noel/community member asked where the hazardous material would be disposed of. Dr. Sergienko responded that it is being taken to the Merced Landfill as that is the closest level 3 facility.

Alison Tudor noted she would estimate that the number of waivers needed would be double that of Detwiler as some of the insured victims are struggling to get insurance to cover the cost and noted waiving the fees should be a priority.

Jim Evans/case manager noted 1 of every 3 return to their homes and urged the Board to incentivize individuals to move back to their homes so the population is not lost.

Adam McLain/case manager requested that the Board join other counties in full fee waivers to continue with the spirit of generosity. He acknowledged that there is a cost but noted this is an enterprise investment as we are already facing a housing shortage, incentives will help.

Board discussion ensued.

DIRECTION: the direction given to staff is to 1) bring a resolution of intention for the update of Title 18.05. 2) bring an item that waives the following fees - Blue Tag (electrical), new well or well repair, septic system repair, and

temporary housing (RV) permits with the option to choose if the reimbursement will be offered to only legally established dwellings or both legal and illegally established dwellings.

RESULT: INFORMATION RECEIVED

Recess

10:15 AM Chair Smallcombe recessed the meeting for a brief break and reconvened at 10:18 AM.

4. Administration/Technical Services RES-2022-562

Approve an Agreement with Lansweeper for Technical Asset Management in an Amount Not to Exceed \$2,360; and Authorize the Board of Supervisors Chair to Sign the Agreement

Anthony Rios/Technical Services Manager gave the staff report. No public comment. Board discussion ensued.

RESULT: ADOPTED [UNANIMOUS]

MOVER: Wayne Forsythe, District IV Supervisor

SECONDER: Marshall Long, District III Supervisor

AYES: Rosemarie Smallcombe, Marshall Long, Wayne Forsythe, Miles Menetrey

H. Items removed from Consent Agenda

None.

I. Closed Session

10:21 AM Chair Smallcombe recessed the Board into closed session.

1. Clerk of the Board of Supervisors (ID # 13411)

CLOSED SESSION: Public Employee Discipline/Dismissal/Release

No public comment.

RESULT: CLOSED SESSION HELD

Report out

11:11 AM Chair Smallcombe reconvened the Board of Supervisors meeting and announced that during closed session, information was received and direction given

J. Board Information

None.

K. Adjournment

11:11 AM Chair Smallcombe adjourned in memory of Marvin Merrill and Robert Warren, Jr.

Respectfully submitted,

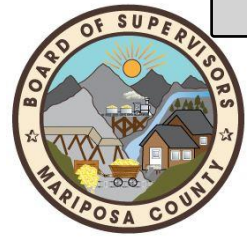
Danielle Bondshu
Clerk of the Board

Rosemarie Smallcombe
Chair, Board of Supervisors



MARIPOSA COUNTY

Health and Human Services • (209) 966-2000



D.1

RESOLUTION - ACTION REQUESTED 2022-541

MEETING: September 27, 2022

TO: The Board of Supervisors

FROM: Joe Lynch, Health & Human Services Agency Director

RE: Continue a Shelter Crisis Local Emergency in Mariposa County

RECOMMENDATION AND JUSTIFICATION:

Resolution Continuing a Shelter Crisis Local Emergency in Mariposa County.

California Government Code 8698, 8698.1 and 8698.2 allows for the governing body of a city or county to declare a shelter crisis. A shelter crisis declaration relaxes standards for building occupancy, limits liability and provides a legal basis for the use of certain facilities designated by the County as a shelter for the duration of the crisis.

In order to declare the shelter crisis, the County made findings at a public meeting and adopted Resolution 18-518 that (1) a significant number of persons within the county's jurisdiction are without the ability to obtain shelter; and (2) the situation has resulted in a threat to the health and safety of those persons.

BACKGROUND AND HISTORY OF BOARD ACTIONS:

On November 5, 2018, the Board of Supervisors adopted Resolution 18-518 declaring the existence of a Shelter Crisis Local Emergency in Mariposa County to allow Mariposa County to proceed with temporary homeless shelter solutions to meet the needs of our homeless community members.

Recognizing the prevalence of homelessness in California and the health and safety risks facing homeless persons, California law authorizes counties to declare a "shelter crisis" and avail themselves to attendant protections and powers. Specifically, upon declaring a "shelter crisis":

- A county may allow persons unable to obtain housing to occupy designated public facilities during the duration of the emergency (public facilities include parks, schools, and vacant or underutilized facilities which are owned, operated, leased, or maintained by the county);
- A county is immune from liability for ordinary negligence in the provision of emergency housing for all conditions, acts, or omissions directly related to, and which would not occur but for, the provision of emergency housing; and

- The provisions of any state or local law or regulation prescribing standards of housing, health, and safety are suspended to the extent that strict compliance would prevent, hinder, or delay the mitigation of the effects of the crisis.

If the County desires to construct and operate an emergency homeless shelter, it is recommended that the County Board of Supervisors first declare a “shelter crisis” in order to avail itself of the associated powers and liability protections.

ALTERNATIVES AND CONSEQUENCES OF NEGATIVE ACTION:

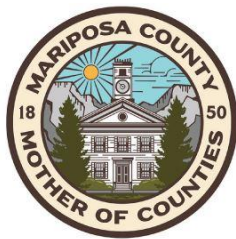
Do not continue the local emergency and the County may not be eligible for possible State or Federal assistance, or proceed with temporary homeless shelter solutions.

RESULT: ADOPTED BY CONSENT VOTE [UNANIMOUS]

MOVER: Marshall Long, District III Supervisor

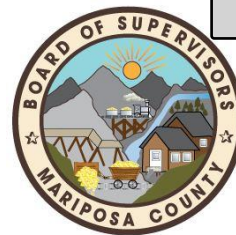
SECONDER: Wayne Forsythe, District IV Supervisor

AYES: Rosemarie Smallcombe, Marshall Long, Wayne Forsythe, Miles Menetrey



MARIPOSA COUNTY

Health and Human Services • (209) 966-2000



RESOLUTION - ACTION REQUESTED 2022-542

MEETING: September 27, 2022

TO: The Board of Supervisors

FROM: Joe Lynch, Health & Human Services Agency Director

RE: Continue the Oak Fire Local Health Emergency

RECOMMENDATION AND JUSTIFICATION:

Resolution Continuing the Local Health Emergency Due to the Oak Fire.

BACKGROUND AND HISTORY OF BOARD ACTIONS:

On July 22, 2022, the Oak Fire began in the Midpines area of Mariposa County and grew into a major wildfire.

The County Health Officer declared a local health emergency under California Health and Safety Code Section 101080 on July 22nd, 2022.

On July 26, 2022, the Board of Supervisors adopted Resolution 22-435 ratifying a Proclamation of the existence of a local health.

ALTERNATIVES AND CONSEQUENCES OF NEGATIVE ACTION:

Do not continue the local emergency and the County will not be eligible for possible State or Federal disaster assistance.

FINANCIAL IMPACT:

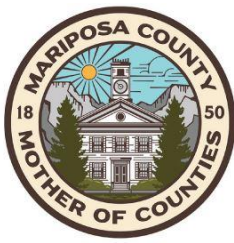
Not Applicable.

RESULT: ADOPTED BY CONSENT VOTE [UNANIMOUS]

MOVER: Marshall Long, District III Supervisor

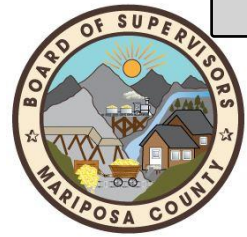
SECONDER: Wayne Forsythe, District IV Supervisor

AYES: Rosemarie Smallcombe, Marshall Long, Wayne Forsythe, Miles Menetrey



MARIPOSA COUNTY

Sheriff's Office • 209 966-3615



D.3

RESOLUTION - ACTION REQUESTED 2022-543

MEETING: September 27, 2022

TO: The Board of Supervisors

FROM: Jeremy Brieese, Sheriff

RE: Continue the Local Emergency Due to the Oak Fire

RECOMMENDATION AND JUSTIFICATION:

Resolution Continuing the Local Emergency Due to the Oak Fire.

BACKGROUND AND HISTORY OF BOARD ACTIONS:

On July 22, 2022, the Oak Fire began in the Midpines area of Mariposa County and grew into a major wildfire.

On July 23, 2022, Mariposa County received notification of the approval of a Federal Fire Management Assistance Grant (FMAG) to aid with the Oak Fire. Additionally, Gavin Newsom, Governor of the State of California, also proclaimed, on July 23, 2022, a state of emergency in Mariposa County due to the Oak.

On July 23rd, 2022, Sheriff Jeremy Brieese, acting as the Director of Emergency Services pursuant to Mariposa County Code Section 2.80.040, issued a Proclamation declaring a local emergency.

On July 26, 2022, the Board of Supervisors adopted Resolution 22-435 ratifying a Proclamation of the existence of a local emergency.

ALTERNATIVES AND CONSEQUENCES OF NEGATIVE ACTION:

Do not continue the local emergency and the County will not be eligible for possible State or Federal disaster assistance.

FINANCIAL IMPACT:

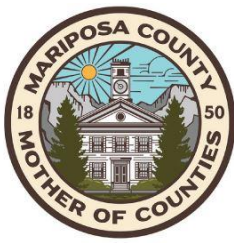
.

RESULT: ADOPTED BY CONSENT VOTE [UNANIMOUS]

MOVER: Marshall Long, District III Supervisor

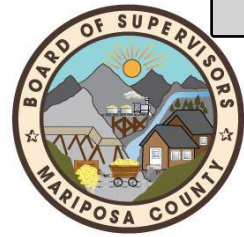
SECONDER: Wayne Forsythe, District IV Supervisor

AYES: Rosemarie Smallcombe, Marshall Long, Wayne Forsythe, Miles Menetrey



MARIPOSA COUNTY

Administration • 966-3222



D.4

RESOLUTION - ACTION REQUESTED 2022-544

MEETING: September 27, 2022

TO: The Board of Supervisors

FROM: Dallin Kimble, County Administrative Officer

RE: 2022 Grand Jury Response

RECOMMENDATION AND JUSTIFICATION:

Approve the Response of the Board of Supervisors to the 2021-2022 Mariposa County Grand Jury Final Report; Authorize the Board of Supervisors Chair to Sign the Response; and Direct the Clerk of the Board to Transmit the Response to the Presiding Judge of the Mariposa County Superior Court.

California Penal Code requires the Board of Supervisors, as the governing body of a public agency subject to the grand jury's reviewing authority, to comment to the presiding judge of the superior court on the findings and recommendations pertaining to the matters under the control of the governing body within ninety days after the grand jury submits its final report.

Please see the attached response. For reference, the complete grand jury report is also attached.

BACKGROUND AND HISTORY OF BOARD ACTIONS:

On August 3, 2021, the Board approved Resolution 21-461, a response to the 2020-2021 Grand Jury Final Report.

On October 6, 2020, the Board approved Resolution 20-585, a response to the 2019-20 Grand Jury Final Report.

On February 18, 2020, the Board approved Resolution 20-75, a response to the 2019-20 Grand Jury Interim Report.

On August 20, 2019, the Board approved Resolution 19-480, a response to the 2018-19 Grand Jury Final Report.

On September 11, 2018, the Board approved Resolution 18-432, a response to the 2017-18 Grand Jury Final Report.

On September 12, 2017, the Board approved Resolution 17-615, a response to the 2016-17 Grand Jury Final Report.

The Board has responded to earlier grand jury reports as required.

REF ID# 13344

Packet Pg. 12

ALTERNATIVES AND CONSEQUENCES OF NEGATIVE ACTION:

Approve the draft response with revisions.

Do not approve. A modified or new response will need to be approved within 90 days of the issuance of the grand jury interim and final reports.

ATTACHMENTS:

2022 Grand Jury Response (PDF)

2021 2022 MCCGJ FINAL REPORT (PDF)

RESULT: ADOPTED BY CONSENT VOTE [UNANIMOUS]

MOVER: Marshall Long, District III Supervisor

SECONDER: Wayne Forsythe, District IV Supervisor

AYES: Rosemarie Smallcombe, Marshall Long, Wayne Forsythe, Miles Menetrey

September 27, 2022

The Honorable Michael Fagalde
Presiding Judge
Mariposa County Superior Court
5088 Bullion Street
Post Office Box 28
Mariposa, CA 95338

Re: Response to the Mariposa County 2021-2022 Grand Jury Report

Dear Judge Fagalde:

This response is submitted with respect to the findings and recommendations of the grand jury. From the County's perspective, the members of the grand jury over the past year were extraordinarily diligent in their duty and often gave an extra effort to making sure everything was done correctly. Please relay our gratitude to the volunteers who dedicated their time to the advancement of government accountability and building up the public trust in Mariposa County.

Because the Board of Supervisors directly oversees all County departments and advisory boards not represented by another elected official, this response is made on behalf of the public works, clerk of the board, administration and planning departments; the Airport Advisory Committee; and the officials serving in these entities.

Accordingly:

2021 Elections Process

The Board agrees with all six findings of this observation and wishes to recognize again the excellent work being done in our local elections office. These staff and volunteers are well trained and understand the profound importance of secure and trustworthy elections to our national security and the wellbeing of democracy in our nation.

We also commend the grand jury for observing the elections process. There may not be a more beneficial use of a juror's time than ensuring the fundamentals of democracy are working well.

Compliance and Continuity Report

1. The Board agrees that it has adhered to California Penal Code requirements in its responses to the grand jury.
2. It is unclear in the report whether the Board is included in “some respondents” who were found to have failed to state agreement or disagreement. The Board believes it has indicated agreement or disagreement for all findings and recommendations in previous responses.
3. The Board agrees and acknowledges that many of its responses do not include timelines when such have been arbitrarily assigned or cannot be met, but this should not be interpreted as a lack of commitment. It is the intention of the Board to seriously consider all grand jury recommendations and, when the Board agrees a recommendation is necessary, to implement them as soon as practicable. As was done over the prior year, further information about specific recommendations can be provided as desired or requested.
4. The Board agrees it should be familiar with California Penal Code Section 933 prior to responding to the grand jury. We assert that familiarity does not necessitate an annual review, though it does require review on a regular basis.
5. The Board agrees comprehensive and direct responses to each grand jury finding and recommendation should be provided. Board responses will continue to do so.
6. The Board partially agrees that responses to agreeable recommendations should always include timeframes and commitments. Often, grand juries will assign arbitrary timelines that cannot be met with the available staff and resources. Sometimes the Board agrees with a recommendation but has insufficient information or for budget, regulatory or other reasons simply cannot possibly know when it could be implemented. Even if the Board agrees a road needs repair, for example, it may not know how long it will take to secure funding and complete projects to repair roads that have a greater need. Understanding that it is not always possible to predict a timeline, the Board generally agrees that an ability to provide an estimated timeline is ideal.

Airport Advisory Committee

1. The Board agrees that the agenda item in question was processed and agendaized correctly.
2. The Board agrees that the now-former clerk of the board and county supervisors advised members of the airport advisory committee of the agenda item prior to the meeting in which it was discussed.
3. The Board agrees that the former clerk of the board’s memo dated August 17, 2021, discusses “heated dissention” and that an environment “contrary to the County’s Discrimination and Harassment Policy” was discovered while researching the purpose of the airport advisory committee. Once discovered, the former clerk of the board states that she requested a board action to clarify the topics causing the “heated dissention” and improve the meeting environment.
4. The Board agrees that the Mariposa County Policy Against Discrimination and Harassment in the Workplace should be followed by all staff at all times. In addition, on February 15, 2022, the Board adopted a policy governing its various committees. Among other things, this

policy clarifies that volunteers serving on advisory boards are subject to the discrimination and harassment policy and that establishes a clear procedure for the reporting of issues to HR and the prescribed response up to and including removal of committee members found to be in violation.

5. The Board partially agrees that employees and departments should be aware of policy requirements to report in writing. This agreement is only partial because, while we agree that employees should be aware of what the policy says, we also believe our employees and department heads must be held to a higher standard. We simply cannot, will not, and do not tolerate acts of discrimination or harassment. Staff are trained to report any and all awareness of discrimination or harassment to HR; and HR staff are directed to investigate allegations in a timely manner regardless of whether a formal complaint was filed.

Coulterville Visitor Center Contracting Process

1. The Board disagrees that the County does not or has not had purchasing policies and procedures for all departments. In addition to Mariposa County Code Section 3.08 itself, the County maintained no less than eight resolutions focused on various areas of purchasing policy (1987-222, 1998-130, 1988-046, 1990-448, 1993-489, 1989-159, 2007-225, and a policy adopted without a resolution number on June 21, 1988).
2. The Board agrees that the CAO used his authority to enter a new agreement for the operation of the Coulterville visitor center. The agreement was with the same vendor who had been selected through a competitive solicitation process one year earlier and had operated the visitor center in the intervening time.
3. The Board agrees that a consolidated purchasing policy would be advantageous, which is why it adopted an amended purchasing ordinance on July 12, 2022, rescinded the previous policies noted above, and adopted comprehensive purchasing and purchasing card policies on August 16, 2022. The adopted policies have been distributed to all staff.

County Cemetery Operations

1. The Board agrees that information about public cemeteries is limited.
2. The Board agrees that the Mariposa Town Cemetery Committee is not currently active. The Mariposa Cemetery itself is active and currently taking caskets and cremations for burial.
3. The Board does not agree that there are no staff guidelines for cemeteries.
4. The Board does not agree that the upkeep of cemeteries is insufficient.
5. The Board agrees that more information about public cemeteries should be available online and will direct staff to update the County website before the end of the calendar year.
6. The Mariposa Town Cemetery Committee is already established but is not active due to a lack of volunteers. Members of the public who would like to volunteer are welcome to contact public works for more information about the responsibilities and application process.
7. Guidelines are already developed. The Board will direct staff to redistribute and provide training on these guidelines to the relevant parties before the end of the calendar year.
8. By way of clarification, Mariposa public cemeteries are technically not cemeteries at all—they are burial grounds. While the names are used interchangeably, there are many differences between a cemetery and a burial ground. Most relevant to this response is the cost: cemeteries tend to charge large fees for interment that can be used to maintain the property over time while burial grounds have minimal or no fees and can therefore provide only

minimal maintenance. Additional maintenance for our burial ground would require taking away funds from our local sheriff, roads, and other vital services. A change in service priorities can be considered, but the decision to increase maintenance should be made in the context of the fees that would need to be added or the services that would need to be proportionally reduced.

Road Maintenance Agreements

1. The Board agrees that a major subdivision zone of benefit was replaced with a road maintenance agreement that was not subject to County oversight.
2. The Board agrees that it is not responsible for ensuring private road maintenance agreements are enforced and/or effective, nor is there a mechanism for the Board to do so (F2 – F4).
3. The Board agrees the Road Improvement and Circulation Policy (RICP) provides general guidance in relation to road maintenance and lifespans.
4. The Board agrees that there is concern that public access on private roads can result in additional wear and liability issues.
5. The Board agrees that some road design and maintenance standards are at least ten years old.
6. The Board agrees that it does not have review authority for road maintenance agreement amendments.
7. The Board does not agree that it is the responsibility of the County to ensure private road maintenance agreements are in conformance with the current RICP, but encourages the private parties engaged in such agreements to review their agreements and current standards.
8. The Board agrees that resolutions should clearly document the decisions that are made and believes that, as a rule, this is already the practice of the County.
9. The Board does not agree that the County should provide a template for private road maintenance agreements. These agreements are the responsibility of private parties and each should seek its own legal counsel for support drafting or updating legal documents.
10. The Board agrees that updates to our road improvement and circulation plan and other road-related processes and procedures are necessary (R4-R6). It cannot commit to completing these updates within six months. Public works already has a significant workload and, like many county departments, is attempting to manage that workload with a high number of vacancies. When the department can be staffed appropriately or other work can be completed, there will be time to focus on the needed updates.

This concludes the responses of the Mariposa County Board of Supervisors to the FY 2021-2022 Grand Jury report. The Board of Supervisors is pleased with the progress that has been made in so many areas of our county, including several mentioned here. We are grateful to the Grand Jury for the opportunity to continue to address and improve the aspects of our operations discussed.

Sincerely,

Rosemarie Smallcombe, Chair
Mariposa County Board of Supervisors

Mariposa County Civil Grand Jury 2021-2022

Final Report



TABLE OF CONTENTS

Foreperson Letter.....	1
Civil Grand Jury Signature Page.....	3
Executive Summary.....	4
NON-INVESTIGATIVE REPORTS	
Observation of the Mariposa County 2021 Election Process.....	8
Compliance and Continuity Report: Past Examination, Present Action.....	17
INVESTIGATIVE REPORTS	
Airport Advisory Committee: Board of Supervisors Meeting Discussion.....	40
County Process for Contracting Outside Services: Coulterville Visitor Center Operations.....	44
County Cemetery Operations.....	49
John C. Fremont Healthcare District Board Meeting Violations.....	54
Mariposa County Unified School District Board Member Conflict of Interest.....	62
Road Maintenance Agreements: Standards and Provisions for Long-Term Maintenance.....	66



Mariposa County Grand Jury

PO BOX 789

Mariposa, California 95338

June 28, 2022

To the Citizens of Mariposa County and the Honorable Judge Michael M. Fagalde:

On behalf of the 2021-2022 Mariposa County Civil Grand Jury (MCCGJ) and in accordance with California Penal Code Section 933, it is my privilege to present our Final Report.

The mission of the Civil Grand Jury is to actively participate in the democratic process of monitoring the activities of our County agencies and special districts to promote accountability and transparency. Reports analyze local government operations and procedures, mobilize public opinion, and help bring about positive changes in how local governments serve the public's interest with effectiveness and efficiency. Where an investigation leads to important Findings, the Grand Jury makes Recommendations to facilitate positive change for the benefit of the citizens of the County. All members of the 2021-2022 MCCGJ stand behind the facts presented in this report as well as the process by which this information was collected and analyzed.

The MCCGJ is supported not only by the Superior Court, but also by County agencies. We thank the County Administration staff for their administrative help, the District Attorney's office for their legal support, and the Information Systems Department staff for the computer and network assistance that is essential to completing this civic duty in the modern era. The MCCGJ is grateful for the County representatives who graciously shared their time to provide presentations on a spectrum of County programs and operations:

- Dallin Kimble, Mariposa County Administrative Officer, September 22, 2021
- Matthew Matthiessen, Chief Executive Office, John C. Fremont Healthcare District, October 4, 2021
- Walter Wall, District Attorney for Mariposa County, November 3, 2021
- Jeremy Briese, Sheriff, Mariposa County, November 3, 2021
- Sarah Williams, Planning Director, Mariposa County, November 17, 2021
- Candy O'Donel-Browne, Board Chair, JCF Healthcare District, December 3, 2021
- Thomas Sweeney, Mariposa County Supervisor, December 8, 2021
- Eric Sergienko MD, MPH, Mariposa County Health Officer, December 12, 2021
- Kathy Chappell, Board Chair, Mariposa County Unified School District, January 27, 2022
- Rosemarie Smallcombe, Mariposa County Supervisor, February 2, 2022
- Susan Wages, General Manager, Mariposa County Utility District, March 9, 2022

I have been humbled to serve as Foreperson with this Grand Jury. I have gained tremendous appreciation for the resourcefulness and resilience of employees within our County programs. In the face of a global

Attachment: 2021 2022 MCCGJ FINAL REPORT (RES-2022-544 : 2022 Grand Jury Response)

pandemic and continuing economic instability, these individuals serve the citizens of this County with dedicated professionalism.

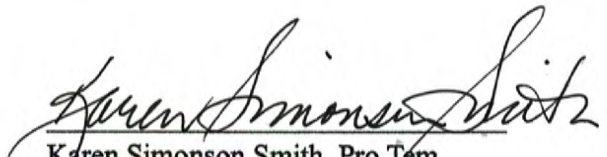
The members of this jury answered the call to build community through civic duty. They brought a spectrum of expertise and experience, and maintained utmost integrity through diligent investigations and well-informed deliberations. The solution-oriented perseverance and heartfelt collegiality of the team of jurors is nothing short of commendable. I strongly encourage any County citizen with an interest in democracy, County government, and community to consider serving as a Grand Juror.

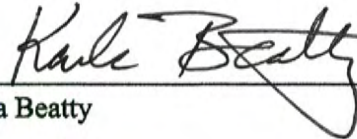


Erin Davenport
Foreperson
Mariposa County Civil Grand Jury 2021-2022

As members of the 2021-2022 Mariposa County Civil Grand Jury, we respectfully submit our final report, June 27, 2022.

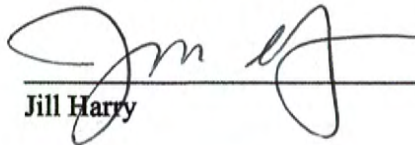

Erin Davenport, Foreperson


Karen Simonson Smith, Pro Tem

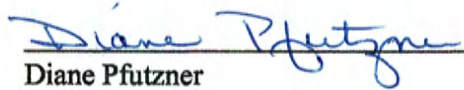

Karla Beatty


Michael Day


Patricia Gilger


Jill Harry


Michael Henderson


Diane Pfitzner

 FOR DAN WASIL
Daniel Wasil

Attachment: 2021 2022 MCGJ FINAL REPORT (RES-2022-544 : 2022 Grand Jury Response)

Executive Summary

The 2021-2022 Mariposa County Civil Grand Jury (MCCGJ) began its term in July 2021 with the benefit of two returning jurors from the 2020-2021 MCCGJ. During the course of the year, four (4) of the original eleven (11) jurors resigned and were replaced by two (2) eager alternates. The team finished out the term with nine (9) jurors and the continued mandate of eight (8) votes constituting a supermajority for all actions. Despite the challenges this presented, the MCCGJ was able to complete numerous inquiries and investigations. Six (6) investigations resulted in reports. Additionally, the MCCGJ observed the September 11, 2021 ballot processing, developed a continuity report addressing responses and follow-up to the 2020-2021 MCCGJ final report, and conducted tours of County correctional facilities.

SUMMARY OF NON-INVESTIGATIVE INQUIRIES

The following inquiries did not result in investigations. The MCCGJ did not conduct complete examinations, triangulating information through interviews, research, and observations, nor did the jury identify specific Findings or Recommendations requiring actions.

Election Observation

On September 14, 2021, the State of California held a Governor Recall Election. Prior to this event, County Clerk/Registrar of Voters Keith Williams invited the Grand Jury to observe staff at the Department of Elections process absentee ballots and also to observe one or more voting places on election day. Over the course of three days, Grand Jury members observed staff at the Elections Office performing tasks related to the Election Management System and the Election Tally System, and visited a few polling places to observe processes at each. Mr. Williams and Department of Elections staff spoke with jurors, were very knowledgeable, worked efficiently with systems and with each other, and answered many Grand Jury member questions. The Grand Jury was surprised by how time intensive processing ballots is, impressed with all operations related to elections, and satisfied with the security of the election system.

Custodial Facility Tours

Per California Penal Code Section 919 (b), the Grand Jury shall inquire into the condition and management of the public prisons within the county, and is allowed access by PC §925 and §925(a) of the California Penal Code. The 2021-2022 Mariposa County Civil Grand Jury (MCCGJ) toured the Mount Bullion Conservation Camp #39 run by the California State Department of Corrections and Rehabilitation, Juvenile Hall run by Mariposa County Probation Department, and the Adult Detention Facility which is a division of the Sheriff's Office. All facilities within the county face ongoing challenges related to budget restraints and the ongoing pandemic. The facilities were clean, well maintained and operating within California Penal Code requirements. Each facility is regularly inspected by state oversight agencies. The MCCGJ commends the jail commander, Jacob Bobman, for implementing changes in equipment for staff which improve work ergonomics without compromising the safety of the staff or detainees. The MCCGJ also applauds the addition of iPads for supervised use, changes being made to

accommodate educational advancement, and plans to increase areas available for programs and services for the detainees designed to reduce the rate of recidivism in Mariposa County.

Compliance and Continuity Report: Past Examination, Present Action

This continuity report was completed by the 2021-2022 MCCGJ based on elected and appointed officials' initial responses to the findings and recommendations of the 2020-2021 MCCGJ Final Report. It also includes the follow-up responses those officials made when the 2021-2022 MCCGJ requested further clarification.

The MCCGJ received most of the initial responses from elected officials and entity boards within the required timeframe. Some of the agencies accepted the findings of the 2020-2021 MCCGJ final report and took recommended corrective actions in a reasonable time frame. When they did not agree with a recommendation, some provided explanations. In many instances, it seemed the respondents were not clear about California Penal Code requirements regarding what their responses must include. In these cases, the 2021-2022 MCCGJ requested more detailed responses and, in most cases, received them. All instances of this are noted in Appendix A of this Compliance and Continuity Report.

SUMMARY OF INVESTIGATIVE REPORTS

The MCCGJ received twelve (12) formally filed complaints and additional informal complaints during the 1-year term. The complaints were each reviewed by the entire Grand Jury to assess if the topic was within the purview of the MCCGJ and if there were potential conflicts of interest. Relevant topics underwent initial inquiries which included interviews and background research, culminating in a presentation to the jury to determine by supermajority vote if a formal investigation was warranted. Topics were then investigated by a committee who provided the jury with status updates in bi-weekly meetings, and ultimately a draft report. Draft reports went through an Editorial Committee to reach their final form and were approved by supermajority vote. Six (6) resulted in conclusive investigative reports that are included in this Final Report:

1. Airport Advisory Committee - Board of Supervisors Meeting Discussion

Reviews the procedure followed in a specific Airport Advisory Committee-related agenda item on a Board of Supervisors (BOS) meeting agenda, and recommends generally that the BOS follow County policy in addressing alleged inappropriate conduct complaints.

2. County Process for Contracting Outside Services - Coulterville Visitor Center Operations

Addresses an example of a County competitive bid contract process and recommends generally that the County develop a standard set of policies and procedures for contracting outside services, in the form of a Procedures Manual, to be used across all County departments.

3. County Cemetery Operations - Burial Request Processing Issues

Confirms through investigation of a specific burial request that there are systemic issues with the County's process of communicating with Mariposa County residents about interment, the lack of active cemetery committee in one of the three (3) County cemeteries, and additional issues involving inconsistent upkeep and a lack of guidelines for processing burial requests.

4. John C. Fremont Healthcare District - Board Meeting Violations

Identifies multiple instances of Ralph M. Brown Act, Health and Safety Code §3200-32499.4, and Government Code §54956.87 violations when it comes to wording of closed session agenda items and actions at board meetings, and recommends generally for all board members and appropriate administrative staff to receive training on the relevant codes and to develop a specific schedule for training and retraining.

5. Mariposa County Unified School District Board - Conflict of Interest

Considers a specific instance of a School Board Member making a motion and voting on a topic that uniquely affected his/her relative(s), and recommends generally that the bylaws more clearly establish definitions and processes by which School Board Members recuse themselves from making motions or voting on matters that involve a conflict of interest or give the appearance of a conflict of interest.

6. Road Maintenance Agreements - Standards and Provisions for Long-Term Maintenance

Evaluates a specific example of a road maintenance agreement (RMA) and recommends generally that a standard RMA template be developed as well as updates to the Mariposa County Road Improvement and Circulation Policy and Improvement Standards to include standard conditions for appropriate long-term road maintenance.

The MCCGJ hopes all will find the detailed reports informative and that the agencies named within will find the Recommendations helpful in improving systems that affect Mariposa County residents.

Non-Investigative Reports



Observation of the Mariposa County 2021 Election Process

SUMMARY

On September 14, 2021, the State of California held a Governor Recall Election. Prior to this event, County Clerk/Registrar of Voters Keith Williams invited the Grand Jury to observe staff at the Department of Elections process absentee ballots and also to observe one or more voting places on election day. Over the course of three days, Grand Jury members observed staff at the Elections Office performing tasks related to the Election Management System and the Election Tally System, and visited a few polling places to observe processes at each. Mr. Williams and Department of Elections staff were very knowledgeable, worked efficiently with systems and with each other, and answered many Grand Jury member questions. The Grand Jury was surprised by how time intensive processing ballots is, impressed with all operations related to elections, and satisfied with the security of the election system.

OVERVIEW

The California Voters Choice Act passed in 2016. It allows counties in California to institute election systems that are almost completely mail-in ballot driven. Vote by mail was already popular in Mariposa County with about 70 percent of voters casting ballots this way; ballots were mailed to voters who requested them. In March 2020, based on Department of Elections recommendations, Mariposa County chose to switch to the voting by mail system. Now, ballots are mailed to every registered voter in the county.

Residents are registered to vote in a variety of ways. Many register electronically at the DMV at the time of getting or renewing their driver's license. Paper applications are available at the county elections office, library, Department of Motor Vehicles office, or U.S. post office. Paper applications must be turned in at least 15 days before an election for processing. People can also register at the California Secretary of State voter registration webpage. In this scenario, the registrant's signature is retrieved from the DMV. If a registrant does not have a driver's license, additional steps are outlined. Same Day Voter Registration, known as Conditional Voter Registration in state law, is also available. Eligible citizens who need to register or re-register to vote within 14 days of an election can complete this process to register and vote at their county elections office, polling place, or vote center. Their ballots will be processed and counted once the county elections office has completed the voter registration verification process.

Mariposa County Election Staff stated that registered voter numbers decreased to about 10,000 some number of years ago. In 2020, registration increased by about 2,000 and Mariposa County currently has 12,105 voters. Since the County has moved to the vote by mail system, participation has increased. For instance, voter turnout was 85% for the Trump - Biden presidential election.

The Mariposa County Elections Office receives lists from the State at least once a month regarding who is deceased and who has moved. Staff also checks obituaries in the local paper and

gets lists from the recorder's office on who has moved. All of this is to make sure voting lists are up to date. The Elections Office sends out ballots about 20 days prior to an election.

The ballot is always the same size. Contests must always remain on the same page; they cannot be split between the front and back of the ballot. For instance, if there had been more candidates for Governor in this election to the extent that they would not all fit on the front page, all candidate names would have instead been printed on the back. Likewise, contests cannot be split between columns.

If a voter has misplaced their ballot or needs a replacement for any reason, they can get a replacement at the Elections Office or at designated places throughout the county. The designated places were chosen because they have sufficient wifi and are covered by the county's Global Protect secure internet system. These places have specific computers and printers for election personnel to use to print on demand ballots. These places are:

- Mariposa County Elections Office, 4982 10th Street, Mariposa;
- Bootjack Fire Department, 3883 Bootjack Lane, Mariposa;
- Greeley Hill Public Library, 10332 Fiske Road, Coulterville; and
- El Portal Public Library, 9670 Rancheria Flat Road, El Portal.

After the initial mailing of ballots, all additional ballots are now printed on demand rather than the County buying extra ballots, saving waste and cost.

When it comes to returning ballots, voters can put their ballots in the mail. Postage is prepaid. The Elections Office will accept ballots postmarked by the election date for up to seven days after the election. In addition to the US Postal Service option, for every election, there are many ballot drop box locations throughout Mariposa County. These include the Elections Department parking lot, Lake Don Pedro Community Services District Office, Yosemite Public Library, Bassett Memorial Library in Wawona, Triangle Market, The Oaks Deli & Gas, and Coulter Cafe and General Store. Days and times of operation for both the voting locations and the drop boxes are always listed on the Mariposa County Current Election web page and publicized via mailers and newspaper advertisements.

Before sending out drop boxes, Elections Office staff secure a numbered seal to each box. The numbers and seals are checked by election staff before the boxes go out, by the members of Public Works delivering the boxes to their various locations on drop off, by the person in charge at the various locations also at drop off, and again by election staff once the boxes are picked up and returned to the Elections Office by Public Works personnel. (The State requirement is for two people to check the seals. Mariposa County added the numbering system and the additional personnel checking the seals for extra security.) Drop boxes at various locations are placed where they can be seen by the person in charge and are chained so that they cannot be moved. They are moved inside at the end of business hours.

The locked ballot boxes are picked up and delivered to the Elections Office by Public Works personnel every three days. Ballots are collected from the locked, permanent ballot drop box outside the Elections Office three times per day. Processing of ballots can begin seven days prior

to the election date. When it is time for processing, ballots go through an Election Management System and an Election Tally System as described in the later sections.

The elections staff team is made up of personnel within the County Treasurer-Tax Collector and County Clerk office. They have a variety of jobs and job titles within this office. Therefore, except on election day, most election work happens after regular business hours and on weekends. The County typically pays the cost of overtime and weekend work during election times. For the 2021 California Governor Recall Election, the State of California paid for all costs related to the election, including overtime and weekend hours.

Everything in the Elections Office is done per California Election Code. All employees who open and count ballots are trained through the State of California. Mariposa election officials have a weekly conference call that includes election officials of all counties and representatives in the Secretary of State's office. These calls involve an open forum at the end to share insights into what is being done even going beyond State law that is working well that other counties might want to implement. Mariposa County is also in constant contact with other similar sized counties to share insights and best practices.

Mariposa County elections staff states that security is its top priority. They are confident the mail-in voting system is extremely secure, more so than the in-person voting system used to be. For instance, now, with mail-in voting, each ballot signature is checked as the ballots are checked in, before they are opened and processed. With the previous in-person system, signatures were not checked until the very end of the process (at the point called canvassing, where staff manually tallies 1% of the ballots).

The Grand Jury believes that Mariposa County has an exemplary, experienced Elections Staff team and concurs that the election system is secure.

Mariposa County Elections Office
4982 10th Street, Mariposa, CA

County Clerk/Registrar of Voters: Keith Williams
 Chief Deputy County Clerk: Courtney Progner
 Election staff
 Grand Jury observers: Grand Jury members

Election Management System observation date: *Saturday, September 11, 2021*

Grand Jury members watched an election staff member unlock, collect ballots, and relock the permanent ballot box outside the Elections Office. This was the second of the three times per day collections.

Inside the Elections Office, Grand Jury members observed one staff member check each envelope, including name, address, and signature against electronic data on their computer screen. Years ago, the State purchased the hardware and the software involved with this Election Management System (EMS); the County pays for maintenance costs. Grand Jury members agreed

it is an impressive system. Each ballot envelope includes a barcode that election staff scans. This pulls up the registered voter's name, address, and signature. Signatures are based on the voter's registration with the DMV or on a voter registration card. Voters can always re-register their signature. Since a voter might have registered in different ways and at different times throughout the years, the system shows up to six past signatures for the staff member to check against. Signature training is provided to staff members through the State of California and is taught by retired FBI officers.

For any signature problems, the envelope is flagged and set aside. Voters are contacted by Election staff by all means that they have provided to the county. This can include by phone, email, and mail. If there is a mismatch in the signature, a letter is sent with instructions on how the voter can verify their signature, including a signature verification statement that needs to be signed. Likewise, if a ballot is not signed, a letter is sent with instructions to the voter on how to rectify this situation, including an unsigned ballot envelope statement that needs to be signed. Voters can cure both of these situations up to a few days prior to the County's certification of its election results which happens 28 days after an election.

If someone has mailed their ballot from another county, their information is checked to make sure they are not registered to vote in another county.

Staff explained the line on the envelope asking for the name of the person who dropped off a ballot for someone else is there in case someone calls and asks about their ballot. Sometimes, people with a cognitive difficulty might forget that someone dropped off their ballot for them and this reminds them. Or, this can alert both the voter and election staff of a problem that needs to be rectified.

The staff member assigned to checking envelopes against the Election Management System also separates them into stacks by district and by precinct. There are five districts and twenty-five precincts. Precincts used to mostly signify a voter's polling place but now precincts are used as a valuable tool in the ballot "balancing" process. Balancing is the method elections staff use to check that the number of ballots received stays constant throughout the counting process. Since each precinct represents a smaller number of the much larger entire district number, it is easier for Elections Staff to isolate, find, and rectify any mistakes when ballots are batched by precincts.

Once checked and sorted by district and precinct, the ballots go to one or two staff member stations where the envelope is opened, the ballot is pulled out and straightened, the top tab is pulled off if the voter has not pulled off the tab prior to mailing (most do not), the envelope is set to one side, and the ballots are stacked. Once a ballot is checked in and out of its envelope, voters have no way of saying they changed their mind, made a mistake, and cannot request their ballot back or a new ballot. There's no way to tell which ballot is theirs; their ballot is checked in and the voting process is over for them.

Each precinct stack of ballots is secured by rubber band and put into a district bin.

The process of opening ballots, pulling the tab, pulling straight, putting into stacks, etc, is very time consuming.

Per election code, envelopes are kept in storage for 22 months. They are then recycled by Public Works. (Same for ballots.)

When staff is not present, active ballots are stored inside a vault within the Elections Office.

Election Tally System observation date: Sunday, September 12, 2021

A week or more before ballots are ready to go through the electronic Election Tally System made by Dominion and consisting of a special counting/scanning machine and multiple servers and screens, the Chief Deputy County Clerk (CDCC) runs a pre-marked test deck through the system to make sure it reports the numbers as it should. This is a logic and accuracy test. (Mariposa County's CDCC has been working on elections for 18 years. Likewise, all current Elections staff have worked on previous elections.)

The CDCC noted that the prior system completely crashed in 2016. She stated the current system is much better. The County leases it using County funds and some State funding.

On Sunday, elections staff had all the ballots that were opened the day before ready to go through the Election Tally System. One person prepared the ballots, making sure they were straight and even (much like loading paper in a copy machine) and inserted them in batches in the counting/scanning machine. If two pages went in at once or it jammed or stopped for any reason, the screen on the machine reported exactly what the employee needed to do next; ie, re-run the entire batch, re-run the last two sheets, and so on. As each batch went through the machine, the staff member wrote down the number per batch. This was balanced (checked) against the number that appeared on the screen and saved in the database. The machine was cleaned and wiped down between batches to cut down on jams. The Grand Jury members observed that there were very few jams and they were not a problem.

If a ballot had any issue at all, ie, the system can't detect a box as marked, there are two boxes marked, or someone has written in the name of a candidate not on the State's official write-in candidate list, then that ballot was electronically flagged by the system. A list of these ballots showed on the linked computer screen. The assigned staff member clicked on each link in turn. This opened the ballot on the screen, allowing the staff person to see and resolve the problem. If two boxes were marked, the ballot was not counted. If there was a mark but it was faint, the staff member counted it. If someone had written in a candidate name not on the official list (including Gavin Newsom - he is not a candidate; he is the current office holder), then the staff person would void the write-in candidate but the top vote of whether to recall or not recall was still counted. Staff is trained on voter intent. The State has very specific boundaries. If there are questions, multiple trained staff confer to resolve the issue.

As of the Grand Jury's observation day the Sunday before election day, election staff reported about 60% of registered voter ballots received.

After processing, ballots were kept in their precinct bundles and put back into stacks in their appropriate district boxes. Ballots are kept in storage for twenty-two months.

The Grand Jury was told that on election day, given current Covid guidelines, a staff member with a walkie talkie will stay outside the Election Office to lead in anyone who needs a new or replacement ballot. If there is a line, they will ensure there is appropriate distance between voters and that the line moves through the process in one direction and out a separate door.

On election day, ballots continue to be checked in, opened, and processed in batches. Staff stops checking in and opening by 2 PM so that ballots to that point can be processed for preliminary election results to be released to the public at 8 PM via the Election Office website. Remaining ballots go through the process as they are received. Staff expects to stay in the office until about 10 or 10:30 PM on election night at which point the second preliminary results are finalized and released to the public.

Confirmation of results are faxed to the Secretary of State. Once the Secretary of State confirms receipt and reads back numbers for verification, elections staff is finished for election day.

Further numbers are released on Wednesday as additional ballots are checked in and processed.

Ballots that are postmarked by the election date are accepted up to seven days after the election and added to the count.

As a double-check on the Election Tally System, a canvas is done. This means staff performs a manual count of a random selection of districts equalling 1% of the vote. These numbers are checked against the numbers in the Election Tally System database.

Final certification of election results are delivered to the Secretary of State 28 days after the election.

***Vote Centers** observation dates: Monday, September 13 and Tuesday, September 14, 2021*

The day before and on election day, Grand Jury members observed a few of Mariposa County's designated vote centers.

The purpose of a vote center during an election is to be an extension of the elections office for persons wishing or needing in-person services in areas of the County where it is difficult to get to the elections office.

Greeley Hill Public Library Vote Center; Monday, September 13

One grand jury member observed operations at the Greeley Hill Public Library Vote Center. Five volunteers were working there on Monday and would be again on Tuesday during the designated hours of operations. Prior, they had been trained by Elections Office staff.

Volunteers observed Covid protocols when engaging with voters and during ballot drop off. Ballots were examined for proper signature. If multiple ballots were dropped off, the ballots were checked for the accompanying signature of the trusted agent or designee.

If a voter needed a replacement ballot due to a mistake, exchange, or because they did not receive a ballot in the mail, a volunteer would verify registration, check the voter's address, and make corrections as necessary. Once verified, one volunteer generated a tag and passed it to the volunteer tasked with printing the provisional or replacement ballot. Information was checked again and the ballot was printed on the computer and printer system designated for this purpose. The ballot was also logged on a data sheet and then given to the individual. The voter was then directed to a voting area to complete their ballot and to a drop box to insert the completed ballot.

The volunteers at the Vote Center had direct contact with the Elections Office for any inquiries or problems that required election staff assistance.

The Grand Jury noted there was not a lot of turnout as most voters were taking advantage of the ability to mail-in ballots or use the designated drop box locations. The volunteers were very accommodating and friendly and were confident in their required tasks.

Bootjack Fire Department Vote Center, Monday, September 13

There were four volunteers at the Bootjack vote center. They had been trained in every aspect of vote center duties. They each had many years experience volunteering in Mariposa County elections.

Their jobs included a greeter who was the person assigned to the entrance of the center to determine the needs of the voter. With Covid-19 precautions in place, this person first determined if the voter needed assistance at the center or was simply dropping off a ballot. If the voter needed to go into the center, the voter was offered hand sanitizer and given a mask if they did not have one. In either case, dropping off or voting there, the greeter made sure the voter had sealed and signed their envelope, gave them an "I Voted" sticker, and showed them the drop box in which to insert their ballot.

Another staff member was at a second station that included computerized voter information. When voters were directed to this station, the staff person determined the need(s) of the voter. Most commonly, the voter needed a ballot issued as they had either not received one, refused to use the mailed ballot, or had misplaced their ballot. Sometimes, the voter wanted to see what the signature they have on file looks like so they could sign their envelope the same way as they did when they registered. Some voters had a ballot but needed a new envelope and label.

At this second station, the voter provided his or her name, and the staff member looked up their voting record on the electronic system. The computerized information made it possible for the staff member to determine if a ballot was sent and if so, whether that ballot had already been cast (in which case the voter could not vote again; the elections office would be contacted to rectify any discrepancies - the grand jury did not witness this and none had been reported) or if the ballot was returned as undeliverable. The computer system was also able to provide information on whether or not the voter was registered to vote in the current election. The voter was directed to either register if new, or re-register if inactive. These voters were given provisional ballots, meaning their information and signatures would be checked before their ballots were counted. In certain circumstances, the main election office was contacted to clarify a confusing situation and

determine whether a voter could simply be "activated," or if more information was needed to verify the voter.

Once voter information was verified, the staff member at the third station would either print a replacement ballot for the voter onsite, record this to keep track of the number of ballots issued, and direct the voter to a private voting station. Or, if the voter preferred, the voter was directed to a voting station that contained an ICX tablet that they could vote on electronically.

The volunteer at the fourth station directed people with paper ballots to voting booths or enabled the ICX tablets so that people could then vote electronically in private. Some voters wanted to vote in a booth, using their issued ballot, simulating "election day voting." Other voters wanted to cast a "live" ballot electronically. Information from "live" ballots was transmitted to the elections office as the vote was cast, meaning the ballot was immediately counted.

All the volunteers throughout the day answered questions regarding the election process. Once the election was over, the Grand Jury member was told the vote center staff seals and secures all of the ballots and election equipment. Two of the staff return the sealed voting materials to the election's office.

Mariposa County Elections Office Vote Center, Tuesday, September 14

A Grand Jury member was able to observe a number of voters dropping ballots into the permanent ballot drop box outside the Elections Office.

The Elections Office staff had someone in the front lobby, able to see outside all day. This person had a walkie talkie and, in constant contact with office staff, allowed two people into the office at a time to take care of any election-related (or other) business. There were chairs for waiting, and markers on the ground, all following Covid protocols, spaced six feet apart. Traffic flow was through the front door, into the office, and then out the side door. There were writing tables with privacy shields set up outside, under shade awnings. There were two tables set up similarly inside, but these held a screen and printer for those who wished to vote on screen and print their vote. The Grand Jury did not see anyone choose to vote this way.

The Grand Jury witnessed a number of voters requesting and receiving help:

- There were a few people who did not feel it was secure to drop their ballots into the box outside. They were directed to use the box inside the Elections Office instead.
- A few voters did not want to use the mail-in ballots; they wanted to vote in person on a ballot, not on the electronic Dominion system. Staff directed the voters to write Void on both the ballots and the envelopes they had received in the mail and dispose of them. Staff voided the voters' initial ballots in the system, printed new ballots for them, logged this, and directed them to the voting tables to complete their ballots and to the ballot box to deposit their completed ballots.
- One voter was not registered to vote. Staff directed this person to fill out the voter registration form. Once this was completed and returned, staff printed a provisional ballot

and gave the voter instructions. Information on the registration form will be checked before their ballot is counted.

- A few voters never received ballots. Staff had these voters fill out forms, checked their information in the system, corrected mailing addresses if this was the issue, voided original ballots, and printed new ballots for them.
- A husband and wife had signed each other's envelopes by mistake. One had sealed their envelope, the other had not. Staff directed them to sign their names on their appropriate envelopes.

In all cases, Elections Staff was polite, helpful, and resolved each voter's situation.

FINDINGS

- F1. Mariposa County Elections Staff are dedicated to following California Election Code and, at times, go beyond State code. Staff shares best practices with State personnel and similarly-sized counties for considered implementation.
- F2. Election security is a top priority for all Elections staff and volunteers; Mariposa County elections are secure.
- F3. Elections staff and volunteers are dedicated and well-trained.
- F4. Elections staff and volunteers are responsive to the needs of all voters. Staff and volunteers are respectful, polite, and helpful.
- F5. There are adequate means of voting provided throughout the county, including mailing in ballots via US Postal Service postage-paid envelopes, placing ballots in secure ballot boxes, or voting at designated Vote Centers.
- F6. Mariposa County Elections run smoothly and efficiently.

RECOMMENDATIONS

This was not an investigation but rather an observation. The Grand Jury's observations and findings are all positive. We commend the Elections Office staff for their knowledge, efficient and secure processes, and courtesy to voters.

Compliance and Continuity Report: Past Examination, Present Action

SUMMARY

The Mariposa County Civil Grand Jury (MCCGJ) is a group of volunteer citizens who, over the course of a one year term, are tasked with investigating the operations of local government including county government departments and agencies, joint powers authorities, special districts, and school districts. The MCCGJ conducts multiple investigations, many based on public requests. The MCCGJ must also, by statute, inspect local detention facilities each term.

The goal of the MCCGJ is to determine if local government can be made more efficient, effective, and responsive to the needs of our community. If the answer is “yes,” the MCCGJ creates a report that includes findings on items that need to be addressed, recommended fixes, and due dates for responses from the elected officials who can ensure implementation as well as invited responses from relevant appointed officials. Because of the one year term limit of each grand jury, it becomes the responsibility of the next grand jury to track responses.

The 2020-2021 MCCGJ final report¹ included findings and recommendations regarding the following:

- Mariposa County Settlement with the Merced Irrigation District
- Correctional Facility Site Visits - Adult Detention Center
- Mariposa County Sheriff’s Office - Civil Standby
- Lake Don Pedro Community Services District
- Public Works Department - Mykleoaks Subdivision Road Conditions
- Public Works Department - Road Crews
- Yosemite Alpine Community Services District (YACSD)

The 2020-2021 MCCGJ issued 52 findings and 32 recommendations.

This continuity report was completed by the 2021-2022 MCCGJ based on elected and appointed officials’ initial responses to the findings and recommendations of the 2020-2021 MCCGJ Final Report. It also includes the follow up responses those officials made when the 2021-2022 MCCGJ requested further clarification.

The MCCGJ received most of the initial responses from elected officials and entity boards within the required timeframe. Some of the agencies accepted the findings of the 2020-2021 MCCGJ final report and took recommended corrective actions in a reasonable time frame. When they did not agree with a recommendation, some provided explanations. In many instances, it seemed the respondents were not clear about California Penal Code requirements regarding what their responses must include. In these cases, the 2021-2022 MCCGJ requested more detailed responses

¹ The complete text of the 2020-2021 Mariposa County Civil Grand Jury Final Report can be found here: <https://bit.ly/2021MCCGJ>

and, in most cases, received them. All instances of this are noted in Table 1 of this Compliance and Continuity Report.

The MCCGJ commends the Mariposa County Board of Supervisors, Mariposa County District Attorney, the Mariposa County Sheriff's Office, the Lake Don Pedro Community Service District, and the Yosemite Alpine Community Services District for their subsequent answers following requests from the 2021-2022 MCCGJ regarding incomplete or absent initial responses.

GLOSSARY

BOD	Board of Directors
BOS	Board of Supervisors
CDWR	California Department of Water Resources
CPI	Consumer Price Index
CS	Civil Standby
EIR	Environmental Impact Report
GM	General Manager
HR	Human Resources
LDPCSD	Lake Don Pedro Community Service District
MCCGJ	Mariposa County Civil Grand Jury
MCSO	Mariposa County Sheriff Office
MID	Merced Irrigation District
OSHA	Occupational Safety & Health Administration
PC	Penal Code
PIO	Public Information Officer
PM	Project Manager
PRA	Public Records Act
PW	Public Works
PWD	Public Works Department
RWQCB	Regional Water Quality Control Board
YACSD	Yosemite Alpine Community Services District

BACKGROUND

In reviewing past Grand Jury final reports, the 2021-2022 MCCGJ found that none included Compliance and Continuity Reports. These are not mandated, and given the one year time limit of service, each grand jury establishes its top priorities and utilizes its resources accordingly.

Given the responses received to the 2020-2021 MCCGJ Final Report, the current MCCGJ decided it was important this year to prioritize a Compliance and Continuity Report. In some cases, the MCCGJ found respondents had incomplete or missing answers to last year's findings and recommendations and/or a lack of clear understanding of the proper compliance required by

the California Penal Code. In some cases, the jury had questions regarding the entity's timeframe for completing implementation.

Clarifying Penal Code

According to California Penal Code Section §933(a): "Each grand jury shall submit to the presiding judge of the superior court a final report of its findings and recommendations that pertain to county government matters during the fiscal or calendar year."

When findings and recommendations are directed to an entity board, the board is required to respond within 90 days of the release of a grand jury's report. Elected county officials or agency heads, on the other hand, are required to respond within 60 days. (PC §933(c)).

California Penal Code §933.05 mandates how the local governing board and how the elected officials must respond to the findings and recommendations that fall under their jurisdictions.

To begin, for each grand jury finding, the board or official must respond either (PC §933.05(a)):

1. The respondent agrees with the finding.
2. The respondent disagrees wholly or partially with the finding; in which case the response shall specify the portion of the finding that is disputed and shall include an explanation of the reasons therefore.

Next, for each grand jury recommendation, the board or official must respond (PC §933.05(b)):

1. The recommendation has been implemented, with a summary regarding the implemented action.
2. The recommendation has not yet been implemented, but will be implemented in the future, with a timeframe for implementation.
3. The recommendation requires further analysis, with an explanation and the scope and parameters of an analysis or study, and a timeframe for the matter to be prepared for discussion by the officer or head of the agency or department being investigated or reviewed, including the governing body of the public agency when applicable. This timeframe shall not exceed six months from the date of publication of the grand jury report.
4. The recommendation will not be implemented because it is not warranted or is not reasonable, with an explanation therefore.

California Penal Code §933.05 (c) goes on to say:

However, if a finding or recommendation of the grand jury addresses budgetary or personnel matters of a county agency or department headed by an elected officer, both the agency or department head and the board of supervisors shall respond if requested by the grand jury, but the response of the board of supervisors shall address only those budgetary or personnel matters over which it has some decision-making authority. The response of

the elected agency or department head shall address all aspects of the findings or recommendations affecting his or her agency or department. (§933.05 (c))

Goals of Continuity and Compliance Report

By generating this report, the MCCGJ hopes to provide respondents a greater understanding of, and more accurate compliance to, the California Penal Code. The jury believes that if respondents answer questions raised in findings and recommendations as clearly and comprehensively as possible, they will create a higher level of trust and support from the Mariposa County community at large.

This jury also hopes future MCCGJs will make the Compliance and Continuity Report a standing addition to its final reports.

METHODOLOGY

For background, the MCCGJ read through a number of past MCCGJ Final Reports and studied their findings, recommendations, and responses. The 2015-2016 and 2016-2017 Grand Juries investigated findings and recommendations that were part of prior Grand Jury reports.

The jury read, analyzed, and used as guides Continuity and Compliance Reports generated by other county grand juries, especially those highlighted by the California Grand Jurors Association as being especially effective.

The MCCGJ applied the California Penal Code section §933.05 in their analysis of the responses received to the 2020-2021 MCCGJ Final Report findings and recommendations to determine whether the responses were compliant. The jury also noted if any finding or recommendation was missing a response.

The jury sent letters to the respondents it identified as non-compliant asking each to clarify answers, include timeframes, and provide missing responses.

The jury received acceptable responses back from all respondents. These are detailed in Table 1.

DISCUSSION

Using a table format, Table 1 provides a quick summary of each of the 2020-2021 MCCGJ reports, details the findings and recommendations from each report, the responses the grand jury initially received from respondents, and the follow up responses the grand jury received when it requested clarification from the respondent.

FINDINGS OF THE CONTINUITY REPORT

- F1. All respondents adhered minimally to the California Penal Code legal requirements in their responses to requests for follow-up clarification by the 2021-2022 MCCGJ.
- F2. Some respondents failed to indicate agreement or disagreement with the findings. Some respondents who disagreed with the findings did not provide further explanation.
- F3. Some respondents did not make clear commitments (e.g., timeframes, further analysis) for implementing agreeable recommendations in the 2020-2021 MCCGJ Final Report.

RECOMMENDATIONS

- R1. Respondents should review California Penal Code §933 annually in preparation for responding to Grand Jury final reports.
- R2. Respondents should provide a comprehensive and direct response to each finding and recommendation.
- R3. Respondents should include timeframes and commitments to implementing agreeable recommendations.

REQUEST FOR RESPONSES

The following elected county officials are required to respond to the current report within 60 days pursuant to Penal Code sections §933 and §933.05:

● Mariposa County Auditor	F1, F2, F3, R1, R2, R3
● Mariposa County Sheriff	F1, F2, F3, R1, R2, R3
● Mariposa County District Attorney	F1, F2, F3, R1, R2, R3

Per Penal Code 933.05 (a)(1) and (2), responses must include acceptance, refutation, and/or clarification of the findings. Per PC 933.5 (b) (1) (2) (3) and (4) a commitment to implementing the recommendations, as appropriate.

The following governing boards are required to respond within 90 days pursuant to Penal Code sections §933 and §933.05:

● Mariposa County Board of Supervisors	F1, F2, F3, R1, R2, R3
● Lake Don Pedro Community Services District	F1, F2, F3, R1, R2, R3
● Yosemite Alpine Community Services District	F1, F2, F3, R1, R2, R3

Per Penal Code 933.05 (a)(1) and (2), responses must include acceptance, refutation, and/or clarification of the findings. Per PC 933.5 (b) (1) (2) (3) and (4) a commitment to implementing the recommendations, as appropriate.

The following department head is invited to respond within 60 days:

- Mariposa County Public Works Department F1, F2, F3, R1, R2, R3

Reports issued by the Grand Jury do not identify individuals interviewed. Penal Code section 929 requires that reports of the Grand Jury not contain the name of any person or facts leading to the identity of any person who provides information to the Grand Jury.

TABLE 1

A brief overview of each of the 2020-2021 MCCGJ reports, the findings and recommendations of each report, the responses the 2021-2022 grand jury initially received, and the follow up responses the grand jury received after requesting clarification from respondents.

Merced Irrigation District - Settlement Spending	
INVESTIGATION The 2020-2021 MCCGJ received information regarding the status of funds in the 2017 BOS settlement with the Merced Irrigation District. The 2020-2021 MCCGJ conducted a formal investigation including background research and interviews.	
ANALYSIS Responses were received from the BOS on time on 8/3/2021. The MCCGJ sent a follow up request for clarification and/or completion of the recommended action on 12/8/2021. Additional updates were provided and determined to meet the requirements of Penal Code §933.05.	
Findings	Response
F1. The MID Settlement represents a significant opportunity for Mariposa County that should not be missed.	F1-F5. The Board acknowledges and agrees with the findings in the report.
F2. The County has a limited timeframe to utilize the MID settlement funds on water projects.	
F3. A project of this magnitude will take considerable time to complete and yet, to date, little has been done.	
F4. This is a particularly important opportunity as California is prone to frequent and extensive periods of drought.	
F5. Mariposa County needs to develop sustainable water supplies to maintain its current population growth.	
Recommendations	Response
R1. The Board, or lead agency, should assign or hire a professional project manager within 90 days of the publication of this report.	R1. In December 2012, the BOS designated the Water Agency Advisory Committee as the lead agency.
R2. The project manager should complete a feasibility study and present a preliminary plan to the BOS within one year of the publication of this report.	R2. Because of Covid-19, the Water Agency Advisory Committee was unable to meet for an extended period and just recently began meeting again. They are working on a preliminary plan.
R3. The Board should clearly document in current and future budgets how the unrestricted funds shall be spent, within 90 days of the publication of this report.	R3. The BOS has directed the staff to place the unrestricted MID settlement funds into past and current budgets.

Mariposa County Sheriff Office - Civil Standby	
INVESTIGATION The MCCGJ investigated a citizen's complaint and found significant room for improvement in the Mariposa County Sheriff's Office policies and procedures. The MCCGJ conducted a formal investigation which included interviews and background research.	
ANALYSIS Responses were received on-time on 7/22/2021. The MCCGJ sent a follow up request for clarification and/or completion of the recommended action on 10/20/2021. Although the responses followed California Penal Code guidelines, the MCCGJ requested more explanation and clarity on 10/6/21. In addition, some responses gave open-ended timeframes instead of definitive timeframes for action and implementation. The MCSO provided an updated response to Findings 4 and 5 on 10/13/2021. The original and updated responses meet the minimum requirements of Penal Code §933.05.	
Findings	Response
F1. MCSO does not have written policies and procedures related to civil standby that can be provided to the public upon request.	F1. MCSO Policy 429-Civil Disputes was implemented on July 19, 2021 addressing civil services. This policy can be made available if requested and the MCSO is looking at ways to give the public access via the county website.
F2. MCSO Domestic Violence published policies and procedures were created in 1985 and revised only once in 2007.	F2. Regarding the specific finding and recommendation, the MCSO does have a current and up-to-date domestic violence policy. Policy 310-Domestic Violence, implemented on February 25, 2021. This policy can be made available if requested and the MCSO is looking at ways to give the public access via the county website.
F3. MCSO is not compliant with California Penal Code §13701c(7) which states law enforcement response to the civil standby must be in writing, available to the public upon request.	F3. MCSO Policy 429-Civil Disputes was implemented on July 19, 2021 addressing civil services. This policy can be made available if requested and the MCSO is looking at ways to give the public access via the county website.
F4. Based on MCCGJ review of formal procedures published by other California law enforcement agencies and a review of California Penal Codes, the MCSO policies and procedures related to civil standby and domestic violence need to be updated and improved.	F4-F6. The MCSO has corrected the response to the recommendations and findings and will address potential updates to the policy with collaboration from Lexipol and the MCSO policy team.

F5. Special effort should be made to ensure that, whenever feasible, deputies involved in civil standby are not close acquaintances or relatives of the parties involved.	F4-F6. The MCSO has corrected the response to the recommendations and findings and will address potential updates to the policy with collaboration from Lexipol and the MCSO policy team.
Findings	Response
F6. MCSO currently uses Lexipol LLC to manage policies and procedures within the adult and juvenile detention facilities.	F4-F6. The MCSO has corrected the response to the recommendations and findings and will address potential updates to the policy with collaboration from Lexipol and the MCSO policy team.
Recommendations	Response
R1. Mariposa County Sheriff's Office should update its current policies and procedures to include a process for initiating Civil Standby in Mariposa County.	R1. MCSO Policy 429-Civil Disputes was implemented on July 19, 2021 addressing civil services. This policy can be made available if requested and the MCSO is looking at ways to give the public access via the county website.
R2. The MSCO should review and revise its domestic policies and procedures to comply with the California Penal Code. The policies and procedures should be in writing and be available to the public upon request.	R2-R4. Regarding the specific finding and recommendation, the MCSO does have a current and up-to-date domestic violence policy. Policy 310-Domestic Violence, implemented on February 25, 2021. This policy can be made available if requested and the MCSO is looking at ways to give the public access via the county website.
R3. In order to avoid future potential conflicts, whenever feasible, the MCSO should not assign Civil Standbys to officers who are acquainted with or related to the parties involved.	
R4. The MCSO should implement a process to continually update all policies and procedures to keep them in compliance with state and federal law within 90 days of publication of this report.	

Mykleoaks Subdivision - Road Conditions
INVESTIGATION The MCCGJ received a formal complaint alleging the conditions and width of roads in the Mykleoaks subdivision were substandard and previous attempts to rectify the situation with the Public Works Department were unsuccessful. The MCCGJ conducted a formal investigation which included interviews, background research, and site inspection (ie, driving the roads in question).
ANALYSIS Responses were received on time from the Public Works Department on 8/3/2021. The MCCGJ sent a follow up request for clarification and/or completion of the recommended action on 12/8/2021. The original and updated responses meet the minimum requirements of Penal Code §933.05.

Findings	Response
F1. It was determined that the roads within the Mykleoaks Subdivision were of acceptable width and condition, with the exception of Bear Trap Lane.	F1 -F2. The BOS response was out of context to the actual wording in F1. The BOS appeared to not agree with the condition of Bear Trap Lane and only advised the Public Works Department to review the condition of Bear Trap Lane.
F2. Bear Trap Lane is in need of repair. It is evident that this section of roadway within the subdivision is consistently plagued with potholes and the underlying cause has not been determined or corrected.	
F3. The PW Department did not supply any records of complaints regarding the roadways in Mykleoaks Subdivision.	F3. The director responsible for providing these records is no longer employed by the County and the interim director has since advised the MCCGJ that road complaint records have been kept via a work order system for more than a decade. The BOS expects all future requests for available records to be fulfilled in a timely manner.
F4. The PW Department has a method of prioritizing the scheduling of road repairs based on available resources, high traffic volume, and public safety.	F4-F5. The BOS noted the development of a Capital Improvement Plan including future road improvements which have been discussed and will be included in future staff work plans.
F5. There is no system in place within the Public Works Department to ensure that the lesser-traveled roads will eventually receive the necessary repairs.	

	Recommendations	Response
	R1. The Public Works Department should review the Bear Trap Lane road conditions, develop a plan to repair the roadway, and inform residents of the estimated date of completion within 90 days of publication of this report.	R1. The BOS advised the Public Works Department to review the condition of Bear Trap Lane. The BOS did not give the Public Works Department a timeframe to accomplish this review.
	R2. The BOS should establish a requirement for the Public Works Department to develop and maintain a complaint log within 90 days of the publication of this report. This complaint log should also contain the final disposition of the complaint.	R2. The director responsible for providing these records is no longer employed by the County and the interim director has since advised the MCCGJ that road complaint records have been kept via a work order system for more than a decade. The BOS expects all future requests for available records to be fulfilled in a timely manner.

Lake Don Pedro Community Services District**INVESTIGATION**

The MCCGJ investigated a complaint alleging the owner of a lot located within the district boundaries was double-charged the Capital Improvement Plan fee by the Lake Don Pedro Community Service District (LDPCSD). The investigation included reading through past complaints, researching via the internet, conducting site inspections, and interviewing the district general manager.

ANALYSIS

Responses were received on time on 8/17/2021. The MCCGJ sent a follow up request for clarification on 10/6/2021. An updated response was provided. The original and updated responses meet the minimum requirements of Penal Code §933.05.

Findings	Response
F1. The MCCGJ could find no hard evidence to support the assertion that a meter had been installed by LDPCSD on the lot. The circumstantial evidence provided by the complainant was inadequate to prove the claim.	F1-F2. The LDPCSD Board of Directors (BOD) agrees with the findings.
F2. LDPCSD staff reviewed the records and confirmed that a water meter was never installed on the lot.	
F3. Prior to the arrival of the current General Manager (GM), the water system was in poor operational condition.	F3. The LDPCSD BOD disagrees partially with the finding. There are many aspects to the water treatment and distribution system. To make a blanket general statement that the entire system was in poor condition without providing specifics is an overgeneralization.
F4. The GM inherited a system with limited spare parts, inadequate tools, and vehicles which were not in working order.	F4. The LDPCSD disagrees partially with the finding. The BOD approves the budget which contains funding for these items recommended by the general manager.
F5. The LDPCSD BOD, the GM and the operations team have worked hard to rectify the deficiencies and bring the service up to a level that the customers of the district deserve.	F5. The LDPCSD BOD agrees with the finding.
F6. The LDPCSD has been responsive to all Public Records Act requests as well as complaints from district customers.	F6. The LDPCSD BOD agrees with the finding.
F7. Some information on the LDPCSD website is out-of-date and inaccurate and unfavorably represents the present status of the district.	F7. The LDPCSD BOD disagrees partially with the finding as the website requires on-going maintenance and updating.
F8. Prior civil grand juries were inundated with complaints regarding the operation, management, and oversight of the LDPCSD. It has been more than two years since MCCGJ has received a complaint.	F8. The LDPCSD BOD agrees with the finding.

Recommendations	Response
R1. Current and future LDPCSD BODs should support the GM's efforts to upgrade the system.	R1. The recommendation has been implemented. The current BOD has always supported the GM's efforts to upgrade the system.
R2. The GM should develop a formal complaint log to assist the district staff in tracking and responding to customer complaints within 90 days of publication of this report.	R2. The recommendation has been implemented as of August 17, 2021.
R3. LDPCSD staff should update the website to accurately reflect the status of key facts such as certification status within 90 days of publication of this report.	R3. The recommendation has been forwarded to the GM and implementation is a work in progress.

Public Works Department - Hostile Work Environment
INVESTIGATION

The MCCGJ investigated the Public Works Department (PWD) Road Crews and found five major areas of concern: hostile working environment, human resources structure and behavior, inefficient operational performance, potential fiscal malfeasance, and safety violations. The MCCGJ received information regarding these conditions during introductory meetings with county officials as well as through investigations of formal citizen complaints. The MCCGJ conducted a formal investigation which included interviews, background research, documents from the union, and notes from pertinent individuals.

ANALYSIS

Responses were received from the BOS on time on 8/3/2021. The MCCGJ sent a follow up request for clarification on 12/8/2021. The MCCGJ received an updated response on 1/18/22 stating that corrective actions are underway. The original, plus the updated response, meet the minimum requirements of Penal Code §933.05.

Findings	Response
F1. The Human Resources Department has not been regarded as a safe, unbiased, or effective resource for employees.	F1. The BOS disagrees and asserts that it is overly broad and the investigation did not address all activities of Human Resources to make this statement.
F2. Employees of the PWD have resigned or retired due to an unchanging hostile work environment.	F2-F5. The BOS neither agrees nor disagrees. The BOS asserts the remaining findings and recommendations refer to personnel matters and the BOS is obligated under law to keep them confidential.
F3. Many employees are unwilling to speak to the MCCGJ for fear of retaliation.	
F4. Multiple allegations of timecard falsification were made.	
F5. Multiple allegations of OSHA, and safety protocol violations were alleged.	
F6. After repeated requests for PWD policies and procedures, the PWD Director indicated there were none.	F6. The BOS disagrees with this finding and states there is a policy and procedure in place that they are expected to adhere to.

Recommendations	Response
R1. The BOS should ensure that the Human Resources Department be restructured and effectively empowered to protect the best interests of the County and its employees within 90 days of the publication of this report.	R1. In December 2021, the BOS repositioned the Human Resources Department as a division of Administration. This change has improved the ability of the County to recruit qualified Human Resources Directors and is intended to empower Human Resources to objectively pursue the best interests of the County.
R2. The BOS should investigate the allegations of favoritism and a hostile work environment within the Public Works Department within 90 days of this report.	R2-R4. The BOS neither agrees nor disagrees. The BOS asserts the remaining findings and recommendations refer to personnel matters and the BOS is obligated under law to keep them confidential.
R3. The Sheriff's Office should audit and investigate specific allegations of the falsification of timecards and, if verified, the BOS should take corrective actions up to and including termination and prosecution, within 90 days of publication of this report.	
R4. The BOS should make changes in the PWD management structure and establish a work environment improvement plan to increase unity and effectiveness of the Public Works teams within 90 days of publication of this report.	
R5. The PWD should establish a policy and procedures manual, specific to the Public Works Department within 90 days of the publication of this report. The manual should be made available to the public upon request.	R5. The BOS disagrees with R5 stating that there is a policies and procedures manual in place that they are expected to adhere to.

Yosemite Alpine Community Services District**INVESTIGATION**

The 2020-2021 MCCGJ investigation found numerous areas of concern regarding the management of the Yosemite Alpine Community Services District (YACSD). The MCCGJ determined that YACSD needed to make difficult decisions to ensure a viable future for itself. The MCCGJ conducted a formal investigation which included interviews, background research, and a site visit.

ANALYSIS

Responses were received on time on 9/20/2021. The MCCGJ sent follow up requests to the District Attorney for clarification regarding a property owner vote on rate increases on 10/4/2021. An updated response was provided by the District Attorney on 11/3/2021. The County Auditor provided comments on 4/12/2022 following a follow up letter from the MCCGJ. The responses generally meet the requirements per Penal Code §933.05. Additional timelines for requesting support from the California State Auditor are required.

Findings	Response
F1. YACSD infrastructure is 50 years old and needs to be replaced. The quality of water the wells are producing was far less than what the district claimed.	F1. While the YACSD infrastructure will need replacing and/or remediation, the estimated life expectancy is 65-105 years according to the American Water Works Association (Stenstedt, 2019). The YACSD BOD has been discussing the depreciation of assets during the prior two budget cycles and continues to move towards definitive ways of undertaking capital improvement planning. The YACSD cannot respond to the allegation that the district wells were underproducing far less than what the district claimed as the source of this claim is undocumented in the MCCGJ report.
F2. Offers from SilverTip developers that included installing new wells and infrastructure to provide high quality water were rejected by the YACSD BOD.	F2. The YACSD BOD evaluated this offer and attempted to enter into discussions with the developer to move the YACSD wells to Forest Service land and was rebuffed. The YACSD water is pristine and requires no treatment. There is no question that the pristine quality of the water will be degraded by development. The amount of water that the development is projected to use in one month is as much or more than the YACSD uses in an entire year. There is no way that deeper wells placed by the developer will not impact water production by YACSD wells.
F3. The YASCD is understaffed.	F3. The YACSD BOD agrees that the decline of candidates meeting the residency requirements stipulated in its bylaws and willing to serve is an ongoing challenge.

Findings	Response
F4. There is a lack of transparency between the BOD and homeowners, specifically regarding the litigation and proposed settlements with SilverTip developers.	F4. The YACSD BOD disagrees. The MCCGJ has based this finding on allegations of unnamed individuals. To our knowledge, the MCCGJ has not solicited testimony from property owners in support of the YACSD BOD, making the finding unbalanced. Allegations are not automatically true.
F5. YACSD Directors have left the district saddled with a \$514,000 obligation to repurchase their aging water system from Umpqua Bank.	F5. The original loan amount was \$355,000. The YACSD BOD already authorized an additional payment of \$50,000 towards the principle, reducing the amount of interest owed. Securing water access is one of the Board's main functions. The use of the term "saddled" is inflammatory against the YACSD BOD. The YACSD BOD was only able to guarantee the rights for the YACSD to have future access to water through the court system, and that did require funding. It is important to remember that YACSD BOD members are also YACSD customers, subject to the same water rates and fees as everyone in the district. Board members themselves literally live with the decisions they make. The characterization that the YACSD "repurchased their aging water system" is false. The YACSD has maintained unbroken ownership of the water system. The YACSD entered into an Installment Purchase contract with Umpqua Bank. Repayment of the loan is by a pledge of future net revenues. The YACSD BOD agrees that the pipeline is closer to the end of its life than the beginning, but the YACSD water tanks are less than 5 years old.
F6. There have been numerous allegations of California Proposition 26, California Proposition 218, Government Code §1090, and Brown Act violations by YACSD BOD, especially in relation to the Conveyance Agreement and Installment Purchase Contract.	F6. The YACSD BOD disagrees with this finding, which the MCCGJ based upon anonymous allegations. The YACSD BOD provided the MCCGJ with the same documentation provided to the public concerning the legality and transparency of transactions.
F7. Ethics training is required every two years in accordance with AB1234. According to the YACSD website, all board members are overdue in attending this mandatory training.	F7. All board members are in compliance. See: https://yosemitealpinecsd.specialdistrict.org/mandatory-ethics-training-certificates
F8. For fiscal years 2018-2019 and 2019-2020, YACSD is the only entity within Mariposa on the State Controller's "Failure to File " list for Financial Transactions Report.	F8. This has been completed.

Findings	Response
F9. If built as planned, the SilverTip resort would have increased the number of overnight lodging and therefore, the County's Transient Occupancy Tax revenue.	F9. The finding implies that the YACSD BOD is responsible for the SilverTip project not proceeding as Mariposa County had hoped. This is perplexing as the conditional use permit was issued by the BOS in 2003. The SilverTip developer defaulted on a \$5.6 million dollar loan in 2010, declared bankruptcy, and the SilverTip property was put up for auction. The auction certainly slowed development. It also called into question the integrity of the developer to negotiate in good faith with the YACSD BOD. How is it remotely conceivable that this multi-million dollar corporation reached the point of insolvency because of a tiny CSD defending its water rights?

Findings	Response
F10. The EIR reports regarding water quality and quantity found SilverTip wells would be drawing water from a source isolated from YACSD wells. Likewise, according to analysis, treated effluent SilverTip would not contaminate YACSD wells.	F10. "The amount of water in the rocks surrounding a hard rock well is small. Groundwater levels and the well's yield can decline dramatically during the summers of dry years," (California Department of Water Resources [CDWR], 2011). "Hard rock wells require a source of recharge and a large quantity of water in storage," (CDWR, 2011). Drilling must be done at a very specific point in a major fracture zone containing plenty of water and water must be continually recharged. A neighboring well can interfere with one's well, depending on connections between rock fractures. Interference between neighboring wells is difficult or impossible to predict in advance (CDWR, 2011). On page 2 of its response, the Central Valley California Regional Water Quality Control Board notes that the map presented by the developer of effluent spray field areas "is not of the scale to definitively show the individual areas and was not intended to indicate that any of the wells on the property would be within the spray field areas." The responsibility of verification that the YACSD wells not be contaminated by effluent was deferred to a future Title 22 Use Area Management Plan. "Connection of the aquifers is deemed likely" (RWQCB, 2007). Degradation of the aquifer is assumed (RWQCB, 2007). Because of the lack of documentation concerning the construction of the YACSD wells, an adverse impact of treated effluent on those wells was "unlikely" (RWQCB, 2007 page 4, paragraph 4). Groundwater or surface water "should not be unreasonably degraded," (RWQCB 2007, page 13). In their statement of overriding considerations, the Mariposa BOS found that not all of the project's environmental impacts can be mitigated, but that the project will generate "substantial revenues" (2003 Attachment C). Environmental degradation is apparently acceptable when none of the persons with authority concerning the development plans for the SilverTip project will have to live with the degradation of their own drinking water.
F11. MCCGJ believes there have been Brown Act violations by the YACSD BOD.	F11. The YACSD BOD has adhered to the Brown Act. The MCCGJ report has not presented evidence of Brown Act violations.
F12. Comprehensive water testing has not been done since 2002.	F12. This is a misleading statement implying that the YACSD is out of compliance. The MCCGJ report itself affirms that the YACSD is in compliance with water testing regulations (2021, page 50, paragraph 3).

Findings	Response
F13. YACSD bylaws state that they do not follow the letter of the law.	F13. The YACSD bylaws were thoughtfully composed and reviewed by Counsel. Over the past 20 years at least 8 different persons have served on the BOD. Their lengths of service have varied. Some terms have overlapped and others have not. The notion that this variable group of persons crafted a document to be deceptive with an intent to violate laws is illogical.
F14. YACSD is so small they are unable to staff all positions as required by state law.	F14. The BOD will investigate contracting with a manager as part of the 2022-2023 and 2023-2024 budgeting process, which will be completed by June 30, 2022.
F15. The district's bookkeeping and confidential records are kept on a personal computer.	F15. Records have been backed up on a thumb drive. The BOD is investigating the purchase of cloud-based software on which to store records. A decision will be made at the regular scheduled BOD meeting on December 4, 2021. The purchase of a designated computer seems infeasible as there is no district office and records must be accessed by more than one person.
F16. The current District 5 Board Supervisor has never been invited to nor attended a YACSD BOD meeting.	F16. All YACSD BOD meetings are legally noticed. With the exception of legally noticed closed sessions, they have always been open to all members of the public. While it is not the responsibility of the YACSD BOD to assure that a member of the Mariposa County BOS attends properly noted YACSD BOD meetings, a specific invitation to the current supervisor has been given, including placing him on the YACSD email list so that he receives all communications sent to YACSD customers.

Recommendations	Response
R1. The MCCGJ recommends the State Auditor establish a high-risk local government agency audit in accordance with Government Code §8546.10. The County Auditor should determine the need for a state audit within 90 days of the publication of this report.	R1. The County Auditor reports Government Code §8546.10 does not grant any authority to the County Auditor to establish a high-risk local government agency audit program for the purpose of auditing a local government agency. This authority is granted to the California State Auditor. The County Auditor agrees with the recommendation of the MCCGJ that an audit by the State should take place. R2-R4. The DA is referring the matter to the Office of the California Attorney General - Special Prosecutions Unit.
R2. The MCCGJ recommends the District Attorney (DA) investigate allegations of Proposition 218 violations by YACSD BOD with regard to the Conveyance Agreement and Installment Purchase Contract within 90 days of the publication of this report.	
R3. The MCCGJ recommends the DA investigate allegations of Proposition 26 violations by the YACSD BOD involved in the Conveyance Agreement and Installment Purchase Contract within 90 days of publication of this report.	
R4. The MCCGJ recommends the DA investigate allegations of Brown Act violations by YACSD BOD serving between 2001 and 2018 within 90 days of the publication of this report.	
R5. The MCCGJ recommends AB1234 mandatory ethics training be completed by all YACSD BOD members within 90 days of publication of this report.	R5. All BOD members are in compliance.
R6. The MCCGJ recommends that the YACSD BOD review and revise the District's bylaws to improve the management actions and allow for more property owners to participate in the District's functions within 90 days of the publication of this report.	R6. The BOD will review and vote on a revision of the YACSD bylaws at its December 4, 2021 meeting to amend the language to state that registered voters of the YACSD may serve on the BOD.
R7. The MCCGJ recommends that the County Controller determine if the State Controller should appoint a qualified accountant to make an investigation and to obtain the information required in accordance with Government Code §12464 (a) within 90 days of the publication of this report.	R7. Government Code §12464(a) also references authority that the State Controller has to appoint a qualified accountant to make an investigation to obtain district reports not filed in a timely manner. The County Auditor agrees with the recommendation of the MCCGJ that the State Controller do this.

Recommendations	Response
R8. The MCCGJ recommends that all YACSD BOD members obtain a "Certificate in Special District Governance " within 180 days of the publication of this report.	R8. The BOS asserts that it is not financially feasible for the YACSD BOD to obtain this certificate. The required courses are offered at a conference that would cost the YACSD thousands of dollars to attend and pay registration fees. There are no other opportunities to take all of the required courses.
R9. The MCCGJ recommends district records be backed up digitally on an appropriate device, or in the cloud within 90 days of publication of this report.	R9. Records have been backed up on a thumb drive. The BOD is investigating the purchase of cloud-based software on which to store records. A decision will be made at the regular scheduled BOD meeting on December 4, 2021. The purchase of a designated computer seems infeasible as there is no District office and records must be accessed by more than one person.
R10. The MCCGJ recommends that YACSD BOD invite the District 5 Supervisor to their board meetings.	R10. While it is not the responsibility of the YACSD BOD to assure that a member of the Mariposa County BOS attends properly noted YACSD BOD meetings, a specific invitation to the current supervisor has been given, including placing him on the YACSD email list so that he receives all communications sent to YACSD customers.

Investigative Reports



Airport Advisory Committee: Board of Supervisors Meeting Discussion

SUMMARY

The 2021-2022 Mariposa County Civil Grand Jury (MCCGJ) investigated a complaint alleging that an Airport Advisory Committee (AAC) topic was placed on a 2021 Board of Supervisors (BOS) agenda without following proper procedure, including not giving suitable notice to the AAC. Additionally, the complainant was concerned the BOS discussion would address purported inappropriate conduct at past AAC board meetings, leading to unwarranted defamation of character of some AAC board members.

The MCCGJ conducted a formal investigation including background research, interviews, and review of emails and meeting minutes.

The MCCGJ found BOS staff followed the correct procedure in placing the AAC-related agenda item on the BOS meeting agenda. Additionally, the discussion of the item at the BOS meeting had to do with policy and procedures, not AAC board member conduct. There was no basis for the initial complaint.

Through interviews, the MCCGJ did find, however, that the BOS needs to follow County policy in addressing alleged inappropriate conduct complaints.

GLOSSARY

AAC	Airport Advisory Committee
BOS	Board of Supervisors
COB	Clerk of the Board
MCCGJ	Mariposa County Civil Grand Jury

BACKGROUND

Investigating whether or not the BOS is following its policy and procedure when it comes both to including items on BOS agendas and giving proper notice is in the grand jury's purview. The grand jury was also concerned about potential improper behavior at AAC meetings and the complainant's charge of defamation of character on the part of the BOS. The grand jury decided to investigate.

METHODOLOGY

The MCCGJ requested the Clerk of the Board (COB) provide information explaining the policy and procedure for creating an agenda item for a BOS meeting. The COB gave the MCCGJ a document called, "Agenda Item Tutorial," that provided an extensive explanation of the

preparation, type, and execution of an agenda item, giving the MCCGJ a thorough understanding of the process of generating an agenda item and its final inclusion on a BOS meeting agenda.

The MCCGJ interviewed the COB, specifically asking about the August 17, 2021, BOS Regular Meeting Agenda item “J. 3. Clerk of the Board of Supervisors-Discussion and Direction to Clarify the Airport Advisory Committee Purpose.”

The MCCGJ reviewed the memo from the COB to the BOS regarding AAC Discussion and Direction, “Recommendation and Justification,” included as an attachment in the August 17, 2021, BOS meeting packet. This memo highlighted one of the concerns mentioned in the complaint regarding committee discord. The memo also indicated a lack of follow up to issues related to the County Discrimination and Harassment Policy.

The MCCGJ studied a variety of additional documents, including BOS agendas, COB correspondence, committee correspondence, and items related to AAC history. The Mariposa County Resolution 93-387 regarding the formation of the AAC was helpful in understanding the origins and structure of the AAC, as was Mariposa County Ordinance No. 925 entitled, “Airport Rules and Regulations,” dated September 1997.

Finally, the MCCGJ examined the “Mariposa County Policy Against Discrimination and Harassment in the Workplace” document found on the County website as part of its investigation.

DISCUSSION

The MCCGJ began by investigating whether or not the August 17, 2021, BOS Regular Meeting Agenda item “J. 3. Clerk of the Board of Supervisors-Discussion and Direction to Clarify the Airport Advisory Committee Purpose” had been placed on the BOS agenda following policy and procedure. After speaking with the COB and reviewing the document entitled, “Agenda Item Tutorial” the COB provided, the MCCGJ concluded the item had been placed on the agenda appropriately.

The MCCGJ then looked into whether the AAC had been given sufficient notice of the BOS agenda item. The COB had attempted to notify the AAC committee chairperson of the item through an email sent on August 4, 2021. Unfortunately, that email wasn’t read by the AAC chairperson prior to the AAC’s own August 11, 2021 meeting. The AAC chairperson did, however, respond to the email after the meeting acknowledging that two supervisors had made an announcement about the BOS agenda item at the August 11, 2021 AAC meeting.

The MCCGJ also found a reference to the August 17, 2021 BOS agenda item in the minutes from an August 11, 2021 Mariposa County Republican Central Committee meeting. Both a Supervisor and a member of the AAC were at this meeting.

All of this information makes it apparent that the AAC was aware of the BOS agenda item prior to the August 17 meeting.

The grand jury also looked into whether or not the August 17, 2021, BOS Regular Meeting Agenda item “J. 3. Clerk of the Board of Supervisors-Discussion and Direction to Clarify the Airport Advisory Committee Purpose” had anything to do with AAC board member conduct.

In reviewing the memo from the COB to the BOS regarding AAC Discussion and Direction, “Recommendation and Justification,” the grand jury found it only alluded to the AAC environment and, more importantly, was an attempt to clarify the actual roles of committees in Mariposa County. From the minutes, it is clear the item included discussion of Title 19 of Mariposa County Code (Airport Operations). Direction was given to the COB to bring the item back, clarifying that the AAC’s purpose in considering airport operations is meant to be at the policy level and in connection with consideration of the Airport Master Plan. The BOS agenda item clearly had to do with a policy issue. It is not the MCCGJ’s purview to make suggestions about county policy.

While researching and conducting interviews, however, the MCCGJ did find that heated conflict and conduct at AAC meetings. Over several years, complaints from resigning AAC board members had been discussed verbally with county-level employees. The complaints of improper meeting conduct were shared with the COB who is a county manager. The COB confirmed the complaints of the resigning AAC members. The complaints were mentioned in the COB’s memo attached to the August 17, 2021 BOS meeting packet. The memo and our interviews indicate there was no follow up to these verbal complaints. The memo written by the COB confirms that the complaints had not been addressed by County staff to date.

According to the “Mariposa County Policy Against Discrimination and Harassment in the Workplace” policy, “Any supervisor or manager who receives a complaint of harassment has a duty to follow this policy... Upon receipt of a complaint, the County will conduct a timely investigation to determine the facts and to identify any appropriate corrective action.” It is not clear from the interviews if a formal complaint was filed with a supervisor or manager within one year of the alleged harassment incident(s).

The MCCGJ commends the COB who was extremely helpful in providing material in the form of pertinent email correspondence, tutorials, and explanations to all MCCGJ questions.

FINDINGS

- F1. The August 17, 2021, BOS Regular Meeting Agenda item “J. 3. Clerk of the Board of Supervisors-Discussion and Direction to Clarify the Airport Advisory Committee Purpose,” was put on the BOS agenda following policy and procedure.
- F2. In regards to this agenda item, the COB made a good faith attempt to inform the AAC chairperson prior to the BOS meeting.
- F3. Supervisors informed the AAC board of the BOS agenda item at an AAC meeting prior to the BOS meeting.
- F4. COB and county staff members were aware of the allegations of misconduct at AAC board meetings, but did not take timely action to investigate.

RECOMMENDATIONS

- R1. The County should follow the “Mariposa County Policy Against Discrimination and Harassment in the Workplace” policy when made aware of the type of allegations noted in the memo from the COB to the BOS included as an attachment to the AAC agenda item in the August 17, 2021, BOS meeting packet.
- R2. County employees and agencies should be made aware that they must file formal written complaints with a County staff supervisor or manager per the “Mariposa County Policy Against Discrimination and Harassment in the Workplace” policy in order to have the issues addressed in a timely manner.

REQUIRED RESPONSES

The following governing boards are required to respond within 90 days pursuant to Penal Code sections §933 and §933.05:

- Mariposa County Board of Supervisors F4, R1, R2
- Airport Advisory Committee F1, F2, F3, F4, R1, R2

Per Penal Code 933.05 (a)(1) and (2), responses must include acceptance, refutation, and/or clarification of the findings. Per PC 933.5 (b) (1) (2) (3) and (4) a commitment to implementing the recommendations, as appropriate.

The following appointed official is invited to respond within 60 days:

- Clerk of the Board F4, R1, R2

Reports issued by the Grand Jury do not identify individuals interviewed. Penal Code section 929 requires that reports of the Grand Jury not contain the name of any person or facts leading to the identity of any person who provides information to the Grand Jury.

County Process for Contracting Outside Services: Coulterville Visitor Center Operations

SUMMARY

The 2021-2022 Mariposa County Civil Grand Jury (MCCGJ) received a complaint claiming that when the County had posted a Request for Proposals (RFP) for the Coulterville Visitor Center Operations service in 2020, the County had been biased in its choice of vendor. Further, when the County chose to renew the contract in 2021 rather than opening a new RFP process, the County unfairly excluded interested parties from bidding and showed favoritism to certain individuals.

Upon examination, the MCCGJ found the Board of Supervisors (BOS) had approved the contract for the Coulterville Visitor Center Operations based on the recommendation of an RFP review panel. There may have been an appearance of conflict of interest, but no policy guidelines were broken.

The County's Chief Administrative Officer (CAO) had acted within his authority regarding the contract renewal. There was no evidence of improprieties in the decision to continue the agreement.

In the course of the investigation, however, the MCCGJ found that the County does not have a set of uniform policies and procedures for contracting outside services across County departments. This is in violation of County code. It also causes some in the community to mistrust both the process and the people making the decisions.

The MCCGJ believes the County's development of a standard set of policies and procedures for contracting outside services, in the form of a Procedures Manual, to be used across all County departments will meet the code guideline. It will also clarify the process both to employees and potential contractors. This will lead to greater trust in County government.

GLOSSARY

BOS	Board of Supervisors
CAO	Chief Administrative Officer
MCCGJ	Mariposa County Civil Grand Jury
RFP	Request for Proposal

BACKGROUND

Mariposa County develops Requests for Proposals (RFPs) for soliciting goods or services from outside contractors. These documents announce the business opportunity to qualified contractors. RFPs are posted on the County's website ([Bid Postings • Mariposa County • CivicEngage](#)). Resulting bid proposals are evaluated per the specific requirements of the project and qualifications of the bidder, as well as the best value for the use of County funds..

In 2020, the County posted an RFP for contractor services for Coulterville Visitor Center Operations. The County selected the Coulterville Cafe and General Store to operate the Coulterville Visitor Center from January 2021 to October 2021. The Chief Administrative Officer (CAO) renewed the contract through 2022.

The MCCGJ received a complaint claiming the County had shown bias and favoritism in its choice of vendor in 2020. The complaint also alleged that the process for renewing the contract in October 2021 unfairly favored the Coulterville Cafe and General Store. The complainant noted that an RFP would have opened the competitive bid process to other interested parties.

The accusation that the County had not followed its policies and procedures is in the purview of the civil grand jury. The MCCGJ decided to investigate.

METHODOLOGY

The MCCGJ conducted an investigation which included background research, interviews, and site visits. County officials made presentations to the MCCGJ that provided insight and direction for this investigation.

The MCCGJ completed the following as part of its investigation:

- Reviewed RFPs from a variety of County departments to compare their different approaches to the process. The RFPs included:
 - Coulterville Visitor Center Operations
 - Enterprise Resource Planning System Replacement Consultants
 - Visitor Center Management Services in Mariposa
- Reviewed applications for a construction project bid for Hornitos Road.
- Reviewed the following BOS documents related to the Coulterville Visitors Center:
 - Resolution Recommendation and Justification (BOS Meeting 10/27/2020),
 - Action Summary Minutes (BOS Meeting 10/27/2020)
 - Contracts
 - [Mariposa County Purchasing Code Chapter 3.08](#).
- Reviewed bids submitted by potential contractors for the Coulterville Visitors Center, comparing them and noting the differences.
- Visited the Coulterville Visitor Center and spoke with local businesses and citizens.
- Researched local newspaper articles related to the Coulterville Visitors Center bid packet.
- The MCCGJ reviewed emails and correspondence between County officials and competitive bidders related to Coulterville Visitor Center Operations.
- Corresponded directly with County officials and bidders.

DISCUSSION

A visitor center has been operating in Coulterville since October 14, 2014. The original contract was awarded by the County to Sara Zahn following a competitive bid process (Resolution 14-531). The name on the contract was later changed to the Jeffrey Hotel Incorporated (Resolution I 4-617, December 2, 2014). The contract was renewed annually through 2016 in accordance with Mariposa County Purchasing Code Chapter 3.08, Section 3.08.090:

All requests by a using agency for contractual services require a written contract. The purchasing agent shall have authority to approve contracts for services not exceeding a term of one year. The board of supervisors may negotiate contracts for any services as it determines is necessary. (Purchasing Code 3.08.090)

The code also establishes the CAO as the purchasing agent.

In 2016, the contract with Jeffrey Hotel Incorporated was terminated prior to the original ending date and a new contract was established with Nina Mimnaugh on April 1, 2017, continuing through June 30, 2017. The operational cost was \$6,650.

The County renewed the contract for Coulterville Visitor Center Operations with Ms. Mimnaugh each year through 2020. The contract for the period of July 1, 2019 through June 30, 2020 was approved at an operational cost of \$27,000. The contract was terminated prior to completion.

On September 22, 2020, the County issued an RFP for Coulterville Visitor Center Operations. Four bids were received and evaluated by a three-person panel consisting of the CAO and two members of the BOS. The full BOS approved the panel's recommendation at a weekly meeting. The County issued a contract for the operation of the Visitor Center by the Coulterville Cafe and General Store from November 1, 2020 through October 31, 2021. Operational costs were \$23,400. The County renewed the contract for the period of November 1, 2021 through October 31, 2022. Operational cost was set at \$25,670.

The MCCGJ concluded there was no basis for the second part of the complainant's allegation that the County had not issued an RFP and opened the bidding process for this service. Per purchasing Code 3.08.090, the County and CAO followed County policy and procedure when renewing the Coulterville Visitor Center Operations contract for an additional year.

The complainant had also claimed that the three person panel used to evaluate the RFPs in 2020 included members with personal ties and vested interest in certain bidders. The MCCGJ could find no proof of this.

The MCCGJ did find, however, through a County official's presentation to the grand jury, a search through the County website, and email correspondence with County staff that the County lacks a set of policies and procedures for the competitive bid process that is consistent across departments. Currently, the County allows each department to exercise discretion in the following:

- which contracted services need to go through a bid process;

- the makeup of the RFP review panel;
- criteria used to analyze RFPs.

This has created a credibility problem for the County when it comes to public perception of its RFP and contracting processes.

Moreover, according to Mariposa County Purchasing Code Chapter 3.08, Section 3.08.040 (C): “The purchasing agent shall establish policies and procedures to be used by all county departments. (Ord. 1124 Sec.I, 2017).”

Through presentations and interviews, the MCCGJ is aware that the CAO is working on remedying this, but the jury is unaware of a timeline for completion.

The MCCGJ suggests that the County needs to adopt a consistent set of guidelines used across all departments that is transparent in the processes involved, including a fair method of creating an RFP review panel and the criteria for final selection. The jury believes this will ensure a fair RFP and contracting process, encourage more participation by potential outside contractors, and increase citizen’s trust in County government.

Finally, as part of this investigation, the MCCGJ visited the Coulterville Visitor Center Operations in the Coulterville Cafe and General Store. It was a positive experience. Ample tourist information was available and the Visitor Center was operating within the guidelines of its agreement with the County.

FINDINGS

- F1. When it comes to contracts for outside services, the County does not have a set of policies and procedures used by all County departments. This is in violation of County Purchasing Code Chapter 3.08, Section 3.08.040 (C).
- F2. In 2021, the CAO used his authority as purchasing agent to renew the Coulterville Visitors Center Operations contract.

RECOMMENDATIONS

- R1. The CAO should develop a set of policies and procedures for contracting outside services to be used by all County departments, consolidating them into a manual within 90 days.

REQUEST FOR RESPONSES

The following governing boards are required to respond within 90 days pursuant to Penal Code sections §933 and §933.05:

- Board Of Supervisors F1, F2, R1

Per Penal Code 933.05 (a)(1) and (2), responses must include acceptance, refutation, and/or clarification of the findings. Per PC 933.5 (b) (1) (2) (3) and (4) a commitment to implementing the recommendations, as appropriate.

INVITED RESPONSES

The following appointed official is invited to respond within 60 days:

- Chief Administrative Officer FI, F2, R1

Reports issued by the Grand Jury do not identify individuals interviewed. Penal Code section 929 requires that reports of the Grand Jury not contain the name of any person or facts leading to the identity of any person who provides information to the Grand Jury.

County Cemetery Operations

SUMMARY

The MCCGJ received a complaint indicating that the family wanted to inter their deceased loved one in the Mariposa Town Cemetery but faced a number of obstacles. The obstacles included initial difficulty in finding information about the interment process and, soon after, receiving incorrect information from a Public Works employee. The interment process for their loved one took over a year and ultimately ended in the family interring their loved one's remains in an Oakhurst cemetery.

The MCCGJ investigation confirmed there are issues with the County's process of communicating with Mariposa County residents about interment in one of the three county cemeteries: Coulterville, Catheys Valley, and Mariposa Town.

Further, while the County should have three cemetery committees, only two are currently active.

The MCCGJ uncovered additional issues with all three County cemeteries involving inconsistent upkeep and a lack of guidelines for employees to follow when processing citizens' burial requests.

This grand jury report outlines all the issues uncovered as the result of our investigation and offers recommendations for the County to rectify the situation.

GLOSSARY

CDCR	California Department of Corrections and Rehabilitation
BOS	Mariposa County Board of Supervisors
MCCGJ	Mariposa County Civil Grand Jury
Public Works	Mariposa County Public Works Department
Mt Bullion CC39	Mount Bullion Conservation Camp #39
Parks and Recreation	Parks and Recreation Division

BACKGROUND

Mariposa County is responsible for three county cemeteries: Coulterville, Catheys Valley, and Mariposa Town. These cemeteries are managed by cemetery committees appointed by the County Supervisor representing their respective district.

Cemetery committee members are appointed for three-year terms. The committees maintain records, site maps, and are responsible for providing the Parks and Recreation division of the Mariposa County Public Works Department with plot locations and completed burial form.

Each cemetery committee has a set of requirements for eligibility for interment and plot allocation. Burials require forms which include plot number, name, date of death, date of burial,

and place of burial and cremains interred in the public cemetery. Parks and Recreation processes the forms and maintains a database for each public cemetery.

Public Works contracts with Mount Bullion Conservation Camp #39, California Department of Corrections and Rehabilitation, to trim weeds and clean up the County cemeteries before Memorial Day each year. Public Works responds to emergency requests from the cemetery committees for services such as removing a tree that falls on a fence or headstone.

The MCCGJ received a complaint from a local family member of a deceased loved one detailing difficulties faced in trying to navigate the process of securing a burial plot in the Mariposa Town Cemetery with various Mariposa County department personnel. The process took over a year and ultimately ended in having the family interring the remains in an Oakhurst cemetery. The complaint raised questions regarding County processes for securing a burial site that the MCCGJ felt it should investigate.

METHODOLOGY

The MCCGJ investigation included:

- Interviews with
 - the Director of Public Works;
 - Parks and Recreation Supervisor.
- Email correspondence with Catheys Valley Cemetery Committee and Coulterville Cemetery Committee forepersons
- Reviewing
 - County resolution establishing the cemeteries;
 - Mariposa County Ordinance No. 1012, Sections I, 8.48.040, 8.48.050, 8.48.060, 8.48.070 outlining cemetery regulations;
 - Mariposa County Interment Form.
- Visiting the Mariposa Town Cemetery.
- Contacting the Ivers and Alcorn Funeral Home in Mariposa regarding Mariposa County burial options information given to family members.

DISCUSSION

The MCCGJ received a complaint that indicated that the family of a local deceased person wanted to inter their loved one in the Mariposa Town Cemetery. They faced a number of obstacles including initial difficulty in finding accurate and readily available information. The MCCGJ investigation uncovered additional issues with all three County cemeteries involving inconsistent upkeep and a lack of guidelines for employees to follow when processing citizens' burial requests.

Lack of Information

The complainant faced difficulty in finding information regarding interment at the Mariposa Town Cemetery.

The MCCGJ investigation found that public information regarding the three Mariposa County cemeteries is not readily available or easy to find. In looking through the Mariposa County website, the jury found the term “cemetery” does not show up on any of the website pull-down menus. Additionally, under the Government/Boards & Committees section of the County website menu, the cemetery committees are not listed. Finally, looking at various Department and Division pages on the website, “Cemetery” is not listed anywhere. Simply looking through the County website, information about the three County cemeteries cannot be found.

The MCCGJ then conducted a direct search of the term “cemeteries” on the Mariposa County webpage. This brought up a number of links including one to a page listing the three cemeteries. On this page, cemeteries fall under the Parks and Recreation division of the Public Works Department. However, this web page fails to mention the cemetery committees. Instead, it simply directs people to call the Parks and Recreation office for additional information. We found through our own experience, however, that it is difficult to reach anyone in the Parks and Recreation office on the phone.

It would help the citizens of Mariposa County if the County would place links to cemeteries and cemetery committees in the appropriate places on its website. It would also be helpful for the County to provide information about the interment process directly on the website rather than requiring the public to make phone calls to Parks and Recreation.

Non-functioning Committee and Incorrect Information

The complainant received incorrect information regarding interment in the Mariposa Town Cemetery. The complainant spoke to a staff member at Public Works and was told there were no plots available. The complainant therefore looked into securing a spot in an Oakhurst cemetery. The complainant next spoke to a Public Works staff member about receiving financial assistance for the out-of-county interment. This Public Works staff member, a different person from the original contact, surveyed the Mariposa Town Cemetery and found a number of plots available, approximately 25, in an area that needed to be cleared of brush. The MCCGJ’s investigation points to a number of issues that need to be addressed.

1. The BOS needs to reactivate the Mariposa Town Cemetery Committee.

From our research, the MCCGJ knows there is supposed to be a committee for each of the three County-managed cemeteries.

The MCCGJ communicated with both the Catheys Valley and Coulterville Cemetery Committees. We found these committees are true leaders in voluntarily serving their communities providing the emotionally difficult service of helping community members through the burial process. The MCCGJ was truly impressed with the pride and diligence they bring to their work.

Multiple interviewees, on the other hand, confirmed the Mariposa Town Cemetery Committee is not active at this time. Instead, Parks and Recreation staff, and at times Public Works staff,

handle all requests for burial in the Mariposa Town Cemetery. The lack of a functioning Mariposa Town Cemetery Committee contributes to poor communication, misinformation, and a lack of clarity surrounding the burial process in town. The MCCGJ urges the BOS to recruit and fill missing committee positions and reactivate the Mariposa Town Cemetery Committee.

2. Public Works and Parks and Recreation need a set of guidelines for handling interment requests.

The complainant spoke with multiple Public Works staff members and was given different information from each. To fix this problem, the County should develop a set of guidelines that all staff members, no matter their department or division, use when speaking to and following up with members of the community regarding the interment process. The guidelines might include identifying a point of contact in Parks and Recreation or the cemetery committee for fielding community requests regarding interment. Guidelines might also include a process for Parks and Recreation staff to check for available gravesites when none seem to be available.

In addition, as part of our investigation, the MCCGJ called the local mortuary, Ivers and Alcorn Funeral Home, and asked if burial plots are available in the Mariposa Town Cemetery. The jury members were told there are no available plots. This incorrect information leads to another item that could be addressed with a set of cemetery guidelines: when more plots become available in a cemetery, a staff or committee position could be designated to inform the local mortuary.

Cemetery Maintenance Issues

In speaking with the Public Works Director, the MCCGJ learned that the land for the County cemeteries was donated years ago and no funds came with the donated lands for upkeep.

In corresponding with the Coulterville and Catheys Valley Cemetery Committees, the MCCGJ learned that the annual cemetery upkeep performed by Mt Bullion CC39 is not enough. Additionally, cemetery committees' requests for assistance and maintenance are not always responded to in a prompt manner.

The MCCGJ recommends Parks and Recreation staff work with current cemetery committee members to address annual upkeep and maintenance needs and, until the Mariposa Town Cemetery Committee is back up and running, staff should assess the needs at the Mariposa Town Cemetery.

The MCCGJ urges the BOS to increase the budget line item for the three cemeteries to adequately cover upkeep and maintenance.

Conclusion

The MCCGJ's investigation found a number of items the County needs to address regarding the three cemeteries it manages. These items are listed in the Findings section with suggested solutions listed in the Recommendations section.

FINDINGS

- F1. Information about Mariposa County cemeteries, cemetery committees, and the interment process is difficult to find and is very limited.
- F2. There is no active Mariposa Town Cemetery Committee to effectively manage public requests for interment.
- F3. The County does not have a set of guidelines for County staff to use to respond to public inquiries regarding interment at its three cemeteries, leading to the public sometimes receiving erroneous information.
- F4. The upkeep of the three County cemeteries is insufficient.

RECOMMENDATIONS

- R1. The Board of Supervisors should direct staff to add links to, and information about, Mariposa County cemeteries, cemetery committees, and the interment process to the County website within the next three months.
- R2. The Board of Supervisors should re-establish a cemetery committee for the Mariposa Town Cemetery within the next six months.
- R3. The County should work with the cemetery committees to develop a set of guidelines for staff and committees to use to respond to public inquiries regarding interment at its three cemeteries within the next six months.
- R4. The BOS should direct the Parks and Recreation staff to work with current cemetery committee members to develop a plan for regular upkeep and maintenance needs and, until the Mariposa Town Cemetery Committee is back up and running, staff should assess the needs at the Mariposa Town Cemetery. The BOS should work with staff to determine an adequate budget for cemeteries to cover upkeep and maintenance for the 2024 budget.

REQUEST FOR RESPONSES

The following governing boards are required to respond within 90 days pursuant to Penal Code sections §933 and §933.05:

- Mariposa County Board of Supervisors F1, F2, F3, F4, R1, R2, R3, R4

Per Penal Code 933.05 (a)(1) and (2), responses must include acceptance, refutation, and/or clarification of the findings. Per PC 933.5 (b) (1) (2) (3) and (4) a commitment to implementing the recommendations, as appropriate.

INVITED RESPONSES

The following appointed official is invited to respond within the next 60 days.

- Director of Public Works Department F1, F2, F3, F4, R1, R2, R3, R4

Reports issued by the Grand Jury do not identify individuals interviewed. Penal Code section 929 requires that reports of the Grand Jury not contain the name of any person or facts leading to the identity of any person who provides information to the Grand Jury.

John C. Fremont Healthcare District Board Meeting Violations

SUMMARY

The Mariposa County Civil Grand Jury (MCCGJ) received a complaint regarding improperly worded agendas and improper actions at John C. Fremont Healthcare District (JCF) board meetings.

The MCCGJ investigated and found that, indeed, there are multiple instances of the JCF board not adhering to the Ralph M. Brown Act, Health and Safety Code §3200-32499.4, and Government Code §54956.87 requirements when it comes to wording of closed session agenda items and actions at board meetings. Details are found in the Discussion section of this report.

Insufficient adherence to government code potentially exposes JCF to liability. Furthermore, the public is not being properly informed of the operations and decisions within this special district.

At the end of its investigative process, the MCCGJ concluded the errors were not done maliciously or with intent to harm. Nevertheless, these errors must be addressed by the JCF board. The MCCGJ believes the first steps towards reaching compliance is to have all board members and appropriate administrative staff trained on the relevant codes and to develop a specific schedule for training and retraining. Acting in compliance with government code will lead to increased public knowledge about, collaboration with, and trust in, JCF.

This report includes a number of recommendations detailing ways JCF should cure itself from making future similar errors.

GLOSSARY

ACHD	Association of California Health Care Districts
Brown Act	Ralph M. Brown Act
CEO	Chief Executive Officer
COB	Clerk of the Board
GC	California Government Code
HSC	California Health and Safety Code
JCF	John C. Fremont Healthcare District
MCCGJ	Mariposa County Civil Grand Jury

BACKGROUND

Established in 1947 by a vote of citizens in Mariposa County, JCF is a special district, meaning it is an agency of the state “for the local performance of governmental or proprietary functions within limited boundaries” (GC §16271(d)). JCF has been serving Mariposa County, parts of Madera County (Ahwahnee, Nippinawassie, & Oakhurst), Yosemite National Park, Fish Camp, Coulterville, Greeley Hill, and Lake Don Pedro with healthcare services since 1951.

As a special district, JCF is a form of government and is governed by a board of directors. It is accountable to both the voters who elect its board of directors and customers who use its services.

JCF must follow state laws as they pertain to local governments, including key transparency laws like the Ralph M. Brown Act (GC §54950). As a hospital, it must follow California Health and Safety Code as specified in HSC §3200-32499.4. JCF must also follow California Government Code 54956.87 which covers governing boards of health plans. These laws guarantee the public's right to attend and participate in meetings with only very specific exceptions.

Since the issues of the complaint received by the MCCGJ fell within its purview, the jury decided to investigate.

METHODOLOGY

The MCCGJ used a number of techniques to investigate the merits of the claim, including:

- Studying relevant sections of the Brown Act, Health and Safety Code, California Government Code §54956.87, and the Brown Act Pamphlet published by the California Attorney General's Office
- Consulting with legal counsel
- Interviewing JCF board members and staff
- Reading JCF's Bylaws

DISCUSSION

Based on its investigation, the MCCGJ found a number of instances in which the JCF board did not comply with Brown Act, Health and Safety Code §3200-32499.4, or Government Code §54956.87 requirements when it comes to wording of closed session agenda items and actions at board meetings.

Inadequate Wording and Missing Code References in Closed Session Agenda Items

Both the Brown Act Pamphlet published by California Attorney General's office and the MCCGJ's legal counsel recommend public agencies follow GC §54954.5's "fill-in-the-blank" approach to wording closed session agenda items. The GC template provides JCF with safe harbor from liability and also ensures the public is properly informed, avoiding confusion and the agency's exposure to liability. According to the MCCGJ's legal counsel, this methodology also should be followed in regards to Health and Safety Code for the same reasons.

The MCCGJ examined a sampling of JCF's agendas and minutes and found these inadequacies:

1. On its November 17 and December 15, 2021 agendas, JCF includes a closed session agenda item written as follows:

"Trade Secrets - 4 (Government Code 54956.87)."

The wording does not provide sufficient information regarding the topic, discussion, or follow up. It should be written:

"Report Involving Trade Secrets (Gov. Code section 54956.87)." The item should further indicate "Discussion will concern: [specify whether new service, program, or facility].

Estimated date of public disclosure: [Specify month and year]"

This wording improves transparency. California Government Code §54956.87 requires that at the start of open session, the board should give a brief general description of any action taken, withholding the information that constitutes the trade secret.

2. On the December 15 JCF agenda, the closed session item is written:

"Quality Management monthly report. (Health and Safety Code 32155), Kristen Fournier, RN."

However, Health and Safety Code §32155 states:

Board of directors may order the *hearing* [our emphasis] pursuant to this article, and hearings on the reports of the hospital medical audit or quality assurance committees, be held in private or executive session, provided, that an applicant or medical staff member whose staff privileges are a direct subject of a hearing may request a public hearing. Deliberations of the board of directors in connection with matters pertaining to this article may be held in executive session. (HSC §32155)

Therefore, the proper wording of this item is:

"Hearing: Quality Management, Kristen Fournier, RN, Director of Quality (Health and Safety Code section 32155)"

Likewise, the next item on this agenda is written as:

"Medical Staff report to the board by attending providers" [note: code reference is missing]

Instead, it should be written as:

"Hearing: Medical Staff (Health and Safety Code section 32155)"

According to MCCGJ legal counsel, a hearing is a general discussion of an item. The board should list these items as hearings and then summarize what they can of the reports in public session.

3. Similarly, but with an additional error, on the November 17, 2021 agenda, a closed session item is written:

"On recommendation from the Medical Executive Committee, the following were granted appointment privileges:..."

This makes it seem that the item has already been decided. This should not be the case as this is for the board to decide. Instead, the item should be written:

"Hearing: Medical Staff Privileges (HSC section 32150)."

This wording indicates the privileges are being considered by the board. After the closed session, a JCF board member should then report that the privileges were or were not granted.

While the MCCGJ found additional closed session agenda items written inadequately to ensure transparency to the public and avoid confusion, the examples noted here provide enough evidence that the JCF board and administration needs to more closely study and implement the Brown Act, California Health and Safety Code §3200-32499.4, and California Government Code §54956.87 when it comes to developing closed session agendas.

Improper Wording and Action Regarding Potential Litigation

In addition to improper wording, the MCCGJ found multiple instances where the JCF board both listed litigation improperly on agendas and also did not follow government code in closed session.

Per the Brown Act Pamphlet published by the California Attorney General's Office:

Pursuant to section 54956.9, a closed session may be conducted in order to permit an agency to receive advice from its legal counsel. When the impetus for such a closed session is the agency's exposure to potential litigation, the Act carefully regulates the circumstances under which a closed session may be called, and the types of announcement which must accompany such a meeting. (§54946.9(b)(3))

An example of an instance where this guidance was not followed is on the November 17, 2021 agenda. It is inadequate to state:

"Significant exposure to anticipated litigation - 3 potential cases (Government Code 54956.9 (b))"

Instead, the closed session agenda item should specify:

"Conference with Legal Counsel - Anticipated Litigation. Significant exposure to litigation pursuant to paragraph (2) or (3) of subdivision 54956.9 [specify number of potential cases]"

Additionally, the MCCGJ interviewed multiple people present at JCF closed sessions where potential litigation was an item of discussion. They indicated that legal counsel was not present during these discussions. One indicated this has been the case for a few years. Another

interviewee noted that legal counsel is always consulted before meetings. Through its investigation, however, the MCCGJ found that consulting with legal counsel prior to meetings is not sufficient.

According to the Brown Act and confirmed by MCCGJ legal counsel, for all closed session agenda items related to anticipated litigation, JCF's legal counsel must be present, otherwise, the JCF board should not be having closed session discussions about these items.

Potential Lack of Necessary Disclosure Regarding Litigation

Multiple interviewees indicated that JCF has settled litigation in the past five years. There was discrepancy, however, in answering whether or not the JCF board had made the necessary report of the action to the public during open session. Therefore, the MCCGJ reminds JCF of the following:

In the case of a contract or settlement of a lawsuit, copies of the document also must be disclosed as soon as possible (§ 54957.1(b) and (c)). If final action is contingent upon another party, the legislative body is under no obligation to release a report about the closed session. Once the other party has acted, making the decision final, the legislative body is under an obligation to respond to inquiries for information by providing a report of the action ((§ 54957.1(a)). (Brown Act Pamphlet, page 24)

The guidance provided in the Brown Act Pamphlet published by the Secretary of State's office continues to say:

With respect to litigation, approval given to the body's legal counsel to defend, to seek or refrain from seeking appellate review, or to appear as amicus curiae in any case resulting from a closed session meeting held pursuant to section 54956.9 shall be reported in open session ((§ 54957.1(a)(2)). The report shall identify the adverse parties and the substance of the litigation. Where the body had decided to initiate litigation or intervene in an existing case, the report shall indicate that fact but need not identify the action, the parties, or the particulars. The report shall specify that once the litigation or intervention has been formally commenced, the body must, upon inquiry, disclose such information, unless to do so would jeopardize service of process or existing negotiations. ((§ 54957.1(a)(2)) (Brown Act Pamphlet, page 24)

This source includes additional Brown Act information regarding litigation and potential litigation that may be relevant to JCF. The MCCGJ suggests the JCF board and administration review this document in its entirety and receive training on this as well as all other aspects of the Brown Act.

In addition, MCCGJ legal counsel noted that board agendas usually specify litigation or potential litigation; it is rare for wording that specifies what litigation or potential litigation is about to put the board at a disadvantage. The MCCGJ notes that including as much information as possible about litigation or potential litigation is necessary to ensure the public's right to know per the Brown Act.

Improper Discussion in Closed Session of an Open Session Item

The November 17, 2021 agenda includes the following item in open session under Discussion/Action:

A. Request for Registered Nurse Union Recognition, [...], presenter

The minutes for this meeting note that the Board Chair thanked the presenters for their time and for sharing and announced that the Board would take no action on this item. There is no indication of a discussion by the board before the Chair made this announcement. The MCCGJ's interviews indicate that the minutes are accurate; this exchange happened just as reported. One interviewee who was present during closed session noted that a discussion occurred during closed session.

It's clear from the Chair's announcement without discussion as well as from interview accounts that there was improper board discussion of the item during closed session. There is no indication that this item meets criteria for a closed session discussion. It should have been discussed in open session.

Responsibility for Agenda and Minute Wording

The JCF Bylaws state, "Administration is responsible for doing a professional job of preparing the agendas and minutes as directed by the board."

MCCGJ interviews indicate that the Administrative Assistant to the Chief Executive Officer (CEO) who also acts as the Clerk of the Board (COB) has been given the responsibility of drafting the agendas and the board minutes. However, according to the COB, the COB has never had Brown Act or Health and Safety Code training.

Since early 2022, the Board Chair, Board Secretary/Treasurer, and Chief Operating Officer have begun to meet with the COB to discuss the agenda prior to meetings. MCCGJ interviews indicate this has not led to any changes in how the agenda is put together or in the wording of agenda items.

The MCCGJ points out that as elected officials of the people of Mariposa County, it is ultimately the board's responsibility to ensure that staff receive the training it needs to carry out the functions assigned to them. The MCCGJ also notes that the board is ultimately responsible for drafting agendas with adequate detail and references.

Government Code Training

MCCGJ interviews indicated that board members and the CEO have the opportunity to receive Brown Act training through the Association of California Health Care Districts (ACHD). Some have done so if they wanted to and had the time; it is not required. Some interviewees specified that though they are not necessarily trained on the Brown Act, board members do recommit to it annually.

The current MCCGJ notes that the 2015-2016 MCCGJ Final Report included findings regarding JCF violations to the Brown Act. Because this has come up in the recent past, the current MCCGJ recognizes this as a recurring problem.

The MCCGJ recommends a first step is to have all board members and appropriate administrative staff trained not only on the Brown Act and to repeat the training on a specified regular schedule.

Conclusion

The MCCGJ has found multiple instances of the JCF board not adhering to Brown Act, Health and Safety Code §3200-32499.4, and GC §54956.87 requirements when it comes to wording of closed session agenda items and actions at board meetings. This potentially exposes JCF to liability. The public is not being properly informed regarding operations and decisions made by this special district. At the end of the interviewing process, the MCCGJ concluded the errors were not done maliciously or with intent to harm. Nevertheless, these violations need to be addressed. The MCCGJ believes doing so would be relatively easy and will lead to increased public knowledge about and trust in JCF.

FINDINGS

- F1. The JCF board does not always comply with the Brown Act, California Health and Safety Code §3200-32499.4, and California Government Code §54956.87 regarding the wording of closed session agenda items and actions at board meetings.
- F2. The JCF Board does not have a lawyer present during closed session litigation or potential litigation discussions.
- F3. Regarding a November 2021 agenda item about the request for registered nurse union recognition, there was improper board discussion of this item during closed session.
- F4. The JCF bylaws state that the agenda and minutes are the responsibility of Administration and yet neither the CEO nor the COB have had Brown Act, Health and Safety Code §3200-32499.4, and GC §54956.87 training.
- F5. The JCF board members are not required to attend Brown Act training. While some have received this training, none retrain on a regular basis.

RECOMMENDATIONS

- R1. The JCF board must follow Brown Act, Health and Safety Code §3200-32499.4, and GC §54956.87 requirements. One way to ensure this would be to use the GC templates.
- R2. JCF's legal counsel must be present for all closed session items regarding litigation.

- R3. The JCF Board must ensure it is only discussing items in closed session that fall under the purview of closed session and are properly noticed.
- R4. The JCF Board should ensure staff drafting meeting agendas and minutes have the training they need to carry out that job function.
- R5. The JCF Board should schedule Brown Act training on a regular timeframe.

REQUEST FOR RESPONSES

Pursuant to Penal Code sections 933 and 933.05, responses are required from governing bodies within 90 days:

- John C. Fremont Healthcare District Board of Directors F1, F2, F3, F4, F5
R1, R2, R3, R4, R5

Per Penal Code 933.05 (a)(1) and (2), responses must include acceptance, refusal, and/or clarification of the findings. Per PC 933.5 (b) (1) (2) (3) and (4) a commitment to implementing the recommendations, as appropriate.

INVITED RESPONSES

The John C. Fremont Healthcare District Chief Executive Officer is invited to respond within 60 days.

Reports issued by the Grand Jury do not identify individuals interviewed. Penal Code section 929 requires that reports of the Grand Jury not contain the name of any person or facts leading to the identity of any person who provides information to the Grand Jury.

Mariposa County Unified School District Board Member Conflict of Interest

SUMMARY

The Mariposa County Civil Grand Jury (MCCGJ) received a complaint regarding alleged conflict of interest among the Mariposa County Unified School District (MCUSD) Board. The complainant noted that a school board member made a motion and voted on the subject even though he had a relative who was directly impacted by the issue and its resolution. The complainant states that the motion and vote appeared to benefit the board member's relative. The motion involved covid testing for all teachers regardless of vaccination status. The relative of the board member was not vaccinated and did not want to be treated differently than vaccinated teachers through mandatory covid testing.

The MCCGJ found that there was no financial gain for either the board member or the relative. However, there was an appearance that the motion would benefit a relative.

Upon reviewing the complaint, the MCCGJ found that the Board Bylaws code 9270 states that "Even if a prohibited conflict of interest does not exist, a Board member shall abstain from voting on personnel matters that uniquely affect his/her relatives. However, a Board member may vote on collective bargaining agreements and personnel matters that affect a class of employees to which his/her relative belongs."

The Grand Jury outlines the issue in the following report and makes recommendations.

GLOSSARY

MCOE	Mariposa County Office of Education
MCUSD	Mariposa County Unified School District
MCCGJ	Mariposa County Civil Grand Jury

BACKGROUND

The complainant states a member of the MCUSD School Board not only discussed and voted on an item in which he had an appearance of a conflict of interest, but he initiated the motion on the item. The subject of the agenda item was about mandatory covid testing for unvaccinated teachers.

The Governor of California's mandate requires staff who have not received the Covid -19 vaccine to complete weekly testing. Given recent public comment, the MCUSD School Board was considering expanding testing to all staff. All school employees had previously been surveyed about whether all staff should be tested weekly regardless of vaccination status. The results of the survey revealed that 17% of employees supported testing all employees regardless of vaccination status and 40% were against this proposal.

On December 8, 2021, comments were made at a special school board meeting stating unvaccinated staff were being discriminated against since they had to be tested for covid weekly and vaccinated teachers did not. One of the speakers who advocated for covid testing for all teachers regardless of vaccination status was related to a member of the school board.

The next day, December 9, 2021, at the regularly scheduled school board meeting, a board member who is related to a teacher made a motion that all staff regardless of vaccination status be tested weekly. The motion failed. The complainant, however, was concerned that the board member appeared to have a conflict of interest on this subject and should have recused himself from voting, let alone bringing a motion forward to vote. The complainant was also concerned that the Board Chairperson and other Board members did not speak up to raise the issue of the potential conflict of interest.

METHODOLOGY

The MCCGJ used a number of techniques to investigate the merits of the claim, including:

- Reviewed federal conflict of interest rules found at 18 U.S.C. :208 at 5 C.F. R. :2635.402
- Reviewed California State and MCUSD Policy Section 9000 Board Bylaws, code 9270 BB title Conflict of Interest
- Interviewed 2021 MCUSD Board Chair
- Interviewed MCUSD Board member who made motion to vote on employee testing
- Communicated with MCUSD Superintendent regarding school policies
- Communicated with California School Board Association
- Reviewed MCUSD/MCOE Board Meeting Minutes of 12/9/2021 and MCUSD/MCOE Special Board Meeting of 12/8/2021.

DISCUSSION

The MCCGJ found during their investigation that although there was no financial gain for the board member or his relative, there was an appearance that there was a conflict of interest. The grand jury found the MCUSD policies on conflict of interest in section 9000 of the Board Bylaws, code 9270 BB which states:

The Governing Board desires to maintain the highest ethical standards and help ensure that decisions are made in the best interest of the district and the public. Accordingly, no Board member, district employee, or other person in a designated position shall participate in the making of any decision for the district when the decision will or may be affected by his/her financial, family, or other personal interest or consideration.

Even if a prohibited conflict of interest does not exist, a Board member shall abstain from voting on personnel matters that uniquely affect his/her relatives. However, a Board member may vote on collective bargaining agreements and personnel matters that affect a class of employees to which his/her relative belongs. Relative means an adult who is related to the Board member by blood or affinity within the third degree, as determined by the common law. A relationship within the third degree includes an individual's

parents, grandparents, great-grandparents, children, grandchildren, great-grandchildren, brothers, sisters, aunts, uncles, nieces, nephews, and the similar family of the individual's spouse/registered domestic partner unless the individual is widowed or divorced. an individual in an adoptive relationship within the third degree. (Education Code 35107)

The Board Policies also mention the Political Reform Act which states:

A public official has a disqualifying conflict of interest in a governmental decision if it is foreseeable that the decision will have a financial impact on his or her personal finances or other financial interests. In such cases, there is a risk of biased decision-making that could sacrifice the public's interest in favor of the official's private financial interests. To avoid actual bias or the appearance of possible improprieties, the public official is prohibited from participating in the decision." with disqualifying financial interests being "The official's personal finances including his or her expensed income, assets, or liabilities, as well as those of his or her immediate family.

The MCCGJ did not find that any financial gain would be incurred by the board member or his family as a result of the proposed motion. However, it is the appearance of the board member's personal interest in raising this motion and voting on it that violates the policy as interpreted by the MCCGJ. The appearance of a conflict of interest erodes the public trust in our institutions.

FINDINGS

- F1. A School Board Member made a motion and voted on it when the subject involved a relative.
- F2. School Superintendent and School Board Members must avoid the appearance of a conflict of interest in order to maintain public trust.

RECOMMENDATIONS

- R1. School Board Members should recuse themselves from making motions or voting on matters that involve a conflict of interest or give the appearance of a conflict of interest.
- R2. The language in the bylaws should be written to more clearly define conflict of interest, and the process to determine if a conflict of interest exists.

REQUEST FOR RESPONSES

Responses are required pursuant to Penal Code sections 933 and 933.05 within 90 days of the publishing of this report from the following governing body:

- MCUSD Board F1, F2, R1, R2

Per Penal Code 933.05 (a)(1) and (2), responses must include acceptance, refutation, and/or clarification of the findings. Per PC 933.5 (b) (1) (2) (3) and (4) a commitment to implementing the recommendations, as appropriate.

Reports issued by the Grand Jury do not identify individuals interviewed. Penal Code section 929 requires that reports of the Grand Jury not contain the name of any person or facts leading to the identity of any person who provides information to the Grand Jury.

This report was issued by the Grand Jury with the exception of a juror who has close association with the school district. This grand juror was excluded from all parts of the investigation, including interviews, deliberations, and the writing and approval of this report.

Road Maintenance Agreements: Standards and Provisions for Long-Term Maintenance

SUMMARY

The MCCGJ received a complaint regarding the County changing a zone of benefit (ZOB) to a private road maintenance agreement (RMA) in 1993. In a ZOB mechanism, the County collects fees and provides regular road maintenance activities. In an RMA, the property owner(s) are responsible for all road maintenance activities (e.g., fee collection and maintenance contracting) with little involvement from the County once the RMA document is recorded by the Clerk of the Board.

The complainant stated that an application for a major subdivision was approved with a ZOB in 1990. The process for establishing a ZOB included conditions recommended by the Planning Department and approved by the Planning Commission, with final approval from the Board of Supervisors (BOS). However, in 1993, the major subdivision applicant requested that the ZOB be dissolved which then would require an RMA. The BOS approved this through an act by resolution, resulting in an RMA. The complainant stated that the BOS replaced the ZOB with an RMA that has since financially burdened and endangered the parcel owners directly impacted by the subdivision road conditions. For example, flooding in recent years and culvert drainage problems due to road erosion have resulted in significant cost to only those parcel owners adjacent to the damaged part of the road. Various iterations of the RMA have led to the current poor condition of the road as well as jurisdictional concerns regarding responsibility for road maintenance and upkeep of road surfaces.

Given this complaint, the MCCGJ investigated the County's existing ZOBs and RMAs, subdivision applications, and relevant BOS resolutions. Through this investigation, the MCCGJ identified a number of issues with the Board of Supervisors' process of rescinding the subject ZOB, and establishing RMAs with insufficient conditions for appropriate long-term road maintenance.

GLOSSARY

BOS	Mariposa County Board of Supervisors
MCCGJ	Mariposa County Civil Grand Jury
RICP	Mariposa County Road Improvement and Circulation Policy
MCIS	Mariposa County Improvement Standards
RMA	Private Road Maintenance Agreement
ZOB	Zone of Benefit

BACKGROUND

A zone of benefit (ZOB) is prepared following guidelines set by the State Board of Equalization. Each ZOB is formed based on an Engineer's Report prepared by a California Registered Professional Engineer. The report defines the location of the ZOB, sets the assessment rate and

the method of assessment. The ZOB road is maintained to the conditions recommended by the Planning Department and approved by the Planning Commission. A private road maintenance agreement (RMA), on the other hand, outlines maintenance responsibilities and requirements for a private road and puts the onus of repairs on the “association” not the County. California Civil Code requires the cost of maintenance for the private road to be shared equitably by the landowners benefiting from the road. Currently, Mariposa County exercises no monitoring, review, or implementation authority over RMAs nor does Mariposa County track private actions taken through the court system to implement an RMA. Upon request by a development applicant (subdivision, land division, etc), the County routinely provides an acceptable RMA template which has been reviewed and approved by County Counsel.

The BOS is the authorizing agent for a ZOB. A ZOB document is attached to the land title of the affected parcels and disclosed as a part of escrow. Funds for a ZOB are collected by the Tax Collector through the property tax process and the County is responsible for the maintenance of the road. An RMA is a declaration referenced on the parcel map for roads to be privately maintained. Upon finalization, the RMA declaration is a portion of the parcel title and should be disclosed with escrow.

State Law and County Code require approval of parcel maps by the BOS. The Mariposa County Road Improvement and Circulation Policy (RICP) spells out the criteria for acceptance or rejection of roads based on their usage. During the time of the original major subdivision application, referenced in the complaint, a ZOB was required on all new roads constructed as a condition of approval of a land division. The subdivision applicant filed a resolution of intention to form a ZOB in 1990 to maintain the existing and future roads within the major subdivision.

There are currently twenty (20) ZOB dedications in Mariposa County where the County assumes maintenance responsibilities of roadways in private developments. Seventeen of these ZOB documents were established before 1994, indicating that the majority of roads in private developments after 1994 have limited or no County responsibility for maintenance and the immediate correction of emergency and hazard situations. The County establishes the fees required to maintain the roads in a ZOB through assessed property tax. In an RMA, the landowners determine and manage all maintenance fees. The MCCGJ was not able to determine the number of RMAs currently filed with the court.

Mariposa County Maintained versus Unmaintained Roads

County road maintenance is funded by a state formula based on vehicles registered within the County and dedicated road miles. Dedicated roads are those that are accepted to be maintained by the County. An interviewee noted that Mariposa County has not accepted additional dedicated roads since the 1970s. The County receives a percentage of the statewide gas tax based on the number of registered vehicles in the County. While the number of registered vehicles has increased, the miles of County-maintained roads has remained constant. For any segment of roadway that is accepted by the County as a dedicated roadway, there is a proportional segment that is removed as a dedicated roadway from the system. The MCCGJ researched the topic and found that a rural area’s percentage of unmaintained county roads is high and is expected to increase. Mariposa County is not expected to increase the miles of maintained roads, thus anticipates a continued increase in privately maintained roads.

County Road Maintenance Standards and Policies

The [Mariposa County Road Improvement and Circulation Policy](#) (RICP) was originally developed in 1988 with amendments through 2007. This policy establishes the minimum standards necessary for any developer to provide the County with adequately designed and constructed roadways important for the health and safety of the public. This document specifically notes that public funds for road maintenance and construction are scarce and, as such, new private development shall be responsible for installation of all improvements required by these policies.

The [Mariposa County Improvement Standards](#) (MCIS) resolution was adopted August 1988 and updated October 1999. This document addresses a spectrum of standards for planning, construction, and modifications for County infrastructure including utilities and roadways. The MCIS includes design standards and County approval processes. Road standards in this document govern the construction of County roads and any road to be offered to the County for dedication. These standards may also be applied to other roads as required by the Planning Commission and the Board of Supervisors.

Conclusion

The complainant claims the Mariposa County BOS incorrectly rescinded the ZOB originally set as a condition for a major subdivision applicant, replacing it with an RMA. The ZOB had ensured the County would maintain the roads for the life of the subdivision. When the BOS 1993 resolution approved the replacement of the ZOB with an RMA, the responsibility for road maintenance moved from the County to the collective body of the subdivision homeowners. Additionally, in the resolutions signifying this change, the County did not give itself any oversight authority in making sure the subdivision applicant met the conditions of the recorded 1993 RMA document. Conditions include setting up an RMA committee, collecting fees from residents for road maintenance, issuing liens for those who do not pay fees, and contracting for road maintenance and repair. The subdivision applicant did not meet the conditions of the RMA.

METHODOLOGY

The MCCGJ investigation and research included:

- Interviews with
 - County Counsel/Risk Management
 - Interim Director of Public Works
 - County Surveyor of Public Works
- Email correspondence with
 - Public Works Director
 - Planning Department Director
 - Mariposa County Legal Counsel
 - Complainant
- Mariposa County resolution and ordinance documents dating from 1989 to 2004

- Mariposa County ZOB/RMA documents dating from 1993 to 2004 received from complaint and document research
- Review of State and County documents referenced in interviews and/or email communication:
 - Mariposa County Road Improvement and Circulation Policy – adopted August 9, 1988 and updated last September 11, 2007
 - Mariposa County Improvement Standards October 1999
 - Civil Code Section 845 – enforcement by county action
 - Mariposa County Subdivision Ordinance (Title 16)
 - California Public Road Data 2013
 - Mariposa County subdivision maps, certificates offer and accept public easement for access and utilities provide by County Surveyor of Public Works
 - Mariposa County Zones of Benefit Master List
 - Mariposa County Service Area No.1 To be placed on Tax Roll Fiscal Year 2021-22
 - Road Maintenance Association Template
 - Map Recordation and ZOB Policy 94-06
 - Zone of Benefit Work Order Policy 91-9
 - Mariposa County: Unmaintained County Roads in High Hazard Zones 2018
 - CalTrans Public Road Data 2013
 - CalTrans Public Road Data 2018

DISCUSSION

The MCCGJ investigated County processes related to dissolving zones of benefit (ZOB) and establishing private road maintenance agreements (RMA). In regards to the complaint received, the MCCGJ identified a number of issues with the Board of Supervisors' effort to establish the various iterations of the RMA that have led to the current poor condition of the road as well as jurisdictional concerns.

Replacing a Zone of Benefit with a Private Road Maintenance Agreement

The Mariposa County Civil Grand Jury (MCCGJ) found several act by resolutions dated 1989-1991 approving final parcel maps and ZOB formation of the major subdivision named in the complaint. The ZOB included conditions which ensured the major subdivision applicant followed existing regulations and permitting requirements. In an interview with the County Counsel, it was stated that the Mariposa County Road Improvement and Circulation Policy (RICP) requires that “road(s) be maintained for the life of the project,” ensuring roads would be maintained by the County for the duration of the subdivision.

However, the BOS later enacted a series of resolutions in 1993 to dissolve the ZOB. The BOS approved through an act by resolution the dissolution of the ZOB, replacing it with an RMA. The problem with this is that an RMA leaves room for error in meeting the regulation and permitting requirements. The RMA template provided to applicants by the County includes no provisions that the agreement be enacted by the subdivision applicant nor does it include mechanisms for the County to track conformance. The grand jury suggests the County RMA template be updated

to alleviate the problems as further explained in the following paragraphs. The grand jury also recommends that the RICP be updated to provide guidelines and standards referenced in the RMA template.

Development Proposal Review: Mariposa County has given itself no monitoring or review or implementation authority for activities covered by an RMA. Therefore, it is essential that appropriate standard conditions are included in the RMA template and its review/approval process that addresses interdisciplinary considerations for long-term maintenance. Per Mariposa County policy for developments in Mariposa County, provisions of the agreement or instrument should be reviewed and approved by the County Engineer and a copy provided to Mariposa Planning Commission prior to issuance of a building or grading permit for the project. The MCCGJ recommends that an amendment procedure be established that requires similar interdisciplinary review by the County when a project and associated RMA is amended.

RMA Committee: Implementation of an RMA is the responsibility of the affected landowners. This includes collection of funds and completion of maintenance activities. The applicant was responsible for filing an RMA as a court document and the document requires an RMA committee be established. The first RMA was filed but the subdivision applicant did not organize and activate an RMA committee. Therefore, funds were not collected from the parcel owners, liens were not placed on those who did not pay fees, and the roads were not maintained. The MCCGJ recommends that the County RMA template includes roles and responsibilities for implementing the terms of the agreement.

Road Maintenance Funds: All funds collected within the prior ZOB agreement were refunded to the applicant. The act by resolution should have specified that the ZOB refund be transferred to benefit future road maintenance. There was no RMA committee organized to receive these funds or apply them appropriately to road maintenance. The MCCGJ recommends that the County RMA template include specifications for collection and allocation of funds for road maintenance.

Lien Authority: The BOS approved an act by resolution in 1998 which established the second RMA, reinstating and amending the first RMA. It removed the authority of placing a lien on property owners who were delinquent on their parcel owner obligations. Without liens, there was no authority established in the resolution to ensure compliance. There is no provision that parcel owners who were delinquent in their assessed fees between 1993 and 1998 could be retroactively charged or have liens placed on their properties. The MCCGJ recommends that the County RMA template include standard lien authorities to ensure compliance.

Duration of the Maintenance Agreement: In an interview with the County Counsel, it was stated that the Mariposa County Road Improvement and Circulation Policy (RICP) requires that “road(s) be maintained for the life of the project,” ensuring roads would be maintained by the County for the duration of the subdivision. When the County dissolved the major subdivision ZOB through an act by resolution, the County removed its responsibility to maintain the road for the life of the project. The “life of the project” is interpreted by the MCCGJ as the duration of the existence of the major subdivision. Instead, the RMA placed a date of January 1, 2024 as a sunset provision. This sunset date is inadequate for appropriate long-term road maintenance. The

MCCGJ recommends that the RICP be updated to clearly define standard terms for road maintenance duration, and apply these provisions as a standard in the County RMA template.

Public and Emergency Access: As demonstrated by the road in this complaint, unmaintained roads in the County are used not only by the residents but as public and emergency access roads. The roads are often in poor condition as evident through culvert damage and erosion. Erosion is exacerbated by frequent use. Current technology, specifically GPS navigation systems, often direct drivers to take unmaintained roads as alternate routes to unfamiliar destinations. This has increased public use of unmaintained roads. The roads were not designed nor are they maintained to be traveled with frequency by the public. Furthermore, the roads are primary emergency ingress and egress for residents and public users. Emergency travel is impeded when road conditions are poor. The MCCGJ recommends that the RMA template include provisions for a County monitoring system to ensure that safety standards are met.

Regular Review and Updates to County Regulations and Policies

While investigating, the MCCGJ found that some of the Mariposa County regulations and policies referenced in this report have no indication of being updated in 10 to 20 years.

The Mariposa County Improvement Standards (MCIS): The MCIS is dated October 1999 and no apparent changes have been made since. The MCCGJ recommends that the standards are updated on a regular basis.

Mariposa County Road Improvement and Circulation Policy and Improvement Standards (RICP): The RICP addresses surface design, geometric design, drainage concerns, lighting, and wildlife-vehicle safety. The BOS last amended the RICP on September 11, 2007. The MCCGJ suggests this document should be updated to take into consideration current road standards and codes, the changing needs of the community, as well as impacts common in our geographic area. Since it was published in 1988, the grand jury found five BOS amendments, however, changes are not annotated or readily discernible.

The MCCGJ recommends that Mariposa County documents stating regulation and policies should be reviewed on a regular basis to ensure they meet code changes and the changing needs of the County.

FINDINGS

- F1. A major subdivision ZOB was dissolved by a BOS resolution and the RMA(s) which replaced it did not include conditions for County oversight of effective road management.
- F2. There is no mechanism by which the BOS can make certain that a successful RMA applicant establishes a committee to ensure the conditions of the agreement were met.
- F3. There is no mechanism by which the BOS can make certain that a successful RMA applicant requires a committee to collect and manage funds for routine road maintenance and emergency repairs.
- F4. There is no mechanism by which the BOS can make certain that the successful RMA applicant applies enforcement tools (e.g., liens) to ensure delinquent fees and assessments are collected.

- F5. The RICP identifies the duration of road maintenance to extend through the life of the project, a vague term with opportunities for multiple interpretations.
- F6. There is concern that public access to privately maintained roads can result in additional wear and tear as well as safety and liability concerns.
- F7. Some Mariposa County regulations and policies regarding road design and maintenance standards (e.g., RICP and MCIS) are older than ten (10) years.
- F8. Mariposa County has no review authority for amendments to an RMA.

RECOMMENDATIONS

- R1. Within the next six (6) months, the BOS should ensure that changes or amendments to road maintenance agreements should be consistent and in conformance with standards set in the RICP and MCIS. (F1, F5, F7)
- R2. Effective immediately, approved BOS resolutions should document clarity of decision and reasoning for the resolution (e.g., rescinding or amending road maintenance agreements). (F1, F5, F7)
- R3. Within the next six (6) months, a standard RMA template guidelines should be developed and adopted by the BOS with the following provisions:
 - a. Define the roles and responsibilities for implementing the conditions of the agreement (e.g., establishment of a road maintenance association). (F2)
 - b. Specifications for collection and allocation of funds for road maintenance. (F3)
 - c. Lien authorities to ensure compliance. (F4)
 - d. Road maintenance duration responsibilities per the updated RICP. (F5)
 - e. An annual self-inspection and compliance report. (F6, F7)
- R4. Within the next six (6) months, the BOS should approve by resolution an update of the RICP including clearly identified standard duration periods and responsibilities with clearly defined terms. Approved changes should be made in an act by BOS resolution and should document clarity of decision and reasoning for the resolution. (F5, F7)
- R5. Within the next six (6) months, the BOS should approve by resolution an update of the MCIS. Approved changes should be made in an act by BOS resolution and should document clarity of decision and reasoning for the resolution. (F7)
- R6. Within the next six (6) months an amendment procedure should be established that requires interdisciplinary review by the County when a project and associated RMA is amended. (F8)

REQUEST FOR RESPONSES

Pursuant to Penal Code sections 933 and 933.05, responses are required from governing bodies within 90 days:

- Mariposa County Board of Supervisors F1, F2, F3, F4, F5, F6, F7, F8
R1, R2, R3, R4, R5, R6

Per Penal Code 933.05 (a)(1) and (2), responses must include acceptance, refutation, and/or clarification of the findings. Per PC 933.5 (b) (1) (2) (3) and (4) a commitment to implementing the recommendations, as appropriate.

INVITED RESPONSES

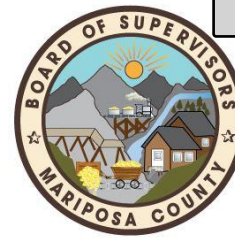
The Directors of the Mariposa County Planning Department and Mariposa County Public Works are invited to respond within 60 days. F1, F2, F3, F4, F5, F6, F7, F8, R1, R2, R3, R4, R5, R6

Reports issued by the Grand Jury do not identify individuals interviewed. Penal Code section 929 requires that reports of the Grand Jury not contain the name of any person or facts leading to the identity of any person who provides information to the Grand Jury.



MARIPOSA COUNTY

Administration/Community Development • 966-3222



MEETING: September 27, 2022

TO: The Board of Supervisors

FROM: Dallin Kimble, County Administrative Officer

RE: Appoint Lori Dixon to the Childcare Task Force (CCTF)

RECOMMENDATION AND JUSTIFICATION:

Appoint Lori Dixon to the Childcare Task Force (CCTF) as the Childcare Representative for a Term that Will Expire on September 27, 2023.

Resolution 2021-588 establishes the CTF as a committee with nine (9) voting members. Item 2 (Membership), part "a" in Exhibit A states that representatives shall be selected from Mariposa County High School, the economic development corporation, the chamber of commerce, the tourism bureau, building and planning departments, and Mariposa County Public Health. Representatives are also to include the county's housing specialist, a child care provider, and two local business owners.

This is the first applicant selected by the original members of the task force. The applicant submitted an application and expressed interest in the position and is qualified to serve on the committee. The task force received two applications and Ms. Dixon, a child care provider, was selected as the most qualified applicant. Per the resolution, all terms are for one year.

BACKGROUND AND HISTORY OF BOARD ACTIONS:

Resolution 2021-588 - Established the childcare task force

ALTERNATIVES AND CONSEQUENCES OF NEGATIVE ACTION:

Alternative: Amend appointment recommendations.

Negative Action: Ms. Dixon will not be appointed. Staff will need further direction on how the Board would like to staff the task force.

.

FINANCIAL IMPACT:

None

ATTACHMENTS:

Lori Dixon application_Redacted (PDF)

Agenda Item - No Resolution Requested 2022-95

RESULT: **ADOPTED BY CONSENT VOTE [UNANIMOUS]**

MOVER: Marshall Long, District III Supervisor

SECONDER: Wayne Forsythe, District IV Supervisor

AYES: Rosemarie Smallcombe, Marshall Long, Wayne Forsythe, Miles Menetrey



County of Mariposa

5100 Bullion Street
P.O. Box 784
Mariposa, CA 95338

(209) 966-3222

Application for Appointment to Mariposa County
BOARDS, COMMISSIONS AND COMMITTEES

<http://www.mariposacounty.org/index.aspx?NID=119>

Name of Board, Commission or Committee for which you are applying:
Child Care Task Force

Supervisory District in which you Reside: **5**

Length of Residency in the County: **1 year**

First Name:
Lori

Last Name:
Dixon

Mailing Address:

Email Address:

Employment Status: **Self-employed business owner**

Employer's Name:
Where the Wild Things Play Preschool

Employer's Address:

Day Telephone Number:

Cell Phone Number:

Please explain why you wish to serve on this Board/Commission/Committee:
I own and operate Where the Wild Things Play Preschool in the Darrah Schoolhouse. I have spent my career teaching young children and would love the opportunity to help develop a child care program for the youth in this community. It is important to me that the children and families in this community have access to high quality early education and hope to be instrumental in helping formulate that plan.

Please list prior/current appointments to other Boards/Commissions/Committees:

INSTRUCTIONS

Completely fill out this form,
sign and return to:

Clerk of the Board
5100 Bullion Street
P.O. Box 784
Mariposa, CA 95338

Are you Over 18 Years of Age:
yes

NOTE: THIS DOCUMENT IS SUBJECT TO PUBLIC INSPECTION

List any information regarding experience, training and/or education that you feel qualifies you for this position:

I have a 30 year career teaching children 0-5.

I have a Associate of Science degree in Child Development.

I have been a Site Supervisor of a preschool and infant center for more than 15 years.

I have created a full infant center and preschool program from scratch at 2 locations and a preschool from scratch at 2 locations, including the creation and implementation of curriculum.

I am a business owner and own/operate a preschool in Mariposa and just recently sold a preschool and infant center in the San Francisco Bay Area that I owned/operated for 4 years.

Do you, or any member of your immediate family, work for the County of Mariposa or hold a position that might conflict with your duties for this Board/Commission?

If Yes, please explain:

No

Resumé
Attached:
NO

Time(s) you have available to attend meetings (days,
evenings, etc.):
Any

Do you have transportation?
Yes

PLEASE NOTE that once submitted, this document becomes a public record and is subject to all forms of public inspection including, but not limited to, display on the internet, and all public records requests.

I certify that the above information is true and correct, and I authorize the verification of the information in this application in the event I am a finalist for the appointment.

Dated: 10/21/24

Signature: 

NOTE: THIS DOCUMENT IS SUBJECT TO PUBLIC INSPECTION



MARIPOSA COUNTY

Auditor · (209) 966-7606



RESOLUTION - ACTION REQUESTED 2022-545

MEETING: September 27, 2022

TO: The Board of Supervisors

FROM: Luis Mercado, Auditor

RE: County of Mariposa Property Tax Rate and Voter-Approved Debt Service Rate Adoption 2022-23

RECOMMENDATION AND JUSTIFICATION:

Adopt a resolution adopting the property tax rate and voter-approved debt service rates for the County of Mariposa 2022-23 fiscal year Secured tax roll.

Beginning in fiscal year 2017/18, an additional tax rate was applied to properties within the boundaries of the Mariposa County Unified School District. This additional tax is for the purpose of raising adequate debt service funds to make principal and interest payments on general obligation bonds issued by the Mariposa County Unified School District, approved by the voters of Mariposa County during the November 2016 Election. According to Article XIII A, Section 1(b) of the California Constitution, debt service tax rates can be levied to provide taxing jurisdictions with the necessary revenue to pay annual principal and interest charges on any bonded indebtedness for the acquisition or improvement of real property approved on or after July 1, 1978, by two-thirds (2/3) of the voting public. The amount to be raised includes a reserve equal to the next six months of principal and interest payments due after the end of fiscal year 2022/23 as well as a 2% increase to account for delinquency. These additions are to ensure there are adequate funds to make principal and interest payments on the bond in a timely manner. The debt service rates calculated take into account the balance remaining in the debt service as of the end of the previous fiscal year.

In fiscal year 2022/23, the Secured debt service rate for the Mariposa County Unified School District General Obligation Bond Election of 2016, Series A is 0.008729% (\$8.729 per \$100,000 assessed valuation). The Secured debt service rate for the Mariposa County Unified School District General Obligation Bond Election of 2016, Series B is 0.014782% (\$14.782 per \$100,000 assessed valuation). The Secured debt service rate for the Mariposa County Unified School District General Obligation Bond Election of 2016, Series C is 0.013943% (\$13.943 per \$100,000 assessed valuation). The debt service rate for the Unitary/State Board Roll is 0.042869% (\$42.869 per \$100,000 assessed valuation). According to Revenue and Taxation Code Section 100, debt service rates are to be calculated for Unitary and operating non unitary property based on the previous year's debt service rate.

The Auditor's Office anticipates that applying these tax rates will generate

approximately \$966,888 in debt service funds for the school bond.

BACKGROUND AND HISTORY OF BOARD ACTIONS:

Each year, pursuant to Government Code Sections 29100 - 29106 inclusive, the Board of Supervisors has adopted a resolution establishing the tax rate of 1% of the cash value of the secured property within the county. As stated above, beginning in fiscal year 2017/18 there was an additional tax rate percentage for tax rate areas subject to the Mariposa County Unified School District General Obligation Bonds approved during the November 2016 Election.

ALTERNATIVES AND CONSEQUENCES OF NEGATIVE ACTION:

Not approving this resolution would mean that Mariposa County is out of compliance with Government Code Sections 29100 - 29106.

ATTACHMENTS:

Tax rate and voter-approved debt service rate adoption for secured taxes 2022-23 (DOCX)

RESULT: ADOPTED BY CONSENT VOTE [UNANIMOUS]

MOVER: Marshall Long, District III Supervisor

SECONDER: Wayne Forsythe, District IV Supervisor

AYES: Rosemarie Smallcombe, Marshall Long, Wayne Forsythe, Miles Menetrey

MARIPOSA COUNTY RESOLUTION NO.

A RESOLUTION ADOPTING THE BASIC TAX RATE FOR THE COUNTY OF MARIPOSA AND THE DEBT SERVICE RATES FOR THE MARIPOSA COUNTY UNIFIED SCHOOL DISTRICT GENERAL OBLIGATION BONDS FOR FISCAL YEAR 2022/23

WHEREAS, Government Codes §29100 – 29106 require that the tax rate and voter-approved debt service rates be set and approved by the Board of Supervisors of Mariposa County, a political subdivision of the State of California.

NOW, THEREFORE, BE IT RESOLVED by the Board of Supervisors of Mariposa County, State of California, that the tax rate and voter-approved debt service rates be adopted as follows:

The ad valorem property tax rate for the County of Mariposa is 1% of the assessed value (\$1,000 per \$100,000 assessed valuation) for the 2022/23 fiscal year, tax year 2022, with bond rates to be ADDED to the 1% rate as follows:

The additional debt service rate for the Mariposa County Unified School District General Obligation Bond Election of 2016, Series A is affixed at 0.008729% of the Secured assessed value (\$8.729 per \$100,000 assessed valuation) for the 2022/23 fiscal year, tax year 2022.

The additional debt service rate for the Mariposa County Unified School District General Obligation Bond Election of 2016, Series B is affixed at 0.014782% of the Secured assessed value (\$14.782 per \$100,000 assessed valuation) for the 2022/23 fiscal year, tax year 2022.

The additional debt service rate for the Mariposa County Unified School District General Obligation Bond Election of 2016, Series C is affixed at 0.013943% of the Secured assessed value (\$13.943 per \$100,000 assessed valuation) for the 2022/23 fiscal year, tax year 2022.

The additional debt service rate for the Mariposa County Unified School District General Obligation Bond Election of 2016, Series A, Series B, and Series C is affixed at 0.042869% of the Unitary/State Board Roll (\$42.869 per \$100,000 assessed valuation) for the 2022/23 fiscal year, tax year 2022.

PASSED AND ADOPTED by the Board of Supervisors of the County of Mariposa on this 27th day of September 2022 by the following vote:

AYES:

NOES:

ABSENT:

ABSTAINED:

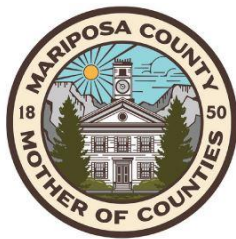
Rosemarie Smallcombe, Chair
Mariposa County Board of Supervisors

ATTEST:

Danielle Bondshu, Clerk of the Board

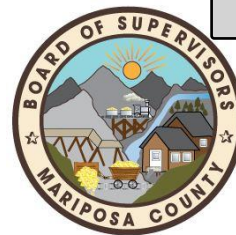
APPROVED AS TO FORM:

Steven Dahlem, County Counsel



MARIPOSA COUNTY

Auditor · (209) 966-7606



RESOLUTION - ACTION REQUESTED 2022-546

MEETING: September 27, 2022

TO: The Board of Supervisors

FROM: Luis Mercado, Auditor

RE: Adopt Tax Rate for Yosemite High School Bond 2022-23

RECOMMENDATION AND JUSTIFICATION:

Adopt a Resolution Adopting the Tax Rate of 0.009079% (0.9079 Cents Per \$100 Assessed Valuation) for the Yosemite High School Bond in the Bass Lake Elementary/Yosemite High School Tax Rate Areas of Mariposa County

The area of Yosemite High School District that extends into Mariposa County will generate an estimated \$21,667 in bond revenue for the district in Fiscal Year 2022-23.

BACKGROUND AND HISTORY OF BOARD ACTIONS:

This is a voter approved bond for the Bass Lake Elementary/Yosemite High School district that extends partly into Mariposa County in the Wawona/Fish Camp area. Mariposa County provides assessments and other tax information annually to Madera County that they use along with their data to compute a tax rate for the bonds.

ALTERNATIVES AND CONSEQUENCES OF NEGATIVE ACTION:

Not approving this resolution would prohibit the Auditor from assessing the debt service tax rate for bonds that were voter approved.

ATTACHMENTS:

Yosemite High Bond Rates 2022-23 (DOCX)

RESULT: ADOPTED BY CONSENT VOTE [UNANIMOUS]

MOVER: Marshall Long, District III Supervisor

SECONDER: Wayne Forsythe, District IV Supervisor

AYES: Rosemarie Smallcombe, Marshall Long, Wayne Forsythe, Miles Menetrey

MARIPOSA COUNTY RESOLUTION NO.

TAX RATE ADOPTION FOR THE 2022-23 Yosemite High School Bond

BE IT RESOLVED by the Board of Supervisors of Mariposa County, a political subdivision of the State of California, that the tax rates be adopted in compliance with the provision of Sections 29100 – 29106 inclusive of the Government Code as follows:

YOSEMITE HIGH SCHOOL BOND RATE
0.009079%

PASSED AND ADOPTED by the Board of Supervisors of the County of Mariposa on this 27th day of September 2022 by the following vote:

AYES:

NOES:

ABSENT:

ABSTAINED:

Rosemarie Smallcombe, Chair
Mariposa County Board of Supervisors

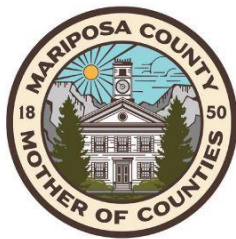
ATTEST:

Danielle Bondshu, Clerk of the Board

APPROVED AS TO FORM:

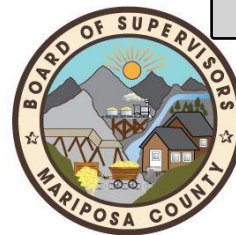
Steven Dahlem, County Counsel

Attachment: Yosemite High Bond Rates 2022-23 (RES-2022-546 : Adopt Tax Rate for Yosemite High School Bond 2022-23)



MARIPOSA COUNTY

Auditor · (209) 966-7606



RESOLUTION - ACTION REQUESTED 2022-547

MEETING: September 27, 2022

TO: The Board of Supervisors

FROM: Luis Mercado, Auditor

RE: Adopt Tax Rate for Bass Lake Elementary School District Bond 2022-23

RECOMMENDATION AND JUSTIFICATION:

Adopt a Resolution Adopting the Tax Rate of 0.022158% (2.2158 Cents Per \$100 Assessed Valuation) for the Bass Lake Joint Elementary School District Bond in the Bass Lake Elementary/Yosemite High School Tax Rate Areas of Mariposa County.

The area of the District that extends into Mariposa County will generate an estimated \$52,881 in bond revenue for the district in Fiscal Year 2022-23.

BACKGROUND AND HISTORY OF BOARD ACTIONS:

This is a voter approved bond for the Bass Lake Elementary/Yosemite High School Districts that extend partly into Mariposa County in the Wawona/Fish Camp area. Mariposa County provides assessments and other tax information annually to Madera County that they use along with their data to compute a tax rate for the bonds.

ALTERNATIVES AND CONSEQUENCES OF NEGATIVE ACTION:

Not approving this resolution would prohibit the Auditor from assessing the debt service tax rate for bonds that were voter-approved.

ATTACHMENTS:

Bass Lake Elementary Bond Rates 2022-23 (DOCX)

RESULT: ADOPTED BY CONSENT VOTE [UNANIMOUS]

MOVER: Marshall Long, District III Supervisor

SECONDER: Wayne Forsythe, District IV Supervisor

AYES: Rosemarie Smallcombe, Marshall Long, Wayne Forsythe, Miles Menetrey

MARIPOSA COUNTY RESOLUTION NO.
TAX RATE ADOPTION FOR THE 2022-23
Bass Lake Joint Elementary School District Bond

BE IT RESOLVED by the Board of Supervisors of Mariposa County, a political subdivision of the State of California, that the tax rates be adopted in compliance with the provision of Sections 29100 – 29106 inclusive of the Government Code as follows:

BASS LAKE JOINT ELEMENTARY SCHOOL DISTRICT BOND
0.022158%

PASSED AND ADOPTED by the Board of Supervisors of the County of Mariposa on this 27th day of September 2022 by the following vote:

AYES:

NOES:

ABSENT:

ABSTAINED:

Rosemarie Smallcombe, Chair
Mariposa County Board of Supervisors

ATTEST:

Danielle Bondshu, Clerk of the Board

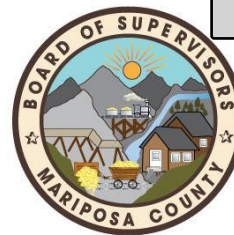
APPROVED AS TO FORM:

Steven Dahlem, County Counsel



MARIPOSA COUNTY

Board of Supervisors • 209-966-3222



RESOLUTION - ACTION REQUESTED 2022-548

MEETING: September 27, 2022

TO: The Board of Supervisors

FROM: Rosemarie Smallcombe, District I Supervisor

RE: Ratify a Letter of Support for Waltz-Turner Ranch Conservation Easement Project

RECOMMENDATION AND JUSTIFICATION:

Ratify a Letter of Support for Sierra Foothill Conservancy's (SFC) Waltz-Turner Ranch Conservation Easement Project.

If Approved, funding for this project would permit acquisition of the conservation easement on the 10,361 acre Waltz-Turner Ranch to the California Wildlife Conservation Board's General Grant Program and Department of Conservation's Sustainable Agricultural Land Conservation Program.

Waltz-Turner Ranch will conserve over 140 miles of streams and water resources including Bear Creek Reservoir and habitat for over a dozen listed species.

Conservation directly contributes to Governor Newsom's Executive Order N-82-20, California's Pathways to 30X30 and Natural and Working Lands Climate Smart Strategy as well as more than fifteen other plans.

Permanent protection of the Waltz-Turner Ranch will address statewide conservation issues by preventing land use conversion, fragmentation and subdivision while promoting sustainable stewardship. This project directly supports Mariposa County's heritage, economy and general plan.

Given the urgent need for support of this project, staff has already sent this letter of support and recommends approval of this request to ratify.

BACKGROUND AND HISTORY OF BOARD ACTIONS:

The Board routinely approves or ratifies letters of support that it determines to be in the best interest of the county.

ALTERNATIVES AND CONSEQUENCES OF NEGATIVE ACTION:

Do not approve. Staff would notify recipients of a retraction.

ATTACHMENTS:

LOS (PDF)

RESULT: **ADOPTED BY CONSENT VOTE [UNANIMOUS]**

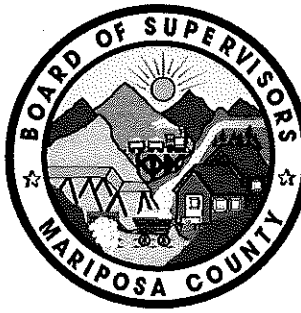
MOVER: Marshall Long, District III Supervisor

SECONDER: Wayne Forsythe, District IV Supervisor

AYES: Rosemarie Smallcombe, Marshall Long, Wayne Forsythe, Miles Menetrey

Mariposa County Board of Supervisors

District 1 ... ROSEMARIE SMALLCOMBE
District 2 VACANT
District 3 MARSHALL LONG
District 4 WAYNE FORSYTHE
District 5 MILES MENETREY



DALLIN KIMBLE D.9.a
County Administrative Officer

DANIELLE BONDSHU
Clerk of the Board

P. O. Box 784
Mariposa, CA 95338
(209) 966-3222
(800) 736-1252
www.mariposacounty.org/board

September 7, 2022

John P. Donnelly c/o CDFW
Executive Director
Wildlife Conservation Board c/o CDFW
P.O. Box 944209
Sacramento, CA 94244-2090

Strategic Growth Council
California Department of Conservation
715 P Street, MS 1900
Sacramento, CA 95814

RE: Letter of Support for the Waltz-Turner Ranch Conservation Easement Project

Dear Mr. Donnelly and Strategic Growth Council,

On behalf of the Mariposa County Board of Supervisors, I am pleased to provide this letter supporting Sierra Foothill Conservancy (SFC) and their applications for the acquisition of a conservation easement on the 10,361 acre *Waltz-Turner Ranch* to the California Wildlife Conservation Board's General Grant Program and Department of Conservation's Sustainable Agricultural Land Conservation Program.

Located in Merced and Mariposa Counties, the ranch spans SFC's Merced Grassland Focus Area and Merced River Conservation Corridor; a keystone in SFC's landscape level conservation strategy it will connect 50,000 acres of protected private and public land stretching from the vernal pool grasslands through the Sierra foothills, to Yosemite National Park. This uniquely collaborative opportunity between SFC, The Nature Conservancy, Roy & Veva Morrison Ranch Corporation, and the family of Ken and Adela Morrison is a one-time opportunity to protect this working ranch via a voluntary, perpetual conservation easement.

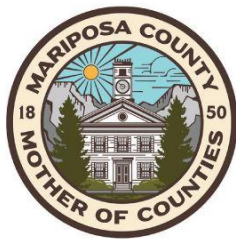
Protection of the Waltz-Turner Ranch will conserve over 140 miles of streams and water resources including Bear Creek Reservoir and habitat for over a dozen listed species, such as the California Tiger Salamander (*Ambystoma californiense*). Almost 80% of the property is located within two Californian Department of Fish and Wildlife (CDFW) Conceptual Area Protection Plans (CAPP) and over 1,600 acres is within USFWS-designated vernal pool areas. Additionally, 77% of the property is ranked in CDFW's Areas of Conservation Emphasis (ACE) tool as Irreplaceable and Essential Corridors (5/5) or Conservation Planning Linkages (4/5).

Conservation of the Waltz-Turner Ranch directly contributes to Governor Newsom's Executive Order N-82-20, California's Pathways to 30x30 and Natural and Working Lands Climate Smart Strategy as well as more than 15 other local, regional, state, and federal plans related to conserving and increasing agricultural and water resource security, economic vitality, climate resilience, biodiversity, and habitat connectivity.

Permanent protection of the *Waltz-Turner Ranch* will address statewide conservation issues by preventing land use conversion, fragmentation and subdivision while promoting sustainable stewardship by ensuring that this third-generation ranch remains a working rangeland. Conservation of the Waltz-Turner Ranch directly supports the Mariposa County General Plan and protects its number two economic driver: agriculture. This project directly supports Mariposa County's heritage, economy and general plan and I appreciate the opportunity to recommend it to California Wildlife Conservation Board and the Department of Conservation.

Sincerely,

Rosemarie Smallcombe, Chair
Mariposa County Board of Supervisors

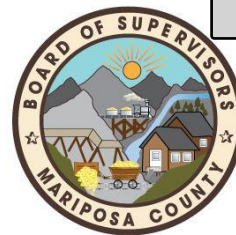


MARIPOSA COUNTY

P.O. Box 784 Mariposa, CA 95338 (209) 966-3222

5100 Bullion Street

<http://www.mariposacounty.org/>



ROSEMARIE SMALLCOMBE, CHAIR
MILES MENETREY, VICE-CHAIR
VACANT
MARSHALL LONG
WAYNE FORSYTHE

DISTRICT I
DISTRICT V
DISTRICT II
DISTRICT IV
DISTRICT IV

ACTION SUMMARY MINUTES

May 25, 2022

SPECIAL MEETING

A. 9:45 AM Called to Order

Attendee Name	Title	Status	Arrived
Rosemarie Smallcombe	District I Supervisor	Present	9:45 AM
Tom Sweeney	District II Supervisor	Present	9:45 AM
Marshall Long	District III Supervisor	Present	9:45 AM
Wayne Forsythe	District IV Supervisor	Present	9:45 AM
Miles Menetrey	District V Supervisor	Present	9:45 AM

B. Pledge of Allegiance

Chair Smallcombe led the pledge.

C. Closed Session

1. **Administration/Human Resources (ID # 13025)**

CLOSED SESSION: Public Employment, Title or Position to be Filled:
(Government Code Section 54957 (B) (1)); Building Director

No public comment.

RESULT: CLOSED SESSION HELD

Reconvene

1:51 PM Chair Smallcombe reconvened the meeting and reported that Information was Received and Director was given during closed session.

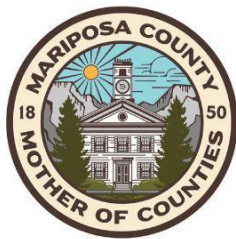
D. Adjournment

1:52 PM Chair Smallcombe adjourned the meeting.

Respectfully submitted,

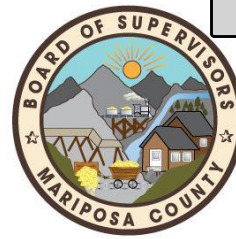
Danielle Bondshu
Deputy Clerk of the Board II

Rosemarie Smallcombe
Chair, Board of Supervisors



MARIPOSA COUNTY

Administration/Human Resources • 966-3222



MEETING: May 25, 2022

TO: The Board of Supervisors

FROM: Dallin Kimble, County Administrative Officer

RE: Closed Session - Building Director

☐ **CONFERENCE WITH LEGAL COUNSEL:**

☐ **Existing Litigation:**

☐ Disclosure will jeopardize existing settlement negotiations.

☐ **Anticipated Litigation**

☐ Significant exposure to litigation pursuant to subdivision (b) of Government Code section 54956.9.

Number of cases to be discussed:

☐ Initiating of litigation pursuant to subdivision (c) of Government Code section 54956.9.

Number of cases to be discussed: 1

☐ **CONFERENCE WITH COUNTY LABOR NEGOTIATOR**

Name of Employee Organization: _____

Name of County Designated Representative: _____

Title(s) of unrepresented individuals with whom negotiations are being conducted: _____

☒ **PUBLIC EMPLOYEE EMPLOYMENT TITLE OR POSITION TO BE FILLED:**

(Government Code Section 54957 (b) (1))

Building Director

☐ **PUBLIC EMPLOYEE PERFORMANCE EVALUATION**

Position of employee under review: _____ (Government Code Section 54954.5)

☐ **PUBLIC EMPLOYEE DISCIPLINE/DISMISSAL/RELEASE** (Government Code Section 54954.5)

☐ **CONFERENCE WITH REAL PROPERTY NEGOTIATOR**

Description of real property: _____

Agency negotiator: _____

Closed session will concern: () price; () terms of lease/purchase.

☐ **THREAT TO PUBLIC SERVICE FACILITIES**

Name of law enforcement agency involved: _____

Title of officer of law enforcement agency: _____

☐ **LICENSE/PERMIT DETERMINATION**

License or Permit applied for: _____

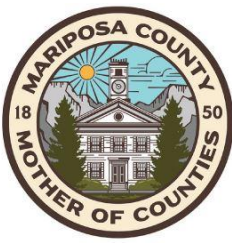
Number of license or permit applicants: _____

Name of applicant(s): _____

Agenda Item - No Resolution Requested

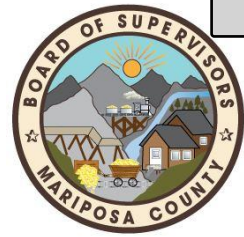
RESULT: CLOSED SESSION HELD

Minutes Acceptance: Minutes of May 25, 2022 9:45 AM (Approval of Consent Agenda (Items designated by "CA"))



MARIPOSA COUNTY

Clerk of the Board of Supervisors • (209) 966-3222



RESOLUTION - ACTION REQUESTED 2022-549

MEETING: September 27, 2022

TO: The Board of Supervisors

FROM: Danielle Bondshu, Clerk of the Board

RE: Historical Publication and Records Grant Application

RECOMMENDATION AND JUSTIFICATION:

Authorize the Submission of a Historic Documents Preservation Grant Application with the National Historical Publications and Records Commission (NHPRC) for the Funding of Preserving Critical Historical Documents for an Amount up to \$150,000 with a 25% Match; and Authorize the Clerk of the Board to Submit the Application.

This application will be submitted on an online platform and can create additional funding up to \$150,000. The grant has a 25% match requirement. Staff has confirmed the match is feasible.

The National Historical Publications and Records Commission archival project helps professionally preserve Mariposa County's vital historic and permanent records such as Board of Supervisors meeting minutes, ordinances and resolutions containing history of Mariposa County going back 172 years.

BACKGROUND AND HISTORY OF BOARD ACTIONS:

The Board of Supervisors does not have a prior history with National Historical Publications and Records Commission (NHPRC) for this purpose.

ALTERNATIVES AND CONSEQUENCES OF NEGATIVE ACTION:

If this grant submission is not approved, the County of Mariposa will not have the benefit of these additional funds for preserving vital historic records of the Board of Supervisors.

FINANCIAL IMPACT:

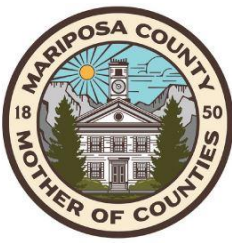
If the Board approves and the County is awarded these funds, COB's Office will request approval to accept the funds and implement the project and submit a budget action at a later date when funds are scheduled to be received.

RESULT: ADOPTED BY CONSENT VOTE [UNANIMOUS]

MOVER: Marshall Long, District III Supervisor

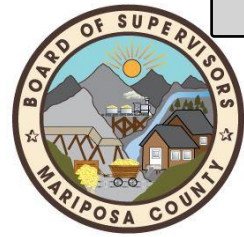
SECONDER: Wayne Forsythe, District IV Supervisor

AYES: Rosemarie Smallcombe, Marshall Long, Wayne Forsythe, Miles Menetrey



MARIPOSA COUNTY

County Counsel · (209) 966-3222



D.12

RESOLUTION - ACTION REQUESTED 2022-550

MEETING: September 27, 2022

TO: The Board of Supervisors

FROM: Steve Dahlem, County Counsel

RE: Indigent Defense Budget Action

RECOMMENDATION AND JUSTIFICATION:

Approve Budget Action Reducing General Fund Contingency and Increasing the Legal Services Budget to Cover Greater Than Anticipated Expenditures for Conflict Indigent Defense Counsel in Fiscal Year 2021-2022 (\$7,000).

The Legal Services budget is used to secure legal representation for defendants in criminal cases who are unable to pay for their own representation. The number of cases requiring conflict counsel in a given budget year is largely circumstantial and therefore difficult to predict and budget.

In Fiscal Year 2021-2022, more conflict indigent defense services were provided than budgeted. Staff recommends transferring sufficient dollars from contingency to allow invoices for expenses that have already been incurred to be processed as soon as possible.

BACKGROUND AND HISTORY OF BOARD ACTIONS:

The Board routinely makes adjustments to the budget, when they are needed.

ALTERNATIVES AND CONSEQUENCES OF NEGATIVE ACTION:

Do not approve the budget action. There will be insufficient funding in the Indigent Defense budget to process invoices for already incurred expenses.

FINANCIAL IMPACT:

This budget action would transfer \$7,000.00 out of the Contingency Designation Budget and into the Indigent Defense Budget.

08/02/16 001-0104-414-1090 · General Contingency (\$10,000.00)

ATTACHMENTS:

Budget Action for County Counsel (PDF)

RESULT: **ADOPTED BY CONSENT VOTE [UNANIMOUS]**

MOVER: Marshall Long, District III Supervisor

SECONDER: Wayne Forsythe, District IV Supervisor

AYES: Rosemarie Smallcombe, Marshall Long, Wayne Forsythe, Miles Menetrey

BUDGET ACTION FORM

FUND	DEP/DIV	ACCOUNT	DESCRIPTION	PROJECT	INCREASE	DECREASE
1001	0100	92001	Contingency			7,000
1001	0206	60318	Legal Services		7,000	
TOTALS					7,000	7,000

TRANSFER BETWEEN FUNDS					DEBIT	CREDIT
TOTALS					0	0

ACTION REQUESTED: (Check all that apply)

(X) Budget appropriation is less than \$50,000 and involves shifting funds between categories in the same account and fund. Board of Supervisors reviews all budget actions of this nature on a monthly basis.

() Budget appropriation by Board of Supervisors (4/5ths Vote Required): Amending revenues and expenses or transferring funds between funds or accounts within the General Fund or transferring appropriation from contingency.

DEPARTMENT HEAD SIGNATURE

DATE

AUDITOR SIGNATURE

DATE

COUNTY ADMINISTRATIVE OFFICER SIGNATURE

DATE

APPROVED BY RES NO.

CLERK

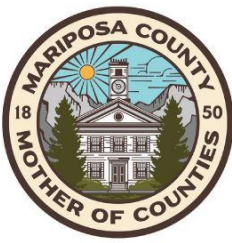
DATE

DEPARTMENT

AUDITOR'S USE ONLY
BA #

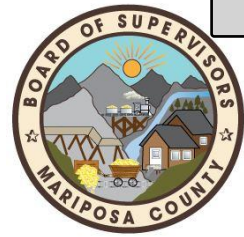
Budget Revision Form Revised 08/2020

Attachment: Budget Action for County Counsel (RES-2022-550 : Indigent Defense Budget Action)



MARIPOSA COUNTY

District Attorney/Victim Witness • (209) 966-3626



RESOLUTION - ACTION REQUESTED 2022-551

MEETING: September 27, 2022

TO: The Board of Supervisors

FROM: Walter Wall, District Attorney

RE: MOU Between Mariposa County Health and Human Services, Mariposa Probation Dept., Alliance and MCSO

RECOMMENDATION AND JUSTIFICATION:

Approve a Memorandum of Understanding (MOU) Between Mariposa County Health and Human Services Agency, Mariposa County Probation Department, Mariposa County Sheriff's Office and the Alliance for Community Transformations to Work Together Toward the Mutual Goal of Addressing the Gaps in Victim Services in Mariposa County; and Authorize the Mariposa County Administrative Officer to Sign the MOU.

Mariposa County Health and Human Services Agency, Mariposa County Probation Department, Mariposa County Sheriff's Office and the Alliance for Community Transformations have worked together since the implementation of the County Victim Services Grant was implemented in 2016. This MOU updates and replaces a previously signed and approved MOU that ran from January 1st, 2022 through December 31st, 2022, this new MOU runs January 1st, 2023 through December 31st, 2023.

BACKGROUND AND HISTORY OF BOARD ACTIONS:

The Board has approved MOU's in the past between multiple county departments and community agencies and typically approves contracts and MOU's of this nature based on the fact that there are no local resources to facilitate the services within the county.

The Board approved the previous MOU between these entities in Resolution No. 2021-506.

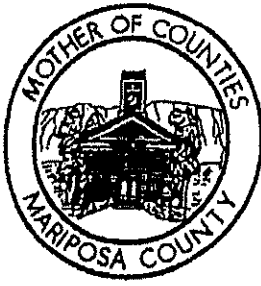
ALTERNATIVES AND CONSEQUENCES OF NEGATIVE ACTION:

If not approved Mariposa County District Attorney's Office and other entities will be unable to move forward with the collaborative work as outlined in the MOU.

FINANCIAL IMPACT:

There will be no financial impact.

ATTACHMENTS:**XC 2022 MOU- Scan (PDF)****RESULT: WITHDRAWN BY CONSENT VOTE**



OFFICE OF THE DISTRICT ATTORNEY COUNTY OF MARIPOSA

WALTER W. WALL, District Attorney
Seek the Truth, Protect our Community, Deliver Justice

MEMORANDUM OF UNDERSTANDING BETWEEN

Mariposa County District Attorney's Office
AND
Mariposa County Health and Human Services Agency
AND
Mariposa County Sheriff's Office
AND
Mariposa County Probation Department
AND
Alliance for Community Transformations

This Memorandum of Understanding (MOU) stands as evidence that the aforementioned agencies intend to work together toward the mutual goal of addressing the gaps in victim services in Mariposa County. All agencies believe that the implementation of this MOU, as described herein, will further this goal. To this end, each agency agrees to participate in coordinating/providing the following services throughout the duration of the California Office of Emergency Services Victim Services (XC) Program Grant.

Mariposa County District Attorney's Office agrees to:

- Fund a Victim Witness Advocate at 1 FTE to travel as needed to the northern part of Mariposa County and to provide Victim Witness Services to all victims of crime in Mariposa County
- Provide resources for transportation for victims and witnesses of crime in Mariposa County. Providing transportation resources for medical appointments, mental health appointments, and other crime-related transportation needs the victim or witness may have.
- Refer victims of crime to services in Mariposa County, including the Sheriff's Office, the Probation Department, and programs under the Alliance for Community Transformations umbrella.
- Refer victims in need of mental health services to appropriate resources within the Mariposa County Department of Health and Human Services.
- Convene steering committee meetings to ensure that community partners are aware of the resources and available services for victims of crime.
- Enter into sub-award agreements with the following entity for the period of January 1, 2023-December 31, 2023 with:
 - The Mariposa County Health and Human Services Agency to provide office space for North County Victim Witness Services.

CalOES Operation Agreement-Victim Services Program

Mariposa County Health and Human Services agrees to:

- Provide office space in the Coulterville Human Services building, as needed as an in-kind service.
- Refer victims of crime to the Mariposa County District Attorney's Office for resources and assistance through the criminal justice process and/or the California Victim Compensation Board Application.
- Refer victims of crime to the Victim Witness Program for assistance with transportation.
- Attend steering committee meetings to ensure the progress on the grant and confer to update the committee on any new resources/opportunities for victims of crime in Mariposa County.

Mariposa County Sheriff's Office agrees to:

- Refer victims of crime to the Mariposa County District Attorney's Office for resources and assistance through the criminal justice process and/or the California Victim Compensation Board Application.
- Refer victims of crime to the Victim Witness Program for assistance with transportation.
- Attend steering committee meetings to ensure the progress on the grant and confer to update the committee on any new resources/opportunities for victims of crime in Mariposa County.

Mariposa County Probation Department agrees to:

- Refer victims of crime to the Mariposa County District Attorney's Office for resources and assistance through the criminal justice process and/or the California Victim Compensation Board Application.
- Refer victims of crime to the Victim Witness Program for assistance with transportation.
- Attend steering committee meetings to ensure the progress on the grant and confer to update the committee on any new resources/opportunities for victims of crime in Mariposa County.

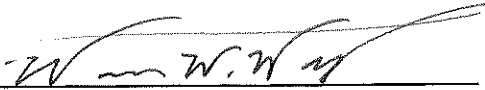
Alliance for Community Transformations agrees to:

- Refer victims of crime to the Mariposa County District Attorney's Office for resources and assistance through the criminal justice process and/or the California Victim Compensation Board Application.
- Refer victims of crime to the Victim Witness Program for assistance with transportation.
- Attend steering committee meetings to ensure the progress on the grant and confer to update the committee on any new resources/opportunities for victims of crime in Mariposa County.

We, the undersigned, as authorized representatives of the abovementioned agencies do hereby approve this MOU for the period of January 1, 2023 through December 31, 2023.

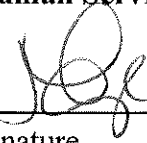
CalOES Operation Agreement-Victim Services Program

Mariposa County District Attorney's Office


 Signature

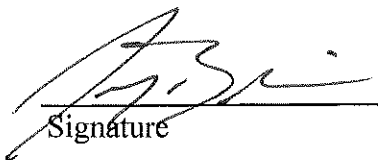
Walter W. Wall
 Printed Name

Mariposa County Health and Human Services Agency


 Signature

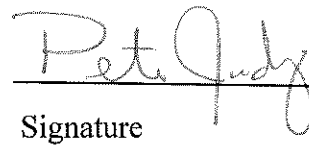
Joe Lynch
 Printed Name

Mariposa County Sheriff's Office


 Signature

Jeremy Biese
 Printed Name

Mariposa County Probation Department


 Signature

Pete Judy
 Printed Name

Alliance for Community Transformations


 Signature

Alison Tudor
 Printed Name

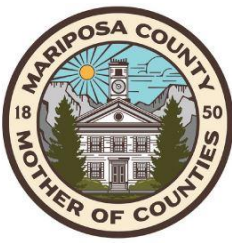
Mariposa County Administrative Officer

 Signature

JAY D. KIMBLE

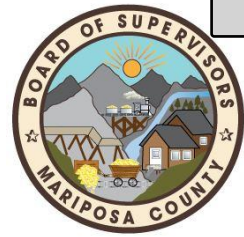
APPROVED AS TO FORM:

 STEVEN. W. DAHLEM
 County Counsel



MARIPOSA COUNTY

District Attorney/Victim Witness • (209) 966-3626



RESOLUTION - ACTION REQUESTED 2022-552

MEETING: September 27, 2022

TO: The Board of Supervisors

FROM: Walter Wall, District Attorney

RE: Adopt a Resolution for the County Victim Services (XC) Grant

RECOMMENDATION AND JUSTIFICATION:

Adopt a Resolution Authorizing the District Attorney to Sign Any Amendments and Extensions to the January 01, 2023 - December 31, 2023 County Victim Services (XC) Grant (Subject to Approval as to Legal Form by County Counsel).

The California Office of Emergency Services Victim Witness Assistance Program runs on a federal fiscal year of January 1st, 2023 through December 31st, 2023. This grant is a secondary funding source and supports additional personnel and expenditures for the Victim Witness Services Program as a whole.

All Victim Witness Assistance Program subrecipients are required to obtain written authorization from the governing board that the official executing the agreement is, in fact, authorized to do so (SRH 1350). That authorization must also allow the executing official to authorize any grant applications, amendments, extensions, etc. For example, the California Office of Emergency Services could notify grant recipients of increases in funding which would require an amendment to reflect how the funds would be expended. Any amendments that would potentially impact the County General Fund would be brought before the Board for approval.

BACKGROUND AND HISTORY OF BOARD ACTIONS:

The Board has approved other grants submitted by the District Attorney's Office including the Victim Witness Program for the past 30 years. Additionally, the Board has approved the District Attorney to have the Authority to enter into agreement, amendments and any extensions for the County Victim Services Program Grant Application in Resolution No. 2021-533.

ALTERNATIVES AND CONSEQUENCES OF NEGATIVE ACTION:

If the Board chooses to not approve official delegation signature authorization to the District Attorney it will have a negative impact on the Victim Witness Program's ability to comply with CalOES requirements and the possibility of funding for this program would be in jeopardy.

FINANCIAL IMPACT:

Based on the current proposed budget, the center will have no net county cost.

ATTACHMENTS:

Formal Resolution MT# 13395 (DOC)

RESULT: ADOPTED BY CONSENT VOTE [UNANIMOUS]

MOVER: Marshall Long, District III Supervisor

SECONDER: Wayne Forsythe, District IV Supervisor

AYES: Rosemarie Smallcombe, Marshall Long, Wayne Forsythe, Miles Menetrey

MARIPOSA COUNTY RESOLUTION NO. _____**Adopt a Resolution Authorizing the District Attorney to Sign Any Amendments and Extensions to the 2022-2023 Victim Witness Assistance (VW) Grant.**

Whereas, The California Office of Emergency Services has released a request for application for the County Victim Service Program Grant (XC);

Whereas, The Victims of Crime Act (VOCA) Victim Assistance Formula Grant Program supports eligible victim assistance programs;

Whereas, The Mariposa County District Attorney's Office submitted an application to the California Office of Emergency Services for the County Victim Service Program Grant (XC);

Whereas, The Mariposa County District Attorney's Office Victim/Witness Assistance Program staff will be dedicated to serving victims and their families;

NOW THEREFORE BE IT FURTHER RESOLVED THAT, that the Mariposa County Board of Supervisors authorizes submittal of grant applications to the California Office of Emergency Services County Victim Service Program Grant (XC); in the amount of \$128,904 to run January 1, 2023 through December 31st, 2023; and

NOW THEREFORE BE IT FURTHER RESOLVED THAT, that the District Attorney is hereby authorized to execute in the name of the County of Mariposa all necessary applications, contracts, agreements, payment requests, amendments and extension for the purposes of securing grant funds and to implement and carry out the purposes specified in the grant applications.

PASSED AND ADOPTED by the Board of Supervisors of the County of Mariposa, a political subdivision of the State of California, at a regular meeting on September 27th, 2022, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAINED:

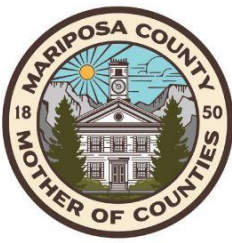
ROSEMARIE SMALLCOMBE, Chairwoman

ATTEST:

APPROVED AS TO FORM:

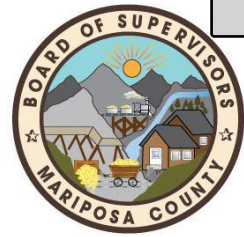
RENÉ LAROCHE, Clerk of the Board

STEVEN W. DAHLEM, County Counsel



MARIPOSA COUNTY

HHS/Behavioral Health & Recovery Services • (209) 966-2000



RESOLUTION - ACTION REQUESTED 2022-553

MEETING: September 27, 2022

TO: The Board of Supervisors

FROM: Joe Lynch, Health & Human Services Agency Director

RE: HIPAA Business Associate Agreement (BAA) - XFERALL, LLC

RECOMMENDATION AND JUSTIFICATION:

Approve a Business Associate Agreement (BAA) Between the County of Mariposa (HHSA) and XFERALL, LLC to provide privacy protection related to patient health information; and Authorize the Board of Supervisors Chair to Sign the Agreement.

XFERALL is a software solutions organization that matches patient needs to facility capabilities, connecting health care professionals to nearby facilities with the resources to treat patients' specific conditions. The Department's primary need for this software is to assist with mental health acute care placements. The purpose of this BAA is to acknowledge the privacy and security obligations of XFERALL to carry out the provisions of the Federal Health Information Technology for Economic and Clinical Health Act (the "HITECH Act") of 2009 and under existing privacy and security standards at 45 Code of Federal Regulations Parts 160 and 164.

BACKGROUND AND HISTORY OF BOARD ACTIONS:

The Board of Supervisors does not have an existing history with this contractor.

ALTERNATIVES AND CONSEQUENCES OF NEGATIVE ACTION:

HHSA's ability to maintain optimal information related to patient treatment is greatly hindered.

FINANCIAL IMPACT:

There is no exchange of funds connected with this BAA agreement. There is no impact to the General Fund.

ATTACHMENTS:

baa_mariposa_county_bhrs_Sept 1 2022v3 (PDF)

RESULT: ADOPTED BY CONSENT VOTE [UNANIMOUS]

MOVER: Marshall Long, District III Supervisor

SECONDER: Wayne Forsythe, District IV Supervisor

AYES: Rosemarie Smallcombe, Marshall Long, Wayne Forsythe, Miles Menetrey

HIPAA BUSINESS ASSOCIATE AGREEMENT

This HIPAA Business Associate Agreement is made the _____ day of _____ 20__, ("Effective Date"), by and between County of Mariposa with an address of 5362 Lemee Lane, Mariposa, CA 95338 ("Covered Entity") and XFERALL, LLC with an address at 111 Congress Ave., Ste. 400, Austin, TX 78701 ("Business Associate").

ARTICLE 1 Applicability

11 Business Associate provides a mobile application that serves to automate the patient transfer process. During the course of the performance of such services, Business Associate may have access to certain individually identifiable health information maintained by Covered Entity. This Agreement applies to all present and future contracts and relationships between Covered Entity and Business Associate, written or unwritten, formal or informal, in which Covered Entity provides any Protected Health Information to Business Associate in any form whatsoever. As of the Effective Date, this Agreement automatically amends all existing agreements between Business Associate and Covered Entity involving the use or disclosure of Protected Health Information. This Agreement shall automatically be incorporated in all subsequent agreements between Business Associate and Covered Entity involving the use or disclosure of Protected Health Information, in which a business associate relationship exists, whether or not specifically referenced therein. In the event of any conflict or inconsistency between the provisions of this Agreement and the provisions of any other agreement between Business Associate and Covered Entity, the provisions of this Agreement shall control unless Covered Entity specifically agrees to the contrary in writing.

12 Business Associate acknowledges that the provisions of the Federal Health Information Technology for Economic and Clinical Health Act (the "HITECH Act") of 2009 imposes certain privacy and security obligations on Business Associate under the HITECH Act and under existing privacy and security standards at 45 Code of Federal Regulations Parts 160 and 164.

ARTICLE 2 Terms Used in this Agreement

21 "Breach" means the acquisition, access, use, or disclosure of protected health information in a manner not permitted under the Privacy Standards of the HIPAA Regulations which compromises the security or privacy of the protected health information.

(a) For purposes of this definition, ***compromises the security or privacy of the protected health information*** means poses a significant risk of financial reputational, or other harm to the individual;

(b) A use or disclosure of protected health information that does not include the identifiers listed at § 164.514(e)(2) of the HIPAA Regulations; date of birth, and zip code does not compromise the security or privacy of the protected health information.

Breach excludes:

(a) Any unintentional acquisition, access, or use of protected health information for a workforce member or person acting under the authority of a covered entity or a business associate, if such acquisition, access or use was made in good faith and within the scope of authority and does not result in further use or disclosure in a manner not permitted under the Privacy Standards of the HIPAA Regulations.

(b) Any inadvertent disclosure by a person who is authorized to access protected health information at a covered entity or business associate to another person authorized to access protected health information at the same covered entity or business associate, or organized health care arrangement in which the covered entity participates, and the information received as a result of such disclosure is not further used or disclosed in a manner not permitted under subpart E of the HIPAA Regulations.

(c) A disclosure of protected health information where a covered entity or business associate has a good faith belief that an unauthorized person to whom the disclosure was made would not reasonably have been able to retain such information.

22 "Designated Record Set" means a group of records maintained by or for Covered Entity that is:

(a) The medical records and billing records about the individuals maintained by or for the Covered Entity;

(b) The enrollment, payment, claims adjudication, and case or medical management record systems maintained by or for a health plan; or

(c) Used, in whole or in part, by or for the Covered Entity to make decisions about individuals. As used in this Agreement, the term "record" means any item, collection or grouping of information that includes Protected Health Information and is maintained, collected, used or disseminated by or for the Covered Entity.

23 "Electronic Protected Health Information or EPHI" means Protected Health Information transmitted by or maintained in electronic media.

24 "Individually Identifiable Health Information" means information that is a subset of health information, including demographic information collected from an individual, and:

- (a) Is created or received by a health care provider, health plan, employer, or health care clearinghouse; and
- (b) Relates to the past, present or future physical or mental health or 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; and
 - (1) Identifies the individual; or
 - (2) With respect to which there is a reasonable basis to believe the information can be used to identify the individual.

25 "Privacy Standards" means the Standards for Privacy of Individually Identifiable Health Information, 45 CFR Part 160 and Part 164, subparts A and E.

26 "Protected Health Information or PHI" means Individually Identifiable Health Information that is:

- (a) Transmitted by electronic media;
- (b) Maintained in any electronic medium; or
- (c) Transmitted or maintained in any other form or medium.

27 "Security Standards" means the Security Standards for Protection of Electronic Protected Health Information, 45 CFR Part 160 and Part 164, subparts A and C.

28 "Unsecured Health Information" means Protected Health Information that is not rendered unusable, unreadable, or indecipherable to unauthorized individuals through the use of a technology or methodology specified by the Secretary in the guidance issued under Section 13402(h)(2) of Public Law 111-5 (HITECH Act) on the HHS website.

29 Terms used but not otherwise defined in this Agreement shall have the same meaning as those terms in the HIPAA Privacy Standards and Security Standards.

ARTICLE 3

Obligations of Business Associate

3.1 Use of Protected Health Information. Business Associate may use or disclose Protected Health Information only as necessary to fulfill Business Associate's obligations under the Main Agreement or this Agreement or as required by law. Business

Associate shall use and disclose Protected Health Information only if such use or disclosure is in compliance with each applicable requirement of the Privacy Standards set forth at 45 C.F.R. §164.504(e). Business Associate shall not, and shall ensure that its directors, officers, employees, contractors and agents do not, use Protected Health Information received from the Covered Entity in any manner that would constitute a violation of the Privacy Standards if used by the Covered Entity, except that Business Associate may use Protected Health Information (1) for Business Associate's proper services under the Agreement, or (2) to carry out its legal responsibilities.

3.2 Privacy Standards Requirements. Business Associate shall comply with the HIPAA Privacy Standards to the same extent required by Covered Entities (as that term is defined by 45 CFR § 160.103) as required by the HITECH Act §§ 13401 and 13404.

3.3 Disclosure of Protected Health Information. Business Associate shall not, and shall ensure that its directors, officers, employees, contractors and agents do not, disclose Protected Health Information received from the Covered Entity in any manner that would constitute a violation of the Privacy Standards if disclosed by the Covered Entity. To the extent Business Associate discloses Protected Health Information to a third party, Business Associate must obtain, prior to making any such disclosure: (1) reasonable assurances from such third party that such Protected Health Information will be held confidential as provided pursuant to this Agreement and only disclosed as required by law or for the purposes for which it was disclosed to such third party; and (2) an agreement from such third party to immediately notify Business Associate of any breaches of the confidentiality of the Protected Health Information to the extent it has obtained knowledge of such breach. Business Associate shall disclose to its subcontractors, agents or other third parties, and request from Covered Entity, only the minimum PHI necessary to perform or fulfill a specific function required or permitted hereunder.

3.4 Safeguards Against Misuse of Information. Business Associate agrees that it will implement all appropriate safeguards to prevent the use or disclosure of Protected Health Information other than pursuant to the terms and conditions of this Agreement

3.5 Reporting of Disclosures of Protected Health Information. Business Associate shall, within five (5) days of becoming aware of a disclosure of Protected Health Information in violation of this Agreement by Business Associate, its officers, directors, employees, contractors or agents, or by a third party to which Business Associate disclosed Protected Health Information pursuant to Section 3.3 of this Agreement, report any such disclosure to the Covered Entity.

3.6 Breach Notification. Business Associate shall comply with requirements for notification of Covered Entity of Breach of Unsecured PHI as provided in 45 CFR § 164.400 et.seq.

3.7 Mitigation. Business Associate shall mitigate, to the extent practicable, any harmful effect that is known to Business Associate arising from a use or disclosure of

Protected Health Information by Business Associate in violation of the requirements of this Agreement or of Federal or state law or regulation.

3.8 Agreements with Third Parties. Business Associate shall enter into an agreement with any agent or subcontractor that will have access to Protected Health Information that is received from, or created and received by Business Associate on behalf of the Covered Entity, pursuant to which such agent or subcontractor agrees to be bound by the same restrictions, terms and conditions that apply to Business Associate pursuant to this Agreement with respect to such Protected Health Information.

3.9 Access to Information. Within five (5) days of a request by the Covered Entity for access to Protected Health Information about an individual contained in a Designated Record Set, Business Associate shall make available to the Covered Entity such Protected Health Information for so long as such information is maintained by Business Associate in the Designated Record Set. In the event any individual requests access directly from Business Associate to Protected Health Information received from, or created or received by Business Associate on behalf of, the Covered Entity, Business Associate shall within two (2) days forward such request to the Covered Entity. Any denials of access to the Protected Health Information requested shall be the responsibility of the Covered Entity. If requested by Covered Entity, Business Associate agrees to comply with covered Entity's request to accommodate an individual's access to his or her PHI.

3.10 Availability of Protected Health Information for Amendment. Within ten (10) days of receipt of a request from the Covered Entity for the amendment of an individual's Protected Health Information or a record regarding an individual contained in a Designated Record Set (for so long as Business Associate maintains the Protected Health Information in the Designated Record Set), Business Associate shall provide such information to the Covered Entity for amendment and incorporate any such amendments in the Protected Health Information as required by 45 CFR § 164.526.

3.11 Accounting of Disclosures.

(a) Within ten (10) days of notice by the Covered Entity to Business Associate that it has received a request for an accounting of disclosures of Protected Health Information regarding an individual during the six (6) years prior to the date on which the accounting was requested, Business Associate shall make available to the Covered Entity such information as is in Business Associate's possession and is required for the Covered Entity to make the accounting required by 45 CFR § 164.528.

(b) At a minimum, Business Associate shall provide the Covered Entity with the following information:

- (1) The date of the disclosure;

(2) The name of the entity or person who received the Protected Health Information, and if known, the address of such entity or person;

(3) A brief description of the Protected Health Information disclosed; and

(4) A brief statement of the purpose of such disclosure which includes an explanation of the basis for such disclosure.

(c) In the event the request for an accounting is delivered directly to Business Associate, Business Associate shall within two (2) days forward such request to the Covered Entity. It shall be the Covered Entity's responsibility to prepare and deliver any such accounting requested.

(d) Business Associate hereby agrees to implement an appropriate recordkeeping process to enable it to comply with the requirements of this Section.

3.12 Availability of Books and Records. Business Associate hereby agrees to make its internal practices, books and records relating to the use and disclosure of Protected Health Information received from, or created or received by Business Associate on behalf of, the Covered Entity available to the Secretary of the Department of Health and Human Services for purposes of determining the Covered Entity's and Business Associate's compliance with the Privacy Standards.

ARTICLE 4

Security of Electronic Protected Health Information

41 Security Safeguards. Business Associate shall implement administrative, physical and technical safeguards that reasonably and appropriately protect the confidentiality, integrity and availability of the electronic protected health information that Business Associate creates, receives, maintains or transmits on behalf of the Covered Entity as required by the Security Standards. Business Associate will ensure that any agent, including a subcontractor, to whom Business Associate provides electronic protected health information created, received, maintained or transmitted on behalf of Covered Entity agrees to implement reasonable and appropriate safeguards to protect that information.

42 Security Rule Provisions. Business Associate shall comply specifically with HIPAA Security Rule provisions relating to: (a) Administrative Safeguards (45 CFR § 164.308); (b) Physical Safeguards (45 CFR § 164.310); (c) Technical Safeguards (45 CFR § 164.312); and (d) Policies and Documentation (45 CFR § 164.316).

43 Reporting of Security or Privacy Breaches. Business Associate shall, within five (5) days of becoming aware of a security or privacy breach by Business Associate, its officers, directors, employees, contractors or agents, or by a third party to which

Business Associate provided electronic protected health information, report any such breach to the Covered Entity.

44 Safeguards for Protection of PHI. Without limiting any other requirements set forth in this Agreement, Business Associate agrees that it (a) will protect and safeguard from any verbal and written disclosure all confidential information regardless of the type of media on which it is stored (e.g. paper, fiche, electronic files, etc.) with which it may come into contact in accordance with applicable statutes and regulations, including but not limited to HIPAA; (b) implement and maintain appropriate policies and procedures to protect and safeguard the PHI; (c) use appropriate safeguards to prevent use and disclosure of PHI other than as permitted by this agreement or as required by law. Business Associate acknowledges that Covered Entity is relying on the administrative, physical, and security safeguards of Business Associate in selecting Business Associate to provide services.

ARTICLE 5

Term and Termination

5.1 Term. The Term of this Agreement shall begin upon the Effective Date and shall terminate when all of the Protected Health Information provided by Covered Entity to Business Associate, or created or received by Business Associate on behalf of Covered Entity, is destroyed or returned to Covered Entity, or if it is infeasible to return or destroy Protected Health Information, protections are extended to such information.

5.2 Destruction of PHI. At the termination of the Agreement for whatever reason, Business Associate agrees to return or certify that it has destroyed all Protected Health Information received from, or created or received by Business Associate on behalf of Covered Entity and will not retain any copies. If return or destruction is not feasible, Business Associate agrees to an extension of the protections of this Agreement for as long as necessary to protect Covered Entity's Protected Health Information and to limit further uses and disclosures to those purposes that make the return or destruction of Covered Entity's Protected Health Information unfeasible.

5.3 Consequences of Breach by Business Associate. On Covered Entity's learning of a material breach of this Agreement by Business Associate, Covered Entity shall provide an opportunity for Business Associate to cure the breach or end the violation. If Business Associate does not cure the breach or end the violation within fourteen (14) days of being notified by Covered Entity, or if cure or ending the violation is not possible, Covered Entity may terminate this Agreement and those portions of the Main Agreement that involve the disclosure to Business Associate of Covered Entity's Protected Health Information, or, if non-severable, the Main Agreement.

ARTICLE 6

Miscellaneous

6.1 Interpretation. Any ambiguity in this Agreement shall be resolved in favor of a meaning that permits Covered Entity to comply with HIPAA and its applicable implementing regulation.

6.2 Notices. All notices pursuant to this Agreement must be given in writing and shall be effective when received if hand-delivered or sent by facsimile or upon dispatch if sent by a reputable overnight delivery service or by U.S. Mail, certified, return receipt requested and addressed as follows:

To Covered Entity: County of Mariposa
5362 Lemee Lane
P.O. Box 99
Mariposa, CA 95338

To Business Associate: XFERALL, LLC
ATTN: Privacy Officer
111 Congress Ave., Ste. 400
Austin, TX 78701

6.3 Change in Law. On the enactment of any federal law or regulation, or law or regulation of any state to whose jurisdiction Covered Entity is subject, affecting the use or disclosure of Covered Entity's Protected Health Information, or on the publication of any decision of a court of the United States or of any state to whose jurisdiction Covered Entity is subject relating to any such law, or the publication of any interpretive policy or opinion of any governmental agency charged with the enforcement of any such law or regulation, Covered Entity may, by written notice to Business Associate, amend this Agreement in such manner as Covered Entity determines necessary to comply with such law or regulation. If Business Associate disagrees with any such amendment, it shall so notify Covered Entity in writing within thirty (30) days of receipt of Covered Entity's notice. If the parties are unable to agree on an amendment within thirty (30) days thereafter, either of them may terminate this Agreement and those portions of the Agreement that involve the disclosure to Business Associate of Covered Entity's Protected Health Information, or, if nonseverable, the Agreement by written notice to the other.

6.4 Jurisdiction and Venue. This Agreement is governed by the laws of the State of Texas and the federal government. Venue shall be in Travis County, Texas.

6.5 Severability. In the event that any provision of this Agreement violates any applicable statute, ordinance or rule of law in any jurisdiction that governs this Agreement, such provision shall be ineffective to the extent of such violation without invalidating any other provision of this Agreement.

IN WITNESS WHEREOF, the parties hereto have set their hands and seals the day and year written above.

BUSINESS ASSOCIATE:

Chris Mountzouris _____

By: _____

COO _____

Date: _____

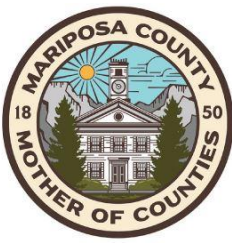
COVERED ENTITY:

Rosemarie Smallcombe _____

By: _____

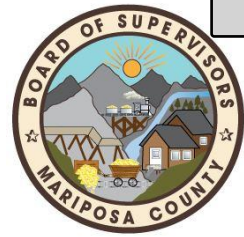
Chair, Mariposa County Board of Supervisors _____

Date: _____



MARIPOSA COUNTY

HHS/Behavioral Health & Recovery Services • (209) 966-2000



RESOLUTION - ACTION REQUESTED 2022-554

MEETING: September 27, 2022

TO: The Board of Supervisors

FROM: Joe Lynch, Health & Human Services Agency Director

RE: Approve Agreement for Behavioral Health County and Tribal Planning Grant Funding

RECOMMENDATION AND JUSTIFICATION:

Approve Subcontract Agreement with Advocates for Human Potential Acting on Behalf of the California Department of Health Care Services to implement the Behavioral Health County and Tribal Planning Grant Program in the amount not to exceed \$150,000; and authorize the Board of Supervisors Chair to Sign the Subcontractor Agreement.

The California Department of Health Care Services (DHCS) established Behavioral Health Continuum Infrastructure Program (BHCIP) planning grants for county behavioral health agencies and tribal entities across California to expand behavioral health infrastructure capacity, targeting state-level priorities.

For this planning grant, HHSA will collaborate with all internal partners as well as external partners which include CBO's, other county departments, Board Of Supervisors, behavioral health board and others through stakeholder processes. Consultants and experts in particular areas will be hired to help with the following goals:

Goal 1: Explore sites for permanent supportive housing options in the county to house homeless and severely mentally ill clients. Included in this goal would be to provide onsite HHSA services and potential options would include space for offices on site with housing.

Goal 2 Explore current HHSA building capacity issues and needs in all HHSA locations to determine what is needed in order to meet the growing need and expansion all Behavioral Health and Recovery services and programs.

BACKGROUND AND HISTORY OF BOARD ACTIONS:

The Board approved acceptance of BHCIP grant funding on February 8, 2022 through Resolution No. 2022-101

ALTERNATIVES AND CONSEQUENCES OF NEGATIVE ACTION:

Non-approval of this agreement results in our County forgoing a significant opportunity to creating desirable outcomes for targeted population addressed through BHCIP.

FINANCIAL IMPACT:

There is no impact to the County General Fund.

ATTACHMENTS:

Mariposa County HHSA Notice of Award (PDF)

7469-BHCIP-County of Mariposa-01G_rev (PDF)

RESULT: ADOPTED BY CONSENT VOTE [UNANIMOUS]

MOVER: Marshall Long, District III Supervisor

SECONDER: Wayne Forsythe, District IV Supervisor

AYES: Rosemarie Smallcombe, Marshall Long, Wayne Forsythe, Miles Menetrey



MICHELLE BAASS
DIRECTOR

State of California—Health and Human Services Agency
Department of Health Care Services



GAVIN NEWSOM
GOVERNOR

January 4, 2022

Re: Behavioral Health County and Tribal Planning Grant Application

Attn: Baljit Hundal

Dear Baljit Hundal:

Thank you for your application submission for the Behavioral Health County and Tribal Planning Grant funding from the Behavioral Health Continuum Infrastructure Program (BHCIP).

Congratulations! This letter serves as your Notice of Award.

The California Department of Health Care Services (DHCS) is pleased to announce that Mariposa County Health and Human Services Agency has been selected to receive funding in the amount of \$150,000.00. The award amount is based on your funding request and proposal for the period starting from January 3, 2022 through December 31, 2022. Planning grantees may use any remaining funds for pre-development costs after submission and DHCS approval of an Action Plan.

By completing the following form, you are officially accepting this award:

<https://app.smartsheet.com/b/form/3a03561e87914fa4827e40157fce7654>. Advocates for Human Potential, Inc. (AHP) is the BHCIP Administrative Entity. Please submit the form at the link above no later than 4 p.m. PT January 11, 2021.

The BHCIP team will be hosting an informational webinar on Wednesday, February 16, from 1:00 p.m. to 2:00 p.m. PT to commence project kickoff and review instructions for completing the Statement of Work (SOW). The SOW template will be shared in the coming weeks. Please use the following link to register: [Webinar Registration](#).

If you have questions, please contact the BHCIP team at BHCIP@dhcs.ca.gov.

Sincerely,

DocuSigned by:

Marlies Perez

C595D8936F1F429...

Marlies Perez, Division Chief
Community Services Division
Department of Health Care Services

SUBCONTRACT AGREEMENT

SUMMARY COVER SHEET

Subcontract ID:	7469-BHCIP-County of Mariposa-01G
Subcontract Effective Date:	January 3, 2022
Contractor:	ADVOCATES FOR HUMAN POTENTIAL, INC. (AHP) 490-B Boston Post Road, Sudbury, MA 01776-3365 Tel: (978) 443-0055 ♦ Fax: (978) 261-1467 AHP Contracting Officer: Charles Galland, COO cgalland@ahpnet.com/978-261-1425 AHP Project Director: Carol Bianco Tel: 518-391-9315 (o) cbianco@ahpnet.com AHP Direct Staff Contact: Carol Bianco Tel: 518-391-9315 (o) cbianco@ahpnet.com
Subcontractor:	COUNTY OF MARIPOSA ("COUNTY OF MARIPOSA") ATTN: Joe Lynch, Director, Health and Human Services Agency 5362 Lemee Lane, Mariposa, CA 95338 Email address: jlynch@mariposacounty.org 209-742-0892
Prime Contract Identification:	Client: California Department of Health Care Services Agreement No.: 21-10368 Contract Title: <i>"California Behavioral Health Continuum Infrastructure Program (BHCIP)"</i>
Subcontract Type:	Deliverable Based Type Contract
Period of Performance:	January 3, 2022 through December 31, 2022
Consideration/Budget:	Professional Services NTE \$150,000.00
Billing Terms:	Quarterly Invoicing, as per Attachment E-Payment Schedule
Payment Terms:	Payment remitted ten (10) business days after receipt of undisputed invoice.

SUBCONTRACT AGREEMENT

7469-BHCIP-County of Mariposa-01G

This Subcontract is entered into by and between **ADVOCATES FOR HUMAN POTENTIAL, INC.**, with offices located at **490-B Boston Post Road, Sudbury, MA 01776**, ("AHP" or the "Contractor"), and **COUNTY OF MARIPOSA**, with offices at **5362 Lemee Lane, Mariposa, CA 95338** ("COUNTY OF MARIPOSA" or "Subcontractor").

WITNESSETH:

WHEREAS, AHP desires to obtain the Subcontractor's services to support statewide expansion of California's Behavioral Health Workforce, with regard to the CA DHCS "*Behavioral Health Continuum Infrastructure Program (BHCIP)*" Project No.: 21-10368 (hereinafter the "DHCS Contract") under Subcontract ID: **7469-BHCIP-County of Mariposa-01G**, hereinafter the "Subcontract," and the Subcontractor desires to assist AHP in its business by performing such services;

NOW, THEREFORE, based upon the foregoing premises, and in consideration of the mutual covenants and agreements herein set forth, the parties agree as follows:

This Subcontract, and its Attachments, ("Agreement") constitutes the entire agreement and understanding between the parties as to the matters set forth herein. It supersedes all prior understandings, written or oral, between the parties with respect to the subject matter hereof and has been induced by no representations, statements, or agreements other than those herein expressed. By accepting this Agreement, the Subcontractor agrees to be bound by all terms and conditions and provisions that may be incorporated by reference, and all other Attachments to this Agreement.

IN WITNESS THEREOF, the parties hereto have executed this Agreement by their duly authorized respective officers as of the day and year last written below.

**ADVOCATES FOR HUMAN
POTENTIAL, INC.**

COUNTY OF MARIPOSA

By: _____

*Signature of Authorized Entity
Representative*

**CHARLES GALLAND, CHIEF
OPERATING OFFICER**

Print or Type Name of Person Signing

Date: _____

Representative Title

Date: _____

ADDITIONAL SIGNATORY PAGE DIRECTLY FOLLOWS (WHEN REQUIRED)

COUNTY OF MARIPOSA

Signature of Authorized Entity Representative

Print or Type Name of Person Signing

Representative Title

Date: _____

COUNTY OF MARIPOSA

Signature of Authorized Entity Representative

Print or Type Name of Person Signing

Representative Title

Date: _____

COUNTY OF MARIPOSA

Signature of Authorized Entity Representative

Print or Type Name of Person Signing

Representative Title

Date: _____

TABLE OF CONTENTS

7469-BHCIP-County of Mariposa-01G

SECTION	PAGE NO.
SECTION 1. PRIVITY OF CONTRACT	4
SECTION 2. NATURE OF THE SUBCONTRACT	4
Type of Subcontract	4
Funding	4
SECTION 3. SUBCONTRACTOR PERFORMANCE AND DELIVERY	4
Period of Performance	4
Time of the Essence	5
Delivery Schedule	5
Inspection and Acceptance	5
SECTION 4. STATEMENT OF WORK	6
SECTION 5. SUBCONTRACTOR TRAVEL	6
SECTION 6: CONTRACT ADMINISTRATION DATA.....	6
Contractor Representatives.....	6
Subcontractor Representatives	7
Compensation, Billing Instructions, and Payment	7
Final Payment and Closeout	8
Key Personnel	8
SECTION 7: CHANGES AND MODIFICATIONS	9
SECTION 8: CONFIDENTIAL INFORMATION.....	9
Non-Disclosure of Confidential (Proprietary) Information	9
Personally Identifiable Information	10
SECTION 9. INTELLECTUAL PROPERTY.....	10
SECTION 10: TERMINATION FOR CAUSE	11
SECTION 11: POLICIES AND CODES	12
SECTION 12: DATA COLLECTION AND PERFORMANCE	12
SECTION 13: ORGANIZATIONAL CONFLICT OF INTEREST	12
SECTION 14: INSURANCE	12
SECTION 15: INDEMNIFICATION	13
SECTION 16: DISPUTES/APPLICABLE LAWS	14
Disputes	14
Applicable Laws	14
SECTION 17: CERTIFICATIONS	15
SECTION 18: RECORDS AND RECORD KEEPING	17
SECTION 19: EXPENSE ALLOWABILITY/FISCAL DOCUMENTATION.....	17
SECTION 20: RECOVERY OF OVERPAYMENTS.....	18
SECTION 21: BEST EFFORTS.....	18
LIST OF ATTACHMENTS.....	18
Attachment A – <i>Standard</i> Subcontract Terms and Conditions	
Attachment B – <i>Special</i> Subcontractor Requirements	
Attachment C – Subcontractor's Certification	
Attachment D – Subcontractor's Statement of Work	
Attachment E – Payment Schedule	

SECTION 1. PRIVACY OF CONTRACT

This Agreement is funded in whole or in part with funds from AHP's client, State of CA Department of Health Care Services ("DHCS" or "Client") which includes funding through DHCS's Behavioral Health Continuum Infrastructure Program (BHCIP). Neither the Client (nor the US Government), nor any of its departments, agencies, or employees is or will be a party to this Agreement or any lower-tier subcontract. No privity between the Client, (or the US Government), and Subcontractor is established by this Agreement.

Except as authorized by AHP, Subcontractor shall not communicate with the Client/US Government regarding any matter which is within the scope of AHP's responsibility under the Prime Contract, or regarding matters within the scope of this Agreement. Authorization by AHP shall not be unreasonably withheld. In addition, Subcontractor shall not communicate with the Client/US Government regarding any matter of dispute with AHP, which shall be resolved strictly through the Disputes provisions of this Subcontract.

SECTION 2. NATURE OF THE SUBCONTRACT

2.1 Type of Subcontract

This is a **Deliverable Based** type Agreement. Subcontractor's accounting system must be capable of allocating and segregating costs applicable to this Subcontract.

2.2 Funding

All amounts under this Agreement reference US dollars. No costs will be incurred except those specifically proposed by the Subcontractor to AHP, and Subcontractor shall perform the work within the funding allocations/budget, specified in **Attachment E**.

This Agreement is entered into, and the obligation of funds is made, based upon the appropriation under the Prime Contract. Should this appropriation or any funds allocated to the Prime Contract be reduced subsequent to this Agreement, or should the scope of the work, or Statement of Work be redirected by the Client or AHP so as to affect the work envisioned to be subcontracted, AHP shall have the right to renegotiate this Agreement or to effect a termination (at its discretion) pursuant to the termination section of this Agreement.

2.3 This Agreement hereby incorporates by reference the Application by Subcontractor as well as Notice of Funding Opportunity.

Total funds currently available for payment and allotted to this Agreement are **ONE HUNDRED FIFTY THOUSAND DOLLARS AND NO CENTS (\$150,000.00)**.

SECTION 3. SUBCONTRACTOR PERFORMANCE AND DELIVERY

3.1 Period of Performance

The Base performance period is **January 3, 2022 through December 31, 2022**, unless sooner terminated in accordance with the terms of this Agreement. Any extensions to the period of performance will be supported by a written modification to the Agreement, and any changes or additions to the Statement of Work/deliverables/days of performance shall be determined at that time.

Whenever Subcontractor knows, or reasonably should know, that any actual or potential condition is delaying, or threatens to delay, the timely performance of work, it shall, within five (5) business days, provide AHP with written notice, including all relevant information with respect to the condition(s) and delay.

3.2 Time of the Essence

TIME IS OF THE ESSENCE in Subcontractor's performance of its obligations under this Agreement.

3.3 Delivery Schedule

Satisfactory performance of deliverables shall be deemed to occur upon delivery and acceptance by the Project Director of the items as described in the Statement of Work (SOW). All deliverables shall be submitted as directed by the Project Director. In no event shall Subcontractor submit a deliverable directly to the Client/US Government, unless specifically directed to do so in writing by the Project Director or his/her designee.

Upon request, a copy of all written deliverables shall also be delivered to:

Mr. Charles Galland, Chief Operating Officer, General Counsel
Advocates for Human Potential, Inc.
490-B Boston Post Road, Sudbury, MA 01776
cgalland@ahpnet.com

3.4 Inspection and Acceptance

(a) Inspection and acceptance of work will be made by the AHP Project Director, or his/her duly authorized representative. The responsibilities of the AHP Project Director includes continuous monitoring of Subcontractor's performance and providing technical inspection and acceptance as required under the Prime Contract.

(b) Inspection and acceptance will be performed at Advocates for Human Potential, Inc., 490-B Boston Post Road, Sudbury, MA 01776, or at such other place(s) as AHP may designate in writing.

(c) Subcontractor shall tender for acceptance those items that conform to the requirements of this Agreement. AHP reserves the right to inspect or test any supplies or services tendered under this Agreement, to the extent practicable at all reasonable places and times. The Client also has the right to inspect and evaluate the work performed or being performed under this Agreement. Inspections and tests will be performed in a manner that will not unduly delay the work. AHP may require repair or replacement of materially non-conforming infrastructure, supplies or re-performance of nonconforming services at no increase in contract price. Upon submission, AHP shall have ten (10) business days to inspect Subcontractor's work. Should AHP and/or Client find the material unsatisfactory, AHP shall notify Subcontractor of the defects within the 10-day period. Subcontractor shall have ten (10) business days to cure said defects associated with Subcontractor's work/product. If inspection or evaluation is to be performed on the premises of Subcontractor or its lower-tier Subcontractor(s), Subcontractor shall furnish (and require its subcontractors to furnish) all reasonable facilities and assistance for the safety and convenience of these duties.

Any inspection or review undertaken by AHP or the Client is solely for the purpose of determining whether the Subcontractor is properly discharging its obligations to AHP and the Client and should not be relied upon by the Subcontractor or by any third parties as a warranty or representation by AHP or the Client as to the quality of the infrastructure, supplies or services.

SECTION 4. STATEMENT OF WORK

- (a) Independently, and not as an agent of the Contractor, the US Government, or the Client, Subcontractor shall furnish to AHP all the services, qualified personnel, material, equipment, and facilities, not otherwise provided by AHP or the Client, as needed to perform the Statement of Work in **Attachment D**.
- (b) Subcontractor shall maintain an internal quality control program adequate to ensure that the requirements of this Agreement are met. The work shall be performed in accordance with high standards of professional skill, and upon delivery and acceptance of the deliverables, AHP shall pay the Subcontractor in accordance with the payment provisions of this Agreement.

SECTION 5. SUBCONTRACTOR TRAVEL

- (a) Travel ☐ is ☒ is not authorized under this Agreement.
- (b) If travel is authorized above, refer to Travel Reimbursement Information in Attachment B-Special Subcontract Requirements.

SECTION 6: CONTRACT ADMINISTRATION DATA

6.1 Contractor Representatives

- (a) The following individual is designated as AHP's Contracting Officer, and is authorized to direct or negotiate any changes in the statement of work, modify or extend the period of performance, change the delivery schedule, authorize reimbursement to Subcontractor of any costs incurred during the performance of this contract, or otherwise change any terms and conditions of this Agreement:

Mr. Charles Galland, Chief Operating Officer, General Counsel
Advocates for Human Potential, Inc.
490-B Boston Post Road, Sudbury, MA 01776
cgalland@ahpnet.com / (978) 443-0055 x425

- (b) The following individual(s) is/are designated for purposes of administering the contractual progress of the Agreement, and for purposes of providing technical direction and guidance:

Carol Bianco-Miller, Business Unit Director
Advocates for Human Potential, Inc.
Tel: 518-391-9315
cbianco@ahpnet.com

6.2 Subcontractor Representatives

(a) The following individual is designated as Subcontractor's Contracting Officer and is authorized to conduct business, negotiate modifications and changes to any terms and conditions of this Agreement:

(b) The following individual is designated as Subcontractor's Project Manager for purposes of administering this Agreement:

6.3 Compensation, Billing Instructions, and Payment

(a) This is a Deliverable Based type Agreement. Subcontractor shall be reimbursed in accordance with **Attachment E**. In addition, all Subcontractor costs are subject to allowability, reasonableness, and any restrictions contained in the Prime Contract, and/or under the Federal Acquisition Regulation ("FAR") if specified.

(b) Invoices may be submitted quarterly or as set forth in the SOW, as per payment schedule and shall provide sufficient detail, including at least the following information on each invoice:

- i. Subcontractor's name
- ii. Subcontractor's TIN/EIN
- iii. Subcontract Agreement ID: **7469-BHCIP-County of Mariposa-01G**
- iv. Invoice No.
- v. Invoice date
- vi. **AHP's Project & Billing Number(s) applicable to the tasks/deliverables invoiced, as per the Statement of Work attached**
- vii. Amount Due on the Invoice.
- viii. Other substantiating documentation or information as AHP may request
- ix. An original signature of an authorized official of Subcontractor, with the following certification: "I hereby certify that all payments requested are for appropriate purposes and in accordance with the terms and conditions set forth in the Agreement between the parties."
- x. Name/title/telephone number of the person to contact in case of questions about the invoice
- xi. Name, title, phone number, and mailing address of official to whom payment is to be sent.

(c) The cost of overnight or courier delivery of invoices is not allowed.

(d) Invoices shall be sent electronically to: AP2@AHPNET.COM . Upon receipt of an

Invoice, proper in form, and accepted and approved by AHP (***approval of the Invoice shall mean that AHP's Project Director has reviewed, accepted, and signed the Invoice***), payment shall be remitted via wire transfer or other electronic transmission to an account or accounts designated by Subcontractor in writing, within ten (10) business days after receipt of undisputed invoice. When requested, AHP will inform Subcontractor whether or not a specific Subcontractor invoice has been paid, or when AHP reasonably expects the Client to pay the Subcontractor invoice. All payment questions shall be addressed to AHP Accounts Payable at (978) 443-0055.

(e) Subcontractor's right to payment shall be contingent upon the Project Director's review of the deliverables, along with reasonable site inspections or other inspections as may be permitted by AHP under this Agreement, together with any attachments, and that the review shall demonstrate the achievement of satisfactory performance against the Statement of Work in **Attachment D**. Should Subcontractor's lack of satisfactory performance endanger AHP's successful prosecution of its Prime contract responsibilities, a cure notice shall be issued to Subcontractor. Subcontractor shall respond in ten (10) days with a plan to cure such notice. Should the cure not be feasible, or if the cure fails within the agreed upon time frame, AHP may terminate the Agreement immediately upon written notice.

(f) Supporting Documentation: Subcontractor shall provide supporting documentation for invoices as AHP may request, or as may be necessary for compliance with AHP's billing to the Client.

(g) In satisfaction of the Subcontractor's obligation to complete the task(s) called for in **Attachment D, "Statement of Work,"** the Subcontractor shall provide within the period of performance of this Agreement, the deliverable(s) specified. If at the end of the period of performance, the Subcontractor has not completed the deliverable(s), the fee shall be reduced. In the event that the term of this Agreement expires before the Subcontractor has provided the deliverable(s), AHP shall have the right to extend the term of the Agreement to the extent necessary to permit the Subcontractor to provide the deliverable(s) specified.

6.4 Final Payment and Closeout

Subcontractor must invoice for all final costs within ninety (90) days following completion of this Agreement, and Subcontractor will provide all documentation necessary for a timely closeout of this Agreement including the submission of a "Final Invoice," a "Release of Claims," "Assignment of Refunds," and/or other closeout documents as AHP may require or reasonably request. Payment of the invoice may be withheld, pending completion and acceptance by AHP of all work performed, submission of all required documentation and/or substantiation of all work performed or delivered, as per 6.3(g), and submission of all required administrative forms and technical reports. These rights and obligations shall survive the termination of this Subcontract.

6.5 Key Personnel

Subcontractor shall provide the skilled personnel and management necessary to meet the requirements of the Statement of Work. AHP's Project Director shall have right to disapprove all personnel proposed by Subcontractor to perform under this Agreement.

Other than personnel set forth below, prior to staffing any future key positions, Subcontractor, if so directed by the Project Director, shall submit the names below, and provide any other requested data for the proposed key personnel to the Project Director. Should Project Director deem any individuals who have been submitted as unacceptable, Subcontractor shall immediately remove any personnel deemed unacceptable from the assignment and replace him/her with an individual of acceptable qualifications, subject to the same submission requirement and right of disapproval above. Subcontractor shall bear all costs associated with such removal and replacement.

Key personnel essential to the work being performed is/are: *Not applicable for this contract.*

No removals, replacements, or diversions of key personnel shall be made without the written consent of AHP's Project Director.

SECTION 7: CHANGES AND MODIFICATIONS

(a) AHP may at any time make unilateral changes, within the general scope of this Agreement, in the definition, time of performance, or quantity of services to be performed.

(b) If any change causes an increase or decrease in the budgeted cost for performance of any part of the work under this Agreement, Subcontractor shall propose a new budget. Upon agreement of a revised price, a modification will be issued. Subcontractor must assert any claim for adjustment under this clause within thirty (30) days from the date of receipt.

(c) Failure to agree to any adjustment on a timely request that is submitted within the thirty (30) day period allowed shall be deemed a dispute concerning a question of fact within the meaning of the Clause of this Agreement entitled "Disputes." Notwithstanding any failure to agree to any such adjustment, Subcontractor shall diligently proceed with the work as changed.

(d) AHP and/or DHCS may collect additional applicant documentation, signatures, missing items, or omitted information during the response review process. AHP and/or DHCS will advise the applicant orally, by fax, email or in writing of any documentation that is required and the submission timeline. Failure to submit the required documentation by the date and time indicated may cause AHP or DHCS to deem a response nonresponsive and eliminate it from further consideration.

SECTION 8: CONFIDENTIAL INFORMATION

(a) *Non-Disclosure of Confidential (Proprietary) Information:* During the term of this Agreement, Subcontractor and its employees, consultants and/or lower tiered subcontractors, may receive or have access to data and information that is proprietary to AHP and/or DHCS, including the identity of AHP and/or DHCS clients or grantees. All such data and information made available to, disclosed to, or otherwise made known to Subcontractor, its employees, consultants and/or lower tiered subcontractors as a result

of services under this Agreement shall be considered and kept confidential by the Subcontractor, and may be used only for purposes of performing the obligations hereunder. Subcontractor, its employees, consultants and/or lower tiered subcontractors shall not reveal, publish or otherwise disclose such information to any third party without the prior written consent of AHP. Subcontractor shall take all reasonable precautions to prevent any other person with whom it is or may become associated from acquiring confidential proprietary information at any time. Disclosure of the information is for purposes of completing performance under this Agreement, and shall in no way be construed to grant any rights to otherwise use this information, nor shall Subcontractor take action to obtain licenses, patents, trademarks, copyrights, or other rights to said information. Upon the expiration or earlier termination of this Agreement, or at any time that AHP so instructs, Subcontractor agrees to deliver to AHP all proprietary information supplied and delivered, (including all copies, materials, print and electronic, collected and created by Subcontractor in performance of services for AHP), and Subcontractor shall make no further use or utilization of the information. The foregoing obligations shall not apply to information which: (a) is or becomes generally available to the public other than as a result of a disclosure by Subcontractor; (b) becomes available to Subcontractor on a non-confidential basis from a third party source which is not prohibited from disclosing such information by a legal, contractual, or fiduciary agreement to a third party; (c) Subcontractor develops independently without use of AHP's Confidential Information, as demonstrated by written records and evidence; or (d) is required by law to be disclosed, provided Subcontractor notifies AHP promptly and gives AHP an opportunity to seek an appropriate protective order. These obligations of confidentiality and non-disclosure shall be flowed down to consultants and/or lower tiered subcontractors, and shall survive the termination of this Agreement.

(b) Notwithstanding the above, Subcontractor recognizes and acknowledges that DHCS is a public entity subject to the Public Records Act and information submitted by Subcontractor to AHP as the agent for DHCS or directly to DHCS may be subject to public disclosure and Subcontractor has no right to assume that such information will be kept confidential.

(c) *Personally Identifiable Information*: Subcontractor shall, and shall ensure that each of its subcontractors, if applicable, shall, maintain reasonable security of all personally identifiable information (including but not limited to personal health information), and comply with all applicable legal requirements relating to such information, including requirements relating to safeguarding, storing, transmitting, sharing, and destroying such information, and breach notification requirements as required in Business Associate Agreement Addendum in Attachment B-Special Subcontract Requirements.

Subcontractor shall not, and shall ensure that each of its subcontractors shall not, share personally identifiable information (including but not limited to personal health information) (excluding the personally identifiable information of Subcontractor's (or its subcontractors') directors, officers, employees, agents, affiliates, and designees, in connection with Subcontractor's performance under this Agreement).

SECTION 9: INTELLECTUAL PROPERTY (Intentionally Omitted)

SECTION 10: TERMINATION FOR CAUSE

(a) AHP, or at the direction of the Client, may terminate this Agreement if Subcontractor fails to comply with any terms, conditions, requirements, failure of achievement in any or all deliverables, satisfactory performance, or provisions of the Agreement. AHP shall notify Subcontractor in writing of its failure to comply. Should Subcontractor not remedy such failure within ten (10) business days (Remedy Period), this Agreement may be terminated. Upon notification, or any time during the Remedy Period, Subcontractor may request additional time in order to cure the default and so long as Subcontractor is working in Good Faith and Client approves, the cure period may be extended to at least thirty (30) business days.

(b) In the event that this Agreement is terminated for cause pursuant to Paragraph (a) above, then neither the Client nor AHP shall be liable for any work that is not performed in accordance with the Subcontract. The Client through AHP will pay the Subcontractor for work that has been performed in accordance with this Subcontract, and the Subcontractor shall transfer to the Client or AHP all work that has been completed and paid for under this Agreement.

(c) This Agreement may be terminated immediately upon notification by either party following a material breach of this Agreement.

SECTION 11: POLICIES AND CODES

- 11.1 Subcontractor shall comply with all California and federal law, regulations, and published guidelines, to the extent that these authorities contain requirements applicable to Subcontractor's performance under this Agreement.
- 11.2 Subcontractor shall comply with California Welfare and Institutions Code Sections 5960-5960.45.
- 11.3 AHP may perform inspections, review procedures, documents pertaining to the Statement of Work and other elements of this Agreement, perform onsite visits, desk reviews in order to ensure Subcontractor's compliance with 11.1 and 11.2 as well as protect against fraud, waste, and abuse.
- 11.4 In the event Subcontractor does not comply with 11.1 and 11.2 above, AHP shall give notice in accordance with Section 6 and shall have all rights set forth in Section 10.

SECTION 12: DATA COLLECTION AND PERFORMANCE

- 12.1 Subcontractor is subject to data collection and reporting requirements, which will be set forth by DHCS and conveyed to Subcontractor by AHP.
- 12.2 Monitoring and Site Inspection
 - a. The Subcontractor shall be subject to monitoring by AHP for compliance with the provisions of this Agreement. Such monitoring activities shall include, but are not limited to, inspection of the Subcontractor's services, procedures, books, and records and site inspections, as AHP deems appropriate. AHP may conduct monitoring activities at any time during the Subcontractor's normal business hours.

- b. AHP shall conduct a review of the Subcontractor's records to determine if any of the claimed expenditures were an improper use of grant funds.
- c. The refusal of Subcontractor to permit access to physical facilities and/or inspection of any documents, files, books, or records necessary for AHP to complete its monitoring and inspection activities in accordance with this Section 12 constitutes an express and immediate material breach of this contract and will be a sufficient basis to terminate the contract for cause.

SECTION 13: ORGANIZATIONAL CONFLICT OF INTEREST

Subcontractor warrants to the best of its knowledge and belief at this time, there are no relevant facts or circumstances which could give rise to an organizational conflict of interest, ("OCI") as defined in FAR Subpart 9.5, or that Subcontractor has disclosed all such relevant information, and will disclose any actual or potential OCI that is discovered, including a description of activities that Subcontractor has taken or proposes to take, after consultation with the AHP Contracting Officer, to avoid the conflict. During the term of this Agreement, Subcontractor shall not enter into other contracts or arrangements or otherwise engage in work that will conflict with the parties' relationship of trust and cooperation or that may otherwise conflict with the Subcontractor's obligations.

SECTION 14: INSURANCE

(a) Subcontractor shall continuously maintain for the duration of this Agreement, the following insurance at, or in excess of, the limits detailed below:

- Worker's compensation and employer's liability insurance as required by the law(s) of the state or province where the work is performed.
- Comprehensive automobile and vehicle liability insurance covering claims for injuries to members of the public and/or damages to property of others arising from use of motor vehicles, including on-site and off-site operations, and owned, non-owned, or hired vehicles, with \$1,000,000 combined single limits.
- Subcontractor must furnish to AHP a Certificate of Insurance stating that commercial general liability insurance of not less than \$1,000,000 per occurrence for bodily injury and property damage liability combined is presently in effect for the Subcontractor. The commercial general liability insurance policy shall cover for liabilities arising out of premises, operations, independent contractors, products, completed operations, personal and advertising injury, and liability assumed under an insured agreement. The commercial general liability insurance shall apply to each insured against whom claim is made or suit is brought subject to the Subcontractor's limit of liability.
- Insurance appropriate and sufficient in type and amount to cover any software and data to be developed under this Agreement, and property insurance sufficient to cover the cost of any AHP, Client or other property under this Agreement that may be in the control of the Subcontractor.
- A Builder's Risk insurance covering the infrastructure, if applicable, during the course of the construction phase (and Property Insurance thereafter) covering all

risks of loss, excluding earthquake, flood or other risks customarily excluded from "All-Risks" coverage in an amount equal to full replacement cost, including all improvements at the time of loss.

(b) All policies, except Workers' Compensation and Employer's Liability, shall be endorsed to name AHP as an Additional Insured with respect to the work to be performed by Subcontractor. All such insurance must be primary and non-contributory and required to respond and pay prior to any other insurance or self-insurance available.

(c) Subcontractor shall immediately deposit with AHP upon request a Certificate of Insurance attesting to the above coverage and naming AHP and DHCS as additional insured parties under such policies. The Subcontractor agrees that the insurance required herein will remain in effect at all times during the term of the Agreement. In the event said insurance coverage expires at any time or times during the term of this Agreement, the Subcontractor agrees to provide, at least thirty (30) calendar days before said expiration date, a new Certificate of Insurance evidencing insurance coverage as provided herein for not less than the remainder of the term of the Agreement or for a period of not less than one year. AHP may, in addition to any other remedies it may have, terminate this Agreement on the occurrence of such event.

(d) Insurance Indemnification. Subcontractor shall indemnify AHP and DHCS for any costs and expenses incurred, including reasonable attorneys' fees, judgments, settlements or penalties, as a result of any claim or liability resulting from the failure of Subcontractor (or its lower tier subcontractors or consultants) to maintain the insurance policies required by this section.

(e) This section shall apply to Subcontractor's lower tier subcontractors/consultants unless waived in writing by AHP.

(f) AHP will not be responsible for any premiums, deductibles, or assessments on the insurance policy.

SECTION 15: INDEMNIFICATION

(a) Subcontractor shall indemnify and hold harmless AHP and DHCS and their officers, employees, and agents for any costs and expenses incurred, including reasonable attorneys' fees, judgments, settlements or penalties, against all liabilities, claims, suits, demands or liens for damages to persons or property, ("Claims"), (unless such Claims arise from the gross negligence or willful misconduct of AHP or DHCS), arising out of, resulting from, or relating to, the following:

- Any act, omission, or statement of the Subcontractor, or any person employed by or engaged under contract with the Subcontractor that results in injury (including death), loss, or damage to any person or property;
- Any failure on the part of the Subcontractor to comply with applicable government requirements and requirements of law;

- the failure to maintain the insurance policies required by this section or the work performed, inclusive of Intellectual Property infringement, if applicable, under this Subcontract. Insurance coverage that may be required shall in no way lessen or limit the liability of Subcontractor under the terms of this obligation.
- Any failure on the part of the Subcontractor to satisfy all claims for labor, equipment, materials and other obligations relating to the performance of the work hereunder;
- Any injury to property or person occurring on or about the infrastructure or the property of Subcontractor;
- Any actual or alleged direct or contributory infringement of, or inducement to infringe, any United States or foreign patent, trademark or copyright, arising out of the performance of this Agreement, provided the Subcontractor is reasonably notified of such claims and proceedings; and
- Any actual or alleged unauthorized use or disclosure of any trade secret, confidential information or other proprietary interest, work product, or other information owned by the Government, Client, or AHP under the terms of this Agreement.

(b) Subcontractor shall indemnify under this clause for any of the above acts attributable to its employees, consultants, agents, and/or lower-tiered subcontractors engaged in performance of the work under this Agreement.

(c) This indemnification shall survive the expiration or termination of the Agreement.

SECTION 16: DISPUTES/APPLICABLE LAWS

16.1 Disputes

Any dispute arising out of, or relating to, this Agreement that is not resolved by the good faith efforts of the parties, shall be settled by submission to a panel consisting of one arbitrator under the Commercial Rules of the American Arbitration Association ("AAA"). The parties shall bear equally the costs assessed by the AAA, and judgment upon the award rendered by the arbitrator may be entered in any court having jurisdiction. Venue for the arbitration shall be the State of California in a county elected by AHP. The decision of the arbitrator shall be final, conclusive, and unappealable, except in the event of fraud or the arbitrator's failure to disclose a material conflict of interest. The prevailing party, in addition to any damages awarded by the arbitrator, shall be entitled to costs and reasonable attorneys' fees, the amount of which shall be determined by the arbitrator, in the event the parties are unable to agree.

16.2 Applicable Laws

Each party agrees to comply with the applicable provisions of Federal, State, and local laws or ordinances, and all orders, rules, and regulations issued thereunder, and in such a manner that the name of the other party will not be discredited. Where a FAR provision or clause, or any other Federal statute, regulation, or clause is incorporated in or applicable to this Agreement or work being performed under it, Federal law shall govern the interpretation and application thereof. If Federal law is not applicable, the appropriate law of the State of California shall apply, exclusive of that body of laws

known as conflicts of law. This Section shall survive the expiration or termination of the Agreement.

Prevailing Wage. Any construction work that is part of Subcontractor's Project is subject to state and federal prevailing wage law Labor Code Section 1720 et. seq. Subcontractor is urged to seek professional legal advice about prevailing wage law requirements and Subcontractor's obligations thereunder. Prior to disbursing the Grant funds, AHP will require a certification of compliance with California's prevailing wage law, as well as all applicable federal prevailing wage law. The certification must verify that prevailing wages have been or will be paid if such payment is required by law, and that labor records will be maintained and made available to any enforcement agency upon request. The certification must be signed by Subcontractor and its general contractor(s).

Environmental Conditions. If the SOW includes the acquisition of property, Grantee shall provide a Phase I Environmental Site Assessment ("**ESA**") for the Project, in conformance with ASTM Standard Practice E 1527, evaluating whether the Project is affected by any recognized environmental conditions. If the Phase I ESA discloses evidence of recognized environmental conditions and Grantee desires to proceed with the Project, the Grantee shall provide AHP with a Phase II report and any additional reports as required by the AHP and in a form acceptable to AHP. Any remediation work shall be subject to AHP approval. Grantee shall also provide an asbestos assessment and a lead-based paint report for AHP's approval if the Project involves rehabilitation or demolition of existing improvements.

Relocation. Subcontractor must comply with all applicable federal, state, and local relocation law. Pursuant to relocation law, a Subcontractor must have a relocation plan prior to proceeding with any phase of a Project or other activity that will result in the displacement of persons, businesses, or farm operations. To ensure that displaced persons and entities do not suffer a disproportionate impact as a result of Projects which benefit the public, all notices to vacate and relocation services must be provided to them in accordance with applicable law. Subcontractor will provide AHP with a certification that all applicable relocation laws have been complied with.

SECTION 17: CERTIFICATIONS

By signature to this Agreement, Subcontractor makes the following Representations and Certifications:

(a) **Debarment and Suspension:** Neither Subcontractor nor any of its principals is presently debarred, suspended, proposed for debarment, declared ineligible nor voluntarily excluded by any Federal department or agency from participating in transactions. Any change in the debarred or suspended status of the Subcontractor during the life of this Subcontract will be reported immediately to AHP. Subcontractor shall incorporate this Debarment and Suspension certification into any lower-tier subcontract that they may enter into as a part of this Subcontract.

- (b) Prohibition To Perform Duties: Subcontractor is not prohibited, precluded, or restricted from performing the duties required under the Statement of Work, due to previous employment obligations, restrictions, commitments, or agreements Subcontractor has with any other federal, state, or local government agency.
- (c) Federal Civil Rights Act/Equal Opportunity: Subcontractor will conform to the provisions of Title VI of the Federal Civil Rights Act of 1964, section 2000d as amended and will not discriminate against any employee or applicant for employment because of age, race, religion, creed, color, sex, or national origin.
- (d) Labor Laws: Subcontractor certifies that it is in compliance with all applicable labor laws, including but not limited to the Walsh-Healy Act and the Contract Work Hours and Safety Standards Act (41 U.S.C. 51-58) regarding overtime compensation.
- (e) Americans with Disabilities Act: Subcontractor agrees to ensure that deliverables developed and produced, pursuant to this Agreement shall comply with the accessibility requirements of Sections 7405 and 11135 of the California Government Code, Section 508 of the Rehabilitation Act and Americans with Disabilities Act of **1973** as amended (29 U.S.C 794(d), regulations implementing the Rehabilitation Act of 1973 as set forth in in Part 1194 of Title 36 of the Federal Code of Regulations, and the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq. and 28 CFR Part 35). In 1998, Congress amended the **Rehabilitation Act of 1973** to require Federal agencies to make their electronic and information technology (EIT) accessible to people with disabilities. California Government Code Sections 7405 and 11135 codifies section 508 of the Rehabilitation ACT of 1973 requiring accessibility of EIT. Section 504 of the Rehabilitation Act of 1973.
- (f) Employee Compliance: Subcontractor will require all employees, entities, and individuals providing services in connection with the performance of this Subcontract to comply with the provisions of this Agreement and with all Federal, State, and local laws and regulations in connection with this work.
- (g) Code of Ethics: Subcontractor has a Code of Ethics addressing at least the following areas: accurate accounting records and reporting; gifts and entertainment to Government customers; hiring of former government employees; protection of Government proprietary and source selection information; extending and receiving business courtesies; and personal and organizational conflicts of interest.
- (h) Age Discrimination Act of 1975 (45 CFR Part 90)
- (i) Section 1557 of the Affordable Care Act.
- (j) Trafficking Victims Protection Act of 2000 (22 USC 7104(G), as amended and 2 CFR Part 175
- (k) Clean Air Act (42 USC 7401-7671q) and the Federal Water Pollution Control ACT (33 USC 1251-1387), as amended.
- (l) Byrd Anti-Lobbying Amendment (31 USC 1352): The Subcontractor shall certify to DHCS that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an office or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a

member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 USC 1352. The Subcontractor shall also disclose to DHCS any lobbying with non-Federal funds that takes place in connection with obtaining any Federal Award.

(m) Confidentiality of Substance Use Disorder Patient Records: (42 CFR Part 2, Subparts A-E). The Subcontractor shall comply with the regulation set forth in 42 CFR Part 2, including the responsibility for assuring the security and confidentiality of all electronically transmitted patient material.

SECTION 18: RECORDS AND RECORD KEEPING

- a. The Subcontractor shall retain all financial records, supporting documents, statistical records, and all other records pertinent to the grant in accordance with 45 CFR section 75.361.
- b. AHP, SAMHSA, the Inspector General, the Controller General, and DHCS, or any of their authorized representatives, have the right to access any documents, papers, or other records of the Subcontractor which are pertinent to the grant, for the purpose of performing audits, examinations, excerpts, and transcripts. The right to access records also includes timely and reasonable access to the Subcontractor's personnel for the purpose of interview and discussion related to the requested documents.
- c. The right to access records is not limited to the required retention period but lasts as long as the records are retained by the Subcontractor.

SECTION 19: EXPENSE ALLOWABILITY/FISCAL DOCUMENTATION

- a. Invoices, received from a Subcontractor and accepted and/or submitted for payment by AHP, shall not be deemed evidence of allowable costs under this Agreement.
- b. The Subcontractor shall maintain for review and audit and supply to AHP upon request, adequate documentation of all expenses claimed pursuant to this Agreement to permit a determination of expense allowability.
- c. If the allowability or appropriateness of an expense cannot be determined by AHP because invoice detail, fiscal records, or backup documentation is nonexistent or inadequate according to generally accepted accounting principles or practices, all questionable costs may be disallowed, and payment may be withheld by AHP. Upon receipt of adequate documentation supporting a disallowed or questionable expense, reimbursement may resume for the amount substantiated and deemed allowable.
- d. If Travel is a reimbursable expense, receipts must be maintained to support the claimed expenditures. For more information on allowable travel and per diem expenses and required documentation, "Travel Reimbursement Information."
- e. Costs and/or expenses deemed unallowable are subject to recovery by AHP. See Section 20 "Recovery of Overpayments" for more information.

- f. Country organizations may utilize their existing DHCS certified indirect cost rates for per Behavioral Health Information Notice 20-020.

SECTION 20: RECOVERY OF OVERPAYMENTS

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

SECTION 21: BEST EFFORTS

During the term of this Agreement, Subcontractor shall use Best Efforts in order to satisfy all the requirements of the work to be performed under Section 4 and Attachment D of this Agreement.

THIS AGREEMENT CONSISTS OF **EIGHTEEN (18)** TYPEWRITTEN PAGES, TOGETHER WITH THE ATTACHMENTS IDENTIFIED BELOW, WHICH ARE HEREBY INCORPORATED INTO THIS AGREEMENT.

LIST OF ATTACHMENTS

<u>TITLE</u>	<u>No. of PAGES</u>
Attachment A — <i>Standard</i> Subcontract Terms and Conditions	1
Attachment B — <i>Special</i> Subcontractor Requirements	27
Attachment C —Subcontractor's Certification	3
Attachment D —Subcontractor's Statement of Work	
Attachment E —Payment Schedule	

ATTACHMENT A-STANDARD SUBCONTRACT TERMS AND CONDITIONS

Headings: Headings are for convenience of reference only and shall in no way affect interpretation of this Agreement.

Independent Contractor: Subcontractor is engaged as an independent contractor, and this Agreement shall not be construed as creating any other relationship. Subcontractor shall comply with all laws, and assume all risks incident to its status as independent contractor, and necessary to comply with specific requirements of this Agreement, including, but not limited to, payment of all applicable federal/state income taxes, associated payroll/business taxes, and licenses and fees.

No Agency: Subcontractor, its employees, agents or assigns, shall not represent, act or purport to act, or be deemed to be an agent, representative, or employee of AHP, or commit or obligate AHP to any other person or party.

Lower-Tier Consultants/Subcontractors: AHP's prior written approval is required to obtain services of consultants or lower-tier Subcontractors; provided, however, that this limitation shall not apply to the purchase of standard commercial supplies.

No Assignment: This Agreement is for professional services, and the Agreement, or any duties/obligations imposed shall not be assigned, delegated or otherwise transferred.

Changes to be Made in Writing: Unless otherwise specified that AHP may make a unilateral modification, no understanding, agreement, modification, change order, or other matter affecting this Agreement shall be binding, unless in writing, signed by both parties' Contracting Officer. No handwritten changes shall be effective unless initialed by each Contracting Officer.

Limitation of Liability upon Termination: AHP's maximum aggregate liability to Subcontractor is limited to the total dollar amount of work properly performed by Subcontractor up to the effective date of termination, together with any authorized travel, or authorized expenses incurred under the Agreement that cannot be canceled. AHP is not liable for any special, indirect, incidental, consequential, or punitive damages, nor for any loss of goodwill, profits, data, or loss of use arising out of, resulting from, or in any way connected with the performance or breach of this Agreement, even if advised of the possibility of such damages.

Force Majeure: Neither party shall be liable to the other for loss or damages due to failure or delay in rendering performance caused by circumstances beyond its reasonable control, if such failure could not have been overcome by the exercise of due diligence, due care, or foresight. Causes may include, but are not limited to, acts of God or a public enemy; wars; acts of terrorism; riots; fires; floods; epidemics; quarantine restrictions; labor disputes; strikes; defaults of subcontractors/vendors; failure/delays in transportation; unforeseen freight embargoes; unusually severe weather; or any law/order/regulation/request of a state or local government entity, the US Government, or of any agency, court, commission, or other instrumentality of any such governments. Times of performance under this Agreement may be appropriately extended for excused delays if the party whose performance is affected promptly notifies the other of the existence and nature of such delay.

Scientific Misconduct: Subcontractor shall immediately report to AHP any instance of scientific misconduct or fraud related to performance under this Agreement.

Warranty: Unless a different warranty is specified, Subcontractor warrants all services provided and products delivered will be free from defect in materials and/or workmanship, and will be fit for the purpose intended, and will conform to the specifications of the statement of work. In the event of a breach AHP may complete the work and seek all remedies available in law or equity.

Notices: Notices shall be in writing, sent by USPS Certified Mail-RRR, or any overnight delivery/courier service, and notice shall be deemed given when personally delivered, (or three (3) days after being sent by prepaid certified U.S. mail).

Litigation: Subcontractor shall provide written notice to AHP of any litigation that relates to the services under this contract, or that has the potential to impair its ability to fulfill this contract, including but not limited to financial, legal or other situations.

Publicity: Without prior written approval of the other, neither party shall use the other's name or make reference to the other party or any of its employees in publications, news releases, advertising, speeches, technical papers, photographs, sales promotions, or publicity purposes of any form related to this work or data developed hereunder, unless disclosure of such materials is required by legal, accounting, or regulatory requirements beyond the disclosing party's reasonable control. Use of either party's name may be made in internal documents, annual reports, proposals, etc. which may identify the existence of the project by title, principal investigator or project director, sponsor, period of funding, amount of award and brief abstract of the project. This Section shall survive expiration/termination of this Agreement.

Restrictions on Hiring: During the period of this Agreement, and for a period of two (2) years after its termination, neither party shall directly or indirectly, induce or solicit (or authorize or assist in the taking of any such actions by any third party) any employee or consultant of the other party to leave his/her business association with that party. Parties are not be restricted in the right to solicit or recruit generally in the media.

Survival: Except as otherwise stated, sections that by their terms impose continuing obligations or establish continuing rights shall be deemed to survive the expiration/termination of this Agreement.

Validity and Waiver: The invalidity in whole or in part of any provision of this Agreement shall not affect the validity of other provisions. Waiver of a breach of any provision shall not constitute a waiver of any subsequent breach of that provision, or a breach of any other provision. AHP's failure to enforce any provision of this Agreement shall not be construed as a waiver. Only AHP's Contracting Officer has the authority to waive any term or condition of this Subcontract on behalf of AHP.

Interpretation: This Agreement shall be interpreted and construed in accordance with its fair meaning, and not strictly for or against either party, regardless of who may have drafted it or any specific provision.

Third Party Beneficiaries: This Agreement shall not be construed so as to give any person or entity, other than the parties and DHCS, any legal or equitable claim or right.

Counterparts/Other Instruments: The parties may execute this contract in multiple counterparts, each of which is deemed an original and all of which constitute only one agreement. The parties shall properly make, execute, and deliver such other and further instruments as may be reasonable, necessary, desirable, or convenient to give full force and effect to this Agreement.

Binding Effect: This Agreement shall be binding upon the parties, their successors and assigns.

ATTACHMENT B

1. Federal Equal Opportunity Requirements

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

- f. In the event of the Subcontractor's noncompliance with the requirements of the provisions herein or with any federal rules, regulations, or orders which are referenced herein, this Agreement may be cancelled, terminated, or suspended in whole or in part and the Subcontractor may be declared ineligible for further federal and state contracts in accordance with procedures authorized in Federal Executive Order No. 11246 as amended and such other sanctions may be imposed and remedies invoked as provided in Federal Executive Order No. 11246 as amended, including by Executive Order 11375, 'Amending Executive Order 11246 Relating to Equal Employment Opportunity,' and as supplemented by regulation at 41 CFR part 60, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor," or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.
- g. The Subcontractor will include the provisions of Paragraphs a through g in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to Federal Executive Order No. 11246 as amended, including by Executive Order 11375, 'Amending Executive Order 11246 Relating to Equal Employment Opportunity,' and as supplemented by regulation at 41 CFR part 60, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor," or Section 503 of the Rehabilitation Act of 1973 or (38 U.S.C. 4212) of the Vietnam Era Veteran's Readjustment Assistance Act, so that such provisions will be binding upon each subcontractor or vendor. The Subcontractor will take such action with respect to any subcontract or purchase order as the Director of the Office of Federal Contract Compliance Programs or AHP may direct as a means of enforcing such provisions including sanctions for noncompliance provided, however, that in the event the Subcontractor becomes involved in, or is threatened with litigation by a subcontractor or vendor as a result of such direction by AHP, the Subcontractor may request in writing to AHP, who, in turn, may request the United States to enter into such litigation to protect the interests of the State and of the United States.

2. Travel and Per Diem Reimbursement

(Applicable if travel and/or per diem expenses are authorized to be reimbursed with Agreement funds.)

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

3. Procurement Rules

Applicable to agreements in which equipment/property, commodities and/or supplies are furnished by AHP or DHCS or expenses for said items are reimbursed by funds with state or federal funds provided under this Agreement.

a. Equipment/Property definitions

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

- (1) **Major equipment/property:** A tangible or intangible item having a base unit cost of **\$5,000 or more** with a life expectancy of one (1) year or more and is either furnished by DHCS or the cost is reimbursed through this Agreement. Software and videos are examples of

intangible items that meet this definition.

- (2) **Minor equipment/property:** A tangible item having a base unit cost of less than \$5,000 with a life expectancy of one (1) year or more and is either furnished by DHCS or the cost is reimbursed through this Agreement.

- b. **Government and public entities** (including state colleges/universities and auxiliary organizations), whether acting as a contractor and/or subcontractor, may secure all commodities, supplies, equipment and services related to such purchases that are required in performance of this Agreement. Said procurements are subject to Paragraphs d through h of Provision 3. Paragraph c of Provision 3 shall also apply, if equipment/property purchases are delegated to subcontractors that are nonprofit organizations or commercial businesses.
- c. In special circumstances, determined by AHP (e.g., when AHP has a need to monitor certain purchases, etc.), AHP may require prior written authorization and/or the submission of paid vendor receipts for any purchase, regardless of dollar amount. AHP reserves the right to either deny claims for reimbursement or to request repayment for any Subcontractor purchase that AHP determines to be unnecessary in carrying out performance under this Agreement.
- d. The Subcontractor must maintain a copy or narrative description of the procurement system, guidelines, rules, or regulations that will be used to make purchases under this Agreement. AHP and the State reserves the right to request a copy of these documents and to inspect the purchasing practices of the Subcontractor at any time.
- e. For all purchases, the Subcontractor must maintain copies of all paid vendor invoices, documents, bids and other information used in vendor selection, for inspection or audit. Justifications supporting the absence of bidding (i.e., sole source purchases) shall also be maintained on file by the Subcontractor for inspection or audit.
- f. AHP may, with cause (e.g., with reasonable suspicion of unnecessary purchases or use of inappropriate purchase practices, etc.), withhold, cancel, modify, or retract the delegated purchase authority granted under Paragraph b of Provision 3 by giving the Subcontractor no less than thirty (30) calendar days written notice.

4. Equipment/Property Ownership / Inventory / Disposition

(Applicable to agreements in which equipment/property is furnished by DHCS and/or AHP when said items are purchased or reimbursed by DHCS with state or federal funds provided under this Agreement.)

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

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

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

Upon receipt of equipment and/or property, the Subcontractor shall report the receipt to the AHP. To report the receipt of said items and to receive property tags, Subcontractor shall use a form or format designated by AHP. If the appropriate form does not accompany this Agreement, Subcontractor shall request a copy from AHP.

- (2) **Annual Equipment/Property Inventory** - If the Subcontractor enters into an agreement

with a term of more than twelve months, the Subcontractor shall submit an annual inventory of state equipment and/or property to the AHP using a form or format designated by AHP. If an inventory report form does not accompany this Agreement, Subcontractor shall request a copy from AHP. Subcontractor shall:

- (a) Include in the inventory report, equipment and/or property in the Subcontractor's possession and/or in the possession of a subcontractor (including independent consultants).
 - (b) Submit the inventory report to AHP according to the instructions appearing on the inventory form or issued by AHP.
 - (c) Contact AHP to learn how to remove, trade-in, sell, transfer or survey off, from the inventory report, expired equipment and/or property that is no longer wanted, usable or has passed its life expectancy. Instructions will be supplied by AHP.
- b. Title to state equipment and/or property shall not be affected by its incorporation or attachment to any property not owned by the State.
 - c. Unless otherwise stipulated, AHP or DCHS shall be under no obligation to pay the cost of restoration, or rehabilitation of the Subcontractor's facility which may be affected by the removal of any state equipment and/or property.
 - d. The Subcontractor shall maintain and administer a sound business program for ensuring the proper use, maintenance, repair, protection, insurance and preservation of state equipment and/or property.
 - (1) In administering this provision, AHP may require the Subcontractor to repair or replace, to AHP's satisfaction, any damaged, lost or stolen state equipment and/or property. In the event of state equipment and/or miscellaneous property theft, Subcontractor shall immediately file a theft report with the appropriate police agency or the California Highway Patrol and Subcontractor shall promptly submit one copy of the theft report to AHP.
 - e. Unless otherwise stipulated by the Program funding this Agreement, equipment and/or property purchased/reimbursed with agreement funds or furnished by AHP under the terms of this Agreement, shall only be used for performance of this Agreement or another DHCS agreement.
 - f. Within sixty (60) calendar days prior to the termination or end of this Agreement, the Subcontractor shall provide a final inventory report of equipment and/or property to AHP and shall, at that time, query DHCS as to the requirements, including the manner and method, of returning state equipment and/or property to AHP. Final disposition of equipment and/or property shall be at AHP expense and according to AHP instructions. Equipment and/or property disposition instructions shall be issued by AHP immediately after receipt of the final inventory report. At the termination or conclusion of this Agreement, AHP or DHCS may at its discretion, authorize the continued use of state equipment and/or property for performance of work under a different DHCS agreement.

5. Subcontract Requirements

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

- a. AHP reserves the right to approve or disapprove the selection of subcontractors and with advance written notice, require the substitution of subcontractors and require the Subcontractor to terminate subcontracts entered into in support of this Agreement.

- (1) Upon receipt of a written notice from AHP requiring the substitution and/or termination of a subcontract, the Subcontractor shall take steps to ensure the completion of any work in progress and select a replacement, if applicable, within thirty (30) calendar days, unless a longer period is agreed to by DHCS.
- b. Actual subcontracts (i.e., written agreement between the Subcontractor and a subcontractor) of \$5,000 or more are subject to the prior review and written approval of AHP. AHP may, at its discretion, elect to waive this right. All such waivers shall be confirmed in writing by AHP.
- c. Subcontractor shall maintain a copy of each subcontract entered into in support of this Agreement and shall, upon request by AHP, make copies available for approval, inspection, or audit.
- d. AHP assumes no responsibility for the payment of subcontractors used in the performance of this Agreement. Subcontractor accepts sole responsibility for the payment of subcontractors used in the performance of this Agreement.
- e. The Subcontractor is responsible for all performance requirements under this Agreement even though performance may be carried out through a subcontract.
- f. The Subcontractor shall ensure that all subcontracts for services include provision(s) requiring compliance with applicable terms and conditions specified in this Agreement.
- g. The Subcontractor agrees to maintain and preserve, until three (3) years after termination of Agreement No. 21-10368 and final payment from DHCS and AHP, to permit AHP or DHCS or any duly authorized representative, to have access to, examine or audit any pertinent books, documents, papers and records related to this subcontract and to allow interviews of any employees who might reasonably have information related to such records.
- h. Unless otherwise stipulated in writing, AHP shall be the Subcontractor's sole point of contact for all matters related to performance and payment under this Agreement.
- i. Subcontractor shall, as applicable, advise all subcontractors of their obligations pursuant to the following numbered provisions of this Exhibit: 1, 2, 3, 4, 5, 6, 7, 8, 10, 11, 12, 13, 16, 26, and/or other numbered provisions herein that are deemed applicable.

6. Income Restrictions

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

1. Audit and Record Retention

- a. The Subcontractor shall maintain books, records, documents, and other evidence, accounting procedures and practices, sufficient to properly reflect all direct and indirect costs of whatever nature claimed to have been incurred in the performance of this Agreement, including any matching costs and expenses. The foregoing constitutes "records" for the purpose of this provision.
- b. The Subcontractor's facility or office or such part thereof as may be engaged in the performance of this Agreement and his/her records shall be subject at all reasonable times to inspection, audit, and reproduction.

- c. Subcontractor agrees that AHP, the Department of General Services, the Bureau of State Audits, or their designated representatives including the Comptroller General of the United States shall have the right to review and to copy any records and supporting documentation pertaining to the performance of this Agreement. Subcontractor agrees to allow the auditor(s) access to such records during normal business hours and to allow interviews of any employees who might reasonably have information related to such records. Further, the Subcontractor agrees to include a similar right of the State to audit records and interview staff in any subcontract related to performance of this Agreement. (GC 8546.7, CCR Title 2, Section 1896.77)
- d. The Subcontractor shall preserve and make available his/her records (1) for a period of three (3) years from the date of final payment under this Agreement, and (2) for such longer period, if any, as is required by applicable statute, by any other provision of this Agreement, or by subparagraphs (1) or (2) below.
 - (1) If this Agreement is completely or partially terminated, the records relating to the work terminated shall be preserved and made available for a period of three (3) years from the date of any resulting final settlement.
 - (2) If any litigation, claim, negotiation, audit, or other action involving the records has been started before the expiration of the three-year period, the records shall be retained until completion of the action and resolution of all issues which arise from it, or until the end of the regular three-year period, whichever is later.
- e. The Subcontractor may, at its discretion, following receipt of final payment under this Agreement, reduce its accounts, books and records related to this Agreement to microfilm, computer disk, CD ROM, DVD, or other data storage medium. Upon request by an authorized representative to inspect, audit or obtain copies of said records, the Subcontractor must supply or make available applicable devices, hardware, and/or software necessary to view, copy and/or print said records. Applicable devices may include, but are not limited to, microfilm readers and microfilm printers, etc.
- f. The Subcontractor shall, if applicable, comply with the Single Audit Act and the audit requirements set forth in 2 C.F.R. § 200.501 (2014).

2. Site Inspection

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

3. Federal Contract Funds

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

- a. It is mutually understood between the parties that this Agreement may have been written before ascertaining the availability of congressional appropriation of funds, for the mutual benefit of both parties, in order to avoid program and fiscal delays which would occur if the Agreement were executed after that determination was made.
- b. This agreement is valid and enforceable only if sufficient funds are made available to the State by the United States Government for the fiscal years covered by the term of this Agreement. In addition, this Agreement is subject to any additional restrictions, limitations, or

conditions enacted by the Congress or any statute enacted by the Congress which may affect the provisions, terms, or funding of this Agreement in any manner.

- c. It is mutually agreed that if the Congress does not appropriate sufficient funds for the program, the Agreement shall be amended to reflect any reduction in funds.
- d. AHP and DHCS has the option to invalidate or cancel the Agreement with 30 days advance written notice or to amend the Agreement to reflect any reduction in funds.

4. Intellectual Property Rights

a. Ownership

- (1) Except where AHP has agreed in a signed writing to accept a license, AHP or DHCS shall be and remain, without additional compensation, the sole owner of any and all rights, title and interest in all Intellectual Property, from the moment of creation, whether or not jointly conceived, that are made, conceived, derived from, or reduced to practice by Subcontractor or AHP and which result directly or indirectly from this Agreement.
- (2) For the purposes of this Agreement, Intellectual Property means recognized protectable rights and interest such as: patents, (whether or not issued) copyrights, trademarks, service marks, applications for any of the foregoing, inventions, trade secrets, trade dress, logos, insignia, color combinations, slogans, moral rights, right of publicity, author's rights, contract and licensing rights, works, mask works, industrial design rights, rights of priority, know how, design flows, methodologies, devices, business processes, developments, innovations, good will and all other legal rights protecting intangible proprietary information as may exist now and/or here after come into existence, and all renewals and extensions, regardless of whether those rights arise under the laws of the United States, or any other state, country or jurisdiction.
 - (a) For the purposes of the definition of Intellectual Property, "works" means all literary works, writings and printed matter including the medium by which they are recorded or reproduced, photographs, art work, pictorial and graphic representations and works of a similar nature, film, motion pictures, digital images, animation cells, and other audiovisual works including positives and negatives thereof, sound recordings, tapes, educational materials, interactive videos and any other materials or products created, produced, conceptualized and fixed in a tangible medium of expression. It includes preliminary and final products and any materials and information developed for the purposes of producing those final products. Works does not include articles submitted to peer review or reference journals or independent research projects.
- (3) In the performance of this Agreement, Subcontractor will exercise and utilize certain of its Intellectual Property in existence prior to the effective date of this Agreement. In addition, under this Agreement, Subcontractor may access and utilize certain of AHP's Intellectual Property in existence prior to the effective date of this Agreement. Except as otherwise set forth herein, Subcontractor shall not use any of AHP's Intellectual Property now existing or hereafter existing for any purposes without the prior written permission of AHP. **Except as otherwise set forth herein, AHP shall not give any ownership interest in or rights to its Intellectual Property to the other Party.** If during the term of this Agreement, Subcontractor accesses any third-party Intellectual Property that is licensed to AHP, Subcontractor agrees to abide by all license and confidentiality restrictions applicable to AHP in the third-party's license agreement.
- (4) Subcontractor agrees to cooperate with AHP in establishing or maintaining AHP's and/or DHCS' exclusive rights in the Intellectual Property, and in assuring AHP's or DHCS' sole rights against third parties with respect to the Intellectual Property. If the Subcontractor enters into any agreements or subcontracts with other parties in order to perform this Agreement, Subcontractor shall require the terms of the Agreement(s) to include all Intellectual Property provisions. Such terms must include, but are not limited to, the

subcontractor assigning and agreeing to assign to AHP and/or DHCS all rights, title and interest in Intellectual Property made, conceived, derived from, or reduced to practice by the Subcontractor or AHP and which result directly or indirectly from this Agreement or any subcontract.

- (5) Subcontractor further agrees to assist and cooperate with AHP/DHCS in all reasonable respects, and execute all documents and, subject to reasonable availability, give testimony and take all further acts reasonably necessary to acquire, transfer, maintain, and enforce AHP's and/or DHCS' Intellectual Property rights and interests.

b. Retained Rights / License Rights

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

c. Copyright

- (1) Subcontractor agrees that for purposes of copyright law, all works [as defined in Paragraph a, subparagraph (2)(a) of this provision] of authorship made by or on behalf of Subcontractor in connection with Subcontractor's performance of this Agreement shall be deemed "works made for hire." Subcontractor further agrees that the work of each person utilized by Subcontractor in connection with the performance of this Agreement will be a "work made for hire," whether that person is an employee of Subcontractor or that person has entered into an agreement with Subcontractor to perform the work. Subcontractor shall enter into a written agreement with any such person that: (i) all work performed for Subcontractor shall be deemed a "work made for hire" under the Copyright Act and (ii) that person shall assign all right, title, and interest to AHP and/or DHCS to any work product made, conceived, derived from, or reduced to practice by Subcontractor or AHP and which result directly or indirectly from this Agreement.
- (2) All materials, including, but not limited to, visual works or text, reproduced or distributed pursuant to this Agreement that include Intellectual Property made, conceived, derived from, or reduced to practice by Subcontractor or AHP and which result directly or indirectly from this Agreement, shall include AHP's or DHCS' notice of copyright, which shall read in 3mm or larger typeface: "© [Enter Current Year e.g., 2010, etc.], California Department of Health Care Services (or AHP if applicable). This material may not be reproduced or disseminated without prior written permission from California Department of Health Care Services (or AHP if applicable)." This notice should be placed prominently on the materials and set apart from other matter on the page where it appears. Audio productions shall contain a similar audio notice of copyright.

d. Patent Rights

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

e. Third-Party Intellectual Property

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

f. Warranties

(1) Subcontractor represents and warrants that:

- (a) It is free to enter into and fully perform this Agreement.
- (b) It has secured and will secure all rights and licenses necessary for its performance of this Agreement.
- (c) Neither Subcontractor's performance of this Agreement, nor the exercise by either Party of the rights granted in this Agreement, nor any use, reproduction, manufacture, sale, offer to sell, import, export, modification, public and private display/performance, distribution, and disposition of the Intellectual Property made, conceived, derived from, or reduced to practice by Subcontractor or DHCS or AHP and which result directly or indirectly from this Agreement will infringe upon or violate any Intellectual Property right, non-disclosure obligation, or other proprietary right or interest of any third-party or entity now existing under the laws of, or hereafter existing or issued by, any state, the United States, or any foreign country. There is currently no actual or threatened claim by any such third party based on an alleged violation of any such right by Subcontractor.
- (d) Neither Subcontractor's performance nor any part of its performance will violate the right of privacy of, or constitute a libel or slander against any person or entity.
- (e) It has secured and will secure all rights and licenses necessary for Intellectual Property including, but not limited to, consents, waivers or releases from all authors of music or performances used, and talent (radio, television and motion picture talent), owners of any interest in and to real estate, sites, locations, property or props that may be used or shown.
- (f) It has not granted and shall not grant to any person or entity any right that would or might derogate, encumber, or interfere with any of the rights granted to AHP or DHCS in this Agreement.

- (g) It has appropriate systems and controls in place to ensure that state funds will not be used in the performance of this Agreement for the acquisition, operation or maintenance of computer software in violation of copyright laws.
 - (h) It has no knowledge of any outstanding claims, licenses or other charges, liens, or encumbrances of any kind or nature whatsoever that could affect in any way Subcontractor's performance of this Agreement.
- (2) AHP AND DHCS MAKE NO WARRANTY THAT THE INTELLECTUAL PROPERTY RESULTING FROM THIS AGREEMENT DOES NOT INFRINGE UPON ANY PATENT, TRADEMARK, COPYRIGHT OR THE LIKE, NOW EXISTING OR SUBSEQUENTLY ISSUED.

g. Intellectual Property Indemnity

- (1) Subcontractor shall indemnify, defend and hold harmless AHP and DHCS and their licensees and assignees, and their officers, directors, employees, agents, representatives, successors, and users of its products, ("Indemnitees") from and against all claims, actions, damages, losses, liabilities (or actions or proceedings with respect to any thereof), whether or not rightful, arising from any and all actions or claims by any third party or expenses related thereto (including, but not limited to, all legal expenses, court costs, and attorney's fees incurred in investigating, preparing, serving as a witness in, or defending against, any such claim, action, or proceeding, commenced or threatened) to which any of the Indemnitees may be subject, whether or not Subcontractor is a party to any pending or threatened litigation, which arise out of or are related to (i) the incorrectness or breach of any of the representations, warranties, covenants or agreements of Subcontractor pertaining to Intellectual Property; or (ii) any Intellectual Property infringement, or any other type of actual or alleged infringement claim, arising out of AHP's use, reproduction, manufacture, sale, offer to sell, distribution, import, export, modification, public and private performance/display, license, and disposition of the Intellectual Property made, conceived, derived from, or reduced to practice by Subcontractor or DHCS or AHP and which result directly or indirectly from this Agreement. This indemnity obligation shall apply irrespective of whether the infringement claim is based on a patent, trademark or copyright registration that issued after the effective date of this Agreement. AHP reserves the right to participate in and/or control, at Subcontractor's expense, any such infringement action brought against AHP.
- (2) Should any Intellectual Property licensed by the Subcontractor to AHP or DHCS under this Agreement become the subject of an Intellectual Property infringement claim, Subcontractor will exercise its authority reasonably and in good faith to preserve AHP's/DHCS' right to use the licensed Intellectual Property in accordance with this Agreement at no expense to AHP or DHCS. AHP shall have the right to monitor and appear through its own counsel (at Subcontractor's expense) in any such claim or action. In the defense or settlement of the claim, Subcontractor may obtain the right for AHP to continue using the licensed Intellectual Property; or, replace or modify the licensed Intellectual Property so that the replaced or modified Intellectual Property becomes non-infringing provided that such replacement or modification is functionally equivalent to the original licensed Intellectual Property. If such remedies are not reasonably available, AHP shall be entitled to a refund of all monies paid under this Agreement, without restriction or limitation of any other rights and remedies available at law or in equity.
- (3) Subcontractor agrees that damages alone would be inadequate to compensate AHP or DHCS for breach of any term of this Intellectual Property provision by Subcontractor. Subcontractor acknowledges AHP or DHCS would suffer irreparable harm in the event of such breach and agrees AHP shall be entitled to obtain equitable relief, including without limitation an injunction, from a court of competent jurisdiction, without restriction or limitation of any other rights and remedies available at law or in equity.

h. **Federal Funding**

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

i. **Survival**

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

5. **Air or Water Pollution Requirements**

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

- a. Government contractors agree to comply with all applicable standards, orders, or requirements issued under section 306 of the Clean Air Act (42 USC 7606) section 508 of the Clean Water Act (33 U.S.C. 1368), Executive Order 11738, and Environmental Protection Agency regulations.
- b. Institutions of higher education, hospitals, nonprofit organizations and commercial businesses agree to comply with all applicable standards, orders, or requirements issued under the Clean Air Act (42 U.S.C. 7401 et seq.), as amended, and the Clean Water Act (33 U.S.C. 1251 et seq.), as amended.

6. **Prior Approval of Training Seminars, Workshops or Conferences**

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

7. **Confidentiality of Information**

- a. The Subcontractor and its employees, agents, or subcontractors shall protect from unauthorized disclosure names and other identifying information concerning persons either receiving services pursuant to this Agreement or persons whose names or identifying information become available or are disclosed to the Subcontractor, its employees, agents, or subcontractors as a result of services performed under this Agreement, except for statistical information not identifying any such person.
- b. The Subcontractor and its employees, agents, or subcontractors shall not use such identifying information for any purpose other than carrying out the Subcontractor's obligations under this Agreement.
- c. The Subcontractor and its employees, agents, or subcontractors shall promptly transmit to the AHP Contract Office or Project Manager all requests for disclosure of such identifying information not emanating from the client or person.
- d. The Subcontractor shall not disclose, except as otherwise specifically permitted by this

Agreement or authorized by the client, any such identifying information to anyone other than AHP without prior written authorization from the AHP Contract Office or Project Manager, except if disclosure is required by State or Federal law.

- e. For purposes of this provision, identity shall include, but not be limited to name, identifying number, symbol, or other identifying particular assigned to the individual, such as finger or voice print or a photograph.
- f. As deemed applicable by AHP/DHCS, this provision may be supplemented by additional terms and conditions covering personal health information (PHI) or personal, sensitive, and/or confidential information (PSCI). Said terms and conditions will be outlined in one or more exhibits that will either be attached to this Agreement or incorporated into this Agreement by reference.

8. Documents, Publications and Written Reports

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

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

9. Human Subjects Use Requirements

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

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

10. Debarment and Suspension Certification

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

a. By signing this Agreement, the Subcontractor agrees to comply with applicable federal suspension and debarment regulations including, but not limited to 2 CFR 180, 2 CFR 376.

b. By signing this Agreement, the Subcontractor certifies to the best of its knowledge and belief, that it and its principals:

- (1) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded by any federal department or agency;
- (2) Have not within a three-year period preceding this application/proposal/agreement been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State or local) violation of Federal or State antitrust statutes; commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false

statements, tax evasion, receiving stolen property, making false claims, obstruction of justice, or the commission of any other offense indicating a lack of business integrity or business honesty that seriously affects its business honesty;

- (3) Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State or local) with commission of any of the offenses enumerated in Paragraph b(2) herein; and
 - (4) Have not within a three-year period preceding this application/proposal/agreement had one or more public transactions (Federal, State or local) terminated for cause or default.
 - (5) Have not, within a three-year period preceding this application/proposal/agreement, engaged in any of the violations listed under 2 CFR Part 180, Subpart C as supplemented by 2 CFR Part 376.
 - (6) Shall not knowingly enter into any lower tier covered transaction with a person who is proposed for debarment under federal regulations (i.e., 48 CFR part 9, subpart 9.4), debarred, suspended, declared ineligible, or voluntarily excluded from participation in such transaction, unless authorized by the State.
 - (7) Will include a clause entitled, "Debarment and Suspension Certification" that essentially sets forth the provisions herein, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.
- c. If the Subcontractor is unable to certify to any of the statements in this certification, the Subcontractor shall submit an explanation to AHP and the DHCS Program Contract Manager.
- d. The terms and definitions herein have the meanings set out in 2 CFR Part 180 as supplemented by 2 CFR Part 376.
- e. If the Subcontractor knowingly violates this certification, in addition to other remedies available to the Federal Government, AHP may terminate this Agreement for cause or default.

11. Smoke-Free Workplace Certification

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

- a. Public Law 103-227, also known as the Pro-Children Act of 1994 (Act), requires that smoking not be permitted in any portion of any indoor facility owned or leased or contracted for by an entity and used routinely or regularly for the provision of health, day care, early childhood development services, education or library services to children under the age of 18, if the services are funded by federal programs with directly or through state or local governments, by federal grant, contract, loan or loan guarantee. The law also applies to children's services that are provided in indoor facilities that are constructed, operated, or maintained with such federal funds. The law does not apply to children's services provided in private residences; portions of facilities used for inpatient drug or alcohol treatment; service providers whose sole source of applicable federal funds is Medicare or Medicaid; or facilities where WIC coupons are redeemed.
- b. Failure to comply with the provisions of the law may result in the imposition of a civil monetary penalty of up to \$1,000 for each violation and/or the imposition of an administrative compliance order on the responsible party.
- c. By signing this Agreement, Subcontractor or Grantee certifies that it will comply with the requirements of the Act and will not allow smoking within any portion of any indoor facility used for the provision of services for children as defined by the Act. The prohibitions herein are effective December 26, 1994.

- d. Subcontractor or Grantee further agrees that it will insert this certification into any subawards (subcontracts or subgrants) entered into that provide for children's services as described in the Act.

12. Covenant Against Contingent Fees

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

13. Officials Not to Benefit

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

14. Four-Digit Date Compliance

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

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

15. Prohibited Use of State Funds for Software

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

Subcontractor 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 law.

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

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

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

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

Development Agency in the solicitation and utilization of small businesses, minority-owned firms, and women's business enterprises.

17. Alien Ineligibility Certification

(Applicable to sole proprietors entering federally funded agreements.)

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

18. Union Organizing

(Applicable only to grant agreements.)

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

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

19. Agreement Uniformity (Fringe Benefit Allowability)

(Applicable only to nonprofit organizations.)

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

- a. As used herein fringe benefits shall mean an employment benefit given by one's employer to an employee in addition to one's regular or normal wages or salary.
- b. As used herein, fringe benefits do not include:
 - (1) Compensation for personal services paid currently or accrued by the Subcontractor for services of employees rendered during the term of this Agreement, which is identified as regular or normal salaries and wages, annual leave, vacation, sick leave, holidays, jury duty and/or military leave/training.
 - (2) Directors and executive committee member's fees.
 - (3) Incentive awards and/or bonus incentive pay.
 - (4) Allowances for off-site pay.
 - (5) Location allowances.
 - (6) Hardship pay.
 - (7) Cost-of-living differentials.
- c. Specific allowable fringe benefits include:
 - (1) Fringe benefits in the form of employer contributions for the employer's portion of payroll taxes (i.e., FICA, SUI, SDI), employee health plans (i.e., health, dental and vision), unemployment insurance, worker's compensation insurance, and the employer's share of pension/retirement plans, provided they are granted in accordance with established written organization policies and meet all legal and Internal Revenue Service requirements.
- d. To be an allowable fringe benefit, the cost must meet the following criteria:

- (1) Be necessary and reasonable for the performance of the Agreement.
- (2) Be determined in accordance with generally accepted accounting principles.
- (3) Be consistent with policies that apply uniformly to all activities of the Subcontract.

e. Subcontractor agrees that all fringe benefits shall be at actual cost.

20. Suspension or Stop Work Notification

- a. AHP may, at any time, issue a notice to suspend performance or stop work under this Agreement. The initial notification may be a verbal or written directive issued by the funding Program's Contract Manager. Upon receipt of said notice, the Subcontractor is to suspend and/or stop all, or any part, of the work called for by this Agreement.
- b. Written confirmation of the suspension or stop work notification with directions as to what work (if not all) is to be suspended and how to proceed will be provided within thirty (30) working days of the verbal notification. The suspension or stop work notification shall remain in effect until further written notice is received from AHP. The resumption of work (in whole or part) will be at AHP's discretion and upon receipt of written confirmation.
 - (1) Upon receipt of a suspension or stop work notification, the Subcontractor shall immediately comply with its terms and take all reasonable steps to minimize or halt the incurrence of costs allocable to the performance covered by the notification during the period of work suspension or stoppage.
 - (1) Within ninety (90) days of the issuance of a suspension or stop work notification, AHP shall either:
 - (a) Cancel, extend, or modify the suspension or stop work notification; or
 - (a) Terminate the Agreement as provided for in the Cancellation / Termination clause of the Agreement.
- c. If a suspension or stop work notification issued under this clause is canceled or the period of suspension or any extension thereof is modified or expires, the Subcontractor may resume work only upon written concurrence of AHP.
- d. If the suspension or stop work notification is cancelled and the Agreement resumes, changes to the services, deliverables, performance dates, and/or agreement terms resulting from the suspension or stop work notification shall require an amendment to the Agreement.
- e. If a suspension or stop work notification is not canceled and the Agreement is cancelled or terminated pursuant to the provision entitled Cancellation / Termination, AHP shall allow reasonable costs resulting from the suspension or stop work notification in arriving at the settlement costs.
- f. AHP shall not be liable to the Subcontractor for loss of profits because of any suspension or stop work notification issued under this clause.

21. Public Communications

"Electronic and printed documents developed and produced, for public communications shall follow the following requirements to comply with Section 508 of the Rehabilitation Act and the American with Disabilities Act:

- A. Ensure visual-impaired, hearing impaired and other special needs audiences are provided material information in formats that provide the most assistance in making informed choices."

22. Compliance with Statutes and Regulations

- a. The Subcontractor shall comply in all material respects with all California and federal law, regulations, and published guidelines, to the extent that these authorities contain requirements applicable to Subcontractor's performance under the Agreement.
- b. These authorities include, but are not limited to, Title 2, Code of Federal Regulations (CFR) Part 200, subpart F, Appendix II; Title 42 CFR Part 431; subpart F; Title 42 CFR Part 433, subpart D; Title 42 CFR 434; Title 45 CFR Part 75, subpart D; and title 45 CFR Part 95, subpart F. To the extent applicable under federal law, this Agreement shall incorporate the contractual provisions in these federal regulations, and they shall supersede any conflicting provisions in this Agreement.

23. Lobbying Restrictions and Disclosure Certification

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

a. Certification and Disclosure Requirements

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

b. Prohibition

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

federal contract or agreement, the making of any federal grant, the making of any federal loan, entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal contract, or agreement, grant, loan or cooperative agreement.

24. Avoidance of Conflicts of Interest by Subcontractor

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

25. Subcontractor Conduct and Filing Requirements

- A. When a Subcontractor performs work on DHCS premises, the Subcontractor shall follow and adhere to all DHCS policies and procedures including, but not limited to, those governing health and safety, nondiscrimination, appropriate vehicle use, travel reimbursement, security and confidentiality of information, incompatible activities, acceptable employee conduct, information technology protocols and requirements, workplace violence prevention, and conflict of interest filing instructions (if applicable). Subcontractors may not access DHCS confidential, personal, or sensitive information until they have been trained on the DHCS policies and procedures for information privacy and security and sign a Confidentiality Statement. The training may be accomplished through on-line Privacy/Security Training on the DHCS intranet.

26. Prohibited Follow-on Subcontracts

- A. No person, firm, or subsidiary thereof who has been awarded a subcontract agreement may submit a bid for, nor be awarded an agreement for, the provision of services, procurement of goods or supplies, or any other related action which is required, suggested, or otherwise deemed appropriate in the end production of this Subcontract agreement.
- B. Paragraph A does not apply at any person, firm, or subsidiary thereof who is awarded a subcontract agreement which totals more than 10 percent of the total monetary value of the consulting services agreement.
- C. Paragraphs A and B do not apply to subcontract agreements subject to Chapter 10 (commencing with Section 4525) of Division 5 of Title 1 of the Government Code.

State of California
Department of Health Care Services
CERTIFICATION REGARDING LOBBYING

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

1. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the making, awarding, or entering into of this Federal contract, Federal grant, or cooperative agreement, and the extension, continuation, renewal, amendment, or modification of this Federal contract, grant or cooperative agreement.
2. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency of the United States Government, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant or cooperative agreement, the undersigned shall complete and submit Standard Form LLL, "Disclosure of Lobbying Activities" in accordance with its instructions.
3. The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontractors, subgrants, and contracts under grants and cooperative agreements) of \$100,000 or more, and that all subrecipients shall certify and disclose accordingly.

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

Name of Subcontractor

Printed Name of Person Signing for Subcontractor

California Department of Health Care Services
Agreement No.: 21-10368 *Behavioral Health*
Continuum Infrastructure Program (BHCIP)

Contract/Grant Number

Signature of Person Signing for Subcontractor

Date

Title

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

Advocates for Human Potential, Inc. (on behalf of California Department of Health Care Services)

CERTIFICATION REGARDING LOBBYING

Complete this form to disclose lobbying activities pursuant to 31 U.S.C. 1352

1. Type of Federal Action: a. Contract b. Grant c. Cooperative agreement d. Loan e. Loan guarantee f. Loan insurance	2. Status of Federal Action: a. bid/offer/application b. initial award c. post-award	3. Report Type: a. Initial filing b. Material change For Material Change Only: Year _____ Quarter _____ Date of Last Report _____
Name and Address of Reporting Entity: ☐ Prime ☒ Subawardee Tier _____, if known Congressional District, if known:	5. If Reporting Entity in No. 4 is a Subawardee, Enter Name and Address of Prime: ADVOCATES FOR HUMAN POTENTIAL, INC. (AHP) 490-B Boston Post Road, Sudbury, MA 01776-3365 Congressional District, if known: 5th	
Federal Department/Agency:	7. Federal Program Name/Description: CFDA Number, if applicable, _____	
Federal Action Number, if known:	9. Award Amount, if known: \$	
10a. Name and Address of Lobbying Registrant (If individual, last name, first name, MI):	b. Individuals Performing Services (including address if different from 10a. (Last name, First name, MI):	
11. Information requested through this form is authorized by title 31 U.S.C. section 1352. This disclosure of lobbying activities is a material representation of fact upon which reliance was placed by the tier above when this transaction was made or entered into. This disclosure is required pursuant to 31 U.S.C. 1352. This information will be available for public inspection. Any person that fails to file the required disclosure shall be subject to a not more than \$100,000 for each such failure.	Signature: _____ Print Name: _____ Title: _____ Telephone No. _____ Date: _____	

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

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

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

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

Business Associate Agreement (“BAA”) Addendum

1. This Agreement has been determined to constitute a business associate relationship under the Health Insurance Portability and Accountability Act (HIPAA) and its implementing privacy and security regulations at 45 Code of Federal Regulations, Parts 160 and 164 (collectively, and as used in this Agreement).
2. The term “Agreement” as used in this document refers to and includes both this BAA Addendum and the contract to which this BAA is attached as an addendum/exhibit, if any.
3. For purposes of this Agreement, the term “Business Associate” shall have the same meaning as set forth in 45 CFR section 160.103.
4. **Subcontractor, the Covered Entity**, understands that **Business Associate (ADVOCATES FOR HUMAN POTENTIAL, “AHP”)** may create, receive, maintain, transmit to the California Department of Health Care Services (DHCS) or aggregate certain information pursuant to the terms of this Agreement, some of which information may constitute Protected Health Information (PHI) and/or confidential information protected by federal and/or state laws.
 - 4.1 As used in this Agreement and unless otherwise stated, the term “PHI” refers to and includes both “PHI” as defined at 45 CFR section 160.103 and Personal Information (PI) as defined in the Information Practices Act (IPA) at California Civil Code section 1798.3(a). PHI includes information in any form, including paper, oral, and electronic.
 - 4.2 As used in this Agreement, the term “confidential information” refers to information not otherwise defined as PHI in Section 4.1 of this Agreement, but to which state and/or federal privacy and/or security protections apply.
5. Business Associate is acting on DHCS’s behalf and provides services or arranges, performs, or assists in the performance of functions or activities on behalf of DHCS, and may create, receive, maintain, transmit, aggregate, use or disclose PHI (collectively, “use or disclose PHI”) in order to fulfill Business Associate’s obligations under this Agreement. Business Associate and Subcontractor are each a party to this Agreement and are collectively referred to as the “parties.”
6. The terms used in this Agreement, but not otherwise defined, shall have the same meanings as those terms in HIPAA and/or the IPA. Any reference to statutory or regulatory language shall be to such language as in effect or as amended.
7. **Permitted Uses and Disclosures of PHI by Business Associate.** Except as otherwise indicated in this Agreement, Business Associate may use or disclose PHI, inclusive of de-identified data derived from such PHI, only to perform functions, activities or services specified in this Agreement on behalf of Covered Entity, provided that such use or disclosure would not violate HIPAA or other applicable laws if done by Business Associate.
 - 7.1 **Specific Use and Disclosure Provisions.** Except as otherwise indicated in this Agreement, Business Associate may use and disclose PHI if necessary for the proper management and administration of the Business Associate or to carry out the legal responsibilities of the Business Associate. Business Associate may disclose PHI for this purpose if the disclosure is required by law, or the Business Associate obtains reasonable assurances from the person to whom the information is disclosed that it will be held confidentially and used or further disclosed only as required by law or for the purposes for which it was disclosed to the person. The person shall notify the Business Associate of any instances of which the person is aware that the confidentiality of the information has been breached, unless such person is a treatment provider not acting as a business associate of Business Associate.

8 Compliance with Other Applicable Law.

8.1 To the extent that other state and/or federal laws provide additional, stricter and/or more protective (collectively, "more protective") privacy and/or security protections to PHI or other confidential information covered under this Agreement beyond those provided through HIPAA, Business Associate agrees:

8.1.1 To comply with the more protective of the privacy and security standards set forth in applicable state or federal laws to the extent such standards provide a greater degree of protection and security than HIPAA or are otherwise more favorable to the individuals whose information is concerned; and

8.1.2 To treat any violation of such additional and/or more protective standards as a breach or security incident, as appropriate, pursuant to Section 18 of this Agreement.

8.2 Examples of laws that provide additional and/or stricter privacy protections to certain types of PHI and/or confidential information, as defined in Section 4. of this Agreement, include but are not limited to the Information Practices Act, California Civil Code sections 1798-1798.78, Confidentiality of Substance Use Disorder Patient Records, 42 CFR Part 2, Welfare and Institutions Code section 5328, and California Health and Safety Code section 11845.5.

8.3 If Business Associate is a Qualified Service Organization (QSO) as defined in 42 CFR section 2.11, Business Associate agrees to be bound by and comply with subdivisions (2)(i) and (2)(ii) under the definition of QSO in 42 CFR section 2.11.

9 Additional Responsibilities of Business Associate.

9.1 Nondisclosure. Business Associate shall not use or disclose PHI or other confidential information other than as permitted or required by this Agreement or as required by law.

9.2 Safeguards and Security.

9.2.1 Business Associate shall use safeguards that reasonably and appropriately protect the confidentiality, integrity, and availability of PHI and other confidential data and comply, where applicable, with subpart C of 45 CFR Part 164 with respect to electronic PHI, to prevent use or disclosure of the information other than as provided for by this Agreement. Such safeguards shall be based on applicable Federal Information Processing Standards (FIPS) Publication 199 protection levels.

9.2.2 Business Associate shall, at a minimum, utilize an industry-recognized security framework when selecting and implementing its security controls, and shall maintain continuous compliance with its selected framework as it may be updated from time to time. Examples of industry-recognized security frameworks include but are not limited to:

9.2.2.1 NIST SP 800-53 - National Institute of Standards and Technology Special Publication 800-53

9.2.2.2 FedRAMP - Federal Risk and Authorization Management Program

9.2.2.3 PCI - PCI Security Standards Council

9.2.2.4 ISO/IEC 27002 - International Organization for Standardization/International Electrotechnical Commission standard 27002

9.2.2.5 IRS PUB 1075 - Internal Revenue Service Publication 1075

9.2.2.6 HITRUST CSF - HITRUST Common Security Framework

9.2.3 Business Associate shall employ FIPS 140-2 compliant encryption of PHI at rest and in motion unless Business Associate determines it is not reasonable and appropriate to do so based upon a risk assessment, and equivalent alternative measures are in place and documented as such. In addition, Business Associate shall maintain, at a minimum, the most current industry standards for transmission and storage of PHI and other confidential information.

9.2.4 Business Associate shall apply security patches and upgrades, and keep virus software up to date, on all systems on which PHI and other confidential information may be used.

9.3. Business Associate's Agent. Business Associate shall ensure that any agents, subcontractors, subawardees, vendors or others (collectively, "agents") that use or disclose PHI and/or confidential information on behalf of Business Associate agree to the same restrictions and conditions that apply to Business Associate with respect to such PHI and/or confidential information.

- 10. Mitigation of Harmful Effects.** Business Associate shall mitigate, to the extent practicable, any harmful effect that is known to Business Associate of a use or disclosure of PHI and other confidential information in violation of the requirements of this Agreement.
- 11. Access to PHI.** Business Associate shall make PHI available in accordance with 45 CFR section 164.524.
- 12. Amendment of PHI.** Business Associate shall make PHI available for amendment and incorporate any amendments to PHI in accordance with 45 CFR section 164.526.
- 13. Accounting for Disclosures.** Business Associate shall make available the information required to provide an accounting of disclosures in accordance with 45 CFR section 164.528.
- 14. Compliance with DHCS Obligations.** To the extent Business Associate is to carry out an obligation under 45 CFR Part 164, Subpart E, Business Associate shall comply with the requirements of the subpart that apply in the performance of such obligation.
- 15. Access to Practices, Books and Records.** Business Associate shall make its internal practices, books, and records relating to the use and disclosure of PHI on behalf of Covered Entity available to Covered Entity upon reasonable request, and to the federal Secretary of Health and Human Services for purposes of determining compliance with 45 CFR Part 164, Subpart E.
- 16. Return or Destroy PHI on Termination; Survival.** At termination of this Agreement, if feasible, Business Associate shall return or destroy all PHI and other confidential information received from, or created or received by Business Associate on behalf of, Covered Entity that Business Associate still maintains in any form and retain no copies of such information. If return or destruction is not feasible, Business Associate shall notify Covered Entity of the conditions that make the return or destruction infeasible and Business Associate and Covered Entity shall determine the terms and conditions under which Business Associate may retain the PHI. If such return or destruction is not feasible, Business Associate shall extend the protections of this Agreement to the information and limit further uses and disclosures to those purposes that make the return or destruction of the information infeasible.
- 17. Special Provision for SSA Data.** If Business Associate receives data from or on behalf of Covered Entity that was verified by or provided by the Social Security Administration (SSA data) and is subject to an agreement between Covered Entity, Business Associate shall provide, upon request by Covered Entity, a list of all employees and agents who have access to such data.

- 18 Breaches and Security Incidents.** Business Associate shall implement reasonable systems for the discovery and prompt reporting of any breach or security incident, and take the following steps:

18.1 Notice to Covered Entity.

18.1.1 Business Associate shall notify Covered Entity immediately upon the discovery of a suspected breach or security incident that involves SSA data. This notification will be provided by email upon discovery of the breach. If Business Associate is unable to provide notification by email, then Business Associate shall provide notice by telephone to Covered Entity.

18.1.2 Business Associate shall notify Covered Entity within 24 hours by email (or by telephone if Business Associate is unable to email Covered Entity) of the discovery of the following, unless attributable to a treatment provider that is not acting as a business associate of Business Associate:

18.1.2.1 Unsecured PHI if the PHI is reasonably believed to have been accessed or acquired by an unauthorized person;

18.1.2.2 Any suspected security incident that risks unauthorized access to PHI and/or other confidential information;

18.1.2.3 Any intrusion or unauthorized access, use or disclosure of PHI in violation of this Agreement; or

18.1.2.4 Potential loss of confidential information affecting this Agreement.

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

18.1.3 Prompt action to mitigate any risks or damages involved with the security incident or breach; and

18.1.4 Any action pertaining to such unauthorized disclosure required by **applicable federal and state law.**

18.2 Investigation. Business Associate shall immediately investigate such security incident or confidential breach.

18.3 Complete Report. Business Associate shall provide a complete report of the investigation to Covered Entity contacts within ten (10) working days of the discovery of the security incident or breach. This "Final PIR" must include any applicable additional information not included in the Initial Form. The Final PIR Form shall include an assessment of all known factors relevant to a determination of whether a breach occurred under HIPAA and other applicable federal and state laws. The report shall also include a full, detailed corrective action plan, including its implementation date and information on mitigation measures taken to halt and/or contain the improper use or disclosure. If Covered Entity requests information in addition to that requested through the PIR form, Business Associate shall make reasonable efforts to provide Covered Entity with such information. A "Supplemental PIR" may be used to submit revised or additional information after the Final PIR is submitted. Covered Entity will review and approve or disapprove Business Associate's determination of whether a breach occurred, whether the security incident or breach is reportable to the appropriate entities, if individual notifications are required, and Business Associate's corrective action plan.

18.3.1 If Business Associate does not complete a Final PIR within the ten (10) working day timeframe, Business Associate shall request approval from Covered Entity within the ten (10) working day timeframe of a new submission timeframe for the Final PIR.

18.4 Notification of Individuals. If the cause of a breach is attributable to Business Associate or its agents, other than when attributable to a treatment provider that is not acting as a business associate of Business Associate, Business Associate shall notify individuals accordingly and shall pay all costs of such notifications, as well as all costs associated with the breach. The notifications shall comply with applicable federal and state law. DHCS shall approve the time, manner and content of any such notifications, and DHCS's review and approval must be obtained before the notifications are made.

18.5 Responsibility for Reporting of Breaches to Entities Other than Covered Entity. If the cause of a breach of PHI is attributable to Business Associate or its agents, other than when attributable to a treatment provider that is not acting as a business associate of Business Associate, Business Associate is responsible for all required reporting of the breach as required by applicable federal and state law.

19 Responsibility of Covered Entity. Covered Entity agrees to not request the Business Associate to use or disclose PHI in any manner that would not be permissible under HIPAA and/or other applicable federal and/or state law.

20 Audits, Inspection and Enforcement.

20.1 If Business Associate is the subject of an audit, compliance review, investigation or any proceeding that is related to the performance of its obligations pursuant to this Agreement or is the subject of any judicial or administrative proceeding alleging a violation of HIPAA, Business Associate shall promptly notify Covered Entity unless it is legally prohibited from doing so.

21 Termination.

21.1 Termination for Cause. Upon Covered Entity's knowledge of a violation of this Agreement by Business Associate, Covered Entity may in its discretion:

21.1.1 Provide an opportunity for Business Associate to cure the violation and terminate this Agreement if Business Associate does not do so within the time specified by Covered Entity; or

21.1.2 Terminate this Agreement if Business Associate has violated a material term of this Agreement.

21.2 Judicial or Administrative Proceedings. Covered Entity may terminate this Agreement if Business Associate is found to have violated HIPAA, or stipulates or consents to any such conclusion, in any judicial or administrative proceeding.

22 Miscellaneous Provisions.

22.1 Disclaimer. Covered Entity makes no warranty or representation that compliance by Business Associate with this Agreement will satisfy Business Associate's business needs or compliance obligations. Business Associate is solely responsible for all decisions made by Business Associate regarding the safeguarding of PHI and other confidential information.

22.2 Amendment.

22.2.1 Any provision of this Agreement that is in conflict with current or future applicable federal or state laws is hereby amended to conform to the provisions of those laws. Such amendment of this Agreement shall be effective on the effective date of the laws necessitating it and shall be binding on the parties even though such amendment may not have been reduced to writing and formally agreed upon and executed by the parties.

22.2.2 Failure by Business Associate to take necessary actions required by amendments to this Agreement under Section 22.2.1 shall constitute a material violation of this Agreement.

22.3 Assistance in Litigation or Administrative Proceedings. Business Associate shall make itself and its employees and agents available to Covered Entity at no cost to Covered Entity to testify as witnesses, or otherwise, in the event of litigation or administrative proceedings being commenced against Covered Entity, its directors, officers and/or employees based upon claimed violation of HIPAA that involves inactions or actions by the Business Associate.

22.4 No Third-Party Beneficiaries. Nothing in this Agreement is intended to or shall confer upon any third person any rights or remedies whatsoever.

22.5 Interpretation. The terms and conditions in this Agreement shall be interpreted as broadly as necessary to implement and comply with HIPAA and other applicable laws.

22.6 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.

Attachment C Subcontractor Certification

Subcontractor Certification Clause

CCC 04/2017

CERTIFICATION

I, the official named below, **CERTIFY UNDER PENALTY OF PERJURY** that I am duly authorized to legally bind the prospective Subcontractor to the clause(s) listed below. This certification is made under the laws of the State of California.

Subcontractor/Bidder Firm Name	Federal ID Number

By (Authorized Signature)

Printed Name and Title of Person Signing

Date Executed	Executed in the County of

SUBCONTRACTOR CERTIFICATION CLAUSES**PART I - STATEMENT OF COMPLIANCE:**

Subcontractor has, unless exempted, complied with the nondiscrimination program requirements. (GC 12990 (a-f) and CCR, Title 2, Section 11102) (Not applicable to public entities.)

PART II - DRUG-FREE WORKPLACE REQUIREMENTS:

Subcontractor will comply with the requirements of the Drug-Free Workplace Act of 1990 and will provide a drug-free workplace by taking the following actions:

- a) Publish a statement notifying employees that unlawful manufacture, distribution, dispensation, possession or use of a controlled substance is prohibited and specifying actions to be taken against employees for violations.
- b) Establish a Drug-Free Awareness Program to inform employees about:
 - 1. the dangers of drug abuse in the workplace;
 - 2. the person's or organization's policy of maintaining a drug-free workplace;
 - 3. any available counseling, rehabilitation and employee assistance programs; and,
 - 4. penalties that may be imposed upon employees for drug abuse violations.

c) Every employee who works on the proposed Agreement will:

1. Receive a copy of the company's drug-free policy statement; and,
2. agree to abide by the terms of the company's statement as a condition of employment on the Agreement.

Failure to comply with these requirements may result in suspension of payments under the Agreement or termination of the Agreement or both and Subcontractor may be ineligible for award of any future State agreements if the department determines that any of the following has occurred: (1) the Subcontractor has made false certification, or violated the certification by failing to carry out the requirements as noted above. (GC 8350 et seq.)

NATIONAL LABOR RELATIONS BOARD CERTIFICATION:

Subcontractor certifies that no more than one (1) final unappealable finding of contempt of court by a Federal court has been issued against Subcontractor within the immediately preceding two-year period because of Subcontractor's failure to comply with an order of a Federal court which orders Subcontractor to comply with an order of the National Labor Relations Board. (PCC 10296) (Not applicable to public entities.)

SUBCONTRACTS FOR LEGAL SERVICES \$50,000 OR MORE-PRO BONO REQUIREMENT

Subcontractor hereby certifies that subcontractor will comply with the requirements of Section 6072 of the Business and Professions Code, effective January 1, 2003.

Subcontractor agrees to make a good faith effort to provide a minimum number of hours of pro bono legal services during each year of the Agreement equal to the lessor of 30 multiplied by the number of full-time attorneys in the firm's offices in the State, with the number of hours prorated on an actual day basis for any Agreement period of less than a full year or 10% of its Agreement with the State.

Failure to make a good faith effort may be cause for non-renewal of a state contract for legal services and may be taken into account when determining the award of future contracts with the State for legal services.

SWEATFREE CODE OF CONDUCT:

- a. All Subcontractors contracting for the procurement or laundering of apparel, garments or corresponding accessories, or the procurement of equipment, materials, or supplies, other than procurement related to a public works Agreement, declare under penalty of perjury that no apparel, garments or corresponding accessories, equipment, materials, or supplies furnished to the state pursuant to the Agreement have been laundered or produced in whole or in part by sweatshop labor, forced labor, convict labor, indentured labor under penal sanction, abusive forms of child labor or exploitation of children in sweatshop labor, or with the benefit of sweatshop labor, forced labor, convict labor, indentured labor under penal sanction, abusive forms of child labor or exploitation of children in sweatshop labor. The subcontractor further declares under penalty of perjury that they adhere to the Sweatfree Code of Conduct as set forth on the California Department of Industrial Relations website located at www.dir.ca.gov and Public Contract Code Section 6108.
- a. The subcontractor agrees to cooperate fully in providing reasonable access to the subcontractor's records, documents, agents or employees, or premises if reasonably required by authorized officials of the contracting agency, the Department of Industrial Relations, or the Department of Justice to determine the subcontractor's compliance with the requirements under paragraph (a).

DOING BUSINESS WITH THE STATE OF CALIFORNIA

The following laws apply to persons or entities doing business with the State of California.

LABOR CODE/WORKERS COMPENSATION:

Subcontractor needs to be aware of the provisions which require every employer to be insured against liability for Worker's Compensation or to undertake self-insurance in accordance with the provisions, and Subcontractor affirms to comply with such provisions before commencing the performance of the work of this Agreement. (Labor Code Section 3700)

AMERICAN WITH DISABILITIES ACT:

Subcontractor assures the State that it complies with the Americans with Disabilities Act (ADA) of 1990, which prohibits discrimination on the basis of disability, as well as all applicable regulations and guidelines issued pursuant to the ADA. (42 U.S.C. 12101 et seq.)

SUBCONTRACTORS NAME CHANGE:

An amendment is required to change the Subcontractor's name as listed on this Agreement. Upon receipt of legal documentation of the name change the State will process the amendment. Payment of invoices presented with a new name cannot be paid prior to approval of said amendment.

CORPORATE QUALIFICATION TO DO BUSINESS IN CALIFORNIA:

- a) When agreements are to be performed in the state by corporations, the contracting agencies will be verifying that the subcontractor is currently qualified to do business in California in order to ensure that all obligations due to the state are fulfilled.
- b) "Doing business" is defined in R&TC Section 23101 as actively engaging in any transaction for the purpose of financial or pecuniary gain or profit. Although there are some statutory exceptions to taxation, rarely will a corporate subcontractor performing within the state not be subject to the franchise tax.
- c) Both domestic and foreign corporations (those incorporated outside of California) must be in good standing in order to be qualified to do business in California. Agencies will determine whether a corporation is in good standing by calling the Office of the Secretary of State.

RESOLUTION:

A county, city, district, or other local public body must provide the State with a copy of a resolution, order, motion, or ordinance of the local governing body which by law has authority to enter into an agreement, authorizing execution of the agreement.

AIR OR WATER POLLUTION VIOLATION:

Under the State laws, the Subcontractor shall not be: (1) in violation of any order or resolution not subject to review promulgated by the State Air Resources Board or an air pollution control district; (2) subject to cease and desist order not subject to review issued pursuant to Section 13301 of the Water Code for violation of waste discharge requirements or discharge prohibitions; or (3) finally determined to be in violation of provisions of federal law relating to air or water pollution.

PAYEE DATA RECORD FORM STD. 204:

This form must be completed by all subcontractors that are not another state agency or other government entity.

1. CALIFORNIA CIVIL RIGHTS LAWS: For Agreement executed or renewed after January 1, 2017, the subcontractor certifies compliance with the Unruh Civil Rights Act (Section 51 of the Civil Code) and the Fair Employment and Housing Act (Section 12960 of the Government Code); and

2. EMPLOYER DISCRIMINATION POLICIES: For Agreements executed or renewed after January 1, 2017, if a con Subcontractor has an internal policy against a sovereign nation or peoples recognized by the United States government, the Subcontractor certifies that such policies are not used in violation of the Unruh Civil Rights Act (Section 51 of the Civil Code) and the Fair Employment and Housing Act (Section 12960 of the Government Code).

Behavioral Health Continuum Infrastructure Program (BHCIP)
Behavioral Health County and Tribal Planning Grant
STATEMENT OF WORK (SOW)

Planning SOW Start Date: January 3, 2022
 Planning SOW End Date: December 16, 2022
 Agency Name: County of Mariposa

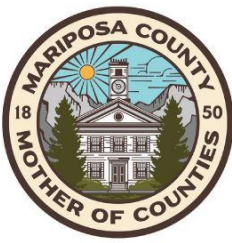
Item	Billing Code	Description/Deliverable	Amount	Due Date
1.	Period 1 1/3/22- 2/1/22	Initial Planning Activities a. Complete BHCIP grantee contact information survey b. Submit executed subcontract to AHP	\$60,000.00	2/1/22
2.	Period 2 2/2/22 – 7/31/22	Equipment • Survey Monkey User License, @ \$32.00 per month for six (6) months Planning Activities a. Engage and coordinate with stakeholders. b. Convene at least one (1) stakeholder meeting. c. Develop a plan with goals, objectives, and strategies for building behavioral health facility capacity, to include: identification of project lead, description of goals, time-oriented objectives and strategies, a description of the infrastructure barriers, strategies and solutions, an outline of partnerships for implementation, staffing plan strategies, list of required resources and plans to acquire said resources ("Action Plan"). The Action Plan shall be submitted no later than 12/16/22. Approval by AHP is required prior to any additional predevelopment activities being performed. d. Draft Interim Report, as required by AHP. e. Attend coaching calls and quarterly TA activities including webinars and learning collaboratives ("Quarterly Activities"), as scheduled by AHP. Submit • Interim Report for Period 1 (1/3/22-2/1/22) and Period 2 (2/2/22-7/31/22), utilizing AHP template	\$192.00 \$59,808.00	7/31/22

3.	Period 3 8/1/2022- 12/16/22	Planning Activities a. Engage and coordinate with stakeholders. b. Develop outreach materials for stakeholders c. Plan and conduct at least one (1) stakeholder meeting. d. Attend Quarterly Activities, as scheduled by AHP. e. Draft Final Report as required by AHP. Submit • Action Plan for approval by utilizing template provided by AHP • Final Report to include any predevelopment activities, if applicable, utilizing template provided by AHP	\$30,000.00	12/16/22
CONTRACT TOTAL			\$150,000.00	

**ATTACHMENT E
PAYMENT SCHEDULE
SUBCONTRACTOR FUNDING/BUDGET
County of Mariposa**

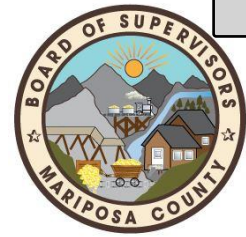
Description	Invoice Description	Amount Estimated
Equipment	Upon Completion of purchase with receipt for goods/equipment	\$192.00
Total Equipment		\$192.00

Quarter #/Date Range	Invoice Description	Amount of Invoice
Period 1: 01/3/22 – 2/1/22	Progress Report detailing progress made towards Deliverable 1	\$60,000.00
Period 2: 2/2/22 – 7/31/22	Progress Report detailing progress made towards Deliverable 2	\$59,808.00
Period 3: 8/01/22 – 12/31/22	Progress Report detailing progress made towards Deliverable 3	\$30,000.00
Total Deliverables		\$149,808.00
Total Deliverables and Other Directs		\$150,000.00



MARIPOSA COUNTY

HHS/Behavioral Health & Recovery Services • (209) 966-2000



RESOLUTION - ACTION REQUESTED 2022-555

MEETING: September 27, 2022

TO: The Board of Supervisors

FROM: Joe Lynch, Health & Human Services Agency Director

RE: First Amendment - Mariposa Safe Families Prevention Contract

RECOMMENDATION AND JUSTIFICATION:

Approve First Amendment to Agreement with Mariposa Safe Families increasing the amount by \$10,000 to a new amount not to exceed \$177,962 and including additional services; and authorize the Board of Supervisors Chair to sign the Amendment.

On August 19, 2008, as approved by the Board per Resolution Number 08-394, the Agency sent out a letter of interest to all community partners who were potentially qualified to administer the Substance Abuse Prevention Programs. A committee was convened to review proposals, and it was decided that Mariposa Safe Families would provide these services. Mariposa Safe Families has provided excellent services at the high school and in the community, and Health and Human Services Agency staff recommend that the County enter into another Agreement with this organization for substance abuse prevention activities.

During the initial period of the current agreement, both Health and Human Services Agency and Mariposa Safe Families sought additional funding opportunity to expand FNL services to native youth and have determined that the requested resolution will provide the optimal solution for the remainder of the term.

BACKGROUND AND HISTORY OF BOARD ACTIONS:

The current agreement was approved on July 12, 2022, by Resolution No. 2022-408.

ALTERNATIVES AND CONSEQUENCES OF NEGATIVE ACTION:

The services of this agency would not be available to conduct alcohol and other drug prevention activities for Mariposa County youth and adults.

FINANCIAL IMPACT:

This Agreement is funded through the Substance Abuse Block Grant (SABG) and SABG ARPA funds. The costs of this Agreement will be paid from the Alcohol and Drug Budget 1001-403. There is no impact to the County General Fund.

ATTACHMENTS:

First Amendment - MSF FNL Exhibit A AND B (PDF)

First Amendment - MSF FNL Agreement 2023v2 - Sept 9 2022 (PDF)

Mariposa Safe Families - Friday Night Live - 2023 - Res. 2022-408 - EXECUTED (PDF)

RESULT: ADOPTED BY CONSENT VOTE [UNANIMOUS]

MOVER: Marshall Long, District III Supervisor

SECONDER: Wayne Forsythe, District IV Supervisor

AYES: Rosemarie Smallcombe, Marshall Long, Wayne Forsythe, Miles Menetrey

First Amendment - Exhibit A
SCOPE OF WORK

Mariposa County Health and Human Services, through the Health division (MCH), will contract with Mariposa Safe Families (MSF) to implement Mariposa County Prevention Programs and the Friday Night Live and Club Live programs.

1. MSF shall provide services in accordance with the goals and objectives outlined in the Mariposa County Behavioral Health Strategic Prevention Plan (SPP). All activities claimed shall be as outlined in the SPP.
2. By May 31, 2023, MSF will work with the county designated prevention coordinator to review, update, and amend the Mariposa County SUD Strategic Prevention Planning Goals/Objectives. Revisions will be submitted in writing no later than May 31, 2022 to Mariposa County Behavioral Health and Recovery Services (MCH). These revisions will be incorporated into the ongoing version of the Mariposa County Strategic Prevention Plan (SPP) and submitted to the Department of Health Care Services (DHCS) for further review and approval. MSF agrees to continue to work with MCH and DHCS to review and amend the plan annually.
3. MSF shall submit a written evaluation of progress covering the period July 1, 2022 through June 30, 2023 by July 31, 2023. MSF will continue to use the California Healthy Kids Survey, the Youth Development Survey as evaluation tools and any additional tools or surveys deemed relevant.
4. MSF shall facilitate the continuation of an Advisory Youth Group with input from community partners, including Native American Youth.
5. MSF shall support the Advisory Youth Group in development of education campaign and messages in the community and at the middle school level. This Advisory Youth Group shall support identification of youth led projects in partnership with community partners.
6. MSF shall facilitate the Advisory Youth Group in developing afterschool activities for youth of middle and high school ages no less than twice weekly.
7. MSF will report out in the Mariposa Abuse Prevention Coalition, Community Corrections Partnership and Behavioral Health Board as well as continue working with existing community groups in a prevention network as outlined in the SPP.
8. MSF will meet with High School Administrators to develop a workplan within the first quarter of this contract. This plan is to be submitted to MCH within the first quarter of this contract. This workplan shall identify gaps in staff knowledge, information, attitudes and practices that affect school climate. In addition, evidence-based strategies to improve school climate around substance use will be identified and implemented. These sessions shall be conducted no less than quarterly with school staff.

9. MSF shall conduct qualitative interviews, focus groups and surveys within the adult community of Mariposa County to assess changes in adults' attitudes toward underage drinking. MSF shall identify evidence-based interventions to assist in reducing the acceptance of underage drinking.
10. MSF will continue to facilitate Friday Night Live activities and in accordance with the requirements of the California Friday Night Live Partnership guidelines for Friday Night Live Programs. Engaging in programing that meets the FNL Youth Development Standards of Practice, Operating Principles and Core Components.
11. MSF will meet the Member in Good Standing (MIGs) as determined by DHCS in conjunction with the California FNL Partnership. MSF will develop a monthly report of compliance or work toward compliance of the MIGs.
12. MSF will continue to facilitate Club Live activities in accordance with the requirements of the California Friday Night Live Partnership guidelines for Friday Night Live programs. All Friday Night Live and Club Live Programs will be fully implemented within the first quarter of this contract.
13. MSF agrees to provide input into Primary Prevention Substance Use Disorder Data Services (PPSDS) and monthly service data for each of these prevention programs (including activities conducted, numbers of youth seen, sign in sheets, correctly completed reporting forms, and other data as required by DHCS) to the MCH designated prevention coordinator for the purpose of verifying PPSDS data entry, no later than the 10th of the month for the previous month's data. (i.e. submit October report by November 10th). Any delays in providing monthly data may result in delay or withholding of payment by MCH.
14. MSF agrees to provide monthly narrative reports to MCH in accordance with Substance Abuse Prevention and Treatment (SAPT) and FNL contracts, no later than the 10th of the month.
15. MSF agrees to provide monthly fiscal reports/invoices to the MCH for the purpose of reimbursement, no later than the 10th of the month.
16. MSF agrees to meet with the prevention coordinator no less than 1 time monthly for contract monitoring and programmatic progress.
17. MSF will coordinate attendance at State or regional trainings with MCH. MSF shall be given any county-assigned free training slots.
18. In addition to FNL outreach described above, Mariposa Safe Families will provide specific outreach efforts to Native youth for increased involvement in Friday Night Live activities in Mariposa County.

SABG Requirements

MSF will provide and maintain the following items documenting compliance with SABG grant funding:

- MSF will demonstrate that they do not discriminate in service delivery or hiring processes.
- MSF will provide policy and procedures on the expenditure of SABG funds, including prohibition on expenditures for land, construction and permanent improvements to buildings; to not use SABG funds to satisfy requirements for the expenditure of nonfederal funds; to not provide financial assistance to any entity other than a public or nonprofit public entity; to not expend funds to provide hypodermic needles or syringes.
- MSF will develop policy and procedures ensuring access and reasonable accommodation for people with disabilities.
- MSF shall develop policy and procedures regarding confidentiality within the prevention programs.
- MSF agrees to train staff in the CLAS standards and implement the CLAS standards. MSF agrees to attend all cultural competence trainings provided by MCH annually.
- MSF shall arrange for language assistance, if needed, ensuring that minors are not utilized as interpreters.
- MSF shall implement the Mariposa County Behavioral Health Strategic Prevention Plan 2020-2025 across all populations identified in the plan and present in Mariposa County
- MSF shall regularly assess services to determine whether the tribal communities and organizations populations is being reached to and collaborate with Tribal representatives to identify quality, effectiveness and accessibility of services available to the American Indian/Alaskan Native population withing the County geographic area.
- In accordance with the provisions of the Hatch Act (5 U.S.C 1501-1508 and 7324-7328), no funds provided, nor personnel employed under this Agreement, shall be in any way or any extent engaged in the conduct of political activities.
- MSF will comply with all applicable provisions of the Dymally-Alatorre Bilingual Services Act and provide materials to explain services available to the public as well as providing language interpretation services.
- MSF services covered by contract shall comply with the Trafficking Victims Protection Act of 2000 (USC, Title 22, Chapter 89, Section 7104).
- MSF shall comply with maintaining confidentiality in connection with prevention related activity(ies) as outlined in 42 CFR Part 2.
- MSF will comply with the Byrd Anti-Lobbying Amendment and disclose to DHCS any lobbying with non-Federal funds that take place in connection with obtaining a Federal award (31 USC 1352).

First Amendment - Exhibit B
Proposed Budget / SAPT: Prevention Set Aside/FNL

Description:	Cost:
Personnel Costs: Staff costs and fringe benefits for the following positions: • One .5 FTE Executive Director • One .5 FTE Lead Prevention Specialist • One .5 FTE Youth Coordinator MSF staff will do the following: Attend Program Related Meetings and Trainings; Tracking of staff use of time and other data; Community relations; Marketing of SAPT programs; Fiscal Management of Program Expenses; Reporting and data entry into PPSDS; Oversight of SAPT related programs; Ensuring full compliance of scope of work, other. Recruitment and oversight of youth for FNL and the Youth Advisory Group (YAG); Community Relations for YAG; Conduct presentations to community groups or other agencies on YAG; Provide supervision to youth enrolled in youth programs; Attend trainings related to youth programs; Development of PSA's and other marketing. Organize, coordinate, and assist in program implementation; provide and/or arrange trainings; Prepare and present presentations to community members, school staff, and partners on substance abuse prevention; Collection of data, statistics, and other relevant information; Lead on the "After School Matters" program, assist with youth led projects, other.	\$76,960.00
Insurance/Liabilities: Workman's compensation, Liability Insurance, Directors', and Officers' Insurance, other liabilities, other.	\$6,000.00
Office Related Expenses: Office related expenses to include but not be limited to: MSF Office Rent; Storage unit rent, Paper, Ink, Pens, Copier/printer fees for SAPT related reporting and marketing, Office Supplies, Advertisement, and Marketing; Quickbooks costs and fees; Video Maker, Utilities-Telephone; Internet; Propane, other.	\$13,673.00
Program Related Expenses: Program related expenses to include but not be limited to: Mileage and Travel; Crafting and art Supplies; Games; YEC items; Outdoor Activity Supplies; Field Trip Costs, Training Costs, Facility Rental; Guest Speakers; Food supplies, other.	\$12,329.00
Friday Night Live/Club Live (specific): Friday Night Live (FNL) and Club Live (CL) specific activities/costs. Mariposa Safe Families will continue to outreach with the tribal communities within Mariposa County and will conduct outreach education to Native American youth.	\$19,000.00
Subtotal for SAPT - Prevention Set Aside:	\$127,962.00

(The above budget includes oversight of the Mariposa Club Live and Mariposa Friday Night Live Programs by Mariposa SafeFamilies, Inc. for all participating schools within the Mariposa County Unified School District. Mariposa Safe Families will make a conscious effort to include youth who are homeschooled and who attend Charter Schools within Mariposa County.)

Proposed Budget | SABG Grant | 2022 (June 01, 2022-December 31, 2022)

Description	Cost
Personnel Costs: Staff costs and fringe benefits for the following positions: • One .1 FTE Executive Director • One .1 FTE Lead Prevention Specialist • One .3 FTE Youth Coordinator MSF staff salary to implement the following: Attend Program Related Meetings for Youth Empowerment Conference Planning and Implementation; Tracking of staff/volunteer use of time; Seek donations for Youth Empowerment Conference; Community relations; Marketing; Fiscal Management of Program Expenses; Reporting and CFNLP data entry into PPSDS; Oversight of SAPT related programs; Ensuring full compliance of CFNLP scope of work, seek donations; implement CFNLP guidelines for FNL/YS; organize and implement Youth Empowerment Conference, engage community agencies/organizations and other organizations such as MADD in all CFNLP activities; Oversee youth organized projects and programs; Work collaboratively with youth and FNL/CL Advisors for Youth Empowerment Conference; Training of Advisors/Youth Leaders; Recruitment of youth and partners; other.	\$16,500.00
Insurance/Liabilities: Workman's compensation; Liability Insurance; Directors' and Officers' Insurance; Event Insurance Coverage; other liabilities.	\$1,100.00
Program Related Expenses: Supplies for Youth Empowerment Conference and CFNLP youth engagement/empowerment activities - Guest speakers; Youth Empowerment Conference materials; Youth Empowerment Conference location associated rental fees; transportation; program identifiers; activity supplies; promotions; contracts; incentives; PSA's for marketing of Youth Empowerment Conference and CFNLP related activities, supplies, other.	\$14,200.00
Food/Beverages: Food and beverages for Youth Empowerment Conference attendees.	\$10,800.00
Equipment: Equipment for Youth Empowerment Conference implementation - ipad/laptop, bluetooth speaker(s), microphone, backdrops, other.	\$3,500.00
Office Expenses and Supplies: MSF rental fees, utilities, phone, copier/printer costs, office supplies – paper, ink, etc., other.	\$3,900.00
Subtotal for SABG Grant:	\$50,000.00
TOTAL:	\$177,962.00

FIRST AMENDMENT TO AGREEMENT FOR PREVENTION SERVICES

THIS FIRST AMENDMENT TO AGREEMENT FOR PREVENTION SERVICES, is made and entered into this ____ day of _____ 20__, by and between the County of Mariposa, a political subdivision of the State of California, hereinafter referred to as “**County,**” and Mariposa Safe Families, hereinafter referred to as “**Contractor.**”

WHEREAS, County and **Contractor** have heretofore entered into an Agreement dated July 12, 2022, wherein **Contractor** agreed to provide prevention services; and

WHEREAS, County and **Contractor** desire to amend said Agreement to change the scope of work to be provided by **Contractor** and to change the compensation to be provided to **Contractor.**

NOW THEREFORE, the parties hereto in consideration of the mutual covenants herein recited, hereby agree as follows:

1. Paragraph 2, “SERVICES,” is hereby amended to provide that **Contractor** agrees to provide the following additional services: Byrd Anti-Lobbying Amendment and Outreach to Native Youth as set forth in the First Amendment – Exhibit A attached hereto and incorporated herein by reference.
2. Paragraph 3, “COMPENSATION,” is hereby amended to provide that an additional \$10,000 will be added to the original amount of \$167,962, making the total compensation paid to **Contractor** the not to exceed amount of \$177,962 as set forth in the First Amendment – Exhibit B attached hereto and incorporated herein by reference.

Except as herein amended, the Agreement dated July 12, 2022 shall remain in full force and effect.

IN WITNESS WHEREOF, the parties have caused this Amendment to be executed on the date first above written.

COUNTY OF MARIPOSA

Rosemarie Smallcombe, Chair
Board of Supervisors

COUNTERSIGNED:
(Government Code §25103)

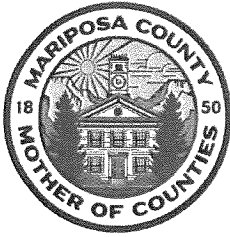
Danielle Bondshu
Clerk of the Board

CONTRACTOR

Lester Bridges, Board Chair
Mariposa Safe Families

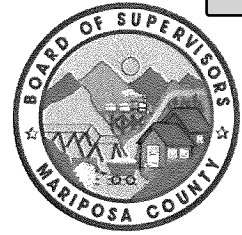
APPROVED AS TO FORM:

Steven W. Dahlem
County Counsel



MARIPOSA COUNTY

HHS/Behavioral Health & Recovery Services · (209) 966-2000



D.17.c

RESOLUTION - ACTION REQUESTED 2022-408

MEETING: July 12, 2022

TO: The Board of Supervisors

FROM: Joe Lynch, Health & Human Services Agency Director

RE: Mariposa Safe Families Prevention Contract

RECOMMENDATION AND JUSTIFICATION:

Approve an Agreement with Mariposa Safe Families to carry out substance abuse prevention activities in an amount not to exceed \$167,962; and authorize the Board of Supervisors Chair to sign the Agreement.

On August 19, 2008, as approved by the Board per Resolution Number 08-394, the Agency sent out a letter of interest to all community partners who were potentially qualified to administer the Substance Abuse Prevention Programs. A committee was convened to review proposals, and it was decided that Mariposa Safe Families would provide these services. Mariposa Safe Families has provided excellent services at the high school and in the community, and Health and Human Services Agency staff recommend that the County enter into another Agreement with this organization for substance abuse prevention activities.

BACKGROUND AND HISTORY OF BOARD ACTIONS:

The current agreement was approved on September 28, 2021, by Resolution No. 2021-544.

ALTERNATIVES AND CONSEQUENCES OF NEGATIVE ACTION:

The services of this agency would not be available to conduct alcohol and other drug prevention activities for Mariposa County youth and adults.

FINANCIAL IMPACT:

This Agreement is funded through the Substance Abuse Block Grant (SABG) and SABG ARPA funds. The costs of this Agreement will be paid from the Alcohol and Drug Budget 1001-403. There is no impact to the County General Fund.

ATTACHMENTS:

MSF Substance Abuse Prevention (FNL) Agreement 2023 - July 1 2022 (PDF)

Attachment: Mariposa Safe Families - Friday Night Live - 2023 - Res. 2022-408 - EXECUTED (RES-2022-555 : First Amendment - Mariposa Safe

RESULT: **ADOPTED BY CONSENT VOTE [UNANIMOUS]**

MOVER: Marshall Long, District III Supervisor

SECONDER: Wayne Forsythe, District IV Supervisor

AYES: Rosemarie Smallcombe, Marshall Long, Wayne Forsythe, Miles Menetrey

AGREEMENT FOR PREVENTION SERVICES

THIS AGREEMENT (“Agreement”) is made and entered into this 12th day of July, 2022, 1by and between the County of Mariposa, a political subdivision of the State of California, (“County”), and Mariposa Safe Families (“Contractor”), pursuant to the following terms and conditions.

WITNESSETH:

1. TERM

The term of this Agreement shall commence on July 1, 2022 and terminate on June 30, 2023 unless extended as provided by this Agreement.

2. SERVICES

Contractor shall perform prevention services as described in Exhibit A, “Scope of Work,” which is attached hereto and incorporated herein by reference. Contractor shall provide all staffing and materials necessary to perform the Scope of Work.

3. COMPENSATION

Contractor shall be compensated for services performed in an amount not to exceed \$167,962. The Contractor’s rates are listed in Exhibit B, “Cost Proposal,” which is attached hereto and incorporated herein by reference. The County shall pay Contractor within thirty (30) days of receipt of an approved invoice.

4. INSURANCE

Contractor shall procure and maintain for the duration of the agreement insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the work hereunder by the Contractor, its agents, representatives, or employees.

A. MINIMUM SCOPE AND LIMIT OF INSURANCE

Coverage shall be at least as broad as:

(1) Commercial General Liability (CGL): Insurance Services Office (ISO)Form CG 00 01 covering CGL on an “occurrence” basis, including products and completed operations, property damage, bodily injury and personal and advertising injury with limits no less than \$2,000,000 per occurrence. If a general aggregate limit applies, either the general aggregate limit shall apply separately to this project/location (ISO CG 25 03 or 25 04) or the general aggregate limit shall be twice the required occurrence limit.

(2) Automobile Liability: ISO Form Number CA 00 01 covering any auto, (Code 1), or if Contractor has no owned autos, hired (Code 8) and non-owned autos (Code 9), with limits no less than \$1,000,000 per accident for bodily injury and property damage.

(3) Workers' Compensation insurance as required by the State of California, with Statutory Limits, and Employer's Liability Insurance with limit of no less than \$1,000,000 per accident for bodily injury or disease.

(4) Professional Liability (Errors and Omissions): Insurance appropriate to the Contractor's profession, with limit no less than \$2,000,000 per occurrence or claim, \$2,000,000 aggregate.

If the Contractor maintains broader coverage and/or higher limits than the minimums shown above, the County requires and shall be entitled to the broader coverage and/or higher limits maintained by the Contractor. Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage shall be available to the County.

B. OTHER INSURANCE PROVISIONS

The insurance policies are to contain, or be endorsed to contain, the following provision:

(1) Additional Insured Status: The County, its officers, officials, employees, and volunteers are to be covered as additional insureds on the CGL policy with respect to liability arising out of work or operations performed by or on behalf of the Contractor including materials, parts, or equipment furnished in connection with such work or operations. General liability coverage can be provided in the form of an endorsement to the Contractor's insurance (at least as broad as ISO Form CG 20 10 11 85 or if not available, through the addition of both CG 20 10 and CG 20 37 forms if a later edition is used).

(2) Primary Coverage: For any claims related to this Agreement, the Contractor's insurance coverage shall be primary insurance as respects the County, its officers, officials, employees, and volunteers. Any insurance or self-insurance maintained by the County, its officers, officials, employees, or volunteers shall be excess of the Contractor's insurance and shall not contribute with it.

(3) Notice of Cancellation: Each insurance policy required above shall state that coverage shall not be canceled, except with notice to the County.

(4) Waiver of Subrogation: Contractor hereby grants to County a waiver of any right to subrogation which any insurer of said Contractor may acquire against the County by virtue of the payment of any loss under such insurance. Contractor agrees to obtain any endorsement that may be necessary to affect this waiver of subrogation, but this provision applies regardless of whether or not the County has received a waiver of subrogation endorsement from the insurer.

(5) Deductibles and Self-Insured Retentions: Any deductibles or self-insured retentions must be declared to and approved by the County. The County may require the Contractor to purchase coverage with a lower deductible or retention or provide proof of ability

to pay losses and related investigations, claim administration, and defense expenses within the retention.

(6) Acceptability of Insurers: Insurance is to be placed with insurers with a current A.M. Best's rating of no less than A: VII, unless otherwise acceptable to the County.

(7) Verification of Coverage: Contractor shall furnish the County with original certificates and amendatory endorsements or copies of the applicable policy language effecting coverage required by this clause. All certificates and endorsements are to be received and approved by the County before work commences. However, failure to obtain the required documents prior to the work beginning shall not waive the Contractor's obligation to provide them. The County reserves the right to require complete, certified copies of all required insurance policies, including endorsements required by these specifications, at any time.

(8) Subcontractors: Contractor shall require and verify that all subcontractors maintain insurance meeting all the requirements stated herein, and Contractor shall ensure that County is an additional insured on insurance required from subcontractors.

(9) Special Risks or Circumstances: County reserves the right to modify these requirements, including limits, based on the nature of the risk, prior experience, insurer, coverage, or other special circumstances.

5. HOLD HARMLESS/INDEMNIFICATION

Contractor shall hold harmless, defend and indemnify County and its officers, employees, agents, and volunteers, from and against any and all liability, loss, damage, expense, costs (including without limitation costs and fees of litigation) of every nature arising out of or in connection with Contractor's performance of work hereunder or its failure to comply with any of its obligations contained in this Agreement, except such loss or damage which was caused by the sole negligence or willful misconduct of County.

6. INDEPENDENT CONTRACTOR

It is the expressed intention of the parties that Contractor is an independent contractor and not an employee, agent, joint venturer or partner of County. Nothing in this Agreement shall be interpreted or construed as creating or establishing the relationship of employer and employee between County and Contractor or any employee or agent of Contractor. Both parties acknowledge that Contractor is not an employee for state or federal tax purposes. Contractor shall retain the right to perform services for others during the term of this Agreement.

7. PUBLIC EMPLOYEES RETIREMENT SYSTEM (CALPERS)

In the event that Contractor or any employee, agent, or subcontractor of Contractor providing services under this Agreement is determined by a court of competent jurisdiction or the Public Employees Retirement System (CalPERS) to be eligible for enrollment in CalPERS 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 CalPERS benefits on behalf of

Contractor or its employees, agents, or subcontractors, as well as for the payment of any penalties and interest on such contributions, which would otherwise be the responsibility of County.

8. STATE AND FEDERAL TAXES

As Contractor is not County's employee, Contractor is responsible for paying all required state and federal taxes. In particular:

- a. County will not withhold FICA (Social Security) from Contractor's payments;
- b. County will not make state or federal unemployment insurance contributions on behalf of Contractor;
- c. County will not withhold state or federal income tax from payment to Contractor;
- d. County will not make disability insurance contributions on behalf of Contractor;
- e. County will not obtain workers' compensation insurance on behalf of Contractor.

9. ASSIGNMENT

It is understood and agreed that this Agreement contemplates personal performance by the Contractor and is based upon a determination of its unique personal competence and experience and upon its specialized personal knowledge. Assignments of any or all rights, duties or obligations of the Contractor under this Agreement will be permitted only with the express written consent of the County.

10. NOTICE

Any and all notices, reports or other communications to be given to County or Contractor shall be given to the persons representing the respective parties at the following addresses:

CONTRACTOR:

Mariposa Safe Families
P.O. Box 545
Mariposa, CA 95338

COUNTY:

County of Mariposa
5362 Lemee Lane
P.O. Box 99
Mariposa, CA 95338
Fax: (209) 742-0996

11. COMPLIANCE

Contractor shall comply with all federal, state and local laws, codes, ordinance and regulations applicable to Contractor's performance under this Agreement, including, but not limited to, laws related to prevailing wages. Specifically, Contractor shall not engage in unlawful employment discrimination, including, but not limited to, discrimination based upon a person's race, religion, color, national origin, ancestry, physical handicap, medical condition, marital status, gender, citizenship or sexual orientation, as prohibited by state or federal law.

12. PUBLIC RECORDS ACT

Contractor is aware that this Agreement and any documents provided to the County may be subject to the California Public Records Act and may be disclosed to members of the public upon request. It is the responsibility of the Contractor to clearly identify information in those documents that it considers to be confidential under the California Public Records Act. To the extent that the County agrees with that designation, such information will be held in confidence whenever possible. All other information will be considered public.

13. ENTIRE AGREEMENT AND MODIFICATION

This Agreement contains the entire agreement of the parties relating to the subject matter of this Agreement and supersedes all prior agreements and representations with respect to the subject matter hereof. This Agreement may only be modified by a written amendment hereto, executed by both parties; however, matters concerning the scope of services which do not affect the agreed price may be modified by mutual written consent of the Contractor and County of Mariposa Health and Human Services Agency. If there are exhibits attached hereto, and a conflict exists between the terms of this Agreement and any exhibit, the terms of this Agreement shall control.

14. ENFORCEABILITY AND SEVERABILITY

The invalidity or enforceability of any term or provisions of this Agreement shall not, unless otherwise specified, affect the validity or enforceability of any other term or provision, which shall remain in full force and effect.

15. TERMINATION AND RIGHTS UPON TERMINATION

A. This Agreement may be terminated upon mutual written consent of the parties, or as a remedy available at law or in equity. In the event of the termination of this Agreement, Contractor shall immediately be paid all fees earned as of the effective date of termination.

B. Either party may terminate this Agreement for convenience upon 30 calendar days' written notice to the other party. Upon termination for convenience, Contractor shall be entitled to compensation for services performed acceptably up to the effective date of termination, as set forth in Exhibit B.

C. Should Contractor default in the performance of this Agreement or materially breach any of its provisions, County, at its option, may terminate this Agreement by giving written notification to Contractor. The termination date shall be the effective date of the notice. For the purposes of this subsection, default or material breach of this Agreement shall include, but not be limited to, any of the following: failure to perform required services in a timely manner, willful destruction of County property, dishonesty, or theft.

16. NO WAIVER

The failure to exercise any right to enforce any remedy contained in this Agreement shall not operate as to be construed to be a waiver or relinquishment of the exercise of such right or remedy, or of any other right or remedy herein contained.

17. DISPUTES

Should it become necessary for a party to this Agreement to bring an action in connection with this Agreement, the prevailing party in any claim or action shall be entitled to reimbursement for all expenses so incurred, including reasonable attorney's fees.

It is agreed by the parties hereto that unless otherwise expressly waived by them, any action brought to enforce any of the provisions hereof or for declaratory relief hereunder shall be filed and remain in a court of competent jurisdiction in the County of Mariposa, State of California.

18. CAPTIONS

The captions of this Agreement are for convenience in reference only and the words contained therein shall in no way be held to explain, modify, amplify or aid in the interpretation, construction or meaning of the provisions of this Agreement.

19. NUMBER AND GENDER

In this Agreement, the neutral gender includes the feminine and masculine, the singular includes the plural, and the word "person" includes corporations, partnerships, firms or associations, wherever the context so requires.

20. MANDATORY AND

PERMISSIVE "Shall" is mandatory. "May"

is permissive.

21. SUCCESSORS AND ASSIGNS

All representations, covenants and warranties specifically set forth in this Agreement, by or on behalf of, or for the benefit of any or all of the parties hereto, shall be binding upon and inure to the benefit of such party, its successors and assigns.

22. COUNTERPARTS

This Agreement may be executed simultaneously and in several counterparts, each of which shall be deemed an original, but which together shall constitute one and the same instrument.

23. OTHER DOCUMENTS

The parties agree that they shall cooperate in good faith to accomplish the object of this Agreement and, to that end, agree to execute and deliver such other and further instruments and documents as may be necessary and convenient to the fulfillment of these purposes.

24. CONTROLLING LAW

The validity, interpretation and performance of this Agreement shall be controlled by and construed under the laws of the State of California.

25. AUTHORITY

Each party and each party's signatory warrant and represent that each has full authority and capacity to enter into this Agreement in accordance with all requirements of law. The parties also warrant that any signed amendment or modification to the agreement shall comply with all requirements of law, including capacity and authority to amend or modify the Agreement.

26. NEGOTIATED AGREEMENT

This Agreement has been arrived at through negotiation between the parties. Neither party is to be deemed the party which prepared this Agreement within the meaning of California Civil Code section 1654. Each party represents and warrants that in executing this Agreement it does so with full knowledge of the rights and duties it may have with respect to the other party. Each party also warrants and represents that it has received independent legal advice from its attorney with respect to the matters set forth in this Agreement and the rights and duties arising out of this Agreement, or that such party willingly foregoes any such consultation.

27. NO RELIANCE ON REPRESENTATIONS

Each party warrants and represents that it is not relying and has not relied upon any representation or statement made by the other party with respect to the facts involved or its rights or duties. Each party understands and agrees that the facts relevant, or believed to be relevant to this Agreement, have been independently verified. Each party further understands that it is responsible for verifying the representations of law or fact provided by the other party.

28. WARRANTY

County has relied upon the professional ability and training of Contractor as a material inducement to enter into this Agreement. Contractor hereby warrants that all work shall be performed in accordance with generally accepted professional practices and standards as well as the requirements of applicable federal, state and local laws, it being understood that acceptance of Contractor's work by County shall not operate as a waiver or release.

29. FUNDING AVAILABILITY

It is mutually agreed that if the County budget of the current fiscal year and/or any subsequent fiscal years covered under this Agreement does not appropriate sufficient funds for this Agreement, this Agreement shall terminate and be of no further force and effect upon the day notice is provided by County to Contractor of such event. Upon termination of this Agreement, the County shall have no liability to pay any funds whatsoever to Contractor or to furnish any other considerations under this Agreement except for services rendered prior to such termination and Contractor shall not be obligated to perform any provisions of this Agreement. Contractor's assumption of risk of possible non-appropriation is part of the consideration for this Agreement. County budget decisions are subject to the discretion of the Board of Supervisors.

If funding for any fiscal year is reduced or deleted by the County budget for purposes of this Agreement, the County shall have the option to either cancel this Agreement with no liability occurring to the County, except County must reimburse Contractor for services rendered prior to

such reduction or modification of the County budget, or offer an Agreement amendment to Contractor to reflect the reduced amount.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the day and year first written above.

COUNTY OF MARIPOSA

77023AE68D1
 *Rosemarie Smallcombe*

Rosemarie Smallcombe, Chair
 Board of Supervisors

COUNTERSIGN:

77023AE68DB
 *Danielle Bondshu*

Danielle Bondshu
 Clerk of the Board

CONTRACTOR

77023AE68E5
 *Lester Bridges*

Lester Bridges, Board Chair
 Mariposa Safe Families

APPROVED AS TO FORM:

77023AE68C7
 *Steven W. Dahlem*

Steven W. Dahlem
 County Counsel

Exhibit A
SCOPE OF WORK

Mariposa County Health and Human Services, through the Health division (MCH), will contract with Mariposa Safe Families (MSF) to implement Mariposa County Prevention Programs and the Friday Night Live and Club Live programs.

1. MSF shall provide services in accordance with the goals and objectives outlined in the Mariposa County Behavioral Health Strategic Prevention Plan (SPP). All activities claimed shall be as outlined in the SPP.
2. By May 31, 2023, MSF will work with the county designated prevention coordinator to review, update, and amend the Mariposa County SUD Strategic Prevention Planning Goals/Objectives. Revisions will be submitted in writing no later than May 31, 2022 to Mariposa County Behavioral Health and Recovery Services (MCH). These revisions will be incorporated into the ongoing version of the Mariposa County Strategic Prevention Plan (SPP) and submitted to the Department of Health Care Services (DHCS) for further review and approval. MSF agrees to continue to work with MCH and DHCS to review and amend the plan annually.
3. MSF shall submit a written evaluation of progress covering the period July 1, 2022 through June 30, 2023 by July 31, 2023. MSF will continue to use the California Healthy Kids Survey, the Youth Development Survey as evaluation tools and any additional tools or surveys deemed relevant.
4. MSF shall facilitate the continuation of an Advisory Youth Group with input from community partners, including Native American Youth.
5. MSF shall support the Advisory Youth Group in development of education campaign and messages in the community and at the middle school level. This Advisory Youth Group shall support identification of youth led projects in partnership with community partners.
6. MSF shall facilitate the Advisory Youth Group in developing afterschool activities for youth of middle and high school ages no less than twice weekly.
7. MSF will report out in the Mariposa Abuse Prevention Coalition, Community Corrections Partnership and Behavioral Health Board as well as continue working with existing community groups in a prevention network as outlined in the SPP.
8. MSF will meet with High School Administrators to develop a workplan with in the first quarter of this contract. This plan is to be submitted to MCH within the first quarter of this contract. This workplan shall identify gaps in staff knowledge, information, attitudes and practices that affect school climate. In addition, evidence-based strategies to improve school climate around substance use will be identified and implemented. These sessions shall be conducted no less than quarterly with school staff.

9. MSF shall conduct qualitative interviews, focus groups and surveys within the adult community of Mariposa County to assess changes in adults' attitudes toward underage drinking. MSF shall identify evidence-based interventions to assist in reducing the acceptance of underage drinking.
10. MSF will continue to facilitate Friday Night Live activities in accordance with the requirements of the California Friday Night Live Partnership guidelines for Friday Night Live Programs. Engaging in programing that meets the FNL Youth Development Standards of Practice, Operating Principles and Core Components.
11. MSF will meet the Member in Good Standing (MIGs) as determined by DHCS in conjunction with the California FNL Partnership. MSF will develop a monthly report of compliance or work toward compliance of the MIGs.
12. MSF will continue to facilitate Club Live activities in accordance with the requirements of the California Friday Night Live Partnership guidelines for Friday Night Live programs. All Friday Night Live and Club Live Programs will be fully implemented within the first quarter of this contract.
13. MSF agrees to provide input into Primary Prevention Substance Use Disorder Data Services (PPSDS) and monthly service data for each of these prevention programs (including activities conducted, numbers of youth seen, sign in sheets, correctly completed reporting forms, and other data as required by DHCS) to the MCH designated prevention coordinator for the purpose of verifying PPSDS data entry, no later than the 10th of the month for the previous month's data. (i.e. submit October report by November 10th). Any delays in providing monthly data may result in delay or withholding of payment by MCH.
14. MSF agrees to provide monthly narrative reports to MCH in accordance with Substance Abuse Prevention and Treatment (SAPT) and FNL contracts, no later than the 10th of the month.
15. MSF agrees to provide monthly fiscal reports/invoices to the MCH for the purpose of reimbursement, no later than the 10th of the month.
16. MSF agrees to meet with the prevention coordinator no less than 1 time monthly for contract monitoring and programmatic progress.
17. MSF will coordinate attendance at State or regional trainings with MCH. MSF shall be given any county-assigned free training slots.

SABG Requirements

MSF will provide and maintain the following items documenting compliance with SABG grant funding:

- MSF will demonstrate that they do not discriminate in service delivery or hiring processes.
- MSF will provide policy and procedures on the expenditure of SABG funds, including prohibition on expenditures for land, construction and permanent improvements to buildings; to not use SABG funds to satisfy requirements for the expenditure of nonfederal funds; to not provide financial assistance to any entity other than a public or nonprofit public entity; to not expend funds to provide hypodermic needles or syringes.
- MSF will develop policy and procedures ensuring access and reasonable accommodation for people with disabilities.
- MSF shall develop policy and procedures regarding confidentiality within the prevention programs.
- MSF agrees to train staff in the CLAS standards and implement the CLAS standards. MSF agrees to attend all cultural competence trainings provided by MCH annually.
- MSF shall arrange for language assistance, if needed, ensuring that minors are not utilized as interpreters.
- MSF shall implement the Mariposa County Behavioral Health Strategic Prevention Plan 2020-2025 across all populations identified in the plan and present in Mariposa County
- MSF shall regularly assess services to determine whether the tribal communities and organizations populations is being reached to and collaborate with Tribal representatives to identify quality, effectiveness and accessibility of services available to the American Indian/Alaskan Native population withing the County geographic area.
- In accordance with the provisions of the Hatch Act (5 U.S.C 1501-1508 and 7324-7328), no funds provided, nor personnel employed under this Agreement, shall be in any way or any extent engaged in the conduct of political activities.
- MSF will comply with all applicable provisions of the Dymally-Alatorre Bilingual Services Act and provide materials to explain services available to the public as well as providing language interpretation services.
- MSF services covered by contract shall comply with the Trafficking Victims Protection Act of 2000 (USC, Title 22, Chapter 89, Section 7104).
- MSF shall comply with maintaining confidentiality in connection with prevention related activity(ies) as outlined in 42 CFR Part 2.

Exhibit B
Proposed Budget / SAPT: Prevention Set Aside/FNL

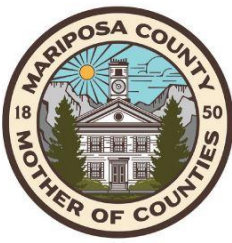
Description:	Cost:
Personnel Costs: Staff costs and fringe benefits for the following positions: • One .5 FTE Executive Director • One .5 FTE Lead Prevention Specialist • One .5 FTE Youth Coordinator MSF staff will do the following: Attend Program Related Meetings and Trainings; Tracking of staff use of time and other data; Community relations; Marketing of SAPT programs; Fiscal Management of Program Expenses; Reporting and data entry into PPSDS; Oversight of SAPT related programs; Ensuring full compliance of scope of work, other. Recruitment and oversight of youth for FNL and the Youth Advisory Group (YAG); Community Relations for YAG; Conduct presentations to community groups or other agencies on YAG; Provide supervision to youth enrolled in youth programs; Attend trainings related to youth programs; Development of PSA's and other marketing. Organize, coordinate, and assist in program implementation; provide and/or arrange trainings; Prepare and present presentations to community members, school staff, and partners on substance abuse prevention; Collection of data, statistics, and other relevant information; Lead on the "After School Matters" program, assist with youth led projects, other.	\$76,960.00
Insurance/Liabilities: Workman's compensation, Liability Insurance, Directors', and Officers' Insurance, other liabilities, other.	\$6,000.00
Office Related Expenses: Office related expenses to include but not be limited to: MSF Office Rent; Storage unit rent, Paper, Ink, Pens, Copier/printer fees for SAPT related reporting and marketing, Office Supplies, Advertisement, and Marketing; Quickbooks costs and fees; Video Maker, Utilities-Telephone; Internet; Propane, other.	\$13,673.00
Program Related Expenses: Program related expenses to include but not be limited to: Mileage and Travel; Crafting and art Supplies; Games; YEC items; Outdoor Activity Supplies; Field Trip Costs, Training Costs, Facility Rental; Guest Speakers; Food supplies, other.	\$12,329.00
Friday Night Live/Club Live (specific): Friday Night Live (FNL) and Club Live (CL) specific activities/costs.	\$9,000.00
Subtotal for SAPT - Prevention Set Aside:	\$117,962.00

(The above budget includes oversight of the Mariposa Club Live and Mariposa Friday Night Live Programs by Mariposa SafeFamilies, Inc. for all participating schools within the Mariposa County Unified School District. Mariposa Safe Families will make a conscious effort to include youth who are homeschooled and who attend Charter Schools within Mariposa County.)

Proposed Budget | SABG Grant | 2022 (June 01, 2022-December 31, 2022)

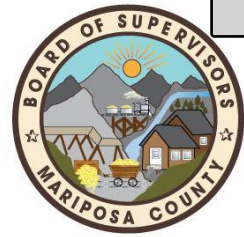
Description	Cost
Personnel Costs: Staff costs and fringe benefits for the following positions: • One .1 FTE Executive Director • One .1 FTE Lead Prevention Specialist • One .3 FTE Youth Coordinator MSF staff salary to implement the following: Attend Program Related Meetings for Youth Empowerment Conference Planning and Implementation; Tracking of staff/volunteer use of time; Seek donations for Youth Empowerment Conference; (see next page)	\$16,500.00

(Continued from Page 1) Community relations; Marketing; Fiscal Management of Program Expenses; Reporting and CFNLP data entry into PPSDS; Oversight of SAPT related programs; Ensuring full compliance of CFNLP scope of work, seek donations; implement CFNLP guidelines for FNL/YS; organize and implement Youth Empowerment Conference, engage community agencies/organizations and other organizations such as MADD in all CFNLP activities; Oversee youth organized projects and programs; Work collaboratively with youth and FNL/CL Advisors for Youth Empowerment Conference; Training of Advisors/Youth Leaders; Recruitment of youth and partners; other.	
Insurance/Liabilities: Workman's compensation; Liability Insurance; Directors' and Officers' Insurance; Event Insurance Coverage; other liabilities.	\$1,100.00
Program Related Expenses: Supplies for Youth Empowerment Conference and CFNLP youth engagement/empowerment activities - Guest speakers; Youth Empowerment Conference materials; Youth Empowerment Conference location associated rental fees; transportation; program identifiers; activity supplies; promotions; contracts; incentives; PSA's for marketing of Youth Empowerment Conference and CFNLP related activities, supplies, other.	\$14,200.00
Food/Beverages: Food and beverages for Youth Empowerment Conference attendees.	\$10,800.00
Equipment: Equipment for Youth Empowerment Conference implementation - ipad/laptop, bluetooth speaker(s), microphone, backdrops, other.	\$3,500.00
Office Expenses and Supplies: MSF rental fees, utilities, phone, copier/printer costs, office supplies – paper, ink, etc., other.	\$3,900.00
Subtotal for SABG Grant:	\$50,000.00
TOTAL:	\$167,962.00



MARIPOSA COUNTY

Public Works • 209-966-2498



RESOLUTION - ACTION REQUESTED 2022-556

MEETING: September 27, 2022

TO: The Board of Supervisors

FROM: Shannon Hansen, Director of Public Works & Transportation

RE: Approve MCRCD Right of Entry Permission Forms for Yosemite West

RECOMMENDATION AND JUSTIFICATION:

Approve Right of Entry Permission Forms for work to be completed in Yosemite West, and authorize the Director of Public Works to sign the permission forms.

The Mariposa County Resource Conservation District (MCRCD) has received a Forest Health Grant from CAL FIRE to, among other things, reduce wildfire fuels along major road corridors in Yosemite National Park and the community of Yosemite West. MCRCD has indicated that some of the fuels currently exist on or adjacent to County property in Yosemite West and is seeking permission to access those properties to mitigate the risk of high-severity wildfire.

Wildfire risk is a primary concern of residents and the reason the Board has previously approved a wildfire protection plan. Finding this action aligned with the goals and objectives of that plan, staff recommends approval of this permission form.

BACKGROUND AND HISTORY OF BOARD ACTIONS:

On February 16, 2021, Resolution 2021-80 the Board approved an updated community wildfire protection plan.

On April 20, 2021, Resolution 2021-222 the Board approved a similar agreement with the MCRCD.

The County frequently partners with MCRCD on projects that benefit the residents and natural resources in our community.

ALTERNATIVES AND CONSEQUENCES OF NEGATIVE ACTION:

Do not approve, work will not be completed in Yosemite West.

ATTACHMENTS:

ROE APN 006-070-0230 (PDF)

ROE APN 006-130-0200 (PDF)

006-130-0200 Log Removal Map (PDF)
RES 2021-222 (PDF)

RESULT: ADOPTED BY CONSENT VOTE [UNANIMOUS]

MOVER: Marshall Long, District III Supervisor

SECONDER: Wayne Forsythe, District IV Supervisor

AYES: Rosemarie Smallcombe, Marshall Long, Wayne Forsythe, Miles Menetrey



MARIPOSA COUNTY
RESOURCE CONSERVATION DISTRICT
 P.O. Box 2403
 Mariposa, CA 95338
 (209) 966-0970 MariposaCountyRCD@gmail.com

Yosemite West Restoration Program

Right of Entry Permission Form

Property Address: Wastewater Treatment Facility

Assessor's Parcel Number (APN): 006-070-0230

I/We Mariposa County, the owner(s) of the above-referenced property (collectively "Owner"), do hereby grant freely, and without coercion, the right of access and entry to said property to the Mariposa County Resource Conservation District (MCRCD), and its employees, volunteers, contractors, and sub-contractors subject to all licenses, easements, encumbrances and claims of title affecting premises upon the following terms:

1. Grant Right-of-Entry: Owner hereby grants the MCRCD and its contractors a right-of-way ("Permission Form") over the premises for the purpose of inspecting the Premises for dead and/or dying trees and fuel loading, testing materials on the Premises, removing and/or clearing trees and brush, hauling and/or disposing of trees, chipping limbs and slash, subject to the terms and conditions set forth in this Permission Form. It is fully understood that this Permission Form does not create any obligation on the MCRCD or its contractors to perform inspection, testing, or tree or brush removal/clearance. Owner understands the MCRCD and its contractors will not undertake any removal or clearance of fuels or any related action until this Permission Slip is signed and returned.

2. Acknowledgement Concerning Liability for Damages: Owner acknowledges and understands that participation in the Program is voluntary and provided with no cost to the Owner upon signing this Permission Form. Owner further acknowledges and understands that the Owner's participation in this Program is contingent upon, and the MCRCD is relying upon, the Owner's agreement through this Permission Form to release the MCRCD from any liability arising out of the work contemplated under this Permission Form. Owner further understands and agrees that, should liability arise out of the work contemplated under this Permission Form, the Owner's sole and exclusive remedy shall be against the contractors performing said work. Contractors and subcontractors shall have Commercial General Liability insurance with limits no less than \$1,000,000 per occurrence, \$2,000,000 aggregate.

3. Hold Harmless: The MCRCD shall not be liable for, and Owner shall indemnify, defend and hold harmless the MCRCD and CAL FIRE, and any of their officers, agents, employees, and volunteers, against any and all claims, deductibles, self-insured retentions, demands, liability, judgments, awards, fines, mechanics liens or other liens, labor disputes, attorneys' fees and court costs, which arise out of or are in any way connected to the work contemplated under this Permission Form, and hereby release, discharge and waive any claims and action against same, in law or equity, arising therefrom. This indemnification and release expressly excludes the contractors, and any subcontractors thereof, performing the work contemplated under this Permission Form.

4. Acknowledgment and Waiver Related to Timber Sales: Owner understands and agrees that the hired contractors may sell the felled trees or biomass, and hereby waives any and all rights, actions, claims in law or equity, as to the value of said trees or biomass

in exchange for the services provided pursuant to this Permission Form.

5. MCRCD's Agents: Except as otherwise provided herein, any person, firm, or corporation authorized to work upon the Premises by the MCRCD shall be deemed to be the MCRCD's agent, including but not limited to CAL FIRE and shall be subject to all applicable terms hereof.

6. Authority: Owner represents and warrants it has full power and authority to execute and fully perform its obligations under this Permission Form pursuant to its governing instruments, as applicable, without the need for any further action, and the person(s) executing this Permission Form on behalf of the Owner are the duly designated agents of the Owner and are authorized to do so, and that fee title to the Premises vests solely in Owner.

7. Entire Agreement: This Permission Form constitutes the entire agreement between the parties with respect to the subject matter hereof, and all prior or contemporaneous agreements, understandings and representations, oral or written, are superseded.

8. Modification: The provisions of this Permission Form may not be modified, except by written instrument signed by both parties.

9. Successors and Assigns: This Permission Form shall bind and benefit the parties and their successors and assigns, except as may otherwise be provided herein.

10. Notices: Any notice required hereunder shall be provided to MCRCD as follows:

Mariposa County Resource Conservation District
P.O. Box 2403, Mariposa, CA 95338
(209) 966-0970
MariposaCountyRCD@gmail.com

Owner Contact Info

Name: Shannon Hansen

Mailing Address: 4639 Ben Hur Rd, Mariposa, CA 95338

Phone Number: (209) 966-5356

By their signatures below, Owner and MCRCD have executed this Permission Form effective as of

_____ (Date)

Property Owner

Signed: _____ Date: _____

Printed Name: _____

MCRCD

Signed: _____ Date: _____



MARIPOSA COUNTY
RESOURCE CONSERVATION DISTRICT
 P.O. Box 2403
 Mariposa, CA 95338
 (209) 966-0970 MariposaCountyRCD@gmail.com

Yosemite West Restoration Program

Right of Entry Permission Form

Property Address: 7597 Azalea Lane, Wawona, CA 95389

Assessor's Parcel Number (APN): 006-130-0200

I/We Mariposa County, the owner(s) of the above-referenced property (collectively "Owner"), do hereby grant freely, and without coercion, the right of access and entry to said property to the Mariposa County Resource Conservation District (MCRCD), and its employees, volunteers, contractors, and sub-contractors subject to all licenses, easements, encumbrances and claims of title affecting premises upon the following terms:

1. Grant Right-of-Entry: Owner hereby grants the MCRCD and its contractors a right-of-way ("Permission Form") over the premises for the purpose of inspecting the Premises for dead and/or dying trees and fuel loading, testing materials on the Premises, removing and/or clearing trees and brush, hauling and/or disposing of trees, chipping limbs and slash, subject to the terms and conditions set forth in this Permission Form. It is fully understood that this Permission Form does not create any obligation on the MCRCD or its contractors to perform inspection, testing, or tree or brush removal/clearance. Owner understands the MCRCD and its contractors will not undertake any removal or clearance of fuels or any related action until this Permission Slip is signed and returned.

2. Acknowledgement Concerning Liability for Damages: Owner acknowledges and understands that participation in the Program is voluntary and provided with no cost to the Owner upon signing this Permission Form. Owner further acknowledges and understands that the Owner's participation in this Program is contingent upon, and the MCRCD is relying upon, the Owner's agreement through this Permission Form to release the MCRCD from any liability arising out of the work contemplated under this Permission Form. Owner further understands and agrees that, should liability arise out of the work contemplated under this Permission Form, the Owner's sole and exclusive remedy shall be against the contractors performing said work. Contractors and subcontractors shall have Commercial General Liability insurance with limits no less than \$1,000,000 per occurrence, \$2,000,000 aggregate.

3. Hold Harmless: The MCRCD shall not be liable for, and Owner shall indemnify, defend and hold harmless the MCRCD and CAL FIRE, and any of their officers, agents, employees, and volunteers, against any and all claims, deductibles, self-insured retentions, demands, liability, judgments, awards, fines, mechanics liens or other liens, labor disputes, attorneys' fees and court costs, which arise out of or are in any way connected to the work contemplated under this Permission Form, and hereby release, discharge and waive any claims and action against same, in law or equity, arising therefrom. This indemnification and release expressly excludes the contractors, and any subcontractors thereof, performing the work contemplated under this Permission Form.

4. Acknowledgment and Waiver Related to Timber Sales: Owner understands and agrees that the hired contractors may sell the felled trees or biomass, and hereby waives any and all rights, actions, claims in law or equity, as to the value of said trees or biomass

in exchange for the services provided pursuant to this Permission Form.

5. MCRCD's Agents: Except as otherwise provided herein, any person, firm, or corporation authorized to work upon the Premises by the MCRCD shall be deemed to be the MCRCD's agent, including but not limited to CAL FIRE and shall be subject to all applicable terms hereof.

6. Authority: Owner represents and warrants it has full power and authority to execute and fully perform its obligations under this Permission Form pursuant to its governing instruments, as applicable, without the need for any further action, and the person(s) executing this Permission Form on behalf of the Owner are the duly designated agents of the Owner and are authorized to do so, and that fee title to the Premises vests solely in Owner.

7. Entire Agreement: This Permission Form constitutes the entire agreement between the parties with respect to the subject matter hereof, and all prior or contemporaneous agreements, understandings and representations, oral or written, are superseded.

8. Modification: The provisions of this Permission Form may not be modified, except by written instrument signed by both parties.

9. Successors and Assigns: This Permission Form shall bind and benefit the parties and their successors and assigns, except as may otherwise be provided herein.

10. Notices: Any notice required hereunder shall be provided to MCRCD as follows:

Mariposa County Resource Conservation District
P.O. Box 2403, Mariposa, CA 95338
(209) 966-0970
MariposaCountyRCD@gmail.com

Owner Contact Info

Name: Shannon Hansen

Mailing Address: 4639 Ben Hur Road, Mariposa, CA 95338

Phone Number: (209) 966-5356

By their signatures below, Owner and MCRCD have executed this Permission Form effective as of

_____ (Date)

Property Owner

Signed: _____ Date: _____

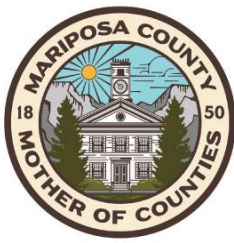
Printed Name: _____

MCRCD

Signed: _____ Date: _____

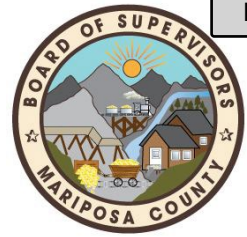


- LOT 1
7597 AZALEA LANE
APN 006-130-0200
OWNER: MARIPOSA
COUNTY



MARIPOSA COUNTY

Administration • 966-3222



D.18.d

RESOLUTION - ACTION REQUESTED 2021-222

MEETING: April 20, 2021

TO: The Board of Supervisors

FROM: Dallin Kimble, County Administrative Officer

RE: MCRCD Yosemite Area Forest Restoration Grant Agreement

RECOMMENDATION AND JUSTIFICATION:

Approve a Landowner Access Agreement (Exhibit E) for work to be completed in Yosemite West; and authorize the County Administrative Officer to sign the agreement.

Mariposa County Resource Conservation District (RCD) has received a grant from the California Wildlife Conservation Board to, among other things, reduce wildfire fuels along major road corridors in Yosemite National Park and the community of Yosemite West. RCD has indicated that some of the fuels currently exist on County property in Yosemite West and it is seeking permission to access those properties to mitigate the risk of high-severity wildfire.

Wildfire risk is a primary concern of residents and the reason the Board recently approved a wildfire protection plan. Finding this action aligned with the goals and objectives of that plan, staff recommends approval of this agreement.

BACKGROUND AND HISTORY OF BOARD ACTIONS:

On February 16, 2021, the Board approved an updated community wildfire protection plan.

The County frequently partners with RCD on projects that benefit the residents and natural resources in our community.

ALTERNATIVES AND CONSEQUENCES OF NEGATIVE ACTION:

Do not approve. Work will not be completed in Yosemite West.

FINANCIAL IMPACT:

There is no financial expense to the County; the proposed project would mitigate work that would otherwise require County resources.

ATTACHMENTS:

WCB_grant_-_Yosemite_Area_Forest_Restoration_Agreement (PDF)
Exhibit E (PDF)

Attachment: RES 2021-222 (RES-2022-556 : Approve MCRCD Right of Entry Permission Forms for Yosemite West)

RESULT: ADOPTED [UNANIMOUS]

MOVER: Rosemarie Smallcombe, District I Supervisor

SECONDER: Wayne Forsythe, District IV Supervisor

AYES: Smallcombe, Sweeney, Long, Forsythe, Menetrey



GAVIN NEWSOM, Governor
NATURAL RESOURCES AGENCY
DEPARTMENT OF FISH AND WILDLIFE
WILDLIFE CONSERVATION BOARD
Mailing Address: P.O. Box 944209
Sacramento, California 94244-2090
www.wcb.ca.gov
(916) 445-8448
Fax (916) 323-0280

David Mecchi
President of the Board
Mariposa County Resource Conservation District
P.O. Box 2403
Mariposa, CA 95338
dmd6catman@yahoo.com

2/4/2021

YOSEMITE AREA FOREST RESTORATION, PHASE 2
MARIPOSA COUNTY
GRANT AGREEMENT NO.: WC-2096JG
PROJECT ID: 2020139

Dear Mr. Mecchi:

Enclosed is a copy of a Grant Agreement for the above referenced project (WC-2096JG), which is tentatively scheduled for consideration at the February 25, 2021, meeting of the Wildlife Conservation Board. Prior to formally placing this project on the February agenda, we will need the enclosed Grant Agreement to be signed on behalf of the grantee with a DocuSign electronic signature.

Once approved, we will send you a fully approved and signed copy for your records. In order to maintain a place on the February meeting agenda, the agreement must be signed using DocuSign by February 19, 2021. Please do not incur any costs toward this project until you have received a fully approved agreement along with a notice to proceed.

Thank you for your help and interest working the Wildlife Conservation Board to advance this important conservation work. If you have any questions, please contact Judah Grossman at (916) 445-8892 or judah.grossman@wildlife.ca.gov.

Sincerely,

DocuSigned by:

12465785E47E441...
Scott McFarlin, Supervisor
Restoration and Development

Enclosure(s)

ec: Julie Vance, Regional Manager
CDFW Central Region (4)

Attachment: RES 2021-222 (RES-2022-556 : Approve MCRCD Right of Entry Permission Forms for Yosemite West)

CALIFORNIA WILDLIFE CONSERVATION BOARD

GRANT AGREEMENT

Between

STATE OF CALIFORNIA, WILDLIFE CONSERVATION BOARD

and

MARIPOSA COUNTY RESOURCE CONSERVATION DISTRICT

for

YOSEMITE AREA FOREST RESTORATION, PHASE 2

MARIPOSA COUNTY, CALIFORNIA

WC-2096JG

**State of California
Natural Resources Agency
Department of Fish and Wildlife
Wildlife Conservation Board**

This page left blank intentionally.

Attachment: RES 2021-222 (RES-2022-556 : Approve MCRCD Right of Entry Permission Forms for Yosemite West)

Yosemite Area Forest Restoration, Phase 2
Grant Agreement Number WC-2096JG
Project ID 2020139

Page 1

GRANTEE: Mariposa County Resource Conservation District
P.O. Box 2403
Mariposa, CA 95338
Attn: Melinda Barrett
Phone: (559) 580-0944
E-mail: mariposacountyracd@gmail.com

GRANTOR: Wildlife Conservation Board
P.O. Box 944209
Sacramento, CA 94244-2090
Attn: Judah Grossman
Phone: (916) 445-8892
E-mail: judah.grossman@wildlife.ca.gov

Grant Agreement No.: WC-2096JG

Board Approval Date: February 25, 2021

Projected Completion Date: March 31, 2025

Terms of Agreement:
Capital Improvements: Notice to Proceed Date (2/26/2021) through
March 31, 2025
Management: Completion of Capital Improvements to February 25, 2046

Project Life: Twenty-five years

Project ID: 2020139

Grant Amount: \$4,239,244

Fund Source: Proposition 68

Attachment: RES 2021-222 (RES-2022-556 : Approve MCRCD Right of Entry Permission Forms for Yosemite West)

1. SCOPE OF AGREEMENT

Pursuant to the Wildlife Conservation Law of 1947, Chapter 4.0 of Division 2, (commencing with Section 1300) of the California Fish and Game Code; the California Drought, Water, Parks, Climate, Coastal Protection, and Outdoor Access For All Act of 2018 (Proposition 68), Section 80132(f); and the approval granted by the Wildlife Conservation Board on February 25, 2021, the Wildlife Conservation Board (Grantor) hereby grants to Mariposa County Resource Conservation District (Grantee), a sum not to exceed four million two hundred thirty-nine thousand two hundred forty-four dollars (\$4,239,244) (Grant Funds), upon and subject to the terms and conditions of this Grant Agreement (Agreement).

2. PURPOSES OF GRANT

Grantor is entering into this Agreement, and the Grant Funds shall be used, only for the purpose of assisting Grantee with the project generally described as forest restoration (Project) on approximately 2,153 acres of land commonly known as Yosemite National Park and the community of Yosemite West, located in Mariposa County, California (Property). The Property is generally shown on the attached Exhibit A - LOCATION MAP.

3. CONDITIONS OF GRANT

Grantor's obligation to disburse Grant Funds under this Agreement is conditioned upon and subject to the satisfactory completion of all of the following conditions:

- 3.1 Grantor shall have reviewed and approved all documents pertaining to the Project, including, without limitation, feasibility and planning studies, designs, plans, budgets, cost estimates, timelines, and agreements. Such review and approval by Grantor will be for compliance with this Agreement as well as funding and other requirements applicable to Grantor and shall not be unreasonably withheld.
- 3.2 Grantor shall have reviewed and approved a certified resolution or other appropriate action of the governing board or governing body of Grantee, authorizing the execution and performance of this Agreement and the carrying out of the Project by Grantee.
- 3.3 Grantee shall have disclosed all funding sources for the Project, including all amounts applied for or obtained from sources other than Grantor. These amounts shall be reflected in the attached Exhibit B – BUDGET (Budget) by Budget category. As between Grantor and Grantee, Grantee shall be responsible for any and all Project costs that exceed the amount of the Grant Funds provided under this Agreement.
- 3.4 The grant proposal shall have been approved by the Wildlife Conservation Board at a public meeting, this Agreement shall have been fully executed by Grantor and Grantee, and Grantee shall have received a written "Notice to Proceed" from Grantor. The approval of the grant proposal by the Wildlife Conservation Board, if such approval is given, shall not constitute authorization for the commencement of the Project or expenditure of Grant Funds. No expenditure made or activity initiated prior to Grantee's receipt of a written Notice to Proceed from Grantor will be eligible for reimbursement by Grantor.

4. DISBURSEMENTS

- 4.1 Upon satisfaction of all of the Conditions of Grant set forth in Section 3, above, and so long as Grantee is not in breach or default under this Agreement, Grantor agrees to disburse the Grant Funds to Grantee, in arrears, in installments as set forth in this Section 4. Disbursements shall be made not more frequently than monthly and disbursements of less than \$5000 should be made not more frequently than quarterly. All disbursements shall be subject to the availability of funds for purposes of the Project as provided in Section 4.8.
- 4.2 Grantee shall request disbursement of Grant Funds by submitting a disbursement request to Grantor for approved budgeted work performed on the Project in accordance with Section 4.3. Disbursement shall be contingent upon approval of the disbursement request by Grantor.
- 4.3 The disbursement request must be submitted on Grantee's letterhead, signed by an authorized representative of Grantee, and include a written description of the work completed during the period of the disbursement request. Requests for disbursement must be itemized using the same categories included in the attached Budget. A [Disbursement Request Template](#) provides the format to use for submitting disbursement requests to Grantor. Each disbursement request shall contain supporting or back-up documentation for all amounts shown on the request, including receipts for all materials and supplies, all Grantee staff time shown by number of hours worked and hourly rate, and all contractor or sub-contractor services.
- 4.4 Grantor may withhold ten percent (10%) of the total approved amount from each disbursement (Retained Grant Funds) until Grantor has approved the completion of the Project, the final report required by Section 6.4, and the final request for disbursement.
- 4.5 Upon completion of Project activities, Grantee may request disbursement of the Retained Grant Funds. Grantee shall submit this request no later than thirty (30) days after the Projected Completion Date (as defined in Section 6.1).
- 4.6 Please submit disbursement requests electronically to WCB at WCBCLerical@wildlife.ca.gov and WCB Project Manager (Judah.Grossman@wildlife.ca.gov) with "Project ID 2020139 Invoice No. ____" in the subject line.

Alternatively, hard copy requests for disbursement can be sent to:

Wildlife Conservation Board
P.O. Box 944209
Sacramento, California 94244-2090
Attn: Judah Grossman

- 4.7 Grantee shall reimburse Grantor for any erroneous disbursement of Grant Funds under this Agreement. Reimbursement shall occur within 30 days of written demand by Grantor. Interest shall accrue at the highest rate allowed by law from the time that reimbursement becomes due and owing until received by Grantor.

- 4.8 Despite any contrary provision of this Agreement, Grantor shall not be obligated to disburse any remaining unpaid portion of the Grant Funds unless and until sufficient funds identified for allocation to the Project (as further specified in the Funding Certification attached to this Agreement) are released by the State Treasurer's Office to Grantor for expenditure for this grant. No request for disbursement submitted prior to the release of such funds to Grantor shall be effective.
- 4.9 With the final invoice, Grantee shall provide a completed [Final Cost Share Accounting Form](#) when work is completed. The completed Final Cost Share Accounting Form shall identify and delineate all cost share funds expended and in-kind services provided during the Grant term before Project completion and will be consistent with Exhibit B – BUDGET.

5. BUDGET AND INDIRECT COSTS

- 5.1 The attached Budget is an estimate of the Grantee's anticipated costs for the Project and discloses all funding sources for the Project, including all amounts applied for or obtained from sources other than Grantor. Should the Budget not disclose all funding sources for the Project, Grantor may refer this grant to the Department of Finance for a Project audit. Grantee may seek additional funding from sources other than Grantor, with Grantor's approval, to cover cost increases or to reduce Grantor's cost share. Should Grantee obtain additional funds from sources other than Grantor, Grantee shall promptly notify Grantor of the amounts and sources of the additional funding and submit a proposed new budget reflecting any changes to Grantor for its approval.

When actual Project costs indicate that the costs of certain Budget categories payable by Grantor are higher than estimated, and these higher costs are offset by lower costs in other Budget categories payable by Grantor, the Grantee may submit a written request to Grantor to shift funds between such Budget categories. Contingencies shall be used only upon written approval by Grantor. Grantor shall approve or deny a requested Budget revision or use of contingencies in writing within 10 business days of receipt of Grantee's written request.

- 5.2 Indirect cost rates are limited to 20 percent of the total direct WCB Grant Funds minus subcontractor and equipment costs. Any amount over 20 percent will not be funded but may be used as cost share. If Grantee seeks to recover indirect or administrative costs, this item should be included as a line item in the Budget. Any cost that is billed as a direct cost may not be included in indirect cost rates. Indirect costs include, but are not limited to, the following: workers compensation insurance, utilities, office space rental, phone, and copying which is directly related to completion of the Project.

Costs for subcontractors and purchase of equipment cannot be included in the calculation of indirect costs in the Budget. It is the responsibility of the Grantee to keep documentation for all indirect costs claimed in Exhibit B. For all indirect costs claimed, Grantee must keep backup documents in audit-ready files (these documents are not provided to WCB).

6. GRANTEE'S COVENANTS

In consideration of this Agreement, Grantee hereby covenants and agrees as follows:

- 6.1. Grantee will complete or cause to be completed all Project activities in accordance with Grantee's proposed design and specifications submitted to Grantor, a copy of which is attached as Exhibit C - WORK PLAN and incorporated herein by this reference, on or before March 31, 2025 (Projected Completion Date). The Project will be considered complete when all Project activities have been completed and Grantor has approved the completion of the Project, the final report required by Section 6.4, and the final request for disbursement.
- 6.2 Grantee is responsible for obtaining all necessary permits and approvals for the Project (including its construction, management, monitoring, operation, use and maintenance), and complying with all federal, state and local statutes, laws, regulations, ordinances, orders and other governmental and quasi-governmental requirements that apply to the Project (including its construction, management, monitoring, operation, use and maintenance).
- 6.3 Grantee shall recognize the cooperative nature of the Project and shall provide credit to the Grantor on signs, demonstrations, promotional materials, advertisements, publications and exhibits prepared or approved by Grantee referencing the Project. Any sign installed on the Property referencing the Project shall be subject to the mutual agreement of Grantor, Grantee and Landowner regarding text, design and location and shall display the logo of Grantor. Grantee shall post one or more signs on the Property to indicate the participation of Grantor in providing Grant Funds for the Project and a logo referencing the fund source (Proposition 68); which logo is available on Grantor's website: www.wcb.ca.gov.
- 6.4 Not later than 30 days following the completion of all Project activities Grantee will submit one hard copy and one digital copy of a final report of accomplishments, including pre- and post-Project photographs and a final design or site plan of the Project, to Grantor.
- 6.5 Grantee shall ensure that the Property restored with funds provided by Grantor is operated, used and maintained throughout the Project Life consistent with the Purposes of Grant and in accordance with the long-term management plan for the Project attached as Exhibit D – MANAGEMENT PLAN. Grantee may contract with Landowner to manage the Project on behalf of Grantee, however, as between Grantor and Grantee such management will remain the responsibility of Grantee.
- 6.6 The Grantee shall cause the Landowner to permit Grantor and their respective members, officers, employees, agents and representatives, to access the Property at least once every twelve months from the date of Grantor's Notice to Proceed through the end of the Project Life for purposes of inspections and monitoring. Such access shall be at times reasonably acceptable to the Landowner and the requester following written or verbal request to the Grantee.

The Grantee will obtain signed Private Property Access agreements such as the attached Exhibit E – SAMPLE LANDOWNER ACCESS AGREEMENT prior to any work commencing on landowner's property as required for project activities.

7. BREACH AND REMEDIES

- 7.1 In the event of a breach of Grantee's obligations under this Agreement, Grantor shall give notice to Grantee describing the breach. If Grantee does not cure the breach described in the Grantor's notice within 90 days after the date of Grantor's notice (or, if the breach cannot reasonably be cured within 90 days, Grantee does not commence the cure within the 90-day period and diligently pursue it to completion), then Grantee shall be in default of this Agreement.
- 7.2 In the event of a default by Grantee before the Project is complete then, in addition to any and all other remedies available at law or in equity, Grantor may seek specific performance of this Agreement. Grantee agrees that specific performance is an appropriate remedy because the benefits to Grantor from Grantee's completion of the Project in accordance with this Agreement, as described in Section 2 (Purposes of Grant), are unique and damages would not adequately compensate Grantor for the loss of such benefits.
- 7.3 In the event of a default by Grantee, in addition to any and all other remedies available at law or in equity, Grantor may withhold Grant Funds from Grantee or may require reimbursement of Grant Funds that were disbursed in error due to a breach of the Grant terms, including incorrect billing of indirect costs as identified in Section 5.2.
- 7.4 In the event of a default by Grantee, in addition to any and all other remedies available under this Agreement, at law or in equity, Grantor may require Grantee to reimburse the Grant Funds to Grantor in an amount determined by application of the following Reimbursement Formula:

"Reimbursement Formula"

Formula: Dollar amount of Grant Funds divided by Project Life, times the number of years remaining in the Project Life.

Example: Grantor grants \$50,000 to Grantee for the restoration and enhancement of wetland and riparian habitat, and the Project Life is 25 years. With 10.5 years remaining on the Project Life, the Grantee is in default under the Agreement. The reimbursement amount would be \$21,000, calculated as follows:

$$(\$50,000 \div 25 \text{ years}) \times 10.5 \text{ years} = \$21,000$$

Reimbursement shall be due from Grantee immediately upon written demand by Grantor. Interest shall accrue at the highest rate allowed by law from the time that the reimbursement becomes due until it is actually received by Grantor.

- 7.5 Any costs incurred by Grantor, where Grantor is the prevailing party, in enforcing the terms of this Agreement, including but not limited to costs of suit, attorneys' and

experts' fees, at trial and on appeal, and costs of enforcing any judgment, shall be borne by Grantee.

- 7.6 Waiver of any breach or default by Grantee shall not be deemed to be a waiver of any subsequent breach or default, nor shall it constitute a modification of this Agreement.

8. ADDITIONAL TERMS AND CONDITIONS

8.1 Grantee Responsible for Project

While the Grantor undertakes to assist the Grantee with the Project by providing a grant pursuant to this Agreement, the Project itself remains the sole responsibility of the Grantee. Grantor undertakes no responsibilities to the Grantee, the Landowner, or any third party, other than as expressly set out in this Agreement. The responsibility for implementing the Project is solely that of the Grantee, as is the responsibility for any claim or suit of any nature by any third party related in any way to the Project.

8.2 Contracts

All agreements between Grantee and any third party related to the Project must be in writing and contain language that establishes the right of the auditors of the State of California to examine the records of the third party relative to the goods, services, equipment, materials, supplies or other assistance provided to Grantee for the Project. Grantee shall provide a complete copy of each agreement over \$10,000 to Grantor prior to commencing work.

8.3 Indemnification

To the fullest extent permitted by law, Grantee shall indemnify, protect, and hold harmless the Wildlife Conservation Board and the State of California, and their respective members, officers, agents, employees and representatives, from and against any and all claims, demands, damages, losses, costs (including attorneys' fees), expenses, and liability of any nature (Claims) arising out of or incident to the Project, Grantee's entry upon and use of the Property, and the performance of, or failure to observe or perform, any obligations of the Grantee under this Agreement. The obligations of Grantee under this Section 8.3 include, without limitation, Claims resulting from the generation, use, storage, disposal, release or threatened release of any hazardous or toxic substance, material or waste; petroleum or petroleum products and other substances that present a threat to human health or the environment.

8.4 Amendment; Severability

This Agreement may be modified only by a written amendment signed by Grantor and Grantee. No oral or written understanding or agreement not incorporated in this document shall be binding on the parties.

If any provision of this Agreement or the application thereof to any person or circumstance is held to be invalid or unenforceable, that shall not affect any other provision of this Agreement or applications of the Agreement that can be given effect without the invalid provision or application. To this end the provisions of this Agreement are severable.

8.5 Independent Capacity of Grantee; Withholding and Payments

Grantee, its members, officers, directors, employees, agents, and representatives, is each acting in an independent capacity in entering into and carrying out this Agreement, and not as a partner, member, officer, agent, employee, or representative of Grantor. Grantee is responsible for withholding and paying employment taxes, insurance and deductions of any kind required by federal, state, or local laws.

8.6 No Assignment or Transfer

This Agreement is not assignable or transferable by Grantee, either in whole or in part, without the prior written consent of Grantor which Grantor may grant or withhold in Grantor's discretion.

8.7 Accounting/Records/Audits

Grantee shall maintain complete and accurate records of its actual Project costs, in accordance with generally accepted accounting principles and practices, and shall retain said records for at least three years after final disbursement by Grantor. During such time, Grantee shall make said records available (or cause them to be made available) to the State of California for inspection and audit purposes during normal business hours. Expenditures not documented, and expenditures not allowed under this Agreement or otherwise authorized in writing by Grantor shall be borne by Grantee. The audit shall be confined to those matters connected with this Agreement, including but not limited to administration and overhead costs.

8.8 Use of Grant Funds to Secure Additional Funding

Grantee agrees that the funding provided under this Agreement shall not be used as cost share for other grants, or to secure loans or other monetary awards without written approval from the Executive Director, Wildlife Conservation Board. Such approval shall not be unreasonably withheld as long as the purposes for which the grant was awarded are maintained.

8.9 Termination or Suspension of Agreement

At any time before Grantee has broken ground on the Project Grantor may terminate this Agreement for any reason by providing Grantee not less than 30 days written notice of termination. In addition, Grantor may suspend this Agreement at any time upon written notice to Grantee. In either case, Grantee shall immediately stop work under this Agreement and take all reasonable measures to prevent further costs to Grantor. The Grantor shall be responsible for reasonable and non-refundable obligations or expenses incurred by the Grantee under this Agreement prior to the date of the notice to terminate or suspend, but only up to the undisbursed balance of funding authorized in this Agreement. Any notice suspending work under this Agreement shall remain in effect until Grantor authorizes work to resume by giving further written notice to Grantee.

8.10 Resolution of Disputes

The State Project Representative is identified on Page 1 of this Agreement. The State Project Representative has initial jurisdiction over each controversy arising under or in connection with the interpretation or performance of this Agreement or disbursement of

Grant Funds. The Grantee will diligently pursue with the State Project Representative a mutually agreeable settlement of any such controversy.

If the controversy cannot be resolved between Grantee and the State Project Representative, the Grantee must direct the grievance together with any evidence, in writing, to the Executive Director of the Wildlife Conservation Board. The grievance must state the issues in the dispute, the legal authority or other basis for the Grantee's position and the relief sought.

The Executive Director or designee shall meet with a representative of the Grantee to review the issues. A written decision signed by the Executive Director or designee shall be returned to the Grantee within twenty (20) working days of the conclusion of this meeting.

8.11 Drug-Free Workplace Certification

By signing this Agreement, Grantee hereby certifies under penalty of perjury under the laws of the State of California that Grantee will comply with the requirements of the Drug-Free Workplace Act of 1990 (Government Code Section 8350 et seq.) and will provide a drug-free workplace by taking the following actions:

- 8.11.1 Publish a statement notifying employees that unlawful manufacture, distribution, dispensation, possession, or use of a controlled substance is prohibited and specifying actions to be taken against employees for violations, as required by Government Code Section 8355(a).
- 8.11.2 Establish a Drug-Free Awareness Program as required by Government Code Section 8355(b) to inform employees about all of the following:
 - a) the dangers of drug abuse in the workplace;
 - b) the person's or organization's policy of maintaining a drug-free workplace;
 - c) any available counseling, rehabilitation, and employee assistance programs; and,
 - d) penalties that may be imposed upon employees for drug abuse violations.
- 8.11.3 Provide, as required by Government Code Section 8355(c), that every employee who works on the proposed contract:
 - a) will receive a copy of the company's drug-free policy statement; and,
 - b) will agree to abide by the terms of the company's statement as a condition of employment on the contract.

Failure to comply with these requirements may result in suspension of disbursements under this Agreement or termination of the Agreement or both and Grantee may be ineligible for award of any future state contracts if the Grantor determines that any of the following has occurred: (1) Grantee has made false certification, or (2) Grantee violates the certification by failing to carry out the requirements as noted above.

8.12 Union Organizing

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

- 8.12.1 No state funds disbursed by this grant will be used to assist, promote, or deter union organizing;
- 8.12.2 Grantee shall account for state funds disbursed for a specific expenditure by this grant, to show those funds were allocated to that expenditure;
- 8.12.3 Grantee shall, where state funds are not designated as described in 8.12.2 above, allocate, on a pro-rata basis, all disbursements that support the grant program; and
- 8.12.4 If Grantee makes expenditures to assist, promote or deter union organizing, Grantee will maintain records sufficient to show that no state funds were used for those expenditures, and that Grantee shall provide those records to the Attorney General upon request.

8.13 Labor Code Requirements; Prevailing Wage

State grants may be subject to California Labor Code requirements, which include prevailing wage provisions. Certain State grants administered by the California Wildlife Conservation Board and the California Department of Fish and Wildlife are not subject to Chapter 1 (commencing with Section 1720) of Part 7 of Division 2 of the Labor Code. For more details, please refer to California Fish and Game Code Section 1501.5 and to the Department of Industrial Relations (DIR) website at <http://www.dir.ca.gov>. Grantee shall pay prevailing wage to all persons employed in the performance of any part of the Project if required by law to do so.

8.14 Disposition of Equipment

Title or ownership of equipment with a unit cost of \$5,000 or more may be retained by Grantee or Grantor upon end of the grant cycle; final disposition will be coordinated by WCB's Grant Manager.

8.15 Informational Products

All informational products (e.g. data, studies, findings, management plans, manuals, photos etc.) relating to California's natural environment and produced with the use of public funds shall be cataloged in the California Geoportal (<http://portal.gis.ca.gov/geoportal/catalog/main/home.page>), maintained by the California Department of Technology.

8.16 Non-Discrimination

During the performance of this Agreement, Grantee shall not unlawfully discriminate against, harass, or allow harassment against any employee or applicant for employment because of race, religion, color, national origin, ancestry, physical disability (including HIV and AIDS), mental disability, medical condition, marital status, age (over 40), sex, sexual orientation, or use of family-care leave, medical-care leave, or pregnancy-disability leave. Grantee shall take affirmative action to ensure that the evaluation and treatment of its employees and applicants for employment are free of such discrimination and harassment. Such action shall include, but not be limited to, the following: employment, upgrading, demotion or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. Grantee shall comply with the provisions

Yosemite Area Forest Restoration, Phase 2
Grant Agreement Number WC-2096JG
Project ID 2020139

Page 11

of the Fair Employment and Housing Act (Government Code Section 12900 (a-f) et seq.), and applicable regulations (California Code of Regulations, Title 2, Section 7285 et seq.). The regulations of the Fair Employment and Housing Commission regarding Contractor Nondiscrimination and Compliance (Chapter 5 of Division 4 of Title 2 of the California Code of Regulations) are incorporated by reference into this Agreement. Grantee shall give written notice of its obligations under this non-discrimination clause to labor organizations with which Grantee has a collective bargaining or other agreement and shall post in conspicuous places available to employees and applicants for employment, notice setting forth the provisions of this section. Grantee shall also include the nondiscrimination and compliance provisions of this Agreement in all contracts related to the Project.

9. NOTICE OF AGREEMENT

The terms, conditions and restrictions of this Agreement shall be binding upon and inure to the benefit of the parties hereto and their personal representatives, heirs, successors, and assigns and shall continue as a servitude running with the Property for the Project Life.

10. AUTHORIZATION

The signature of the Executive Director certifies that at the meeting of the Wildlife Conservation Board held on February 25, 2021, the Board authorized the award of a grant of up to \$4,239,244 to Grantee for the Project.

11. COUNTERPARTS

This Agreement may be executed in counterparts, each of which shall be deemed an original and all of which together shall constitute one, and the same instrument.

12. ELECTRONIC SIGNATURES

The Parties agree to accept electronic signatures (as defined in Section 1633.2 of the California Civil Code), faxed versions of an original signature, or electronically scanned and transmitted versions (e.g., via pdf) of an original signature.

13. EFFECTIVENESS OF AGREEMENT

This Agreement shall be deemed executed and effective when fully signed by authorized representative(s) of each of Grantor and Grantee. Each party shall sign original counterparts of this Agreement, by written signature, via DocuSign, or another electronic method acceptable to Grantor. Each fully executed counterpart shall be deemed an original. Grantee and shall each receive a fully executed original and Grantor shall receive one fully executed original.

Yosemite Area Forest Restoration, Phase 2
Grant Agreement Number WC-2096JG
Project ID 2020139

Page 12

14. EXHIBITS

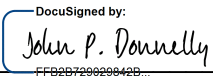
Each of the Exhibits referenced in this Agreement is incorporated by reference as though set forth in full herein. The following Exhibits are attached to this Agreement:

Exhibit A – Location Map
Exhibit B – Budget
Exhibit C – Work Plan
Exhibit D – Management Plan
Exhibit E – Sample Landowner Access Agreement

IN WITNESS WHEREOF, the undersigned parties have executed this Agreement.

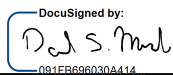
GRANTOR

STATE OF CALIFORNIA
WILDLIFE CONSERVATION BOARD

By:  _____ Date: 2/26/2021
John P. Donnelly
Executive Director

GRANTEE

MARIPSOA COUNTY RESOURCE CONSERVATION DISTRICT

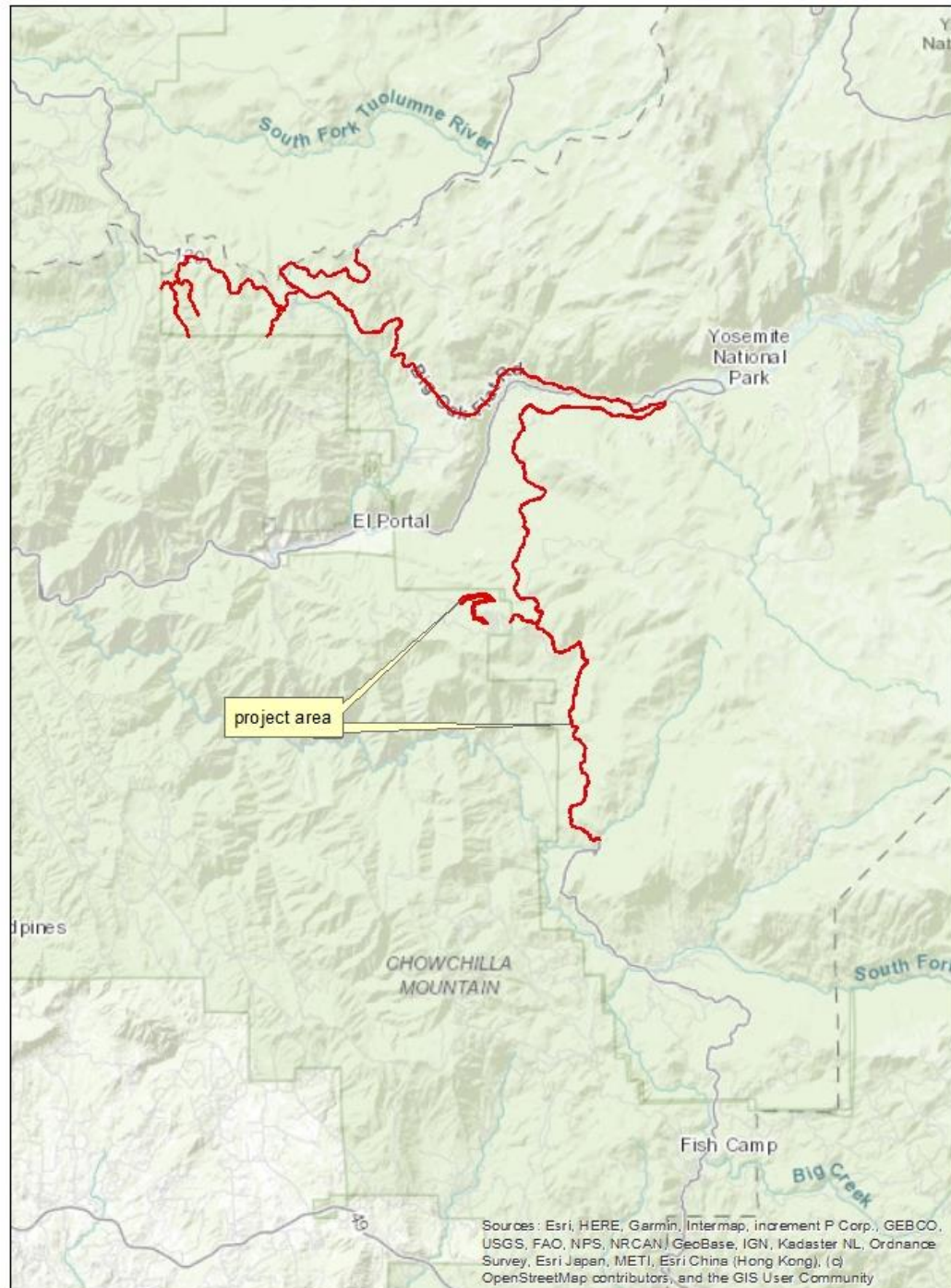
By:  _____ Date: 2/8/2021
David Mecchi
President of the Board

Attachment: RES 2021-222 (RES-2022-556 : Approve MCRCD Right of Entry Permission Forms for Yosemite West)

Yosemite Area Forest Restoration, Phase 2
Grant Agreement Number WC-2096JG
Project ID 2020139

Page 1

EXHIBIT A – Location Map



Attachment: RES 2021-222 (RES-2022-556 : Approve MCRCRD Right of Entry Permission Forms for Yosemite West)

Yosemite Area Forest Restoration, Phase 2
 Grant Agreement Number WC-2096JG
 Project ID 2020139

Page 1

EXHIBIT B – Budget

Project Task	WCB	Grantee	Yosemite National Park	CA Office of Emergency Services	UC Berkeley	Yosemite Conservancy	Total
1. Project Management	\$70,200	\$31,200	---	---	---	---	\$101,400
2. Restoration	\$3,923,088	---	\$1,115,670	\$152,700	\$170,000	\$59,000	\$5,420,458
3. Monitoring	\$206,462	---	---	---	---	---	\$206,462
4. Indirect Costs	\$39,494	---	---	---	---	---	\$39,494
TOTAL	\$4,239,244	\$31,200	\$1,115,670	\$152,700	\$170,000	\$59,000	\$5,767,814

EXHIBIT C – Work Plan

The Project helps protect the iconic Yosemite Valley, giant sequoias of the Merced Grove, and high-value wildlife habitat by reducing fuels along major road corridors in Yosemite National Park and the Yosemite West community. The Project will thin fuels on approximately 2,153 acres of mixed conifer forest, thereby reducing risk of high-severity wildfire that could otherwise greatly impact wildlife habitat, water quality, and local communities.

Task 1. Project Management

Project Management includes technical support, public outreach, grant administration, and communication with funders, members of the public, regulatory agencies, and other stakeholders.

Grantee will submit quarterly Progress Reports describing work to date, obstacles to implementation, and upcoming milestones.

Grantee will submit a Final Report which will include, at a minimum, a summary of work completed, photo documentation, and map(s) illustrating Project features.

Task 2. Restoration

Restoration includes felling fire-weakened and hazard trees, thinning small diameter conifers (<20" diameter), removing downed trees and merchantable and non-merchantable biomass to protect forest and soil carbon stores from fire. Non-merchantable biomass will be used to produce electricity or biochar either by hauling to a cogeneration facility or processing with a portable biogeneration plant. The Project area will be linked to other fuel breaks and used for prescribed fires.

Grantee, in collaboration with partners, will oversee restoration which includes physical implementation per the Project plans and specifications, contract management (including any subcontracts), project site management, engineering and environmental compliance, and adaptive management.

Grantee will submit an Implementation Plan detailing Project work to be completed (e.g., annotated timeline with description of treatments/methods).

Task 3. Monitoring

Monitoring includes collecting, analyzing and writing-up data to evaluate Project effects and inform future fuel reduction projects. Monitoring activities will include:

- Monitor Pacific fisher movement and occupancy.
- Install and monitor hydrologic sensors and snow pillows to assess baseline conditions, effects of Project work on downstream water availability, and extent of thinning necessary to create additional water for sequoias to persist under drought.
- Monitor stability of a channel headcut located in a wetland supporting the Merced Grove.

Yosemite Area Forest Restoration, Phase 2
 Grant Agreement Number WC-2096JG
 Project ID 2020139

Page 2

- Monitor giant sequoias (e.g., isotopic signatures) to evaluate their use of surface water vs. subsurface water and what that implies for their response to drought, mechanical fuel reductions, and fire.

Grantee will submit a Monitoring Plan to evaluate performance of Project treatments and progress toward achieving Project objectives and outcomes.

The Final Report under this grant will include Interim Monitoring Results produced during the term of the grant.

Task 4. Indirect Costs

Indirect costs are calculated as a percent (indirect cost rate) of direct costs excluding subcontractor and equipment costs. Indirect costs supporting this calculation include but are not limited to: workers compensation insurance, utilities, office space rental, phone, and copying which is directly related to completion of the Project.

Schedule of Deliverables

	Task	Deliverable	Estimated Completion
1	Project Management	1.1) Progress Reports	1.1) Quarterly (e.g., March 31, June 30, September 30, and December 31) for the duration of the grant
		1.2) Final Report	1.2) March 1, 2025
2	Restoration	2.1) Implementation Plan	2.1) September 1, 2021
3	Monitoring	3.1) Monitoring Plan	3.1) September 1, 2021
		3.2) Monitoring Results	3.2) With Final Report

*Yosemite Area Forest Restoration, Phase 2
Grant Agreement Number WC-2096JG
Project ID 2020139*

Page 1

EXHIBIT D - Management Plan

Yosemite National Park (YNP) has adopted a Management Plan that guides management actions for the YNP portion of the Project area and the Mariposa County Annual Budget addresses management for the portion of the Project area in the Yosemite West community. YNP fire management and forestry programs will conduct long term management and monitoring as an ongoing part of their regular operations within their jurisdiction. Monitoring forest health and conducting prescribed fires are an integral part of their ongoing programs.

Attachment: RES 2021-222 (RES-2022-556 : Approve MCRCRD Right of Entry Permission Forms for Yosemite West)

Yosemite Area Forest Restoration, Phase 2
Grant Agreement Number WC-2096JG
Project ID 2020139

Page 1

EXHIBIT E - SAMPLE LANDOWNER ACCESS AGREEMENT

Access Agreement

MARIPOSA COUNTY RESOURCE CONSERVATION DISTRICT YOSEMITE AREA FOREST RESTORATION

This Access Agreement ("Agreement") is entered into by and between the Mariposa County Resource Conservation District ("RCD") and _____ ("Responsible Party"). The RCD and Responsible Party are sometimes referred to herein individually as a "Party" and collectively, the "Parties").

RECITALS

- A. Responsible Party represents and warrants that it owns, operates or is a tenant of the real property described on Exhibit A attached hereto ("Property") and is authorized to enter into this Agreement.
- B. The RCD is a Resource Conservation District organized under California Public Resources Code Section 9001 et seq.
- C. Forests in the Yosemite area are in need of hazardous fuels removal.
- D. The RCD has received all necessary permits to implement the Yosemite Area Forest Restoration, Phase 2 project ("**Project**") and enhance forest health and reduce hazardous fuels through selective thinning activities.
- E. The RCD, in partnership with the Yosemite National Park, UC Berkeley, and California Office of Emergency Services, has received funding from the California Wildlife Conservation Board to work with Responsible Party and others to implement the Project.
- F. The long-term success of the Project is dependent on participation of Responsible Parties in the Yosemite area where hazardous fuel loads are high.
- G. Responsible Party acknowledges the benefits of the Project and therefore has agreed to allow the RCD to enter the Property to implement the Project on the terms and conditions set forth herein.

NOW THEREFORE, the RCD and Responsible Party agree as follows:

1. Grant of Right of Access.

(a) Right of Access. Responsible Party hereby grants to the RCD, its employees, agents or designees, the right of access to the Property to implement the Project at all times as

Attachment: RES 2021-222 (RES-2022-556 : Approve MCRCD Right of Entry Permission Forms for Yosemite West)

Yosemite Area Forest Restoration, Phase 2
Grant Agreement Number WC-2096JG
Project ID 2020139

Page 2

may be reasonably necessary or appropriate during the term of this Agreement. The RCD's right of access includes the right to allow personnel and equipment on the Property as reasonably appropriate. The right of access to the Property granted herein is subject to all the terms and conditions set forth in this Agreement.

(b) Work Area. Except for ingress and egress, the RCD's work relating to the Project shall be confined to the areas shown on **Exhibit A ("Work Area")**. The Parties acknowledge and agree that the Work Area will be used, altered and maintained in accordance with the Project.

(c) Nonexclusive Right. The RCD's right of access to the Property is not exclusive. Responsible Party, its employees and invitees shall each have the right to use the Property for all purposes as are permitted by federal, state, and local statutes, laws, ordinances, codes, regulations and rules, or as determined by Responsible Party, so long as such use does not interfere with the RCD's rights hereunder.

(d) Advance Notice. The RCD shall give no less than seven (7) days advance notice prior to entry. The notice shall be sufficient if made either by telephone or by mail, directed to the address and telephone number shown below or to an alternate address provided by Responsible Party.

(e) No Property Interest Conveyed. This Agreement does not convey a property interest to the RCD in the Property or any portion thereof. This Agreement shall not be recorded in the official records of Mariposa County.

2. Term of Agreement. The term of this Agreement shall commence on the date all the Parties have signed this Agreement ("**Commencement Date**"), and terminate ten (10) years after the Commencement Date, unless the term of this Agreement is extended by mutual agreement of the Parties or unless sooner terminated as provided in this Agreement.

3. Default. In the event of a material default by the RCD, this Agreement may be terminated by Responsible Party a) provided the Responsible Party gives the RCD written notice of the default, which notice shall describe the nature of the default, and b) provided the RCD is given sixty (60) days to cure the default. In the event the RCD fails to cure the default within such sixty (60) day period, the Responsible Party may terminate this Agreement.

4. Responsibility for Project Costs. For the first five (5) years of this Agreement, all Project costs shall be the sole responsibility of the RCD.

5. Cooperation and Coordination. During the Term of this Agreement, Responsible Party and the RCD agree that: (a) each Party will cooperate and coordinate its activities with one another in order not to disturb ongoing use of the Work Area; (b) Responsible Party will not intentionally take action to disrupt the progress of the Project; (c) The RCD will continue monitoring and maintenance of the Project with assistance from the Responsible Party when needed for 10 years, commencing from the date of execution; and (d) each Party will take, use, provide and make proper, reasonable, necessary and sufficient precautions, safeguards and protections against the occurrence of any accidents, injuries or damage to any person or the Property.

6. Insurance and Indemnification.

Attachment: RES 2021-222 (RES-2022-556 : Approve MCRCRD Right of Entry Permission Forms for Yosemite West)

Yosemite Area Forest Restoration, Phase 2
Grant Agreement Number WC-2096JG
Project ID 2020139

Page 3

(a) Insurance. RCD agrees to obtain and/or maintain at its own cost and expense general liability insurance in the sum of not less than \$2,500,000 for each occurrence and not less than \$2,500,000 combined limit.

(b) Indemnification. RCD shall indemnify, defend, and hold Responsible Party harmless from any and all claims, liability, losses, costs, charges, or expenses ("**Claim**" or "**Claims**") which Responsible Party may incur as a result of any negligent or wrongful act or omission of RCD in its use of the right of access granted under this Agreement. This indemnification obligation shall not apply to the extent a Claim is the result of the negligent or wrongful act or omission of Responsible Party.

(c) Repair of Damage. The RCD shall promptly repair any damage to the Property caused by the acts or omissions of the RCD or its employees or contractors.

7. Compliance with Applicable Laws. The RCD agrees to comply in all respects with any and all applicable federal, state, and local statutes, laws, ordinances, codes, regulations, and permit conditions in connection with Project.

8. Notice.

(a) Method of Notice. The Parties shall give all notices and communications between the Parties by (i) personal delivery, (ii) a nationally-recognized, next-day courier service, (iii) first-class registered or certified mail, postage prepaid, (iv) fax or (v) electronic mail to the Party's address specified in this agreement, or to the address that a Party has notified to be that Party's address for the purposes of this section. Receipt of Notice. A notice given under this Agreement will be effective on the other Party's receipt of it.

Responsible Party:

Attn: _____

RCD:

Mariposa County Resource Conservation District
P.O. Box 2403
Mariposa, CA 95338
Attn: Melinda Barrett
Phone: (559) 580-0944
E-mail: mariposacountyrcd@gmail.com

9. General Provisions.

(a) Recitals. The recitals set forth above are, by this reference, incorporated into and deemed a part of this Agreement.

(b) Integration. This Agreement contains the complete and entire agreement between the Parties and cannot be altered, modified or amended except by the written agreement of the Parties. The Parties agree that there are no oral agreements, understandings, representations or warranties which are not expressly set forth herein.

Attachment: RES 2021-222 (RES-2022-556 : Approve MCRCD Right of Entry Permission Forms for Yosemite West)

Yosemite Area Forest Restoration, Phase 2
Grant Agreement Number WC-2096JG
Project ID 2020139

Page 4

(c) Binding Effect. This Agreement shall inure to the benefit of and bind the Parties hereto and their successors and assigns.

(d) Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of California.

(e) Captions. All sections and paragraph headings and captions appearing in this Agreement are included for convenience only, and shall not be considered in interpreting this Agreement.

(f) Severability. If any term, provisions, condition or covenant of this Agreement shall, to any extent, be held invalid or unenforceable, the remainder of this Agreement shall not be affected thereby, and this Agreement shall otherwise be valid and enforceable to the fullest extent permitted by law.

(g) Exhibits. All exhibits attached hereto are hereby incorporated by reference and made a part of this Agreement.

(h) Waiver. A waiver by one Party of the performance of any covenant, agreement, obligation or condition, shall not be construed as a waiver of any other covenant, agreement or condition. A waiver by any Party of the performance of any act shall not constitute a waiver of the performance of any other act or an identical act required to be performed at a later time.

(i) Interpretation. Each Party and its counsel has reviewed and revised this Agreement and any rule of contract interpretation to the effect that ambiguities or uncertainties are to be interpreted against the drafting Party or the Party who caused it to exist shall not be employed in the interpretation of this Agreement or any document executed in connection herewith.

(j) Mediation of Disputes. If a dispute arises out of or relates to this Agreement or the breach thereof, the Parties agree to first try in good faith to settle the dispute by non-binding mediation before resorting to binding arbitration or litigation.

(k) Jurisdiction and Venue. The Parties acknowledge and understand that the making of this Agreement is in Monterey County, California. The exclusive venue for any suit, action or proceeding shall be in Monterey County, California.

(l) Counterparts. This Agreement may be executed and delivered in counterparts, each of which shall be deemed to be a duplicate original hereof. This Agreement may also be executed in multiple counterparts and shall be effective when counterparts hereof, when taken together, bear the signatures of all the Parties set forth below.

(m) Authority. The undersigned Parties affirm that the individuals signing this Agreement have been granted the authority to do so.

IN WITNESS WHEREOF, this Agreement has been entered into as of the date and year set forth

below.

[signatures]

Attachment: RES 2021-222 (RES-2022-556 : Approve MCRCD Right of Entry Permission Forms for Yosemite West)



GAVIN NEWSOM, Governor
NATURAL RESOURCES AGENCY
DEPARTMENT OF FISH AND WILDLIFE
WILDLIFE CONSERVATION BOARD
Mailing Address: P.O. Box 944209
Sacramento, California 94244-2090
www.wcb.ca.gov
(916) 445-8448
Fax (916) 323-0280

Melinda Barrett
Program Manager
Mariposa County Resource Conservation District
P.O. Box 2403
Mariposa, CA 95338
barrett.melinda1@gmail.com

2/26/2021

YOSEMITE AREA FOREST RESTORATION, PHASE 2
MARIPOSA COUNTY
GRANT AGREEMENT NO.: WC-2096JG
PROJECT ID: 2020139

Dear Ms. Barrett:

Enclosed for your records is one fully executed Grant Agreement WC-2096JG for the above referenced project located in Mariposa County. This is your Notice to Proceed in accordance with the terms and conditions of the agreement. Please make note of the following deadlines for submission of invoices and receipts for labor and materials: all materials must be ordered and work completed by March 31, 2025. Bills for materials ordered and work completed prior to March 31, 2025 can be submitted up to 30 days past that date. Please keep one copy of the fully executed Grant Agreement for your records and forward a copy to the landowner.

Thank you for your assistance in implementing this important conservation project. If you have any questions, please contact the project manager Judah Grossman at judah.grossman@wildlife.ca.gov or (916) 445-8892.

Sincerely,

DocuSigned by:
A stylized signature of John P. Donnelly in black ink.
FFB2B729029842B...

John P. Donnelly
Executive Director

Enclosure(s)

cc: CDFW, Accounting Services Branch/Claims Unit
(w/2 copies of agreement WC-2096JG enclosed)

ec: Julie Vance, Regional Manager
CDFW Central Region (4)

Attachment: RES 2021-222 (RES-2022-556 : Approve MCRCD Right of Entry Permission Forms for Yosemite West)

Yosemite Area Forest Restoration, Phase 2
Grant Agreement Number WC-2096JG
Project ID 2020139

Page 1

EXHIBIT E - LANDOWNER ACCESS AGREEMENT

Access Agreement

MARIPOSA COUNTY RESOURCE CONSERVATION DISTRICT

YOSEMITE AREA FOREST RESTORATION

This Access Agreement ("Agreement") is entered into by and between the Mariposa County Resource Conservation District ("MCRCD") and Mariposa County ("Responsible Party"). The MCRCD and Responsible Party are sometimes referred to herein individually as a "Party" and collectively, the "Parties").

RECITALS

- A. Responsible Party represents and warrants that it owns, operates or is a tenant of the real property described on Exhibit A attached hereto ("Property") and is authorized to enter into this Agreement.
- B. The MCRCD is a Resource Conservation District organized under California Public Resources Code Section 9001 et seq.
- C. Forests in the Yosemite area are in need of hazardous fuels removal.
- D. The MCRCD has received all necessary permits to implement the Yosemite Area Forest Restoration, Phase 2 project ("**Project**") and enhance forest health and reduce hazardous fuels through selective thinning activities.
- E. The MCRCD, in partnership with the Yosemite National Park, UC Berkeley, and California Office of Emergency Services, has received funding from the California Wildlife Conservation Board to work with Responsible Party and others to implement the Project.
- F. The long-term success of the Project is dependent on participation of Responsible Parties in the Yosemite area where hazardous fuel loads are high.
- G. Responsible Party acknowledges the benefits of the Project and therefore has agreed to allow the MCRCD to enter the Property to implement the Project on the terms and conditions set forth herein.

NOW THEREFORE, the RCD and Responsible Party agree as follows:

1. Grant of Right of Access.

(a) Right of Access. Responsible Party hereby grants to the MCRCD, its employees, agents or designees, the right of access to the Property to implement the Project at all times as

Attachment: RES 2021-222 (RES-2022-556 : Approve MCRCD Right of Entry Permission Forms for Yosemite West)

Yosemite Area Forest Restoration, Phase 2
Grant Agreement Number WC-2096JG
Project ID 2020139

Page 2

may be reasonably necessary or appropriate during the term of this Agreement. The MCRCD's right of access includes the right to allow personnel and equipment on the Property as reasonably appropriate. The right of access to the Property granted herein is subject to all the terms and conditions set forth in this Agreement.

(b) Work Area. Except for ingress and egress, the MCRCD's work relating to the Project shall be confined to the areas shown on **Exhibit A ("Work Area")**. The Parties acknowledge and agree that the Work Area will be used, altered and maintained in accordance with the Project.

(c) Nonexclusive Right. The MCRCD's right of access to the Property is not exclusive. Responsible Party, its employees and invitees shall each have the right to use the Property for all purposes as are permitted by federal, state, and local statutes, laws, ordinances, codes, regulations and rules, or as determined by Responsible Party, so long as such use does not interfere with the MCRCD's rights hereunder.

(d) Advance Notice. The MCRCD shall give no less than seven (7) days advance notice prior to entry. The notice shall be sufficient if made either by telephone or by mail, directed to the address and telephone number shown below or to an alternate address provided by Responsible Party.

(e) No Property Interest Conveyed. This Agreement does not convey a property interest to the MCRCD in the Property or any portion thereof. This Agreement shall not be recorded in the official records of Mariposa County.

2. Term of Agreement. The term of this Agreement shall commence on the date all the Parties have signed this Agreement ("**Commencement Date**"), and terminate ten (10) years after the Commencement Date, unless the term of this Agreement is extended by mutual agreement of the Parties or unless sooner terminated as provided in this Agreement.

3. Default. In the event of a material default by the MCRCD, this Agreement may be terminated by Responsible Party a) provided the Responsible Party gives MCRCD written notice of the default, which notice shall describe the nature of the default, and b) provided MCRCD is given sixty (60) days to cure the default. In the event the MCRCD fails to cure the default within such 60 day period, the Responsible Party may terminate this Agreement.

4. Responsibility for Project Costs. For the first five (5) years of this Agreement, all Project costs shall be the sole responsibility of the MCRCD.

5. Cooperation and Coordination. During the Term of this Agreement, Responsible Party and MCRCD agree that: (a) each Party will cooperate and coordinate its activities with one another in order not to disturb ongoing use of the Work Area; (b) Responsible Party will not intentionally take action to disrupt the progress of the Project; (c) MCRCD will continue monitoring and maintenance of the Project with assistance from the Responsible Party when needed for 10 years, commencing from the date of execution; and (d) each Party will take, use, provide and make proper, reasonable, necessary and sufficient precautions, safeguards and protections against the occurrence of any accidents, injuries or damage to any person or the Property.

6. Insurance and Indemnification.

Attachment: RES 2021-222 (RES-2022-556 : Approve MCRCD Right of Entry Permission Forms for Yosemite West)

Yosemite Area Forest Restoration, Phase 2
Grant Agreement Number WC-2096JG
Project ID 2020139

Page 3

(a) Insurance. MCRCD agrees to obtain and/or maintain at its own cost and expense general liability insurance in the sum of not less than \$2,500,000 for each occurrence and not less than \$2,500,000 combined limit.

(b) Indemnification. MCRCD shall indemnify, defend, and hold Responsible Party harmless from any and all claims, liability, losses, costs, charges, or expenses ("**Claim**" or "**Claims**") which Responsible Party may incur as a result of any negligent or wrongful act or omission of MCRCD in its use of the right of access granted under this Agreement. This indemnification obligation shall not apply to the extent a Claim is the result of the negligent or wrongful act or omission of Responsible Party.

(c) Repair of Damage. MCRCD shall promptly repair any damage to the Property caused by the acts or omissions of the MCRCD or its employees or contractors.

7. Compliance with Applicable Laws. MCRCD agrees to comply in all respects with any and all applicable federal, state, and local statutes, laws, ordinances, codes, regulations, and permit conditions in connection with Project.

8. Notice.

(a) Method of Notice. The Parties shall give all notices and communications between the Parties by (i) personal delivery, (ii) a nationally-recognized, next-day courier service, (iii) first-class registered or certified mail, postage prepaid, (iv) fax or (v) electronic mail to the Party's address specified in this agreement, or to the address that a Party has notified to be that Party's address for the purposes of this section. Receipt of Notice. A notice given under this Agreement will be effective on the other Party's receipt of it.

Responsible Party:

Attn: Dallin Kimble 209-966-3222
Mariposa County
P.O. Box 784 Mariposa, CA d.kimble@mariposacounty.org

RCD:

Mariposa County Resource Conservation District
P.O. Box 2403
Mariposa, CA 95338
Attn: Melinda Barrett
Phone: (559) 580-0944
E-mail: mariposacountyracd@gmail.com

9. General Provisions.

(a) Recitals. The recitals set forth above are, by this reference, incorporated into and deemed a part of this Agreement.

(b) Integration. This Agreement contains the complete and entire agreement between the Parties and cannot be altered, modified or amended except by the written agreement of the Parties. The Parties agree that there are no oral agreements, understandings, representations or warranties which are not expressly set forth herein.

Attachment: RES 2021-222 (RES-2022-556 : Approve MCRCD Right of Entry Permission Forms for Yosemite West)

Yosemite Area Forest Restoration, Phase 2
Grant Agreement Number WC-2096JG
Project ID 2020139

Page 4

(c) Binding Effect. This Agreement shall inure to the benefit of and bind the Parties hereto and their successors and assigns.

(d) Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of California.

(e) Captions. All sections and paragraph headings and captions appearing in this Agreement are included for convenience only, and shall not be considered in interpreting this Agreement.

(f) Severability. If any term, provisions, condition or covenant of this Agreement shall, to any extent, be held invalid or unenforceable, the remainder of this Agreement shall not be affected thereby, and this Agreement shall otherwise be valid and enforceable to the fullest extent permitted by law.

(g) Exhibits. All exhibits attached hereto are hereby incorporated by reference and made a part of this Agreement.

(h) Waiver. A waiver by one Party of the performance of any covenant, agreement, obligation or condition, shall not be construed as a waiver of any other covenant, agreement or condition. A waiver by any Party of the performance of any act shall not constitute a waiver of the performance of any other act or an identical act required to be performed at a later time.

(i) Interpretation. Each Party and its counsel has reviewed and revised this Agreement and any rule of contract interpretation to the effect that ambiguities or uncertainties are to be interpreted against the drafting Party or the Party who caused it to exist shall not be employed in the interpretation of this Agreement or any document executed in connection herewith.

(j) Mediation of Disputes. If a dispute arises out of or relates to this Agreement or the breach thereof, the Parties agree to first try in good faith to settle the dispute by non-binding mediation before resorting to binding arbitration or litigation.

(k) Jurisdiction and Venue. The Parties acknowledge and understand that the making of this Agreement is in Mariposa County, California. The exclusive venue for any suit, action or proceeding shall be in Mariposa County, California.

(l) Counterparts. This Agreement may be executed and delivered in counterparts, each of which shall be deemed to be a duplicate original hereof. This Agreement may also be executed in multiple counterparts and shall be effective when counterparts hereof, when taken together, bear the signatures of all the Parties set forth below.

(m) Authority. The undersigned Parties affirm that the individuals signing this Agreement have been granted the authority to do so.

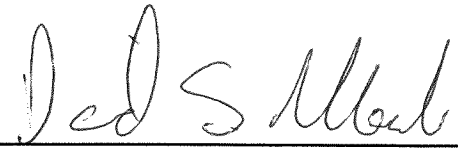
IN WITNESS WHEREOF, this Agreement has been entered into as of the date and year set forth

below.

Landowner Signature

Printed Name

Date



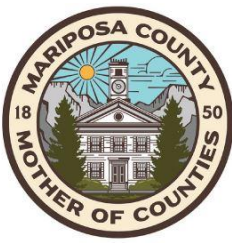
MCRCD Board President Signature

DAVID S. MECCHI

Printed Name

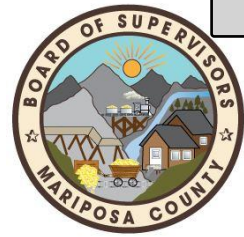
Date

Attachment: RES 2021-222 (RES-2022-556 : Approve MCRCD Right of Entry Permission Forms for Yosemite West)



MARIPOSA COUNTY

Public Works • 209-966-2498



RESOLUTION - ACTION REQUESTED 2022-557

MEETING: September 27, 2022

TO: The Board of Supervisors

FROM: Shannon Hansen, Director of Public Works & Transportation

RE: Approve Waiver of Encroachment Permit Fee for the Annual Trunk or Treat Event

RECOMMENDATION AND JUSTIFICATION:

Approve Waiver of Encroachment Permit Fee for the Annual Trunk or Treat Event to be Held at the Mariposa Courthouse on October 31, 2022 from 4:30 PM to 8:30 PM.

This is the 8th year this event has been sponsored by Mariposa Safe Families and the County. This is an event that provides for a safe Trick or Treat Halloween Experience for the Youth of Mariposa County. This annual event is well attended and has been very successful in past years.

BACKGROUND AND HISTORY OF BOARD ACTIONS:

The Board has approved this event and fee waivers for the past several years.

ALTERNATIVES AND CONSEQUENCES OF NEGATIVE ACTION:

Do not approve, the organizers will not have sufficient funds to conduct this event and it would be cancelled.

ATTACHMENTS:

Letter to BOS 22 (PDF)
 Encroachment Permit 22 (PDF)
 Trunk or Treat Map 22 (PDF)
 Insurance 22 (PDF)
 Sign up sheet (PDF)
 Flyer 2022 (PDF)

RESULT: ADOPTED BY CONSENT VOTE [UNANIMOUS]

MOVER: Marshall Long, District III Supervisor

SECONDER: Wayne Forsythe, District IV Supervisor

AYES: Rosemarie Smallcombe, Marshall Long, Wayne Forsythe, Miles Menetrey



September 7, 2022

Mariposa County Board of Supervisors
5100 Bullion Street
PO Box 784
Mariposa CA, 95338

Subject: Mariposa Safe Families Trunk or Treat Request to Waive Encroachment Fee

Mariposa Safe Families (MSF) requests that the Mariposa County Board of Supervisors (BOS) grant permission for MSF to host our Annual Trunk or Treat and waive the encroachment fee. This is a family-oriented event that the Mariposa community greatly appreciates. This event unifies the community with an opportunity to celebrate.

The schedule for Trunk or Treat 2022 is as follows:

- Monday October 31, 2022 2:30pm: MSF Staff to set up in preparation for participants
- 3:30pm: Participants arrive to set up trunks
- 4:30pm: Event begins- families allowed to walk through, experience the trunks, collect treats
- 7:30pm-8:00pm: Event closes and clean up process is completed

Please review the attached permits and applications for Public Works/Caltrans and other appropriate agencies to utilize should the BOS grant permission. We appreciate your support and collaboration for the event.

Respectfully,

Megan Atkinson
Executive Director- Mariposa Safe Families

P.O. Box 545, 4983 8th Street
Mariposa, CA 95338
Office (209) 966-2211 Fax (209) 966-7594
www.mariposasaferamilies.org

Attachment: Letter to BOS 22 (RES-2022-557 : Approve Waiver of Encroachment Permit Fee for the Annual Trunk or Treat Event)

**MARIPOSA COUNTY
APPLICATION FOR ENCROACHMENT PERMIT**

TO: PUBLIC WORKS DEPARTMENT
4639 BEN HUR ROAD
MARIPOSA, CA 95338

DATE: 9.7.22

BUILDING PERMIT: _____

GENTLEMEN:

THE UNDERSIGNED HEREBY APPLIES FOR PERMISSION TO EXCAVATE, CONSTRUCT, AND/OR OTHERWISE ENCROACH ON A COUNTY RIGHT-OF-WAY ON 9th & 10th ROAD AND AGREES TO DO THE WORK IN ACCORDANCE WITH COUNTY RULES AND REGULATIONS AND SUBJECT TO COUNTY INSPECTION AND APPROVAL, BY PERFORMING THE FOLLOWING WORK: (PLEASE FILL IN ALL BLANKS THAT APPLY).

1. ☐ DRIVEWAY
☐ ROAD CROSSING
☐ WATER PIPE, CULVERT, ETC.
☐ LDA ROAD

2. ☐ NEW BUILDING/HOME
☐ REMODEL EXISTING
☐ NEW MAILBOX
☒ OTHER (EXPLAIN BELOW)
Trunk or Treat Event

3. DRIVING INSTRUCTION FROM A KNOWN LANDMARK TO LOCATION OF ENCROACHMENT, I.E., INTERSECTION OF COUNTY ROADS, STATE HIGHWAYS OR TOWN, ETC.

4. ATTACH MAP SHOWING LOCATION AND SKETCHES SHOWING WHAT IS TO BE DONE, SHOW LOCATION OF THE STAKE MARKING PROPOSED ENCROACHMENT OR WORK TO BE DONE.

5. ASSESSOR'S PARCEL NUMBER: _____

6. ADDRESS OF PARCEL: _____

APPLICANT IS REQUIRED TO STAKE THE ENCROACHMENT WITH THE PINK CARD PROVIDED AND/OR NEW MAILBOX LOCATION WITH THE GREEN CARD PROVIDED.

NO PERMIT WILL BE ISSUED UNTIL POSTING HAS BEEN COMPLETED AND APPROPRIATE FEES HAVE BEEN COLLECTED. WORK WILL NOT BE STARTED UNTIL AN ENCROACHMENT PERMIT HAS BEEN ISSUED BY THE DEPARTMENT OF PUBLIC WORKS.

PERMIT NO. _____

DATE ISSUED _____

Megan Atkinson

OWNERS NAME (Please print)

Megan Atkinson
SIGNATURE OF OWNER/APPLICANT

PO Box 545

OWNERS MAILING ADDRESS

Mariposa CA 95338

CITY STATE ZIP

209.9166.2211

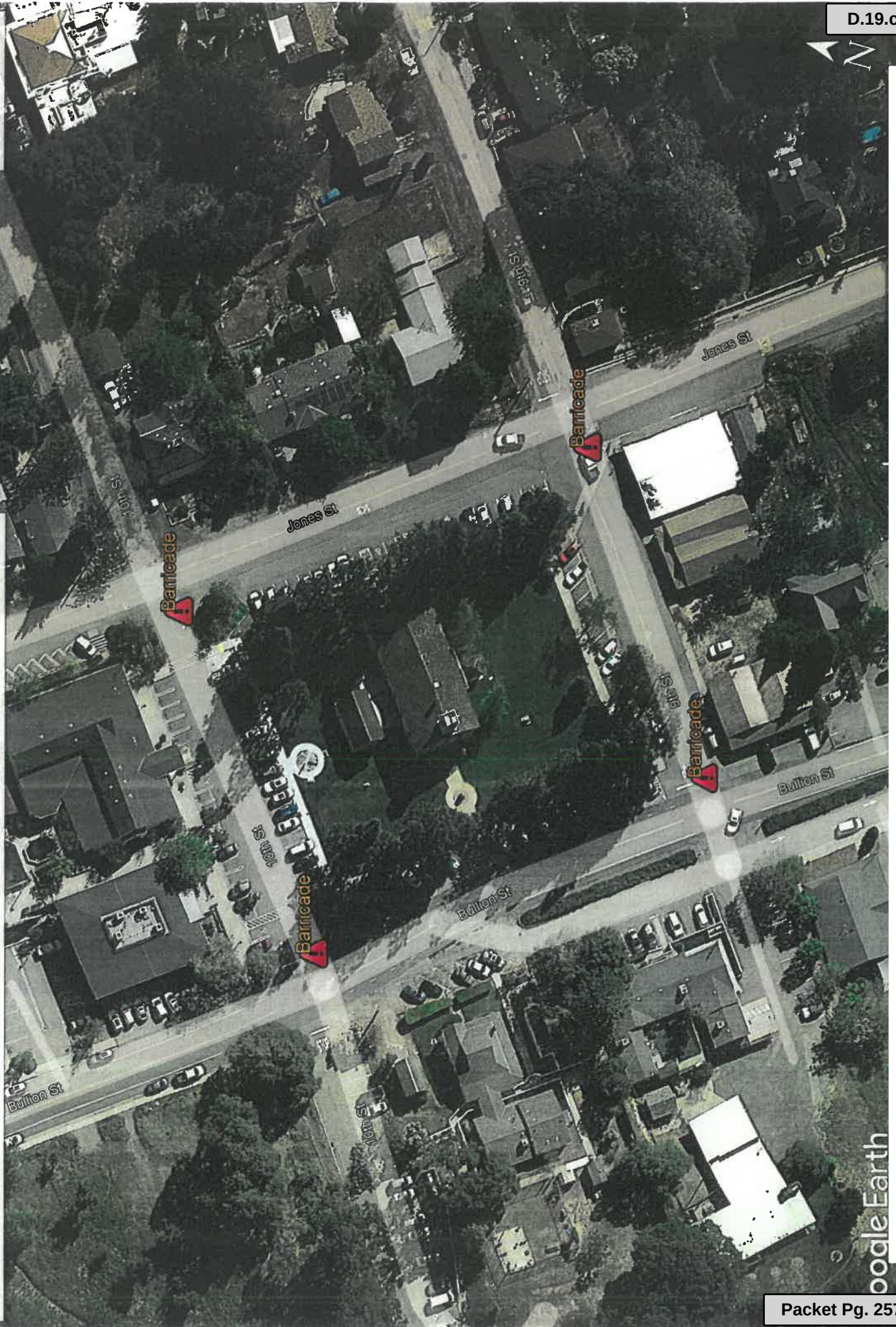
PHONE NUMBER

Trunk or Treat Road Closures for 9th and 10th Street

Legend



Barricade



D.19.c

Google Earth



CERTIFICATE OF LIABILITY INSURANCE

D.19.d

DATE (MM/DD/YYYY)

4/19/2022

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER Mindful Insurance Solutions 2043 Anderson RD Suite C Davis CA 95616		CONTACT NAME: Certificate Department PHONE (A/C, No, Ext): 877-233-4437 Ext. 5 FAX (A/C, No): E-MAIL ADDRESS: certificates@mindfulins.com	
INSURED Mariposa Safe Families, Inc. P.O. Box 545 Mariposa CA 95338		INSURER(S) AFFORDING COVERAGE INSURER A: NIAC -Nonprofits Insurance Alliance of CA INSURER B: INSURER C: INSURER D: INSURER E: INSURER F:	
		NAIC # AMB#011845	

COVERAGES

CERTIFICATE NUMBER:

REVISION NUMBER:

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL SUBR INSD WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS								
A	☒ COMMERCIAL GENERAL LIABILITY ☐ CLAIMS-MADE ☐ OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: ☒ POLICY ☐ PRO-JECT ☐ LOC OTHER:	Y	2020-15147	1/1/2022	1/1/2023	EACH OCCURRENCE \$ 1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 500,000 MED EXP (Any one person) \$ 20,000 PERSONAL & ADV INJURY \$ 1,000,000 GENERAL AGGREGATE \$ 2,000,000 PRODUCTS - COMP/OP AGG \$ 2,000,000 \$								
	☐ AUTOMOBILE LIABILITY ☐ ANY AUTO ☐ ALL OWNED AUTOS ☒ HIRED AUTOS ☐ SCHEDULED AUTOS ☒ NON-OWNED AUTOS					Y	2020-15147	1/1/2022	1/1/2023	COMBINED SINGLE LIMIT (Ea accident) \$ 1,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ \$				
	☐ UMBRELLA LIAB ☐ EXCESS LIAB DED RETENTION \$									Y	2022-15147-DO-NPO	1/1/2022	1/1/2023	EACH OCCURRENCE \$ AGGREGATE \$ \$
	☐ WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below													Y/N N/A Y
Directors & Officers	Limit: \$1,000,000 / 2,000,000													
Improper Sexual Conduct and Physical Abuse	Limit: \$1,000,000 / 2,000,000													

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

Mariposa County Unified School District are additional insured per attached policy wording.

CERTIFICATE HOLDER

CANCELLATION

Mariposa County Unified School District PO Box 8 5082 Old Highway North Mariposa CA 95338	SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS. AUTHORIZED REPRESENTATIVE 

© 1988-2014 ACORD CORPORATION. All rights reserved.



TRUNK OR TREAT 2022

**Mariposa Safe Families is hosting our Annual
Community Trunk or Treat event at the Mariposa Courthouse on
Monday, October 31st from 4:30 pm – 7:30 pm**

Set up will begin at 3:30 pm, with an Event Meeting at 4:00pm

There is a contest for Best Decorated Trunk- vehicle & attached “trunk” must be incorporated in your display
If you are interested in participating, fill out the bottom portion and submit back to
Mariposa Safe Families **no later than Friday, October 21, 2022 by 5:00 pm**

Registration forms can be submitted by:

Mail: Mariposa Safe Families, PO Box 545, Mariposa, CA 95338

Drop off: 4983 8th Street, Mariposa **Email:** dosenbaugh@mariposafamilies.org

THANK YOU FOR JOINING US!!!

MARIPOSA SAFE FAMILIES

TRUNK OR TREAT 2022

Organization/Agency: _____

Contact Person: _____ Phone #: _____

Mailing Address: _____

Email: _____

Attachment: Sign up sheet (RES-2022-557 : Approve Waiver of Encroachment Permit Fee for the Annual Trunk or Treat Event)

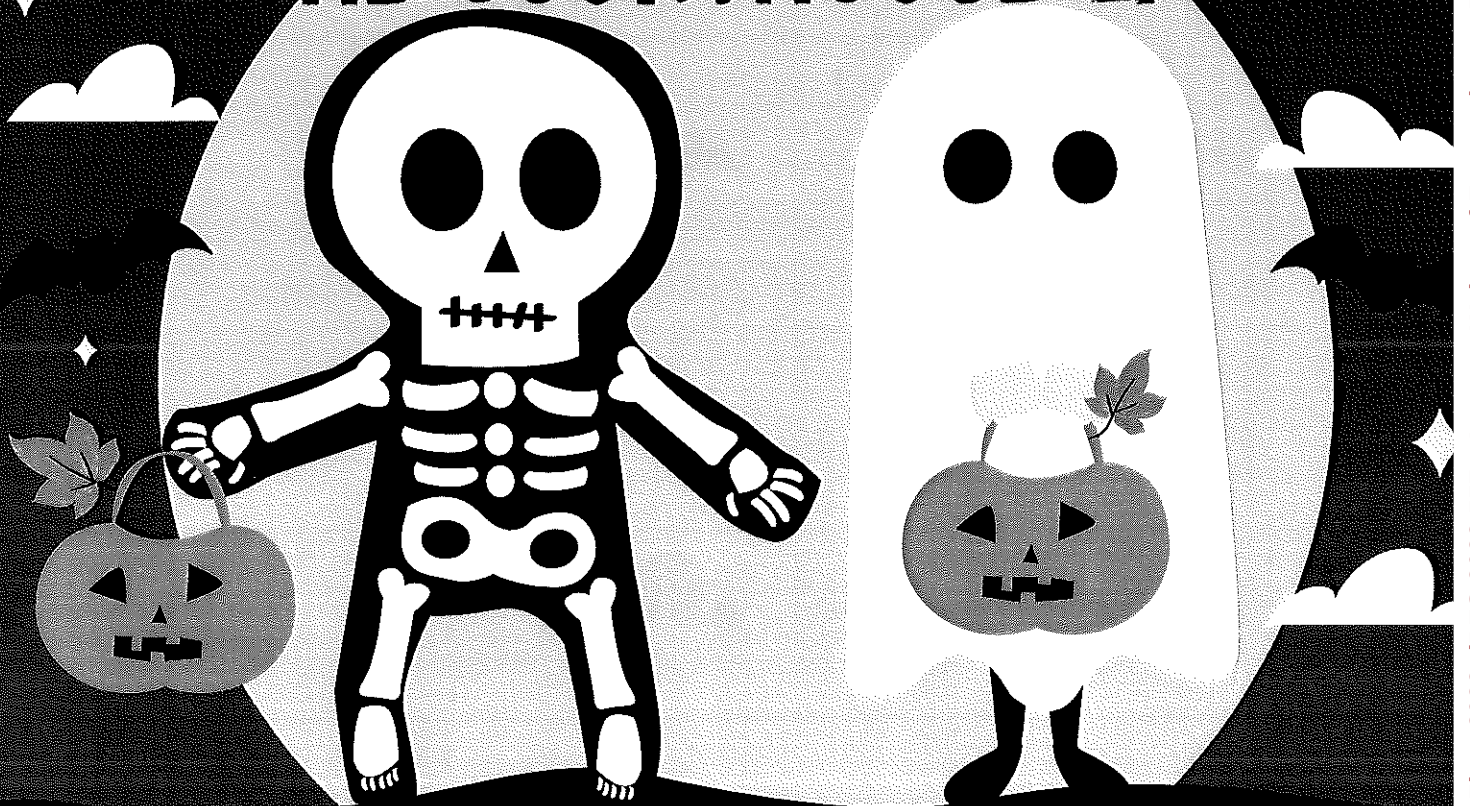
**CANDY
DONATIONS
NEEDED!**

**VOTE FOR
BEST
TRUNK!**

TRUNK TREAT

MONDAY, OCTOBER 31, 2022 4:00-6:00 PM

ON THE COURTHOUSE LAWN



CANDY DONATIONS ACCEPTED AT THE MSF OFFICE

4983 8TH ST (CORNER OF 8TH & JONES)

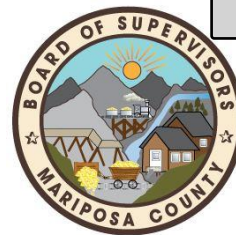
FOR MORE INFORMATION OR TO SIGN UP FOR A TRUNK

CONTACT 209-966-2211 OR DOSENBAUGH@MARIPOSASAFEFAMILIES.ORG



MARIPOSA COUNTY

HHS/Public Health · (209) 966-2000



RESOLUTION - ACTION REQUESTED 2022-558

MEETING: September 27, 2022

TO: The Board of Supervisors

FROM: Joe Lynch, Health & Human Services Agency Director

RE: Learning Service Agreement CSU Stanislaus Student Internships

RECOMMENDATION AND JUSTIFICATION:

Approve a Learning Service Agreement with California State University Stanislaus (CSU); and Authorize the Board of Supervisors Chair to Sign the Agreement.

The Agreement will allow for the Health and Human Services Agency (HHSA) to work with CSU student interns to perform research related to HHSA Tobacco Education Program.

The Agreement is required by the University in order for the students to develop the discreet project work and outlines between the respective University and HHSA for course requirements.

BACKGROUND AND HISTORY OF BOARD ACTIONS:

Board of Supervisors approved Resolution No. 2017-533 on August 8, 2017.

ALTERNATIVES AND CONSEQUENCES OF NEGATIVE ACTION:

No action would result in inability for HHSA to conduct internships under the program with CSU students.

FINANCIAL IMPACT:

No impact as the Agreement does not require allocation of any County funds.

ATTACHMENTS:

Service Learning MOU Agreement_ v2 August 29 2022 (PDF)

RESULT: ADOPTED BY CONSENT VOTE [UNANIMOUS]

MOVER: Marshall Long, District III Supervisor

SECONDER: Wayne Forsythe, District IV Supervisor

AYES: Rosemarie Smallcombe, Marshall Long, Wayne Forsythe, Miles Menetrey

California State University, Stanislaus Service Learning Agreement

THIS AGREEMENT entered into by and between the State of California through the Trustees of the California State University on behalf of **CALIFORNIA STATE UNIVERSITY, STANISLAUS (“University”)**, and **COUNTY OF MARIPOSA (“Learning Site”)**. In consideration of the mutual promises set forth below, the University and Learning Site (“parties”) agree as follows:

1. LEARNING SITE’S RESPONSIBILITIES

- A. Identify the student’s supervisor and a backup supervisor. The supervisor agrees to meet with the student regularly to facilitate the student’s learning experience, provide support, review progress on assigned tasks, verify service hours and give feedback.
- B. For all internships, the Learning Site will provide a written position description which includes supervisor contact information, outline any prior qualifications or skills a student should have, detail the student’s duties and responsibilities and mention any prior qualifications or any other paperwork or clearances the students need to submit.
- C. Provide an orientation that includes a site tour; an introduction to staff; a description of the characteristics of and risks associated with Learning Site’s operations, services and/or clients; a discussion concerning safety policies and emergency procedures; and information detailing where students check-in and how they log their time.
- D. Provide appropriate training, equipment, materials and work area for students prior to students performing assigned tasks or working with Learning Site’s clients.
- E. Inform student of the need for a background check, fingerprinting and/or a tuberculosis test; obtain the student’s fingerprints, background check and/or tuberculosis test; and maintain the confidentiality of any results as required by federal and state law.
- F. Evaluate the student and contact University if the student fails to perform assigned tasks or engages in misconduct. Learning Site and University will meet upon request or as necessary to resolve any potential conflicts and to facilitate a mutually beneficial experience for all involved. Learning Site will document its rationale for terminating a student and provide University with a copy of the rationale upon request. Learning Site will provide written notification to University a minimum of seventy-two (72) hours before dismissing a student.
- G. The Learning Site shall not employ discriminatory practices in its selection of students and in its performance hereunder on the basis of sex, sexual orientation, race, color, ancestry, ethnicity, religious creed, national origin, disability (including HIV and AIDS), medical condition, age, marital status, and denial of family care leave.
- H. Notify University immediately of any injury or illness to a student participating in a learning activity at Learning Site.
- I. Notify University if learning activities are to occur in a personal residence or home; such arrangements must comply with the following and may not occur without prior written approval from University:
 1. All meetings between Learning Site representatives and the student must take place in a public setting (such as a coffee shop) or using teleconferencing, e.g. Zoom.
 2. The student may work at a public site such as an event location.
 3. The student may conduct interviews or client visits provided that the student is accompanied by an appropriate Learning Site representative.
 4. The student will not enter a personal residence or place of business of any client or other entity served by or otherwise associated with the Learning Site without being accompanied by an appropriate Learning Site representative at any point during the learning activity placement period.
- J. Ensure that students are not left alone for any amount of time with minors, elderly individuals or any other vulnerable population and that supervision by an appropriate Learning Site representative of the students will be provided at all times.

- K. Ensure that adequate automobile liability insurance is in place before permitting a student to drive as part of his/her duties under this Agreement.
- L. Learning Site is aware of and informed about the hazards currently known to be associated with the novel coronavirus referred to as “COVID-19”. Learning Site is familiar with and informed about the Centers for Disease Control and Prevention (“CDC”) current guidelines regarding COVID-19 as well as applicable federal, state, and local governmental directives regarding COVID-19. Learning Site, to the best of its knowledge and belief, is in compliance with those current CDC guidelines and applicable governmental directives. If the current CDC guidelines or applicable government directives are modified, changed or updated, Learning Site will take steps to comply with the modified, changed or updated guidelines or directives. If at any time Learning Site becomes aware that it is not in compliance with CDC guidelines or an applicable governmental directive, it will notify University of that fact.

II. UNIVERSITY’S RESPONSIBILITIES

- A. University will advise the student(s) of their responsibility to:
 - 1. Participate in all training required by Learning Site.
 - 2. Exhibit professional, ethical and appropriate behavior when at Learning Site.
 - 3. Complete all assigned tasks and responsibilities in a timely and efficient manner.
 - 4. Fulfill the specific scope of work duties identified in the Service Learning Student Agreement which is reviewed and agreed upon by the student and University prior to the start of the learning activity placement. The Service Learning Student Agreement will define the guidelines for the final determination of academic credit. Awarding academic credit will adhere to the University’s Credit Hour Policy.
 - 5. Abide by Learning Site’s rules, regulations and standards of conduct.
 - 6. Maintain the confidentiality of Learning Site’s proprietary information, records and information concerning its clients.
- B. University will review all entries for academic credibility and risk management compliance before providing final approval.
- C. University will advise student that neither University nor Learning Site assumes any financial responsibility in the event he/she is injured or becomes ill as a result of his/her participation in a learning activity placement at the Learning Site.
- D. Provide the student with general and professional liability insurance in the amount of \$2,000,000 per occurrence, \$4,000,000 general aggregate. Such coverage shall be obtained from a carrier rated A or better by AM Best or a qualified program of self-insurance. This insurance only applies if both parties have signed this Agreement.

III. GENERAL PROVISIONS

- A. Terms. The term of this Agreement shall become effective from this date of execution and continue for a period of five (5) years unless terminated by either party after giving the other party thirty (30) days written notice of the intent to terminate. If the Learning Site terminates this Agreement, it will permit any student working at the Learning Site at the time of termination to complete their training for any semester in which termination would otherwise occur.
- B. Status of Students. The parties expressly understand and agree that the students enrolled in the learning activity placement are in attendance for educational purposes and such students are not considered officers, employees, agents or volunteers of either Learning Site or University.
- C. Indemnification. Learning Site and University agree to indemnify, defend and hold harmless each other from any and all liability for any personal injury, damages, wrongful death or other

losses and costs, including but not limited to reasonable attorney fees and defense costs, arising out of the negligence or willful misconduct of their respective directors, officers, employees, agents or duly authorized volunteers in the performance of this Agreement.

- D. Insurance. Each party agrees to maintain general liability coverage for at least \$2,000,000 per occurrence and \$4,000,000 aggregate and to provide evidence of coverage upon request. Insurance must be placed with insurers with a current A.M. Best rating of at least A:VII or better or a qualified program of self-insurance. Learning Site shall promptly notify University of any cancellation, reduction, or other material change in the amount or scope of any coverage required hereunder. The California State University system has elected to be insured for its general liability exposure through the self-insured CSU Risk Management Authority.
- E. Assignment. Neither party shall voluntarily or by operation of law, assign or otherwise transfer this Agreement without the other party's prior written consent. Any purported assignment in violation of this paragraph shall be void.
- F. Entire Agreement. This Agreement sets forth the entire agreement between the parties with respect to the subject matter hereof and shall govern the respective duties and obligations of each party.
- G. Governing Law. The validity, interpretation, and performance of this Agreement shall be governed by and construed in accordance with the laws of the State of California.
- H. Endorsement. Nothing contained in this Agreement confers on either party the right to use the other party's name without prior written permission, or constitutes an endorsement of any commercial product or service by University, its officers or employees.
- I. Agreement Alterations & Integration. No alteration or variation of the Agreement shall be the valid unless made in writing and signed by the parties hereto, and no oral understanding or agreement not incorporated in writing in the Agreement shall be binding on any of the parties hereto.
- J. Survival. Upon termination of this Agreement for any reason, the terms, provisions, representations and warranties contained in this Agreement shall survive expiration or termination of this Agreement.
- K. Severability. If any provision of this Agreement is held invalid by any law, rule, order of regulation of any government or by the final determination of any state or federal court, such invalidity shall not affect the enforceability of any other provision not held to be invalid.
- L. Notices. Notices required under this Agreement shall be sent to the parties by certified or registered mail, return receipt requested, postage prepaid, at the addresses set forth below:"

UNIVERSITY:

California State University, Stanislaus
One University Circle
Turlock, CA 95382
Attn: Financial Services

LEARNING SITE:

Name: Community Health Center
Address: 5300 Hwy 49 North
Mariposa, CA 95338
Attn: Kristina Allen, Ph D

X. EXECUTION

By signing below, each of the following represent that they have authority to execute this Agreement and to bind the party on whose behalf their signature is made.

California State University, Stanislaus

Date: _____

By: _____

Name: Sheyenne Sousa, Buyer II
Procurement & Contract Services

County of Mariposa

Date: _____

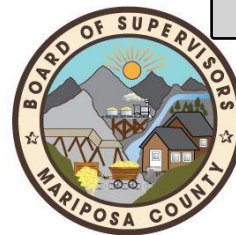
By: _____

Name: Rosemarie Smallcombe, Chair
Mariposa County Board of Supervisors



MARIPOSA COUNTY

Treasurer-Tax Collector-County Clerk ·



RESOLUTION - ACTION REQUESTED 2022-559

MEETING: September 27, 2022

TO: The Board of Supervisors

FROM: Keith Williams, Treasurer/Tax Collector

RE: HDL Sales Tax Agreement

RECOMMENDATION AND JUSTIFICATION:

Approve Agreement with Hinderliter, De Llamas, & Associates (HDL) in the Amount of \$46,000 for the Analysis and Forecasting of Sales, Use and Transactions Taxes; and Authorize the Board of Supervisor's Chair to Sign the Agreement.

The County has a current agreement with HDL dating back to 2005 (05-30) to perform the services listed in the agreement. The passage of Measure O by the voters has added an additional tax that was not included in the original agreement with HDL. In addition, the current agreement was signed in 2005 and was open ended. A new agreement will update the terms and use language from the County's current agreements.

As with the past agreement, HDL provides allocation and audit recovery services and other optional services described in EXHIBIT A, "Scope of Work".

BACKGROUND AND HISTORY OF BOARD ACTIONS:

The Board has previously supported agreements with the firm HDL.

ALTERNATIVES AND CONSEQUENCES OF NEGATIVE ACTION:

Deny the agreement and do not receive the analysis, forecasting or audit recovery services provided in the agreement.

FINANCIAL IMPACT:

None

ATTACHMENTS:

HDL Agreement Final (DOCX)

RESULT: **ADOPTED BY CONSENT VOTE [UNANIMOUS]**

MOVER: Marshall Long, District III Supervisor

SECONDER: Wayne Forsythe, District IV Supervisor

AYES: Rosemarie Smallcombe, Marshall Long, Wayne Forsythe, Miles Menetrey

AGREEMENT FOR SALES, USE AND TRANSACTIONS TAX ECONOMIC ANALYSIS/FORECASTING SERVICES/REPORTS

THIS AGREEMENT ("Agreement") is made and entered into this _____ day of _____, 20____, by and between the County of Mariposa, a political subdivision of the State of California, ("County"), and Hinderliter, De Llamas, & Associates ("Contractor"), pursuant to the following terms and conditions.

W I T N E S S E T H:

1. TERM

The term of this Agreement shall be for a period of Three (3) years, commencing on July 1, 2022 through and including June 30, 2025. This Agreement may be extended for Two (2) additional consecutive twelve (12) month periods upon the written approval of both parties no later than thirty (30) days prior to the expiration of the initial term. The County Administrative Office or his/her designee is authorized to execute such written approval on behalf of County based on Contractor's satisfactory performance.

2. SERVICES

Contractor shall perform Sales, Use and Transactions Tax an Economic Analysis/Forecasting Services/Reports, Allocation and Audit Recovery Services, and Consulting and Other Optional Services as described in Exhibit A, "Scope of Work," which is attached hereto and incorporated herein by reference. Contractor shall provide all staffing and materials necessary to perform the Scope of Work.

3. COMPENSATION

The maximum compensation payable to Contractor under this Agreement is Thirty-Three Thousand (\$33,000), Nineteen Thousand Eight Hundred for the first 3 years and Thirteen Thousand (\$13,000) for the 2 year extension not including any CPI changes, as set forth in Exhibit A, "FEES," which is attached hereto and

incorporated herein by reference. County shall pay Contractor within thirty (30) days of receipt of an approved invoice.

4. INSURANCE

Contractor shall procure and maintain for the duration of this Agreement insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the work hereunder by Contractor, its agents, representatives, or employees.

A. MINIMUM SCOPE AND LIMIT OF INSURANCE

Coverage shall be at least as broad as:

(1) Commercial General Liability (CGL): Insurance Services Office (ISO) Form CG 00 01 covering CGL on an “occurrence” basis, including products and completed operations, property damage, bodily injury and personal and advertising injury with limits no less than \$2,000,000 per occurrence. If a general aggregate limit applies, either the general aggregate limit shall apply separately to this project/location (ISO CG 25 03 or 25 04) or the general aggregate limit shall be twice the required occurrence limit.

(2) Automobile Liability: ISO Form Number CA 00 01 covering any auto (Code 1), or if Contractor has no owned autos, hired (Code 8) and non-owned autos (Code 9), with limits no less than \$1,000,000 per accident for bodily injury and property damage.

(3) Workers’ Compensation insurance as required by the State of California, with Statutory Limits, and Employer’s Liability Insurance with a limit of no less than \$1,000,000 per accident for bodily injury or disease.

(4) Professional Liability (Errors and Omissions): Insurance appropriate to Contractor’s profession, with a limit of no less than \$2,000,000 per occurrence or claim, \$2,000,000 aggregate.

If Contractor maintains broader coverage and/or higher limits than the minimums shown above, County requires and shall be entitled to the broader coverage and/or higher limits maintained by Contractor. Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage shall be available to County.

B. OTHER INSURANCE PROVISIONS

The insurance policies are to contain, or be endorsed to contain, the following provisions:

- (1) **Additional Insured Status:** County, its officers, officials, employees, and volunteers are to be covered as additional insureds on the CGL policy with respect to liability arising out of work or operations performed by or on behalf of Contractor including materials, parts, or equipment furnished in connection with such work or operations. General liability coverage can be provided in the form of an endorsement to Contractor's insurance (at least as broad as ISO Form CG 20 10 11 85 or if not available, through the addition of both CG 20 10 and CG 20 37 forms if a later edition is used).
- (2) **Primary Coverage:** For any claims related to this Agreement, Contractor's insurance coverage shall be primary insurance with respect to Contractor's negligent performance of the services as respects County, its officers, officials, employees, and volunteers. Any insurance or self-insurance maintained by County, its officers, officials, employees, or volunteers shall be excess of Contractor's insurance and shall not contribute with it.
- (3) **Notice of Cancellation:** Each insurance policy required above shall state that coverage shall not be canceled, except with at least thirty (30) calendar days' notice to County.
- (4) **Waiver of Subrogation:** Contractor hereby grants to County a waiver of any right to subrogation which any insurer of said Contractor may acquire against County by virtue of the payment of any loss under such insurance. Contractor agrees to obtain any endorsement that may be necessary to affect this waiver of subrogation, but this provision applies regardless of whether or not County has received a waiver of subrogation endorsement from the insurer.
- (5) **Deductibles and Self-Insured Retentions:** Any deductibles or self-insured retentions must be declared to and approved by County. County may require Contractor to purchase coverage with a lower deductible or retention or provide proof of ability to pay losses and related investigations, claim administration, and defense expenses within the retention.
- (6) **Acceptability of Insurers:** Insurance is to be placed with insurers with a current A.M. Best's rating of no less than A: VII, unless otherwise acceptable to County.
- (7) **Verification of Coverage:** Contractor shall furnish County with original certificates and amendatory endorsements or copies of the applicable policy language effecting coverage required by this clause. All certificates and endorsements are to be received and approved by County before work commences. However, failure to obtain the required documents prior to the work beginning shall not waive Contractor's obligation to provide them. County

reserves the right to require complete, certified copies of all required insurance policies, including endorsements required by these specifications, at any time.

(8) Subcontractors: Contractor shall require and verify that all subcontractors maintain insurance meeting all the requirements stated herein, and Contractor shall ensure that County is an additional insured on insurance required from subcontractors.

(9) Special Risks or Circumstances: County reserves the right to modify these requirements, including limits, based on the nature of the risk, prior experience, insurer, coverage, or other special circumstances.

5. HOLD HARMLESS/INDEMNIFICATION

To the fullest extent permitted by law, Contractor shall hold harmless, defend at its own expense, and indemnify County, its officers, employees, agents, and volunteers, against any and all liability, claims, losses, damages, or expenses, including reasonable attorney's fees, arising from all negligent or willful acts or omissions of Contractor or its officers, agents, or employees in rendering services under this Agreement; excluding however such liability, claims, losses, damages, or expenses arising from County's sole negligence or willful acts.

6. INDEPENDENT CONTRACTOR

It is the expressed intention of the parties that Contractor is an independent contractor and not an employee, agent, joint venturer or partner of County. Nothing in this Agreement shall be interpreted or construed as creating or establishing the relationship of employer and employee between County and Contractor or any employee or agent of Contractor. Both parties acknowledge that Contractor is not an employee for state or federal tax purposes. Contractor shall retain the right to perform services for others during the term of this Agreement.

7. PUBLIC EMPLOYEES RETIREMENT SYSTEM (CALPERS)

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

8. STATE AND FEDERAL TAXES

As Contractor is not County's employee, Contractor is responsible for paying all required state and federal taxes. In particular:

- a. County will not withhold FICA (Social Security) from Contractor's payments;
- b. County will not make state or federal unemployment insurance contributions on behalf of Contractor;

- c. County will not withhold state or federal income tax from payment to Contractor;
- d. County will not make disability insurance contributions on behalf of Contractor;
- e. County will not obtain workers' compensation insurance on behalf of Contractor.

9. AUDITS AND INSPECTIONS

Contractor shall at any time during business hours, and as often as County may deem necessary, make available to County for examination all of its records and data with respect to the matters covered by this Agreement. Contractor shall, upon the request of County, permit County to audit and inspect all of such records and data necessary to ensure Contractor's compliance with the terms of this Agreement. If compensation to be paid by County under this Agreement exceeds Ten Thousand Dollars (\$10,000), Contractor shall be subject to the examination and audit of the California State Auditor, as provided in Government Code section 8546.7, for a period of three (3) years after final payment under this Agreement. This section survives the termination of this Agreement.

10. ASSIGNMENT

It is understood and agreed that this Agreement contemplates personal performance by Contractor and is based upon a determination of its unique personal competence and experience and upon its specialized personal knowledge. Assignments of any or all rights, duties or obligations of Contractor under this Agreement will be permitted only with the express written consent of County.

11. NOTICE

Any and all notices, reports or other communications to be given to County or Contractor shall be given to the persons representing the respective parties at the following addresses:

CONTRACTOR:

Hinderliter, De Llamas, & Associates
120 S. State College Blvd. #200
Brea, CA 92821

COUNTY:

County Administrative Officer
County of Mariposa
PO Box 784
Mariposa, CA 95338

12. COMPLIANCE

Contractor shall comply with all federal, state and local laws, codes, ordinances and regulations applicable to Contractor's performance under this Agreement, including, but not limited to, laws related to prevailing wages. Specifically, Contractor shall not engage in unlawful employment discrimination, including, but not limited to, discrimination based upon a person's race, religion, color, national origin, ancestry, physical handicap, medical condition, marital status, gender, citizenship or sexual orientation, as prohibited by state or federal law.

13. PUBLIC RECORDS ACT

Contractor is aware that this Agreement and any documents provided to County may be subject to the California Public Records Act and may be disclosed to members of the public upon request. It is the responsibility of Contractor to clearly identify information in those documents that it considers to be confidential under the California Public Records Act. To the extent that County agrees with that designation, such information will be held in confidence whenever possible. All other information will be considered public.

14. ENTIRE AGREEMENT AND MODIFICATION

This Agreement contains the entire agreement of the parties relating to the subject matter of this Agreement and supersedes all prior agreements and representations with respect to the subject matter hereof. This Agreement may only be modified by a written amendment hereto, executed by both parties. If there are exhibits attached hereto, and a conflict exists between the terms of this Agreement and any exhibit, the terms of this Agreement shall control.

15. ENFORCEABILITY AND SEVERABILITY

The invalidity or enforceability of any term or provisions of this Agreement shall not, unless otherwise specified, affect the validity or enforceability of any other term or provision, which shall remain in full force and effect.

16. TERMINATION AND RIGHTS UPON TERMINATION

A. This Agreement may be terminated upon mutual written consent of the parties, or as a remedy available at law or in equity. In the event of the termination of this Agreement, Contractor shall be entitled to compensation for services performed acceptably up to the effective date of termination as set forth in Exhibit B.

B. Either party may terminate this Agreement for convenience upon Thirty (30) calendar days' written notice to the other party. Upon termination for convenience, Contractor shall be entitled to compensation for services performed acceptably up to the effective date of termination, as set forth in Exhibit B.

C. Should Contractor default in the performance of this Agreement or materially breach any of its provisions, County, at its option, may terminate this Agreement by giving written notification to Contractor. The termination date shall be the effective date of the notice. For the purposes of this subsection, default or material breach of this Agreement shall include, but not be limited to, any of the following: failure to perform required services in a timely manner, willful destruction of County property, dishonesty, or theft.

17. NO WAIVER

The failure to exercise any right to enforce any remedy contained in this Agreement shall not operate as to be construed to be a waiver or relinquishment of the exercise of such right or remedy, or of any other right or remedy herein contained.

18. DISPUTES

Should it become necessary for a party to this Agreement to bring an action in connection with this Agreement, the prevailing party in any such action shall be entitled to reimbursement for all expenses so incurred, including reasonable attorney's fees.

It is agreed by the parties hereto that unless otherwise expressly waived by them, any action brought to enforce any of the provisions hereof or for declaratory relief hereunder shall be filed and remain in a court of competent jurisdiction in the County of Mariposa, State of California.

19. CAPTIONS

The captions of this Agreement are for convenience and reference only and the words contained therein shall in no way be held to explain, modify, amplify or aid in the interpretation, construction or meaning of the provisions of this Agreement.

20. NUMBER AND GENDER

In this Agreement, the neutral gender includes the feminine and masculine, the singular includes the plural, and the word "person" includes corporations, partnerships, firms or associations, wherever the context so requires.

21. MANDATORY AND PERMISSIVE

"Shall" is mandatory. "May" is permissive.

22. SUCCESSORS AND ASSIGNS

All representations, covenants and warranties specifically set forth in this Agreement, by or on behalf of, or for the benefit of any or all of the parties hereto, shall be binding upon and inure to the benefit of such party, its successors and assigns.

23. COUNTERPARTS/ELECTRONIC, FACSIMILE, AND PDF SIGNATURES

This agreement may be executed in any number of counterparts, each of which will be an original, but all of which together will constitute one instrument. Each Party of this agreement agrees to the use of electronic signatures, such as digital signatures that meet the requirements of the California Uniform Electronic Transactions Act ("CUETA"), Cal. Civ. Code §§ 1633.1 to 1633.17), for executing this Agreement. The parties further agree that the electronic signatures of the parties included in this Agreement are intended to authenticate this writing and to have the same force and effect as manual signatures. Electronic signature means an electronic sound, symbol, or process attached to or logically associated with an electronic record and executed or

adopted by a person with the intent to sign the electronic record pursuant to the CUETA, as amended from time to time. The CUETA authorizes use of an electronic signature for transactions and contracts among parties in California, including a government agency. Digital signature means an electronic identifier, created by computer, intended by the party using it to have the same force and effect as the use of a manual signature, and shall be reasonably relied upon by the parties. For purposes of this section, a digital signature is a type of "electronic signature" as defined in subdivision (i) of Section 1633.2 of the Civil Code. Facsimile signatures or signatures transmitted via pdf document shall be treated as originals for all purposes.

24. OTHER DOCUMENTS

The parties agree that they shall cooperate in good faith to accomplish the object of this Agreement and, to that end, agree to execute and deliver such other and further instruments and documents as may be necessary and convenient to the fulfillment of these purposes.

25. CONTROLLING LAW

The validity, interpretation and performance of this Agreement shall be controlled by and construed under the laws of the State of California.

26. AUTHORITY

Each party and each party's signatory warrant and represent that each has full authority and capacity to enter into this Agreement in accordance with all requirements of law. The parties also warrant that any signed amendment or modification to this Agreement shall comply with all requirements of law, including capacity and authority to amend or modify this Agreement.

27. NEGOTIATED AGREEMENT

This Agreement has been arrived at through negotiation between the parties. Neither party is to be deemed the party which prepared this Agreement within the meaning of California Civil Code section 1654. Each party represents and warrants that in executing this Agreement it does so with full knowledge of the rights and duties it may have with respect to the other party. Each party also warrants and represents that it has received independent legal advice from its attorney with respect to the matters set forth in this Agreement and the rights and duties arising out of this Agreement, or that such party willingly foregoes any such consultation.

28. NO RELIANCE ON REPRESENTATIONS

Each party warrants and represents that it is not relying and has not relied upon any representation or statement made by the other party with respect to the facts involved or its rights or duties. Each party understands and agrees that the facts relevant, or believed to be relevant to this Agreement, have been independently verified. Each party further understands that it is responsible for verifying the representations of law or fact provided by the other

29. WARRANTY

County has relied upon the professional ability and training of Contractor as a material inducement to enter into this Agreement. Contractor hereby warrants that all work shall be performed in accordance with generally accepted professional practices and standards as well as the requirements of applicable federal, state and local laws, it being understood that acceptance of Contractor's work by County shall not operate as a waiver or release.

30. FUNDING AVAILABILITY

It is mutually agreed that if the County budget of the current fiscal year and/or any subsequent fiscal year covered under this Agreement does not appropriate sufficient funds for this Agreement, this Agreement shall terminate and be of no further force and effect upon the day notice is provided by County to Contractor of such event. Upon termination of this Agreement, County shall have no liability to pay any funds whatsoever to Contractor or to furnish any other considerations under this Agreement except for services rendered prior to such termination and Contractor shall not be obligated to perform any provisions of this Agreement. Contractor's assumption of risk of possible non-appropriation is part of the consideration for this Agreement. County budget decisions are subject to the discretion of the Board of Supervisors.

If funding for any fiscal year is reduced or deleted by the County budget for purposes of this Agreement, the County shall have the option to either cancel this Agreement with no liability occurring to the County, except County must reimburse Contractor for services rendered prior to such reduction or modification of the County budget, or offer an amendment to this Agreement to Contractor to reflect the reduced amount.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the day and year first written above.

COUNTY OF MARIPOSA

CONTRACTOR

Rosemarie Smallcombe, Chair
Board of Supervisors

Andrew Nickerson, President

COUNTERSIGNED:
(Government Code §25103)

APPROVED AS TO FORM:

Danielle Bondshu
Clerk of the Board

Steven W. Dahlem
County Counsel

SCOPE OF SERVICES

1. Sales, Use and Transactions Tax and Economic Analysis/Forecasting Services/Reports

- 1.1. Establish a special database identifying the name, address, and allocations of Client's sales tax producers. This database will be utilized to generate special reports to Client on major sales tax producers by rank and category, sales tax activity by categories, identification of reporting aberrations, and per capita and outlet comparisons with regional and statewide sales.
- 1.2. Provide periodic updated reports to Client identifying changes in sales by individual businesses, business groups and categories, and by geographic area. These reports may include, without limitation, aberrations due to State audits, fund transfers, and receivables, along with late or double payments, and reconciliation worksheets to assist with budget forecasting.
- 1.3. Provide periodic summaries for Client to share with others if it so desires (including the general public) that analyze Client's sales tax trends by major groups and geographic areas without disclosing confidential individual tax records.
- 1.4. Establish a special database with California Department of Tax and Fee Administration ("CDTFA") registration data for businesses within applicable measure/district boundaries holding seller's permit accounts. Endeavor to identify transactions and use tax measure/district allocations under such accounts for the most current quarter and immediately prior quarter where available.
- 1.5. Periodically license for the limited, non-exclusive, non-transferable use by Client's staff certain of Consultant's web-based sales, use and/or transactions tax program(s) containing sellers permit, registration, allocation and related information for business outlets within Client's jurisdiction registered with the CDTFA.
- 1.6. Provide periodic updated reports endeavoring to identify and assist with budget forecasting (i) changes in allocation totals by individual businesses, business groups and categories, and (ii) aberrations due to State audits, fund transfers, and receivables, along with late or double payments.

2. Allocation and Audit Recovery Services

- 2.1. Conduct (as and when mutually agreed with Client) initial and on-going sales, use and transactions tax audits of businesses to help identify and correct distribution and allocation errors, and to help effect favorable registration, reporting or formula changes thereby generating previously unrealized sales, use or transactions tax income for Client and/or recover misallocated tax from registered taxpayers. Common errors to be monitored and corrected include transposition errors resulting in misallocations; erroneous consolidation of multiple outlets; formula errors; misreporting of "point of sale" to the wrong location; delays in reporting new outlets; misallocating use tax payments to the allocation pools or wrong jurisdiction; and erroneous fund transfers and adjustments.
- 2.2. Initiate contacts with the CDTFA and sales management and accounting officials in companies that have businesses where a probability of error exists to endeavor to help verify whether current tax receipts accurately reflect the local sales activity.

- 2.3. Prepare and submit to the CDTFA information for the purpose of correcting any identified allocation errors, and follow-up with individual businesses and the CDTFA to advocate for Client recovery of back or prospective payments that may be owing.
- 2.4. If, during the course of its audit, Consultant finds businesses located in Client's jurisdiction that are properly reporting sales, use or transactions taxes but have the potential for modifying their operation to provide an even greater share to Client, Consultant may so advise Client and collaborate with those businesses and Client to encourage such changes.

3. Consulting and Other Optional Services

From time to time in its sole discretion, consult with Client's staff, including without limitation, regarding (i) technical questions and other issues related to sales, use and transactions tax, (ii) utilization of reports to enhance collection efforts, (iii) sales tax projections for proposed annexations, economic development projects and budget planning, (iv) negotiating/review of tax sharing agreements, (v) establishing purchasing corporations, (vi) meeting with taxpayers to encourage self-assessment of tax obligations, and (vii) other sales, use or transactions tax revenue-related matters.

FEES

4. Sales, Use and Transactions Tax and Economic Analysis/Forecasting Services/Reports

- 4.1. Fees for performing the sales tax and economic analysis/forecasting Services as described above shall initially be **\$350** per month. Fees for performing the transactions/use tax reports Services related to a measure/district as described above shall initially be **\$200** per month for Measure O.
- 4.2. Consultant may change the non-hourly Fees established above upon at least 30 days' prior written notice to Client (but not more than once a year). Any such change must be with reference to the 12-month percent change in the most recently published annual Consumer Price Index for All Urban Consumers (CPI-U), West Region, as reported by the U.S. Bureau of Labor Statistics (the "CPI Change"), and be equal to the greater of two percent (2%) or the actual CPI Change and the lesser of ten percent (10%) or the actual CPI Change. For example, if the actual CPI Change is 1.5%, then the annual increase will be 2%, if the actual CPI Change is 3.5%, then the annual increase will be 3.5%, and if the actual CPI Change is 12%, then the annual increase will be 10%.

5. Allocation and Audit Recovery Services

- 5.1. Fees for performing the allocation and audit recovery Services described above shall be (a) **15%** of all new, increased and recovered sales and use tax revenue and (b) **25%** of all new, increased and recovered transactions and use tax measure/district revenue received by Client as a result, in whole or in part, of such Services, including without limitation, any reimbursement or other payment from any State fund and any point of sale misallocations. These Fees shall be paid notwithstanding any related Client assistance, work in parallel, and/or incurrence of attorneys' fees or other costs or expenses in connection, with the relevant Services.
- 5.2. The Fees described in Section 5.1(a) include, without limitation, State fund transfers received for back quarter reallocations and monies received in the first eight (8) consecutive reporting quarters following completion of Consultant's allocation audit and confirmation by the CDTFA of the relevant corrections.

- 5.3. These Fees shall be paid by Client upon Consultant's submittal of evidence of Consultant's relevant Services in support thereof, including, without limitation, copies of relevant communications between Consultant and the CDTFA and/or taxpayers.
- 5.4. Consultant recognizes Client's authority to waive or reduce the tax/fee-related debt of a business. Should Client decide to do so for a business whose deficiency was identified by Consultant, Consultant shall be entitled to compensation in the amount of one half (1/2) of the Fees Consultant would have otherwise earned. Deficiencies which are uncollectable due to insolvency or dissolution of the business, or for deficiencies which are otherwise incapable of collection (i.e. statute of limitation or other legal defense) shall not be considered a Client voluntary election to waive, and thus, Consultant would not be entitled to compensation related thereto under this provision.

6. Consulting and Other Optional Services

- 6.1. Fees for performing the consulting and other optional Services described above shall be based on the following initial hourly rates: (i) Principal - \$325; (ii) Programmer - \$295; (iii) Senior Analyst - \$245; and (iv) Analyst - \$195.
- 6.2. Consultant may change the rates for its hourly Fees from time to time in its sole discretion upon at least 30 days' prior written notice to Client.

7. General Provisions Relating to Fees

- 7.1. Fees for travel and lodging expenses will be invoiced at cost and applied to all meetings (including implementation, training, operations and support). Travel expenses only apply to out of scope travel and must therefore be pre-approved by Client.
- 7.2. Fees will be invoiced monthly to Client for Services performed during the prior month. To the extent that Consultant has commercially reasonable means to do so, Fees will be netted out of Client's monthly revenue disbursement.

8. Confidentiality Information

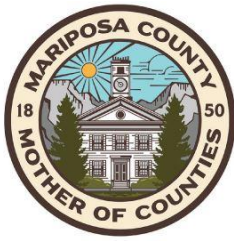
Section 7056 of the State of California Revenue and Taxation Code ("R&T Code") specifically limits the disclosure of confidential taxpayer information contained in the records of the CDTFA. Section 7056 specifies the conditions under which a California city, county or district may authorize persons other than such city, county or district's officers and employees to examine state sales and use tax records.

Notwithstanding anything to the contrary set forth in this Schedule A to the MSA, the MSA itself, or otherwise, the following conditions specified in Section 7056-(b)(1) of the R&T Code are hereby incorporated into and made part of this Schedule A to the MSA:

- 8.1. Consultant is hereby authorized by Client under this Schedule A to the MSA to examine sales or transactions and use tax records of the CDTFA provided to Client pursuant to the Bradley-Burns Uniform Local Sales and Use Tax Law (commencing with R&T Code Section 7200) and the Transactions and Use Tax Law (commencing with R&T Code 7251).
- 8.2. Consultant is required to disclose information contained in, or derived from, those sales or transactions and use tax records only to an officer or employee of Client who is authorized by Client resolution provided to the CDTFA to examine the information.
- 8.3. During the term of this Schedule A to the MSA, Consultant is prohibited from performing consulting services for a retailer (as defined in R&T Code Section 6015).

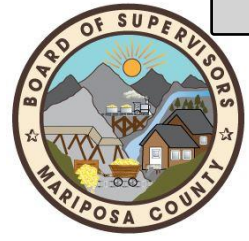
- 8.4. After the term of this Schedule A to the MSA has expired, Consultant is prohibited from retaining the information contained in or derived from those sales or transactions and use tax records.

Information obtained by examination of CDTFA records shall be used only for purposes related to the collection of local sales or transactions and use taxes by the CDTFA pursuant to this Schedule A to the MSA, or for purposes related to other governmental functions of Client as set forth by resolution of the Client adopted pursuant to R&T Code Section 7056(b). Such resolution shall designate Consultant and its personnel as authorized to (i) examine such sales or transactions and use tax records and (ii) certify that this Section 8 to Schedule A to the MSA meets the requirements set forth in R&T Code Section 7056(b)(1).



MARIPOSA COUNTY

Clerk of the Board of Supervisors • (209) 966-3222



E.1

MEETING: September 27, 2022

TO: The Board of Supervisors

FROM: Danielle Bondshu, Clerk of the Board

RE: Handouts from Departmental Presentation Portion of The September 27th, 2022, Meeting

Handouts from the Departmental Presentation Portion of the September 27th, 2022, Meeting:

- Ribbon Cutting Ceremony Invitation for Sierra Cider - Mariposa Chamber of Commerce
- Rebuilding Workshop Flyer - Alliance

ATTACHMENTS:
Handouts (PDF)

RESULT: INFORMATION RECEIVED

Ribbon Cutting Ceremony

FRI. OCTOBER 7TH AT 5:30PM



Join Us
COUNTY CHAMBER OF COMMERCE

Packet Pg. 281

5569 MEADOW LN. MARIPOSA

(LUSH MEADOWS)





ALLIANCE
FOR COMMUNITY TRANSFORMATIONS

OAK FIRE SURVIVORS

REBUILDING WORKSHOP

WHAT IS NEXT?

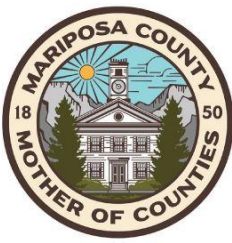
OCTOBER 2, 2022
12:00PM-5:00PM
MARIPOSA COUNTY HIGH SCHOOL

A gathering of all trades involved in rebuilding a home in one place! Contractors, Electricians, Wells, Septic, PG&E, Sierra Telephone, Environmental Health, HHSA

This event will be streamed live on the Mariposa County Health and Human Services Facebook page

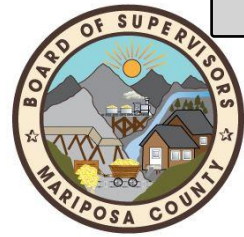
Questions? Contact Adam McLane
adam.mealliance4you.org
559-580-4945

Mariposa County
Health & Human Services Agency
Healthy. Safe. Thriving.



MARIPOSA COUNTY

Health and Human Services • (209) 966-2000



G.1

RESOLUTION - ACTION REQUESTED 2022-560

MEETING: September 27, 2022

TO: The Board of Supervisors

FROM: Joe Lynch, Health & Human Services Agency Director

RE: Approve USDA Planning Grant for Mariposa County Community Gardens

RECOMMENDATION AND JUSTIFICATION:

Approve the United States Department of Agriculture (USDA) Planning Grant, Mariposa County Community Gardens; and Authorize the Health and Human Services Agency Director to Sign the Agreement; Approve Budget Action Increasing Unanticipated Revenue and Appropriations in the USDA fund 3458-402 Budget to Correspond with Agreement Amount (\$50,000).

This Agreement is being signed by the Health and Human Services Agency Director at the request of the USDA.

The purpose of this planning grant is to partner with a subject matter expert to conduct a comprehensive county-wide survey to help inform HHSA and project partners of community needs related to food access and food security. This survey will be administered throughout the entire county across (13) geographical locations and will help to identify and locate specific opportunities to promote food access, nutrition education, and sustainable innovation. The purpose also includes to cultivate community through planning for an accessible, sustainable garden for all, where the goals of addressing food insecurity, enhancing nutritional awareness, sustaining native species and habitats, and promoting health and wellness are realized. Insight from planning efforts will support ensuring that crops from Mariposa County community gardens reach those in the community who are most in need.

Mariposa HHSA will work collaboratively with other Mariposa County departments and local organizations as part of the planning process. This planning grant will also support the following objectives that will facilitate planning efforts for Mariposa County community gardens:

Developing recommendations for implementing community gardens that can respond to community needs as they relate to how food is grown, distributed, and marketed across our community; facilitating community assessments that will help to identify opportunities that connect community needs with the benefits of agriculture such as food access, nutrition education, conservation, innovation, and economic development; and, providing support for municipal planning that considers policies to

meet the growing needs of and zoning for community gardens.

BACKGROUND AND HISTORY OF BOARD ACTIONS:

This is a new USDA planning grant for Mariposa County Community Gardens in the amount of \$50,000. There has been no prior board action on this item.

ALTERNATIVES AND CONSEQUENCES OF NEGATIVE ACTION:

If the agreement and budget action are not approved, Mariposa County HHSA will not be able to accept the USDA Planning Grant, Mariposa County Community Gardens. Mariposa County HHSA would be required to seek alternate funding in support of planning for community gardens and promoting food access and food security across the county.

FINANCIAL IMPACT:

There is no impact to the County General Fund. New revenue to be received under the grant will offset the cost of the grant activities.

ATTACHMENTS:

NR223A750001G053_ NOA with County of Mariposa for Signatures (PDF)
Budget Action for Planning Grant, Mariposa County Community Gardens FY22-23 (PDF)
USDA Community Garden Planning Grant Budget Narrative Final (DOCX)

RESULT: ADOPTED [UNANIMOUS]

MOVER: Marshall Long, District III Supervisor

SECONDER: Miles Menetrey, District V Supervisor

AYES: Rosemarie Smallcombe, Marshall Long, Wayne Forsythe, Miles Menetrey



U.S. Department of Agriculture
Natural Resources Conservation Service

NRCS **G.1.a**

NOTICE OF GRANT AND AGREEMENT AWARD

1. Award Identifying Number NR223A750001G053	2. Amendment Number	3. Award /Project Period Date of Final Signature - 06/30/2023	4. Type of award instrument: Grant Agreement
5. Agency (Name and Address) USDA, NRCS Office of the Associate Chief for Conservation 1400 Independence Avenue SW Washington, DC 20250		6. Recipient Organization (Name and Address) COUNTY OF MARIPOSA PO BOX 729 MARIPOSA CA 95338-0729 UEI Number: PNG4LUYEKK53/ DUNS Number: 071859607 EIN: 946000880	
7. NRCS Program Contact Name: LESLIE GLOVER Phone: (202) 260-8583 Email: leslie.glover@usda.gov	8. NRCS Administrative Contact Name: Jose Berna Phone: (202) 572-5814 Email: Jose.Berna@usda.gov	9. Recipient Program Contact Name: Amanda Brum Phone: 209-742-0807 Email: abrum@mariposacounty.org	10. Recipient Administrative Contact Name: Randy Ridenhour Phone: 209-742-0922 Email: rridenhour@mariposacounty.org
11. CFDA 10.935	12. Authority 7 USC 6923 7 USC 6923	13. Type of Action New Agreement	14. Program Director Name: Andrew Carter Phone: 209-742-0891 Email: acarter@mariposacounty.org
15. Project Title/ Description: Planning Grant, Mariposa County Community Gardens			
16. Entity Type: B = County Government			
17. Select Funding Type			
Select funding type:	☒ Federal		☐ Non-Federal
Original funds total	\$50,000.00	\$0.00	
Additional funds total	\$0.00	\$0.00	
Grand total	\$50,000.00	\$0.00	
18. Approved Budget			

Attachment: NR223A750001G053 _ NOA with County of Mariposa for Signatures (RES-2022-560 : Approve USDA Planning Grant for Mariposa

Personnel	\$0.00	Fringe Benefits	\$0.00
Travel	\$0.00	Equipment	\$0.00
Supplies	\$0.00	Contractual	\$0.00
Construction	\$0.00	Other	\$50,000.00
Total Direct Cost	\$50,000.00	Total Indirect Cost	\$0.00
		Total Non-Federal Funds	\$0.00
		Total Federal Funds Awarded	\$50,000.00
		Total Approved Budget	\$50,000.00

This agreement is subject to applicable USDA NRCS statutory provisions and Financial Assistance Regulations. In accepting the award or amendment and any payments made pursuant thereto, the undersigned represents that he or she is duly authorized to act on behalf of the awardee organization, agrees that the award is subject to the applicable provisions of this agreement (and its attachments), and agrees that acceptance of any payments constitutes an agreement by the payee that the amounts, if any, found by NRCS to have been overpaid, will be refunded or credited in full to NRCS.

Name and Title of Authorized Government Representative LOUIS ASPEY NRCS Associate Chief	Signature	Date
Name and Title of Authorized Recipient Representative JOE LYNCH Director	Signature	Date

NONDISCRIMINATION STATEMENT

The U.S. Department of Agriculture (USDA) prohibits discrimination in all its programs and activities on the basis of race, color, national origin, age, disability, and where applicable, sex, marital status, familial status, parental status, religion, sexual orientation, genetic information, political beliefs, reprisal, or because all or a part of an individual's income is derived from any public assistance program. (Not all prohibited bases apply to all programs.) Persons with disabilities who require alternative means for communication of program information (Braille, large print, audiotape, etc.) should contact USDA's TARGET Center at (202) 720-2600 (voice and TDD). To file a complaint of discrimination write to USDA, Director, Office of Civil Rights, 1400 Independence Avenue, SW., Washington, DC 20250-9410 or call (800) 795-3272 (voice) or (202) 720-6382 (TDD). USDA is an equal opportunity provider and employer.

PRIVACY ACT STATEMENT

The above statements are made in accordance with the Privacy Act of 1974 (5 U.S.C. Section 522a).

Statement of Work

Purpose

The purpose of this agreement, between the U.S. Department of Agriculture, Natural Resources Conservation Service (NRCS) and Mariposa County Health & Human Services Agency (Recipient), is: to seek grant funding to conduct a comprehensive county-wide food security survey to help inform us of community needs and identify specific opportunities to connect our community with the benefits of agriculture through community gardens, with an emphasis on promoting food access, nutrition education, and sustainable innovation.

This Planning Project entitled Planning Grant, Mariposa County Community Gardens will:

- 1) Initiate planning efforts in support of a community garden. We have identified a potential site for a community garden which is adjacent to a planned high-density housing development and proposed recreational center. This location also ties into our extensive Mariposa County Creek Parkway project. This complementary project will establish nearly four miles of dedicated bicycle and pedestrian facilities throughout the Mariposa Creek Corridor. These dynamics will help to enhance accessibility for a community garden.
- 2) Work with our local tribal members of the Southern Sierra Miwuk Nation to plan for the incorporation and care of native plants and habitats, as well as the promotion of related educational opportunities. We will collaborate with youth groups such as Future Farmers of America (FFA), 4-H, and local Boy and Girl Scout Troops, as well as working closely with our local school district. We will collaborate with our local UC Master Gardener Program members in planning and care of the garden and plans to beautify the space through collaborating with the Mariposa Arts Council.
- 3) Cultivate community through planning for an accessible, sustainable garden for all, where the goals of addressing food insecurity, enhancing nutritional awareness, sustaining native species and habitats, and promoting health and wellness are realized. Insight from planning efforts will support ensuring that crops from the garden reach those in our community who are most in need, including local senior nutrition services and school meal programs.

Objectives

Objective 1: Develop recommendations for implementing community gardens and farms that can include urban agroforestry practices, food forests, or orchards, that respond to community needs as it relates to how food is grown, distributed, and marketed in target area(s)

Objective 2: Facilitate community assessments and identify opportunities that connect community needs with the benefits of agriculture such as food access, nutrition education, conservation, innovation, and economic development.

Objective 3: Provide support for municipal planning that considers policies to meet the growing needs of and zoning for community gardens and farms, urban agroforestry, orchards, outdoor vertical production, green walls, greenhouses, and/or hydroponic, aeroponic, and aquaponic farm designs.

Budget Narrative

The official budget described in this Budget Narrative will be considered the total budget as last approved by the Federal awarding agency for this award.

Amounts included in this budget narrative are estimates. Reimbursement or advance liquidations will be based on actual expenditures, not to exceed the amount obligated.

TOTAL BUDGET \$ 50,000

TOTAL FEDERAL FUNDS \$ 50,000

=====

PERSONNEL \$3,448.28

Program Director: Andrew Carter, Senior Administrative Analyst II, Certified Associate in Project Management (CAPM), will serve as the Program Director in this Planning Project. Andrew will take the lead on all project management

deliverables to include overseeing daily activities. He will be accountable for assuring all project goals are met time effectively and will be accountable for submitting reports and updates as required.

Estimated support and pay rates include .5 FTE per quarter with a monthly pay rate of \$11,007.23, or \$16,510.85 quarterly.

Program Contact: Amanda Brum, Administrative Analyst II, BBA, will serve as the Program Contact for this planning project and will be responsible for all project activities, to include coordinating all community outreach events and travel to neighboring community gardens. Estimated support and pay rates include .33 FTE per quarter with a monthly pay rate of \$8,455.47, or \$8,370.92 quarterly.

Administrative Contact: Randy Ridenhour, Senior Administrative Analyst-Fiscal, BSW, will serve as the Administrative Contact for this planning project and will support with required reporting responsibilities. Estimated support and pay rates include .05 FTE per quarter with a monthly pay rate of \$10,174.98, or \$1,526.25 quarterly.

Staff costs include the project leadership as noted above and associated efforts within a cross-functional planning team, administrative planning efforts, stakeholder and community engagement, analysis and preparation of a plan based on consultant survey outputs, and preparation of planning recommendations for presentation to the community, stakeholders, and the Mariposa County of Board of Supervisors.

FRINGE BENEFITS \$1,551.72

As a county government agency, with union agreements and various levels of seniority and licensure, and various health insurance costs per employee, our benefits rate varies per person and is not a fixed rate. In applying the fringe benefits amount noted above of \$1,551.72 and dividing this by the personnel amount of \$3,448.28, this is equal to an averaged 45% fringe benefit rate.

TRAVEL \$3,000.00

These costs represent the anticipated travel costs associated with supporting both consultant travel and staff community engagement travel. Recipient agency follows federal travel guidelines, including the federal mileage rate of 58.5 cents per mile. For a potential consultant based in the California bay area, round-trip travel costs would be approximately \$200.00 per trip. It is anticipated that over the year-long planning grant, the consultant would complete five trips, reaching a total cost of \$1,000.00. Staff travel costs would support the assessment and evaluation of similar community garden projects in surrounding areas to support planning and development efforts. The remainder of this budget would be used to support transportation services to ensure community members and stakeholders from diverse geographic regions of the county were provided with transportation to attend designated community engagement events through providing gasoline cards or bus passes.

Travel will include direct community engagement for the purpose of engaging community members across Mariposa County regarding food access, nutrition education, and sustainable innovations. Travel will occur within the second and third quarters of the planning grant, October 2022 through March 2023.

Round-trip travel in support of community engagement events will occur with a starting point of Mariposa HHSA, 5362 Lemee Lane, Mariposa, CA 95338 for all events and will include the following (13) areas of Mariposa County:

1. Bootjack, 14.2 miles
2. Catheys Valley, 20.6 miles
3. Coulterville, 50.4 miles
4. El Portal, 55.4 miles
5. Fish Camp, 82.2 miles
6. Greeley Hill, 63.8 miles
7. Hornitos, 33.4 miles
8. La Grange, Lake Don Pedro, 67.6 miles
9. Mariposa, 3.6 miles
10. Midpines, 13.4 miles
11. Ponderosa Basin, 34.2 miles
12. Wawona, 83.0 miles
13. Yosemite (West), 75.8 miles

Total estimated miles for Staff travel, community engagement events:

597.6 miles @ 58.5 cents per mile = \$349.60 per employee
 2 Employees per event, total mileage= \$349.60 * 2 = \$699.19 Total

Mariposa County hosts a well-attended annual County Fair which would present an additional opportunity for community engagement; the dates for this event fall within the project timeline- September 2nd, 2022 through September 5th, 2022. Round-trip travel for 2 Staff to attend this event each day, with a starting point of Mariposa HHSA, 5362 Lemee Lane, Mariposa, CA 95338:

Mariposa County Fairgrounds, 7.4 miles = \$4.33 per trip, * 4 dates: \$17.32

Round-trip travel in support of community garden planning and development will occur with a starting point of Mariposa HHSA, 5362 Lemee Lane, Mariposa, CA 95338 for all trips and will include the following three community gardens within neighboring counties:

1. Healthy House Within a Match Community Garden, Merced, CA, 73.8 miles
2. Twain Harte Community Gardens, 130.0 miles
3. Fresno Community Gardens, 158.0 miles

Total estimated miles for Staff travel, neighboring county community gardens:

361.8 miles @ 58.5 cents per mile = \$211.65 per employee

2 Employees per trip, total mileage= \$211.65 * 2 = \$423.30 Total

Total estimated travel costs for Staff: \$699.19 + \$17.32 + \$423.30 = \$1,139.81

The remaining budget allotted for travel (\$860.19) would include the provision of \$10 gasoline cards or \$8 bus pass vouchers to community members to support travel to the (13) geographically defined community outreach events.

EQUIPMENT \$0

SUPPLIES \$5,500.00

These costs represent the design, development, printing and mailing costs of marketing materials such as flyers, signage, community mailers, and mobile community outreach kits over the one-year time period of the project to be \$5,500.00.

Based on 2020-2021 Census data, Mariposa County is home to approximately 17,658 residents. These residents represent approximately 7,846 households located within Mariposa County. For this reason, we anticipate direct marketing to 7,846 households. We would also develop marketing materials to be offered at each of the 13 community outreach events. Based on an estimated number of 50-75 participants at each event, we would develop 975 mobile community outreach kits. These mobile community outreach kits would be developed to complement the comprehensive community survey. The outreach kits would address elements related to food access, nutrition education, and sustainable innovations through including the following potential resources:

- Nutrition Education information
- The benefits of healthy foods in support of improved physical health
- Local Food Resources
- CalFresh Applications
- Recipe cards for low-cost, healthy meals
- Applications to partner as a local food procurement provider/local farmer

CONTRACTUAL \$20,000.00

This cost includes the cost of acquiring and partnering with a Consultant in support of a comprehensive community survey. This total investment is based on a competitive hourly rate of \$200.00 to develop, plan, and administer a comprehensive community food access and food security survey. This contractual amount is based on an anticipated 100.00 hours of work to achieve these goals as stated, and includes the cost and hours anticipated to design and develop a comprehensive survey, and complete a full report and data dashboard.

The Cost Proposal for the Consultant (TBD) would include the following objectives:

- Develop a comprehensive food access and food security survey for use within Mariposa County
 - o Review of marketing materials that complement food access, security survey
 - o Review of mobile community outreach kits that complement food access, security survey
- Strategic efforts in planning for the administration of the comprehensive food security survey
- Analyze and compile data to develop a full report on Mariposa County food access and food security
 - o Strategic consultation following all community engagement events
- Data compiled for the purpose of developing recommendations in support of implementation of community gardens in Mariposa County
- Development of a data dashboard highlighting key findings and opportunities that support recommendations to respond to community needs as they relate to how food is grown, distributed, and marketed in target areas

The amount of work hours anticipated in support of these five objectives is estimated to be twenty hours per objective. The total estimated cost for these deliverables, spanning an estimated 100 hours at an hourly rate of \$200.00, would account for an estimated budget of \$20,000.00.

CONSTRUCTION \$0

OTHER \$12,000.00

This total amount includes the anticipated costs of marketing and advertising, as well as the cost for food incentives for community survey respondents. Anticipated costs to provide light refreshments as part of community engagement meetings and outreach events is valued at \$6,500.00 allowing for a \$500.00 budget for each of the (13) outreach sites identified. The expected number of attendees at each event is 50-75.

Mariposa County also hosts a well-attended annual County Fair, scheduled for September 2nd – 5th, 2022. The cost for tabling to promote the survey and project would cost \$300.00 for the duration of the event.

The anticipated cost for advertisement (print and social media) in our local newspapers is \$1,500.00.

This budget item also incorporates the remaining expected costs of \$3,700 for the exploration of and planning for permits, zoning, assessing solar energy and sustainable energy sources, and relevant planning needs that may arise in the course of our efforts.

TOTAL DIRECT COSTS \$45,500.00

INDIRECT COSTS \$4,500.00

Recipient has elected to use the de minimis indirect cost rate.

Responsibilities of the Parties:

If inconsistencies arise between the language in this Statement of Work (SOW) and the General Terms and Conditions attached to the agreement, the language in this SOW takes precedence.

NRCS RESPONSIBILITIES

- 1) Coordinate with the Program Director the technical assistance necessary to complete deliverables.
- 2) Review all pre-published draft material developed to ensure it complies with USDA visual standards and regulations.
- 3) Conduct ad-hoc meetings (via electronic, phone or in-person field visit) to discuss the progress of the agreement.

RECIPIENT RESPONSIBILITIES

- 1) Follow methodology and evaluation plan established in the project narrative and inform the Program Manager any changes.
- 2) Work collaboratively with Public Works, Parks & Recreation, Environmental Health, the Community Health Center through Public Health, the Planning department, Health and Nutrition Education programs, and Behavioral Health. Community Organization such as Mariposa Safe Families, The Alliance for Community Transformations, and Native Solutions,
- 3) Review available material from the USDA in regard of the USDA general style and message layouts and follow the USDA civil right policy in accordance with USDA Departmental Regulation 4300-3, Equal Opportunity (EO) Public Notification Policy, and Section 7, in which all will comply with the usage of the USDA Non-discrimination Statement.
- 4) Perform the work and produce the deliverables as outlined in this Statement of Work.
- 5) Conduct all activities and program provision under this agreement in compliance with all applicable federal civil right laws, rules, regulations, and policies.
- 6) Ensure no member of or delegate to Congress or Resident Commissioner shall be admitted to any share or part of this agreement or to any benefit that may arise there from.
- 7) Comply with the applicable version of the General Terms and Conditions.
- 8) Submit reports and payment requests to the ezFedGrants system or the Farm Production and Conservation (FPAC) Grants and Agreements Division via email to FPAC.BC.GAD@usda.gov as outlined in the applicable version of the General Terms and Conditions. Limit advance payment requests to immediate cash needs (30 days). Reporting frequency is as follows:

Performance reports: annual

SF425 Financial Reports: Annual. If advance payments are requested, the financial report frequency is quarterly.

Reimbursement: Quarterly

Expected Accomplishments and Deliverables

1. Perform robust data collection to create a baseline in support of project planning efforts. This will be achieved through identifying a consultant to complete a community-wide survey which focuses on food access and food security. We will

take an instrumental role in the development of the survey to ensure the results are targeted for our needs.

2. Facilitate agriculture assessments and identify opportunities that connect community needs with the benefits of agriculture such as food access, nutrition education, conservation, innovation, and economic development.

1. Planning activities will allow the team to assess project feasibility and strategy through the completion of agricultural assessments, to include the exploration of and planning for permits, zoning, assessing solar energy and sustainable energy sources.

Milestones and deliverables as described below will be achieved throughout each quarter of the one-year grant period, July 2022 through June 2023:

Quarter 1 | July August -September 2022

- Identify and convene a cross-sectional team to begin collaborative planning efforts
- Review and schedule tasks related to planning project goals, timeline, and budget
- Research, identify, and contract with consultant
- Collaborative development of comprehensive community food access and food security survey with contracted Consultant
- Design and purchase mobile community outreach kits
- Plan and schedule all (13) community engagement events, to include organizing transportation services to promote inclusion and accessibility
- Engage community and all stakeholders to promote community survey, and community engagement events
- Promote community food access and food security survey at Mariposa County Fair
- First-quarter budget reporting from Fiscal Analyst to Project Manager
- End of quarter reporting and planning progress assessment

Quarter 2 | October-December 2022

- Begin roll-out of Community Food Access and Food Security Survey
- Initiate and deliver planned community engagement events
- Continue cross-sectional planning meetings
- Analyze progress toward planning project goals, timeline, and budget
- Quarterly budget reporting from Fiscal Analyst to Project Manager
- End of quarter reporting and planning progress assessment

Quarter 3 | January – March 2023

- Continuation and completion of planned community engagement events
- Continuation of cross-sectional planning meetings
- Analyze progress toward project planning goals, timeline, and budget
- Quarterly budget reporting from Fiscal Analyst to Project Manager
- Travel and evaluation of Community Garden projects; analysis to support project implementation
- End of quarter reporting and planning progress assessment

Quarter 4 | April – June 2023

- Continue cross-sectional planning meetings with emphasis on next steps at end of grant period, based on analysis of completed progress in achieving planning project goals
- Evaluate budget expenditures in preparation for end of grant period based on quarterly budget reporting from Fiscal Analyst to Project Manager
- Project lead analysis of consultant final report, data dashboard, and related outputs
- Presentation of final report to community, stakeholders, and Mariposa County Board of Supervisors
- Initiate draft proposal in support of project implementation based on planning grant results

Resources Required

See the Responsibilities of the Parties section for required resources, if applicable.

Milestones

See the Expected Accomplishments and Deliverables section for milestones.

GENERAL TERMS AND CONDITIONS

Please reference the below link(s) for the General Terms and Conditions pertaining to this award:
<https://www.fpacbc.usda.gov/about/grants-and-agreements/award-terms-and-conditions/index.html>

Attachments – Project Narrative “Planning Grant, Mariposa County Community Gardens”

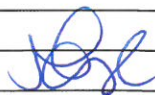
BUDGET ACTION FORM

FUND	DEPT/DIV	ACCOUNT	DESCRIPTION	INCREASE	DECREASE
3458	402	46043	USDA Planning Grant - Federal	(50,000)	
3458	402	51111	Regular salaries and wages	3,383	
3458	402	51201	FLSA ADJUST	0	
3458	402	51202	Monthly Longevity	34	
3458	402	52301	Social Security	189	
3458	402	52302	Medicare	44	
3458	402	52201	Medical/Dental/Vision	934	
3458	402	52101	Retirement - Employer	374	
3458	402	52205	Life Insurance	2	
3458	402	52303	SDI	38	
3458	402	52206	Cash - Cafeteria Plan	2	
3458	402	60111	Training and Seminars	500	
3458	402	60121	Meals	500	
3458	402	60122	Lodging	1,500	
3458	402	60123	Mileage	500	
3458	402	60213	Office Supplies	5,500	
3458	402	60301	General Professional Services	20,000	
3458	402	60508	Client - Community Education and Engag	12,000	
3458	402	80111	Transfer Out - General	4,500	
1001	507	49101	Transfer In - General	-4,500	
1001	507	60213	Office Supplies	4,500	
Budget Action for USDA Planning Grant, Mariposa County Community Gardens FY22-23					
TRANSFER BETWEEN FUNDS					
				0	0

ACTION REQUESTED: (Check all that apply)

- (X) Budget appropriation by Board of Supervisors (4/5ths Vote Required): Amending the total amount available in the county budget, or in any one fund of the budget, or appropriating Reserve for Contingencies
- () Transfer by Board of Supervisors (3/5ths Vote Required): Moving existing appropriations from one budget to another, or between categories within a budget unit.

DEPT HEAD SIGNATURE



DATE: 9/12/2022

APPROVED BY RES NO.

CLERK

DATE

AUDITOR'S USE ONLY

BA#

BUDGET NARRATIVE –This section must be in narrative form (characters and spaces only). The budget narrative cannot be referenced as an attachment. Must follow GAD’s Budget Narrative Guidance. If the budget includes unrecovered indirect costs, this section must expressly state that.

The official budget described in this Budget Narrative will be considered the total budget as last approved by the Federal awarding agency for this award.

Amounts included in this budget narrative are estimates. Reimbursement or advance liquidations will be based on actual expenditures, not to exceed the amount obligated.

TOTAL BUDGET \$ 50,000

TOTAL FEDERAL FUNDS \$ 50,000

PERSONNEL \$3,448.28

Program Director: Andrew Carter, Senior Administrative Analyst II, Certified Associate in Project Management (CAPM), will serve as the Program Director in this Planning Project. Andrew will take the lead on all project management deliverables to include overseeing daily activities. He will be accountable for assuring all project goals are met timely and effectively and will be accountable for submitting reports and updates as required.

Estimated support and pay rates include .5 FTE per quarter with a monthly pay rate of \$11,007.23, or \$16,510.85 quarterly.

Program Contact: Amanda Brum, Administrative Analyst II, BBA, will serve as the Program Contact for this planning project and will be responsible for all project activities, to include coordinating all community outreach events and travel to neighboring community gardens.

Estimated support and pay rates include .33 FTE per quarter with a monthly pay rate of \$8,455.47, or \$8,370.92 quarterly.

Administrative Contact: Randy Ridenhour, Senior Administrative Analyst-Fiscal, BSW, will serve as the Administrative Contact for this planning project and will support with required reporting responsibilities.

Estimated support and pay rates include .05 FTE per quarter with a monthly pay rate of \$10,174.98, or \$1,526.25 quarterly.

Staff costs include the project leadership as noted above and associated efforts within a cross-functional planning team, administrative planning efforts, stakeholder and community engagement, analysis, and preparation of a plan based on consultant survey

outputs, and preparation of planning recommendations for presentation to the community, stakeholders, and the Mariposa County of Board of Supervisors.

FRINGE BENEFITS \$1,551.72

As a county government agency, with union agreements and various levels of seniority and licensure, and various health insurance costs per employee, our benefits rate varies per person and is not a fixed rate. In applying the fringe benefits amount noted above of \$1,551.72 and dividing this by the personnel amount of \$3,448.28, this is equal to an averaged 45% fringe benefit rate.

TRAVEL \$3,000.00

These costs represent the anticipated travel costs associated with supporting both consultant travel and staff community engagement travel. Recipient agency follows federal travel guidelines, including the federal mileage rate of 58.5 cents per mile. For a potential consultant based in the California bay area, round-trip travel costs would be approximately \$200.00 per trip. It is anticipated that over the year-long planning grant, the consultant would complete five trips, reaching a total cost of \$1,000.00. Staff travel costs would support the assessment and evaluation of similar community garden projects in surrounding areas to support planning and development efforts. The remainder of this budget would be used to support transportation services to ensure community members and stakeholders from diverse geographic regions of the county were provided with transportation to attend designated community engagement events through providing gasoline cards or bus passes.

Travel will include direct community engagement for the purpose of engaging community members across Mariposa County regarding food access, nutrition education, and sustainable innovations. Travel will occur within the second and third quarters of the planning grant, October 2022 through March 2023.

Round-trip travel in support of community engagement events will occur with a starting point of Mariposa HHSA, 5362 Lemee Lane, Mariposa, CA 95338 for all events and will include the following (13) areas of Mariposa County:

1. Bootjack, 14.2 miles
2. Catheys Valley, 20.6 miles
3. Coulterville, 50.4 miles
4. El Portal, 55.4 miles
5. Fish Camp, 82.2 miles

6. Greeley Hill, 63.8 miles
7. Hornitos, 33.4 miles
8. La Grange, Lake Don Pedro, 67.6 miles
9. Mariposa, 3.6 miles
10. Midpines, 13.4 miles
11. Ponderosa Basin, 34.2 miles
12. Wawona, 83.0 miles
13. Yosemite (West), 75.8 miles

Total estimated miles for Staff travel, community engagement events:

597.6 miles @ 58.5 cents per mile = \$349.60 per employee

2 Employees per event, total mileage= \$349.60 * 2 = \$699.19 Total

Mariposa County hosts a well-attended annual County Fair which would present an additional opportunity for community engagement; the dates for this event fall within the project timeline-September 2nd, 2022 through September 5th, 2022. Round-trip travel for 2 Staff to attend this event each day, with a starting point of Mariposa HHSA, 5362 Lemee Lane, Mariposa, CA 95338:

Mariposa County Fairgrounds, 7.4 miles = \$4.33 per trip, * 4 dates: \$17.32

Round-trip travel in support of community garden planning and development will occur with a starting point of Mariposa HHSA, 5362 Lemee Lane, Mariposa, CA 95338 for all trips and will include the following three community gardens within neighboring counties:

1. Healthy House Within a Match Community Garden, Merced, CA, 73.8 miles
2. Twain Harte Community Gardens, 130.0 miles
3. Fresno Community Gardens, 158.0 miles

Total estimated miles for Staff travel, neighboring county community gardens:

361.8 miles @ 58.5 cents per mile = \$211.65 per employee

2 Employees per trip, total mileage= $\$211.65 * 2 = \$423.30$ Total

Total estimated travel costs for Staff: $\$699.19 + \$17.32 + \$423.30 = \$1,139.81$

The remaining budget allotted for travel (\$860.19) would include the provision of \$10 gasoline cards or \$8 bus pass vouchers to community members to support travel to the (13) geographically defined community outreach events.

EQUIPMENT \$0

SUPPLIES \$5,500.00

These costs represent the design, development, printing and mailing costs of marketing materials such as flyers, signage, community mailers, and mobile community outreach kits over the one-year time period of the project to be \$5,500.00.

Based on 2020-2021 Census data, Mariposa County is home to approximately 17,658 residents. These residents represent approximately 7,846 households located within Mariposa County. For this reason, we anticipate direct marketing to 7,846 households. We would also develop marketing materials to be offered at each of the 13 community outreach events. Based on an estimated number of 50-75 participants at each event, we would develop 975 mobile community outreach kits. These mobile community outreach kits would be developed to complement the comprehensive community survey. The outreach kits would address elements related to food access, nutrition education, and sustainable innovations through including the following potential resources:

- Nutrition Education information
- The benefits of healthy foods in support of improved physical health
- Local Food Resources
- CalFresh Applications
- Recipe cards for low-cost, healthy meals
- Applications to partner as a local food procurement provider/local farmer

CONTRACTUAL \$20,000.00

This cost includes the cost of acquiring and partnering with a Consultant in support of a comprehensive community survey. This total investment is based on a competitive hourly rate of \$200.00 to develop, plan, and administer a comprehensive community food access and food security survey. This contractual amount is based on an

anticipated 100.00 hours of work to achieve these goals as stated, and includes the cost and hours anticipated to design and develop a comprehensive survey, and complete a full report and data dashboard.

The Cost Proposal for the Consultant (TBD) would include the following objectives:

- Develop a comprehensive food access and food security survey for use within Mariposa County
- Review of marketing materials that complement food access, security survey
- Review of mobile community outreach kits that complement food access, security survey
- Strategic efforts in planning for the administration of the comprehensive food security survey
- Analyze and compile data to develop a full report on Mariposa County food access and food security
- Strategic consultation following all community engagement events
- Data compiled for the purpose of developing recommendations in support of implementation of community gardens in Mariposa County
- Development of a data dashboard highlighting key findings and opportunities that support recommendations to respond to community needs as they relate to how food is grown, distributed, and marketed in target areas

The amount of work hours anticipated in support of these five objectives is estimated to be twenty hours per objective. The total estimated cost for these deliverables, spanning an estimated 100 hours at an hourly rate of \$200.00, would account for an estimated budget of \$20,000.00.

CONSTRUCTION \$0

OTHER \$12,000.00

This total amount includes the anticipated costs of marketing and advertising, as well as the cost for food incentives for community survey respondents. Anticipated costs to provide light refreshments as part of community engagement meetings and outreach events is valued at \$6,500.00 allowing for a \$500.00 budget for each of the (13) outreach sites identified. The expected number of attendees at each event is 50-75.

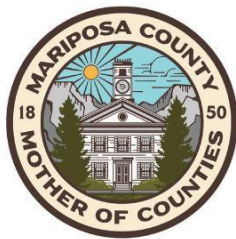
Mariposa County also hosts a well-attended annual County Fair, scheduled for September 2nd – 5th, 2022. The cost for tabling to promote the survey and project would cost \$300.00 for the duration of the event.

The anticipated cost for advertisement (print and social media) in our local newspapers is \$1,500.00. This budget item also incorporates the remaining expected costs of \$3,700 for the exploration of and planning for permits, zoning, assessing solar energy and sustainable energy sources, and relevant planning needs that may arise in the course of our efforts.

TOTAL DIRECT COSTS \$45,500.00

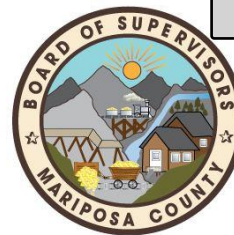
INDIRECT COSTS \$4,500.00

Recipient has elected to use the de minimis indirect cost rate.



MARIPOSA COUNTY

Planning · 209-966-5151



RESOLUTION - ACTION REQUESTED 2022-561

MEETING: September 27, 2022

TO: The Board of Supervisors

FROM: Sarah Williams, Planning Director

RE: Authorize the Destruction of Planning Department Vacation Rental Application Files

RECOMMENDATION AND JUSTIFICATION:

Authorize the destruction of Planning Department Vacation Rental Application Files (hard copy files) that are more than two (2) years old.

For this item, the term "Vacation Rental Application files" means any application file (physical file) that the Planning Department has that is a short term rental and includes those for a Vacation Rental, Bed and Breakfast, Agricultural Home Stay, Hotel/Motel or Amended Transient Occupancy Tax Certificate.

After the file has either been approved, withdrawn or denied, the physical files are scanned into Questys (Planning's archiving system) and then stored in the Government Center Vault.

The vault is used by multiple County Departments for archiving physical documents. The Planning Department's portion of the vault has reached its storage capacity.

The physical documents stored in the vault are no longer needed as they are scanned and accessible digitally through Questys.

There is an immediate need to clear space in the Government Center vault. Consequently, staff is requesting this one-time authority to dispose of any Vacation Rental Application physical files that have an approval, withdrawal or a denial date that is Two (2) years or older and that have been determined to be scanned and archived digitally in Questys.

AUTHORITY:

California Government Code, Section 26202, addresses this request:

"The board may authorize the destruction or disposition of any record, paper, or document which is more than two years old and which was prepared or received in any manner other than pursuant to a state statute or county charter. The board may authorize the destruction or disposition of any record, paper or document which is more than two years old, which was prepared or received pursuant to state statute or county charter, and which is not expressly required by law to be filed and preserved if the board determines by four-fifths (4/5) vote that the retention of any such record,

paper or document is no longer necessary or required for county purposes. Such records, papers or documents need not be photographed, reproduced or microfilmed prior to destruction and no copy thereof need be retained."

BACKGROUND AND HISTORY OF BOARD ACTIONS:

November 13, 2018, Resolution No. 2018-535 authorized the destruction of Code Compliance Case closed files that were verified to be scanned and accessible via a digital version.

September 20, 2022, This item was brought to the Board for 5 year retention of files and was requested that the time of file retention be reduced to 2 years.

ALTERNATIVES AND CONSEQUENCES OF NEGATIVE ACTION:

Alternatives: Change age of files to be destroyed.

Negative Action: The physical Vacation Rental Application files will continue to be housed in the Government Center Vault, where space is extremely limited.

RESULT: ADOPTED [UNANIMOUS]

MOVER: Wayne Forsythe, District IV Supervisor

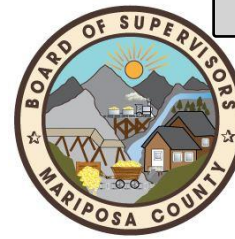
SECONDER: Marshall Long, District III Supervisor

AYES: Rosemarie Smallcombe, Marshall Long, Wayne Forsythe, Miles Menetrey



MARIPOSA COUNTY

Planning · 209-966-5151



MEETING: September 27, 2022

TO: The Board of Supervisors

FROM: Sarah Williams, Planning Director

RE: Discussion Regarding Waiving Fees for Oak Fire Permits

TITLE OF PRESENTATION:

Discussion and Potential Direction to Staff Regarding Waiving Fees for Oak Fire Permits. The Board of Supervisors requested this discussion at their meeting on August 16, 2022. The Board is interested in helping Oak Fire victims to get back to their properties, which may include permit fee waivers. Staff would need to bring back a formal resolution with findings, if so directed.

The Oak Fire destroyed over 200 structures, 127 of which were residential dwelling units. The other structures destroyed or damaged included garages, workshops and barns. For those properties, one of the first permits a property owner will seek is the blue tag or permit for re-powering the site. Property owners may also seek permits to repair a well and/or to repair a septic system. Power, water and sewage disposal are all important to property owners who plan to reoccupy or rebuild at a site, with either temporary housing or permanent replacement housing.

Current permit costs:

Permit Type	Permit Cost
Blue Tag (Electrical)	\$410
New Well	\$364
Septic Repair	\$269 - \$690
Temporary Housing (RV) (Per Chapter 18.05)	\$410

If the Board takes action to waive just blue tag permit costs, and if all 127 property owners whose residences were destroyed sought the waiver, the potential impact to the general fund could be as high as \$52,070. It is likely that other property owners whose power poles were destroyed by the fire, but whose residences did not burn, who would also want to take advantage of the program, if offered. It is also possible that many of the property owners' homeowners' insurance policies would cover the costs of permits to rebuild, including the blue tag permit.

Information Item

Insurance coverage rates for the two zip codes overlapping the Oak Fire burn area obtained by CalOES staff follows:

Zip Code	Policy Rate Coverage Overall	Policy Rate Coverage for Rentals
95338	81%	25%
95345	48%	13%

Because the Building Department is an enterprise fund, the costs for any fees waived would need to be paid by the County's General Fund.

BACKGROUND AND HISTORY - OAK FIRE:

On July 22, 2022, the Oak Fire broke out at 4966 Carstens Road in Midpines. Over 200 structures were ultimately destroyed by the Oak Fire, with 127 of those being residential dwelling units. The Board has taken many actions since then regarding the fire, including but not limited to ratifying the Local Emergency proclaimed by the Director of Emergency Services and ratifying the Local Health Emergency declared by the County Health Officer. Relative to Debris Removal, the Board adopted Interim Urgency Ordinances 1178 and 1179 for the State Consolidated Program and the Private Option.

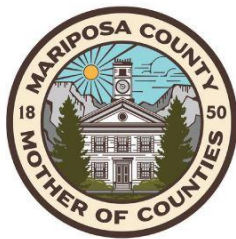
BACKGROUND AND HISTORY - DETWILER FIRE:

August 8, 2017: Resolution 17-541 waived blue tag permit fees for Detwiler Fire victims whose home owner's insurance did not cover those fees. The duration of the waiver was from July 16, 2017 to June 30, 2018. At this time, the maximum fiscal impact of the resolution was up to \$17,000.

According to Building's records, there were 25 blue tag permits issued to Detwiler Fire victims under this resolution.

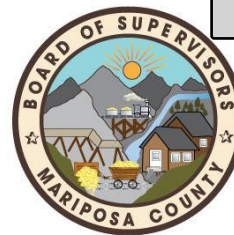
There were 10 temporary residential permits issued to Detwiler Fire victims (to live in an RV either on-site or off-site). The costs for these permits were paid for by Health and Human Services Agency.

RESULT: INFORMATION RECEIVED



MARIPOSA COUNTY

Administration/Technical Services • 966-3222



RESOLUTION - ACTION REQUESTED 2022-562

MEETING: September 27, 2022

TO: The Board of Supervisors

FROM: Dallin Kimble, County Administrative Officer

RE: Approve the Agreement with Lansweeper for Asset Management, in an Amount Not to Exceed \$2,360

RECOMMENDATION AND JUSTIFICATION:

Approve an Agreement with Lansweeper for Technical Asset Management in an Amount not to Exceed \$2,360; and Authorize the Board of Supervisors Chair to Sign the Agreement.

The Lansweeper Asset Management solution is a real-time tool used to track technological assets, like computers and cell phones, that attach to our network. This information can be used to ensure a secure network and to assist with procurement and maintenance of authorized network devices.

This agreement is for a one-year term beginning September 27, 2022, in the amount of \$2,360. Unless the solution is canceled, the agreement auto-renews each year. Staff is requesting approval of this agreement at this time.

BACKGROUND AND HISTORY OF BOARD ACTIONS:

The board routinely reviews and approves agreements.

ALTERNATIVES AND CONSEQUENCES OF NEGATIVE ACTION:

Do not approve. Asset tracking for Mariposa County will remain a manual effort.

FINANCIAL IMPACT:

The cost of this item is included in the FY23 budget.

ATTACHMENTS:

Agreement with Lansweeper PACKET (PDF)

RESULT: ADOPTED [UNANIMOUS]

MOVER: Wayne Forsythe, District IV Supervisor

SECONDER: Marshall Long, District III Supervisor

AYES: Rosemarie Smallcombe, Marshall Long, Wayne Forsythe, Miles Menetrey

LANSWEEPER DATA PROCESSING ADDENDUM

This Data Processing Addendum hereinafter set forth, as amended from time to time, shall form a part of the Terms of Use between Licensee and Lansweeper and are hereby incorporated by reference into the Terms of Use, without the need for further action. In case of conflict between the Provisions of the Terms of Use and this DPA, the provisions of the DPA shall prevail.

1 Definitions and Interpretation

- 1.1 Capitalized terms used, but not defined, in this Data Processing Addendum are defined in the Agreement (as defined below), the other capitalized terms used in this Data Processing Addendum shall have the following meaning:
 - 1.1.1 **"Agreement"** means the Lansweeper Terms of Use and any other specific agreement between the Licensee and Lansweeper and/or its Affiliates relating to the Services.
 - 1.1.2 **"Applicable Data Protection Legislation"** means as applicable (i) laws applicable to the processing of personal data in the United States and each State of the United States including, without limitation, the CCPA; (ii) the GDPR, the Swiss Federal Act on Data Protection, and applicable data privacy laws of the United Kingdom, and each member state of the European Union and European Economic Area, and (iii) applicable data privacy laws of other jurisdictions that the parties have expressly identified in the Agreement as applicable to the processing activities of Lansweeper.
 - 1.1.3 **"CCPA"** means the California Consumer Privacy Act of 2018, as amended.
 - 1.1.4 **"DPA"** means this Lansweeper Data Processing Addendum together with its annexes, which shall be an integral part of the Agreement between the Parties.
 - 1.1.5 **"International Data Transfer"** means any transfer of Licensee Personal Data from the EEA, Switzerland or the United Kingdom to an international organization or to a country outside of the EEA, Switzerland and the United Kingdom.
 - 1.1.6 **"Personal Data"** means any information about a natural person that is identified or identifiable to the natural person, either alone or in combination with other information, that Lansweeper will process or have access to as part of providing the Services, including any such information that is created by means of the Services. Personal Data includes "personal data" as that term is defined in the GDPR and "personal information" as that term is defined in the CCPA;
 - 1.1.7 **"Services"** means the services related to provision of the Product by Lansweeper.
 - 1.1.8 **"Standard Contractual Clauses"** means the clauses annexed to the Commission Implementing Decision (EU) 2021/914 of 4 June 2021 on standard contractual clauses for the transfer of personal data to third countries pursuant to Regulation (EU) 2016/679 of the European Parliament and of the Council.
 - 1.1.9 **"Sub-processor"** means any Processor (including any third party excluding a person working under the authority of Lansweeper) appointed by or on behalf of Lansweeper, or its Sub-processor, to Process Personal Data on behalf of Lansweeper in connection with the Agreement.

2 Object of this DPA

- 2.1 This DPA is added to the Agreement in order to comply with Applicable Data Protection Legislation, and the provisions of the Agreement shall apply to this DPA. The different Schedules to this DPA are applicable to the extent required by relevant Applicable Data Protection Legislation and address compliance therewith.
- 2.2 Parties shall comply with the Applicable Data Protection Legislation, for their own account and sole responsibility, unless otherwise set out herein.
- 2.3 For the purposes of this DPA End-Users, Billing Contacts and Help Desk-Agents as detailed in the Agreement shall be considered to form an integral part of the Licensee and Licensee shall be responsible for their compliance with this DPA.

3 Duration and Termination

- 3.1 The duration of the Processing is set out in the Agreement.

- 3.2 Upon termination or expiry of this DPA, or at any earlier moment if the Processing of Personal Data is no longer relevant for the delivery of the Services, Lansweeper shall delete the Personal Data unless a law or regulation requires storage of the Personal Data. Notwithstanding the foregoing, we will only store LsAgent data in the Cloud Service relay for a maximum period of one (1) month.
- 3.3 Notwithstanding the foregoing, articles 3 and 5 of this DPA shall survive the termination of this DPA.

4 Measures

- 4.1 Lansweeper will, taking into account the state of the art, the costs of implementation and the nature, scope, context and purposes of Processing as well as the risk of varying likelihood and severity for the rights and freedoms of natural persons, implement appropriate technical and organisational measures to ensure a level of security appropriate to the risk, taking into account in particular the risk of accidental or unlawful destruction, loss, alteration or unauthorised disclosure of or access to the Personal Data. A description of the Lansweeper requirements are further detailed on our [Security page](#) (or such other URL as specified by Lansweeper).. Such requirements and measures may be updated by Lansweeper, from time to time. Licensee shall be solely responsible for its own means of accessing the Services (e.g. through proxies) and providing adequate measures to ensure an appropriate level of security.

5 Privacy Statement

- 5.1 Without prejudice to Section 2.1, Lansweeper may Process certain Personal Data for its own purposes (e.g. execution of the Agreement), such Processing shall not be subject to this DPA. In such cases Lansweeper shall be considered a controller, for more information please refer to our privacy policy: <https://www.lansweeper.com/privacy-policy/>.

List of Schedules:

- Schedule 1: GDPR
- Schedule 2: CCPA

List of Annexes:

- *Annex I: Details of Processing*
- *Annex II: Sub-processors*

Schedule 1: GDPR

1 Object of this Schedule 1

- 1.1 This Schedule applies to the extent that (i) GDPR, the Swiss Federal Act on Data Protection, and applicable data privacy laws of the United Kingdom, and each member state of the European Union and European Economic Area applies to the Processing, and (ii) Lansweeper Processes Personal Data, on behalf of the Licensee through providing the Product.
- 1.2 This Schedule sets out the subject-matter and duration of the Processing, the nature and purpose(s) of the Processing, the types of Personal Data and categories of Data Subjects and the obligations and rights of the Licensee and Lansweeper in relation to the Services as further detailed in **Annex I** (*Details of Processing*).

2 Data Protection

- 2.1 Where Personal Data is Processed by Lansweeper in relation to the performance of this Schedule, the Agreement and the Services, Lansweeper shall:
- 2.1.1 **Instructions** - process the Personal Data only on documented instructions from Licensee as solely provided herein, unless required to do so by applicable laws and regulations to which Lansweeper is subject. In such a case, Lansweeper shall inform Licensee of that legal requirement before Processing, unless that law prohibits such information on important grounds of public interest. Parties agree that this DPA makes up the entire instruction of Licensee to Lansweeper, any other instructions have to be agreed to in writing by Lansweeper, reserving its rights to charge additional costs for compliance with such instructions;
- 2.1.2 **Need-to-know** - provide Personal Data only to authorised persons (which shall include employees, agents, resellers, distributors, partners, Sub-processors and subcontractors) on a need-to-know basis and ensure that persons authorised to Process the Personal Data have committed themselves to confidentiality or are under an appropriate statutory obligation of confidentiality;
- 2.1.3 **Sub-processors** - based on the general authorisation to use Sub-processors hereby provided by Licensee, inform Licensee of any addition or replacement of Sub-processors, thereby giving Licensee the opportunity to object to such changes on reasonable grounds during a period of thirty (30) calendar days, after which such Sub-processors shall be deemed to have been accepted. A description of the Lansweeper Sub-Processors is further detailed in **Annex II** (*Sub-processors*). Sub-processors engaged by Lansweeper prior to entering into this DPA are accepted by Licensee. In case Licensee objects to a new Sub-processor and such objection is based on reasonable grounds, Lansweeper shall employ reasonable efforts to resolve the issue.
- Where Lansweeper engages a Sub-processor for carrying out specific Processing activities on its behalf, reasonably equivalent data protection obligations as set out in this DPA shall be imposed on that Sub-processor. Where that Sub-processor fails to fulfil its obligations under the Applicable Data Protection Legislation, Lansweeper shall remain fully liable to Licensee in accordance with the terms set out in this DPA;
- 2.1.4 **Assistance** - taking into account the nature of the processing, reasonably assist Licensee by appropriate technical and organisational measures, insofar as this is possible, for the fulfilment of Licensee's obligation to respond to requests for exercising Data Subject's rights, without prejudice to Lansweeper's right to charge Licensee any reasonable costs for such assistance. Lansweeper shall promptly notify Licensee about any legally binding request by a Data Subject;
- 2.1.5 **Cooperation** - reasonably assist Licensee in ensuring compliance with its obligations relating to the: security of the Processing, notification of Personal Data Breaches and data protection impact assessments and prior consultations taking into account the nature of Processing and the information available to Lansweeper and without prejudice to Lansweeper's right to charge Licensee any reasonable costs for such assistance;
- 2.1.6 **Personal Data Breach** - Lansweeper shall notify the Licensee without undue delay after becoming aware of a Personal Data Breach. Such notification shall contain following information: (i) the nature of the Personal Data Breach including where possible, the categories and approximate number of Data Subjects concerned and the categories and approximate number of Personal Data records concerned; (ii) the name and contact details of the data protection officer or other contact point where more

information can be obtained; (iii) the likely consequences of the Personal Data Breach; (iv) the measures taken or proposed to be taken by Lansweeper to address the Personal Data Breach, including, where appropriate, measures to mitigate its possible adverse effects. Where, and in so far as, it is not possible to provide the information at the same time, the information may be provided in phases without undue further delay.

- 2.1.6.1 The obligation to report or respond to a Personal Data Breach is not and will not be construed as an acknowledgement by Lansweeper of any fault or liability with respect to the Personal Data Breach;
- 2.1.6.2 The Licensee shall promptly notify Lansweeper with information regarding any non-compliance discovered during the course of an audit or review of provided information. The Licensee agrees to provide Lansweeper with a draft of the audit report for review. Lansweeper is entitled to propose any amendments and add management comments to this draft before Licensee establishes the final version.
- 2.1.7 **Infringement** - reasonably inform Licensee if, in its opinion, an instruction infringes Applicable Data Protection Legislation.
- 2.1.8 **Information & Audit** - make available to Licensee all information reasonably necessary to demonstrate compliance with the obligations laid down in this DPA and allow for and contribute to audits, including inspections subject to following conditions. Licensee must request an audit in writing and with prior notice of thirty (30) calendar days and may instruct acknowledged audit professionals at its own expense to execute such audit in following cases:
 - once every twelve (12) months provided that such additional audit inquiries shall not unreasonably impact in an adverse manner Lansweeper's regular operations and do not prove to be incompatible with applicable legislation or with the instructions of a competent authority;
 - Where an audit is reasonably considered necessary because of genuine concerns as to Lansweeper's compliance with this DPA;
 - Where a competent data protection authority requires this under Applicable Data Protection Legislation;
 - Following a Personal Data Breach.

3 International Data Transfer

- 3.1 Personal Data Processed in the context of this Schedule may be subject to an International Data Transfer without the prior written consent of Licensee, where Lansweeper ensures that appropriate safeguards are in place for such transfer or an adequate level of protection is guaranteed.
- 3.2 Licensee and Lansweeper, on behalf of itself and relevant affiliates outside of the EEA, UK or Switzerland, shall conclude, either one or both of relevant modules Module Two: Controller to Processor of the Standard Contractual Clauses ("**Module Two**") and Module Three: Processor to Processor of the Standard Contractual Clauses ("**Module Three**"), which shall apply to such International Data Transfer.
- 3.3 As specified in the Standard Contractual Clauses, for both Module Two and Module Three, the following optional provisions are selected:
 - 3.3.1 Clause 7: Docking Clause
 - 3.3.2 Clause 9(a) Use of Sub-processors: Option 2 - General Written Authorization, with a notice period of 30 days has been selected.
 - 3.3.3 Clause 11 Redress: The optional clause is not included.
 - 3.3.4 Clause 17 Governing Law: Option 1, the governing law of Belgium.
 - 3.3.5 Clause 18(b) Choice of Forum and Jurisdiction, the courts of Belgium.
- 3.4 If Lansweeper's compliance with Applicable Data Protection Law to International Data Transfers is affected by circumstances outside of Lansweeper's control, including if a legal instrument for International Data Transfer invalidated, amended, or replaced, then Parties will work together in good faith to reasonably resolve such non-compliance.

Annex I: Details of Processing

1. The duration of the Processing

The duration of the Processing is set out in this DPA.

2. The subject-matter of the Processing

The subject-matter of the Processing is set out in this DPA and relates to the Services.

3. The types of Personal Data to be Processed

All data collected by the Product, which may include without limitation: electronic identification data (such as IP-addresses), Asset data, ...

4. The categories of Data Subjects to whom the Personal Data relates

The Personal Data may relate to Licensee, End-Users and/or any other Data Subject to whom the collected data may relate.

5. The nature and purpose of the Processing

Lansweeper may Process Personal Data on behalf of Licensee through *i.a.* recording, storage, adaption, transmission & dissemination, in provision of the Services.

Annex II: Sub-processors

Sub-processor	Service Description	Incorporation Location	Storage / Transfer Location	Transfer Justification
Microsoft, Inc. (Azure)	Cloud storage for LsAgent Cloud Relay Service	United States	United States	SCC's
Amazon Web Services EMEA SARL (AWS)	- Cloud storage for Lansweeper Cloud Platform - Cloud storage for Device Fingerprints	Luxembourg	Storage: Ireland & Germany Transfer: possibly to outside the EEA	SCC's
MongoDB Limited (MongoDB)	Cloud storage services for Lansweeper Cloud Platform	United States	Outside the EEA	SCC's

Schedule 2: CCPA**1 Object of this Schedule 2**

- 1.1 This Schedule 2 applies to the extent that (i) CCPA applies to the Processing, and (ii) Lansweeper receives, as a 'service provider' under CCPA, Personal Data, on behalf of the Licensee as a 'business' under CCPA, through providing the Product.

2 Service Provider obligations

- 2.1 Lansweeper will comply with the requirements stated in this Schedule 2, and any additional or more stringent requirements or restrictions applicable to service providers under CCPA.
- 2.2 Lansweeper will not "sell", as defined under CCPA, the Personal Data which is received pursuant to this Agreement.
- 2.3 Lansweeper will retain, use or disclose such Personal Data only for the specific purpose of performing the Services and within the direct business relationship with the Licensee.
- 2.4 Lansweeper shall provide reasonable assistance to Licensee in facilitating compliance with consumer rights requests, without prejudice to Lansweeper' right to charge Licensee any reasonable costs for such assistance.

* *

*

Version 2.0, dated 30 July 2022

1. GENERAL

1.1. These Terms of Use ("**Terms**"), together with the Order and the data processing agreement ("**DPA**") govern Customer's use of the Product (as defined below) and form a legal contract between the Lansweeper entity designated in clause 1.3 below ("**Lansweeper**") and Customer (as defined below). These Terms are accessible via Lansweeper's website.

1.2. By purchasing, installing, or otherwise using all or any portion of the Product, Customer indicates that it has read, understood, and agreed to be legally bound by these Terms.

1.3. If Customer is incorporated or has its primary place of business anywhere in the world except for the United States and any US territory, the Lansweeper entity with whom Customer will be contracting is Lansweeper NV, a limited liability company existing under Belgian law, with registered address at Belgium, 9200 Dendermonde, Zeelsebaan 83/Z, registered under enterprise number 0538.668.417. If Customer is incorporated in or has its primary place of business in any location within the United States or any US territory, including American Samoa, Guam, the Northern Mariana Islands, Puerto Rico, and the U.S. Virgin Islands, Customer will be contracting with Lansweeper Inc., with offices at 11044 Research Blvd, Building D, Suite D-500, Austin, TX 78759.

1.4. The individual accepting the Agreement on behalf of a company or other legal entity ("**Customer**") represents and warrants that he or she has full authority to bind the Customer to this Agreement.

1.5. Customer may not accept the Agreement or use the Product if Customer or anyone it represents is barred from using the Product under the (export control) laws of the European Union, United States or any other country, and/or any applicable trade sanctions or embargoes.

2. DEFINITIONS

2.1. The terms and expressions written with a capital letter shall have the meaning given to them in this clause 2.1, unless the context in which they are used requires a different meaning.

"Administrator" means the End-User creating a Site;

"Affiliate" means an entity that owns or controls, is owned or controlled by or is under common control or ownership with Customer or Lansweeper as applicable, where 'control' is defined as the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of an entity through majority ownership of voting securities or otherwise;

"Agreement" means these Terms together with the Order and the DPA;

"Aggregate Data" means any data that is the result of aggregation and/or de-identification of Customer Content and Device Fingerprints or derivations thereof, and which does not or no

longer relates to an identified or identifiable natural person. Aggregate Data does not constitute Confidential Information of Customer;

"Application" means any application developed to interact with the Cloud API or otherwise interact with the Product (including the Cloud Platform);

"Asset" means (i) any IT device scanned, using the Product on Customer's local systems; (ii) any IT resource scanned by the Product in Customer's cloud environment; and (iii) any IT assets that are created by/added to the Product by Customer;

"Beta Release" means a feature of the Product on a "beta" free of charge pre-release, owned by Lansweeper and licensed and made available to Customer solely for testing purposes;

"Billing Contact Email" means the email address provided by Customer to which Lansweeper may send all billing-related information and the License Key;

"Business Day" means every day except Saturdays, Sundays and public holidays in the jurisdiction where Lansweeper is incorporated;

"Charges" means the amounts due by Customer to Lansweeper for the delivery of the Product;

"Cloud API" means an application programming interface, including updates and including any API offered by Lansweeper to its Customer through its Cloud Platform;

"Cloud API Key" means the security key Lansweeper creates and makes available to Customer, to access the Cloud API;

"Cloud Platform" means a cloud-hosted platform on a multi-tenant basis, managed by Lansweeper, which connects to Customer's Lansweeper Installation and which allows Customer to view its Customer Content available within its Lansweeper Installation(s) via its Lansweeper Account;

"Cloud Services" means cloud-based services made available through the Product;

"Confidential Information" means all information which is disclosed by one Party to the other whether before or after Effective Date, which is designated in writing as confidential or would appear to a reasonable person to be confidential and which relates to a Party's business including its products, operations, processes, plans or intentions, developments, trade secrets, know how, design rights, market opportunities, personnel, suppliers and/or customers, all information derived from any of the above (including but not limited to these Terms) but excludes information which (i) at the Effective Date is, or becomes at any time after that date, within the public domain (other than as result of a breach of clause 12 of these Terms); (ii) is obtained, free from any restrictions as to its use or disclosure from a third party who was free to divulge it; and (iii) is developed by, or for, the receiving Party independently of any information received under the Agreement and by persons who had no access to, or knowledge of, that Confidential Information;

"Contract Year" means each twelve (12) month period beginning on the Effective Date and on each subsequent anniversary thereof during the Term;

"Customer" means the legal entity validly subscribing to the Product under the Agreement;

"Customer Content" means any data (in electronic form) collected through the Product or uploaded to the Product by Customer or its Affiliates (including their respective End-Users) for the purpose of using the Product or facilitating the Customer's use of the Product, including outputted data by the Cloud API but excluding Aggregate Data and Installation Metadata;

"Device Fingerprint" means a set of information elements obtained through network protocols used to recognize Assets;

"Documentation" means any documentation, instructions, Lansweeper's Knowledge Base or other information provided by Lansweeper in relation to the Product regardless of the manner in which it has been made available to the Customer (including via e-mail or Lansweeper's website) and as may be updated from time to time;

"DPA" means the data processing agreement available at <https://www.lansweeper.com/terms-of-use/> (or any other hyperlink Lansweeper may provide);

"Effective Date" means either (i) the date of online acceptance of the Agreement or (ii) the Effective Date as identified otherwise in the Agreement;

"End Users" means the ultimate end users (natural person) of the Product;

"Error" means any material, verifiable and reproducible failure of the Product to conform in all material respects to features and functions as described in the Documentation (excluding any nonconformity resulting from a use that is not in compliance with the Agreement and/or the Documentation);

"Feedback" means comments, information, questions, data, ideas, description of processes, or other information related to the Product and/or Beta Releases provided by Customer to Lansweeper. Feedback does not constitute Confidential Information of Customer;

"Foss Components" has the meaning given to it in clause 9.11 of these Terms;

"Force Majeure" means any event which is beyond the reasonable control of a Party and which impacts the execution of its obligations under the Agreement, including, but not limited to, natural disasters, epidemics, pandemics, extreme weather conditions, fire, riots, war and military operations, national or local emergency situations, acts or negligence of the government, economic disputes of any nature whatsoever, strikes, unannounced labour actions, fire, flooding, lightning, explosions, collapses, disruptions in traffic, the reduced or non-functioning of networks, systems or equipment of third parties as well as any act of negligence of a person or entity which is outside of the

reasonable control of a Party. For the avoidance of doubt, failure by Customer to correctly or timely pay the Charges shall not be excused by a Force Majeure event;

"Free Trial" means a free plan of the Product offered to the Customer for testing purposes at no charge for a limited period of time, with limited features and functionalities, and subject to the license metrics as determined in Lansweeper's sole discretion;

"Freeware" means a free plan of the Product offered to the Customer at no charge for an undetermined period of time, with limited features and functionalities, and subject to the license metrics as determined in Lansweeper's sole discretion;

"Help Desk" a feature of the Product that allows Customer to organize a limited first line help desk using the Lansweeper knowledge database within its organization through *inter alia* a ticketing system;

"Help Desk Agents" means those of Customer's End-Users with a Help Desk-agent subscription;

"Installation Metadata" means data retrieved by Lansweeper from Customer's Lansweeper Installation, such as but without limitation the license details, software version, IP address, email address, Install-ID, installation status, Asset count, database server type and web server type;

"Intellectual Property Rights" means (i) copyright (including software rights), patents, database rights and rights in trademarks, designs, know-how and confidential information (whether registered or unregistered); (ii) applications for registration, and the right to apply for registration, for any of these rights; and (iii) all other intellectual property rights and equivalent or similar forms of protection existing anywhere in the world;

"Invalid Support Request" means a support request from Customer which does not comply with the conditions for a Valid Support Request provided for in clause 7.4 of the Terms;

"IP Claim" has the meaning given to it in clause 15.1 of these Terms;

"IT Asset Discovery Software" means (i) the machine-readable object code of Lansweeper's software (including database software) to run on Customer's systems, developed and owned by Lansweeper and licensed to Customer under the provisions of this Agreement; (ii) the related Documentation; and (iii) any updates, supplements, modifications, enhancements, corrections, fixes and revisions thereof, as made available to Customer at Lansweeper's discretion;

"Lansweeper Account" means a unique identity tied to an email address that is used by an individual to log into the Cloud Platform. A Lansweeper Account can have access to multiple Sites, for which it is authorized through a linking process;

"Lansweeper Data" means the data and other information created, stored, processed and used by or on behalf of Lansweeper, and which may be accessible through the Product;

"Lansweeper Installation" means a single deployment of the IT Asset Discovery Software consisting out of i) a single Local Scanning Database installed on Customer's systems, (ii) a single Local Web Console installed on Customer's systems, and (iii) unless restricted by Customer's subscription plan, multiple Scanning Engines installed on the Customers and/or Customer's Affiliates systems, all connected to the same and sole Local Database;

"Lansweeper's Knowledge Base" means Lansweeper's knowledge base available at <https://www.lansweeper.com/kb/> (or any other hyperlink Lansweeper may provide);

"Lansweeper's Support Page" means Lansweeper's support page available at <https://www.lansweeper.com/contact-support/> (or any other hyperlink Lansweeper may provide);

"License Key" means a unique key-code issued to Customer by Lansweeper to activate and use the Product. For Paid Subscriptions, Lansweeper will first issue a temporary license key with a duration equal to the payment term as described in clause 3.6 of these Terms, followed by a full license key covering the remainder of the Paid Subscription Term sent upon Lansweeper's receipt of payment from Customer;

"Local Scanning Database" means either a SQL local database or a full SQL server which serves as the on-premises repository where all Customer Content is federated. Multiple Scanning Engines should connect to a single Local Scanning Database;

"Local Web Console" means a website hosted on-premises with the Customer which is used to interface with the local deployment of the Product;

"Means of Access" has the meaning given to it in clause 9.5 of these Terms;

"Order" means any purchase order or other electronic or paper ordering document accepted by Lansweeper that identifies (among others) the following order by Customer: Product, Customer's selected Paid Subscription with the features and functionalities described therein, quantity based on Lansweeper's applicable license metrics (e.g., number of Assets, number of Help Desks Agents, number of Lansweeper Installations, number of Scanning Engines, ...), Charges, and subscription Term;

"Paid Subscription" means a plan of the Product offered to the Customer for purchase against payment of Charges and as further described in an Order;

"Party" and **"Parties"** mean Lansweeper and/or Customer, as applicable;

"Preview Feature" means a feature that is not part of Customer's subscription plan but made available on a "preview" basis;

"Product" means IT Asset Discovery Software, the Cloud Platform, any Applications that interface with the Product developed and provided by Lansweeper through the Cloud Platform (excluding third-party applications developed and/or provided by third parties), and any other Lansweeper proprietary software,

software-as-a-service or tool which the Customer has subscribed to in accordance with the Agreement;

"Reseller" means a party authorized by Lansweeper to resell Paid Subscriptions to the Lansweeper Product;

"Scanning Engine" means an application that performs the agentless scanning of the Assets in Customer's network in a one-to-many fashion. Such Scanning Engines may be installed on different systems of Customer or its Affiliates, unless restricted by Customer's subscription plan;

"Second Line Support" means monitored email support services whereby Lansweeper undertakes reasonable efforts to resolving Customer's Valid Support Requests;

"Site" means a unique tenant created in the Cloud Platform which can collect Customer Content from Customer's Lansweeper instance(s), through a linking process or manually entered via the Cloud Platform;

"Support Hours" means the hours during which second and third line Support Services will be made available to Customer in accordance with the conditions set forth in clause 7 of these Terms. For hours noted in CET, Central European Summer Time (CEST) will be used during spring to summer months;

"Support Services" means reasonable advice and guidance concerning the use of the Product, and troubleshooting of the Product allowing Lansweeper to resolve issues, either by providing Customer with the possible steps to resolve the Error, or undertaking the necessary measures on Lansweeper's end and informing Customer thereupon;

"Term" has the meaning given to it in clause 17 of these Terms;

"Terms" means these Terms of Use Lansweeper; and

"Valid Support Request" means a support request from Customer in accordance with the conditions set forth in clause 7.4 of these Terms.

The terms and expressions written with a capital letter used in this Agreement but not defined above, are defined throughout this Agreement.

3. SUBSCRIPTION, AFFILIATES' USE, ORDERS, CHARGES, PAYMENT TERMS AND EXTENSION OF PAID SUBSCRIPTION

3.1. The Product can be subscribed to, based on the following different subscription plans: (i) Free Trial, (ii) Freeware, and (iii) Paid Subscription. Free Trial and Freeware subscriptions are made available for download. Paid Subscriptions are offered for purchase and can be ordered through Lansweeper's website or a Lansweeper or Reseller sales representative. The Customer's selected Paid Subscription shall be identified in the Order (for purchases through a Lansweeper sales representative) or the online order confirmation page (for purchases through Lansweeper's website).

3.2. Subject to the applicable usage limitations, Customer will be entitled to have the Product used by its Affiliates (and their End-

Users). Customer undertakes that any Affiliate using or accessing any Product hereunder, or benefitting from the Customer's use of a Product, will comply with all terms and conditions of this Agreement. The Customer will remain responsible for Customer's Affiliates' acts and omissions unless Customer's Affiliate has entered into its own agreement with Lansweeper.

3.3. The Customer's Affiliate use of the Product needs be based upon the same number Lansweeper Installations as permitted under this Agreement which have been installed at Customer. Use by the Customer's Affiliate shall not entitle the Affiliate to a separate Lansweeper Installation. It is thus understood that use by an Affiliate of the Product will be subject to the procedure set forth in clause 3.16 of these Terms, where use of the Affiliate would imply usage of the Product beyond the license metrics agreed upon with Customer.

3.4. Only the Agreement (and for the avoidance of doubt, specifically excluding any pre-printed terms on a Customer or Reseller purchase order) will have any force or effect unless a particular Order is executed by an authorized signer of Lansweeper and returned to Customer (or the applicable Reseller). If any such Order is so executed and delivered, then only those specific terms on such Order that expressly identify those portions of this Agreement that are to be superseded will prevail over any conflicting terms herein but only with respect to those Products ordered on such Order. Orders are non-cancellable. Any Order through a Reseller is subject to, and Lansweeper obligations and liabilities to Customer are governed by, this Agreement.

3.5. Lansweeper quotes are only valid when issued by a Lansweeper sales representative and are noncommittal and do not create any agreement between Customer and Lansweeper, until the quote and these Terms (which are incorporated by reference into the quote) are acknowledged and accepted by Customer. quotes are valid for thirty (30) days as of the date of the quote, unless otherwise indicated.

3.6. The Charges for the Product are published on the Lansweeper website and exclude VAT and other applicable taxes. Charges are payable within thirty (30) calendar days of the invoice date, unless otherwise specified on the Order. The available payment methods are specified on the Order (for purchases through a Lansweeper sales representative) or the online order confirmation page (for purchases through Lansweeper's website). Invoices may be sent through electronic means, via the Billing Contact Email.

3.7. All payment obligations are non-cancellable and non-creditable and all Charges paid are non-refundable except as otherwise set forth in the Agreement.

3.8. Lansweeper reserves the right to increase the Charges at the start of each Contract Year up to Lansweeper's then-current list price set out on Lansweeper's website.

3.9. In the event as described in clause 3.8 of these Terms, Lansweeper will inform Customer thereof by email at the latest forty-five (45) days before the expiry of the then-current Contract Year. In the event Customer refuses to accept such Charges, Customer should terminate the Agreement in accordance with clause 17.3 of these Terms. In the event this was not timely done, the updated Charges shall apply as from the start of the next Contract Year.

3.10. From the due date, the invoice shall automatically and without notice accrue an interest of 1% for every month commenced of the due invoiced amount. Additionally, a flat-rate indemnity of 10% of the invoice amount is due, with a minimum of 250 EUR, which shall be payable automatically and without notice, notwithstanding Lansweeper's right to claim for a higher indemnity, subject to reasonable proof provided by Lansweeper of higher incurred damages.

3.11. In the case of non-payment of an invoice on the due date, all unexpired claims on the Customer resulting from any agreement between Lansweeper and Customer become due, automatically and without notice. If instalments of payment are made or bills of exchange are signed, either subject to the Agreement or in another agreement between Lansweeper and Customer, then all amounts owed by Customer become due, automatically and without notice.

3.12. Customer must pay any applicable taxes and third-party fees (including, for example, telephone toll charges, mobile carrier fees, ISP charges, data plan charges, credit card fees, foreign exchange fees, foreign transaction fees, and bank charges). Lansweeper is not responsible for these fees. If Customer is located in a different country than Lansweeper or Lansweeper's e-commerce partner, Customer's payments will be made to a foreign entity. In the event any withholding tax (meaning any income, sales, use, gross receipts, business, occupation and other taxes and similar charges imposed by any government or other authority on Lansweeper in which Customer is required by law to withhold or deduct on the Charges payment to Lansweeper) is levied on the Charges, then Customer shall increase the sums paid to Lansweeper so the amount received by Lansweeper after the withholding tax is deducted is the full amount Lansweeper would have received if no withholding or deduction had been made. Lansweeper may apply and charge these withholding taxes back to Customer, after Customer has made the payment (*gross-up*) where withholding taxes were withheld by Customer. Notwithstanding the foregoing, Customer and Lansweeper will cooperate to avoid any withholding tax if exemptions, or a reduced treaty withholding rate, are available. If Lansweeper qualifies for a tax exemption, or a reduced treaty withholding rate, Lansweeper will provide Customer with reasonable documentary proof. However, in the event the Charges are charged via Lansweeper's e-commerce partner, their tax provisions apply and prevail.

3.13. Customer is not allowed to set off invoices unless expressly agreed otherwise in writing by Lansweeper.

3.14. Unless explicitly otherwise agreed upon, Lansweeper shall apply the currency for the Charges as provided in the Order (for purchases through a Lansweeper sales representative) or the online order confirmation page (for purchases through Lansweeper's website).

3.15. Any costs or losses incurred by Lansweeper due to Customer's payment in another currency as agreed upon, shall be borne by Customer and, as the case may be, refunded by Customer to Lansweeper.

3.16. During the Term, a Paid Subscription Customer may increase the agreed upon license metrics. In such case, Customer can request a quote through the Lansweeper website or a Lansweeper or Reseller sales representative.

3.17. At the start of the next Renewal Period, a Paid Subscription Customer may change the agreed upon license metrics. In such case, Customer should request a quote through the Lansweeper website or a Lansweeper or Reseller sales representative at least thirty (30) days before the expiry date of the current Term of Customer's subscription.

4. USE OF THE PRODUCT

4.1. The Product and the limitations associated with the Product are described in the Documentation.

4.2. Subject to full compliance with the Agreement (including timely payment of all applicable Charges to Lansweeper or where applicable, the Reseller), Lansweeper hereby grants Customer a limited, worldwide, revocable, non-transferable, non-sublicensable, non-exclusive right during the Term to (i) access and use the Product for Customer's internal business purposes on compatible devices in accordance with the agreed upon license metrics, (ii) deploy one single Lansweeper Installation, except if Customer's Paid Subscription allows for multiple Lansweeper Installations and upon the condition that those are linked to one single Site; (iii) deploy an additional Lansweeper Installation for testing purposes and to evaluate new releases, and (iv) update the Product to the latest updated version made available by Lansweeper under Customer's subscription plan. For the avoidance of doubt, Customer is not allowed to distribute or commercialize the Product. Lansweeper has the right to take all steps required in order to monitor the use of the Product and to verify whether the use is in compliance with the Terms.

4.3. Customer may solely use the Product as and in a way as expressly allowed under the Agreement and in accordance with Lansweeper's instructions. For example, but without limitation, Customer shall not (nor will allow or facilitate a third party to): (i) license, sublicense, sell, resell, transfer, assign, distribute or otherwise commercially exploit or make available to any third party (except to the End Users as permitted under the Agreement) the Product or access to the Product in any way; (ii) modify, alter,

translate, tamper with or make derivative works based upon the Product; (iii) unless to the extent allowed under applicable law, reverse engineer, decompile, disassemble or otherwise attempt to discover the source code or underlying ideas or algorithms of the Product or access the Product in order to: (a) build a competitive product or service; (b) build a product using similar ideas, features, functions or graphics of the Product; or (c) copy any ideas, features, functions or graphics of the Product; (iv) access or use the Product in a way intended to avoid incurring Charges, exceeding license metrics, or avoiding any restrictions imposed under the Agreement; or (v) remove any titles or trademarks, copyrights or restricted rights notices in the Product.

4.4. Customer may use certain Cloud Services based on its Product configuration preferences. By using such Cloud Services, Customer acknowledges and agrees that Customer Content and/or Device Fingerprints are transmitted to Lansweeper in order to enable Lansweeper to provide such Cloud Services.

4.5. If Lansweeper provides a Beta Release of the Product, Customer acknowledges and agrees that the Beta Release is for evaluation purposes only and may contain Errors, fail, return inaccurate results, and/or be subject to other malfunctions. A Beta Release will be subject to the same license metrics as provided for in the Agreement. Lansweeper does not guarantee that a Beta Release will be commercially released and Lansweeper may change the Beta Release or terminate the Customer's use thereof at any time without prior notice. Use of the Beta Release is at Customer's own risk and Lansweeper shall not be liable for any damages resulting from Customer's use of the Beta Release.

4.6. If Lansweeper provides a Preview Feature, Customer acknowledges and agrees that the Preview Feature is for evaluation purposes only and that Lansweeper does not guarantee that the Preview Feature will remain available throughout Customer's subscription plan Term. Lansweeper may change the Preview Feature or terminate the Customer's use thereof at any time without prior notice.

4.7. In addition to any remedies Lansweeper may have by law or as specified in the Agreement, Lansweeper may exercise the following remedies, at Lansweeper's option and in Lansweeper's discretion, in case Customer does not comply with the Agreement: (i) suspend Customer's access to the Product; (ii) remove Customer's Customer Content from the Product; and/or (iii) report the concerned breach to the relevant authorities when such is required by law.

5. CLOUD PLATFORM, SIGN-UP AND ACCESS THERETO

5.1. In the Agreement, Parties may agree that Customer will be provided with access to the Cloud Platform, which constitutes a specific feature of the Product containing a set of functionalities. In addition to the other terms of the Agreement, this clause 5 shall apply to the extent Customer enjoys such access under the Agreement.

5.2. Customer's End-Users can sign up and access the Cloud Platform by creating a Lansweeper Account via app.lansweeper.com (or any other hyperlink as provided by Lansweeper).

5.3. It is Customer's sole responsibility to manage the creation of Sites by its End-Users and which End-Users can therefore become Administrator of such Site. In the event Customer deletes a Site, Customer acknowledges that it will not be able to recover the Customer Content that was available in such deleted Site.

5.4. Customer should successfully perform a linking process before being able to use the functionalities of the Cloud Platform. Specifically, to enable the proper functioning of the Cloud Platform, a minimum version of the IT Asset Discovery Software may be required. Based upon Customer's configuration preferences, certain updates to the IT Asset Discovery Software may be automatically downloaded and installed without further notice to Customer. Such automatic updates are without prejudice to the need for performing manual updates from time to time.

5.5. Lansweeper undertakes commercially reasonable efforts to make the Cloud Platform available at a monthly uptime percentage as applicable under Customer's Paid Subscription ("**Uptime Service Level**"). The uptime percentage is calculated on a monthly basis ("**Monthly Period**"), according to the following formula: $\text{Uptime Service Level} = ((\text{total hours in Monthly Period} - \text{Downtime in Monthly Period}) / \text{total hours in Monthly Period}) * 100\%$, where 'Downtime in Monthly Period' means the total number of hours outside of Scheduled Downtime (as defined below) during the Monthly Period that the Cloud Platform was unavailable and Customer was unable to access its Lansweeper Account.

5.6. In the event the Cloud Platform was unavailable due to unscheduled downtime, Customer is entitled to request a report via outagereport@lansweeper.com (or any other communication medium chosen by Lansweeper), showing how Lansweeper is performing against the Uptime Service Level in the then-current Monthly Period.

5.7. The Uptime Service Level will exclude unavailability of the Cloud Platform due to or resulting out of: (i) Customer or Customer's End-User's use in a way that is not compliant with the Agreement (including the Documentation); (ii) Customer's failure to follow the instructions resulting out of Lansweeper's Support Services (if applicable); (iii) modifications or customizations to Customer's Lansweeper Installation; (iv) incorrect use of Lansweeper's API; (v) integrations with third party software or hardware (vi) Force Majeure events; (vii) Lansweeper's cloud hosting provider failure to comply with their own applicable service levels; and (viii) routine scheduled maintenance or reasonably emergency maintenance to provide Customer with new features or fixes ("**Scheduled Downtime**").

5.8. The Uptime Service Level does not apply to: (i) Beta Releases of the Cloud Platform's functionalities; (ii) any non-public available features, whether or not in a beta free-release, within the Cloud Platform that may be made available to Customer in Lansweeper's sole discretion; and (iii) Free Trial and Freeware subscriptions.

6. CLOUD API

6.1. Subject to Customer being provided with access to the Cloud Platform per clause 5 of these Terms and Customer's full compliance with the Agreement (including timely payment of all applicable Charges to Lansweeper or where applicable, the Reseller), Lansweeper hereby grants Customer a limited, worldwide, revocable, non-transferable, non-sublicensable, non-exclusive right during the Term to access, make calls to and use the Cloud API for developing Applications that may interoperate with the Product.

6.2. To access, make calls to or use the Cloud API, through a specific Application, Customer must obtain a Cloud API Key through the process as presented in the Cloud Platform and further documented in the Documentation. Customer will be fully responsible for keeping its Cloud API Key(s) for each Application safe and secure and will not share such Cloud API Key with any third parties. Customer may replace a Cloud API Key for a specific Application at any time, with a newly generated Cloud API Key, which will irreversibly replace the original Cloud API Key. Customer will not access or otherwise use the Cloud API than through the respective Cloud API Key(s) for each Application.

6.3. Lansweeper may from time to time at its own discretion provide for rate-limitations on the use of the Cloud API, as provided in the API Documentation.

6.4. Customer may use Lansweeper developed Applications provided in Lansweeper's discretion subject to Customer's compliance with these Terms. Customer further may use Applications developed by third parties, whether or not provided through the Cloud Platform or third parties directly, provided that: (i) such use may be dependent on the acceptance of terms provided by such third parties related to the use of such third-party Applications (in which case the present Terms will prevail over the third-party terms in the event of any conflict or inconsistency), (ii) such third-party Application developers may have access to the Customer Content, (iii) Lansweeper disclaims any warranty related to such third-party Applications and their usability, whether or not 'authorized' or 'certified' by Lansweeper, (iv) Lansweeper shall not be liable for any damages Customer may incur related to its use of such third-party Applications. Customer shall not rely on the future availability of any Applications.

6.5. Customer may provide its developed Applications to third parties, whether provided directly to third parties or through the Cloud Platform, subject to Lansweeper's prior approval (as applicable). Lansweeper may disable or revoke Customer's provisioned Applications or revoke any Cloud API Key for any Application when Customer breaches its obligations under these

Terms. Customer will be solely liable for the third parties' compliance with the Agreement and the applicable legislation. Customer acknowledges that it may have access to such third parties' Asset data through providing its Applications. Customer will provide and adhere to: (i) relevant terms regulating the use of its Applications by the third parties, and (ii) relevant privacy policies to inform the third parties about which Asset data is used and in what manner.

6.6. Lansweeper hereby grants Customer a royalty-free, non-exclusive, non-transferable license to display the Lansweeper Trademarks only for attribution of Customer's use of the Cloud API and Customer's Applications. Customer acknowledges and agrees that Customer's use of the Lansweeper Trademarks will not create any right, title or interest in or to the Lansweeper Trademarks in Customer's favour and all goodwill associated with it will inure to the benefit of Lansweeper.

7. SUPPORT SERVICES

7.1. Except as expressly stated otherwise herein, all subscription plans are eligible for software support according to the following support lines:

- (a) First line support: is made available to Customer via the Documentation (available via the Lansweeper website);
- (b) Second line support: subject to the below-mentioned requirements and exclusions, second line Support Services are provided via support@lansweeper.com (or any other communication medium chosen by Lansweeper) except for Freeware Customers;
- (c) Third line support: subject to the below-mentioned requirements and exclusions third line Support Services are provided by Lansweeper via an online meeting only for (i) Paid Subscriptions if made available under Customer's selected Paid Subscription plan and (ii) Valid Support Request qualifying for the highest severity level as described on Lansweeper's Support Page.

7.2. Lansweeper only provides Support Services in relation to the Product. For the avoidance of doubt, Lansweeper does not provide Support Services in relation to (i) Customer's "custom actions" and "automated software deployment" as defined and described in Lansweeper's Knowledge Base (part of the Documentation), (ii) the Cloud API, and (iii) any Applications. Lansweeper further only provides Support Services to Free Trial Customers who provided a business email address as Billing Contact Email.

7.3. To the extent Support Services are available to the Customer under the Agreement, they will be available during the Support Hours as described on Lansweeper's Support Page.

7.4. Lansweeper will only provide the Support Services for support requests meeting all of the following conditions ("Valid Support Request"):

- (a) Customer uses the Product according to the Agreement (including the Documentation);
- (b) Customer has updated the Product to the latest and most current version;
- (c) Customer has not modified the Product contrary to the Agreement, the Documentation or the Product's configuration settings; and
- (d) Lansweeper received the support request in English from valid End-Users who have identified themselves by providing their Order reference number;

7.5. Subject to prior notification to Customer, Lansweeper reserves the right to invoice Customer any fees for Support Services provided by Lansweeper to Customer which, after examination of the support request by Lansweeper within a reasonable period upon provision of the Support Services to Customer, proves to be an Invalid Support Request.

7.6. Upon receipt of a Valid Support Request, Lansweeper shall determine in good faith the severity level of the request in accordance with the severity levels as described on Lansweeper's Support Page. Without prejudice to the foregoing, Customer is allowed to give an indication of the severity level Customer deems applicable to Customer's Valid Support Request, which may be taken into account by Customer when Lansweeper determines the severity level of Customer's Valid Support Request.

7.7. Lansweeper undertakes reasonable efforts to meet the initial response times as described on Lansweeper's Support Page to respond to Valid Support Requests, according to the severity levels as described on Lansweeper's Support Page and as applicable under Customer's Paid Subscription.

7.8. For clarity, support requests related to Beta Releases or coming from Free Trial Customers are handled by Lansweeper, but any initial response times provided for in the Agreement will not apply in that regard.

7.9. The initial response time starts to run, during the Support Hours, as from the moment that Customer receives an automated confirmation of receipt email from Lansweeper. Said automated email will entail: (i) first guidance on how to possibly resolve the issue; and (ii) an overview of the additional information Customer may submit to Lansweeper to facilitate the resolution of Customer's Valid Support Request.

7.10. The initial response to the concerned Valid Support Request will entail, at Lansweeper's discretion: (i) possible solutions which should allow Customer to resolve the issue; and/or (ii) a request for more information, if no possible solutions can be provided based on the information available at that point.

8. SERVICE DELIVERY

8.1. All obligations of Lansweeper under the Agreement constitute obligations of means. Lansweeper will use commercially reasonable efforts to provide the Product in material conformity

to what has been set out in the Agreement and the Documentation.

8.2. Lansweeper does not guarantee that the Product shall be without Errors and/or any other defects and shall function without interruption. Lansweeper has an obligation of means to repair Errors in the Product within a reasonable time. Lansweeper is entitled to apply problem avoiding restrictions and/or workarounds. Lansweeper does not carry any responsibility for repairing defects in software or other items that are not developed by Lansweeper or not part of the Product.

8.3. Lansweeper has the right to suspend access to the Product for security and maintenance purposes (including to issue updates to the Product).

8.4. In its own full discretion and according to its own timetable, Lansweeper may change the form and nature of the Product, including through the issuing of updates to the Product. Lansweeper reserves the right, when issuing an update to the Product, to remove existing feature or functionality from the Product and Customer has no right to demand those features or functionalities to be supported. Where such removal would have a material impact on Customer's subscription plan to the Product, Lansweeper will inform Customer thereof reasonably in advance but no later than forty-five (45) days prior to implementing the update unless where such notice would be impossible or impractical due in particular but not exclusively to legal or security requirements or performance related issues. In case Customer has reported an Error, Lansweeper can postpone repair until an update is issued. All costs associated with the implementation of updates on Customer's side, will be borne by Customer.

8.5. Lansweeper is not responsible for checking the accuracy and completeness of the (i) Customer Content and (ii) decisions made by Customer on the basis of the use of the Product.

9. CUSTOMER'S OBLIGATIONS

9.1. Customer shall be solely responsible for (i) Customer (and its Affiliate's) actions and the actions of Customer's (and its Affiliate's) End Users while using the Product; (ii) any End User's breach of the Agreement or any applicable laws; and (iii) any data, content, or resources that Customer (or its Affiliates) or its End Users create transmit, or display.

9.2. Customer ensures that, to the extent applicable and necessary, all of its (and its Affiliate's) End Users are provided with full information of and comply with the obligations under the Agreement (including but not limited to clause 4 of these Terms). Customer agrees, and, to the extent applicable, agrees to have its End Users agree: (i) to abide by all laws applicable to the use of the Product, including but not limited to all national and international export laws and regulations that apply to the Product and the restrictions on destinations and end use set forth therein; (ii) not to upload (knowingly or by negligence) or distribute content that contains malware, viruses, malicious files or other harmful code or any other similar software or programs that may

access or damage the operation of the Product, the related systems and networks or any other computer or device, including a third party's computer or device; (iii) not to interfere with or disrupt the Product; (iv) not to attempt to gain unauthorized access to the Product; (v) not to work around any technical limitations in the Product; (vi) not to use the Product to provide any type of product to third parties, including or incorporating the Product into another product or service; (vii) not to provide Product credentials or other log-in information to any third party; (viii) not to share with any third party non-public features or content of the Product, inaccurate information about the Product, or vulnerabilities found in the Product; (ix) not to engage in web scraping or data scraping on or related to the Product, including without limitation collection of information through any software that simulates human activity or any bot or web crawler; or (x) not to use the Product, even if not prohibited by law, for gambling, prostitution, alcohol, drug, pharmaceutical or healthcare businesses or services. In case of a breach of this clause, Customer will fully assist Lansweeper, at its own cost and expense, in mitigating the effects and restoring incidental losses, without prejudice to Lansweeper's other rights and remedies in accordance with applicable law and/or this Agreement.

9.3. Customer shall duly cooperate with Lansweeper in order to enable Lansweeper to provide the Product according to the Agreement. Customer shall in particular supply Lansweeper with all information and materials required by Lansweeper to enable Lansweeper to provide the Product according to the Agreement.

9.4. Customer shall be responsible for the installation of the Product and acknowledges that Lansweeper has no further obligation with respect to the installation of the Product after delivery of the License Key.

9.5. Access to and use of the Cloud Platform requires the creation of an account, by entering the requested information and choosing a login and a password (referred to hereinafter as **"Means of Access"**). Customer is responsible for the safeguarding, confidentiality, security and appropriate use of the Means of Access and Customer undertakes to take all steps to prevent any unauthorized third party from gaining knowledge and making use thereof. Customer will notify Lansweeper immediately by email of the loss, theft, breach of confidentiality or any risk of misuse of the Means of Access. Customer undertakes to comply strictly with and to ensure the compliance by Customer's End Users with the appropriate procedures regarding access to the Product. The latter is without prejudice to the fact that Customer is responsible for all actions taken using Means of Access as well as the consequences of such actions, including any unauthorized use of the Cloud Platform or security breach. Lansweeper will not assume any liability in this respect.

9.6. Customer, and not Lansweeper, is responsible for taking all appropriate steps to back-up or otherwise secure or protect the Customer Content. For the avoidance of doubt, Customer

acknowledges and agrees that Lansweeper does not endorse any third party websites, resources, and/or content.

9.7. Customer warrants that the Customer Content, and Lansweeper's access to and processing of the Customer Content in the framework of the Agreement, do not violate any laws and/or any third party rights.

9.8. Customer will be solely responsible and liable for the accuracy of data it uploads to the Product, including without limitation Customer Content and any other data uploaded by End-Users.

9.9. By using the Cloud Platform, at Customer's discretion, Customer consents to the transmission of the Customer Content to the Cloud Platform for Lansweeper's use to provide Customer with (i) access to the Cloud Platform, (ii) the Cloud Platform functionalities (iii) Support Services for Valid Support Requests related to the Cloud Platform (subject to Customer's prior consent of that of Customer's End Users).

9.10. Customer, and not Lansweeper, is responsible for obtaining, maintaining and paying for all hardware, software and communications equipment necessary to access and use the Product and comply with the requirements as set out in the Documentation. Customer will thus also be responsible for (i) obtaining the third-party hardware and software licenses and any other systems required to run the Product; and (ii) complying with the applicable license terms of such third-party hardware and software. Lansweeper has no responsibility for issues caused by third-party hardware or software.

9.11. The Product includes free and open-source software developed by third parties ("**FOSS Components**"), of which a list can be found in the Documentation. Notwithstanding the Agreement which governs Customer's use of the Product, the license terms of the FOSS Components need to be respected by Customer.

9.12. If Customer becomes aware of a vulnerability in the Product, it will not reveal such vulnerability to third parties or the general public. Customer will disclose the discovered vulnerability to Lansweeper by contacting security@lansweeper.com and include a proof of concept, the list of tools used (including versions), and the output of the tools.

9.13. Lansweeper only supports and maintains the latest version of the Product. It is Customer's obligation to timely implement any update to a new version of the Product, and to maintain any other software and/or hardware to continue their support of the Product. If Customer does not timely update any such update, Lansweeper may no longer be able to provide the Product to Customer, which shall be without prejudice to Customer's payment obligations under the Agreement.

9.14. Customer will not, and will not permit others to: (i) combine or integrate the Cloud API with any software, technology, services or materials that have been black-listed by Lansweeper; (ii) design

or permit Applications to disable, override, or otherwise interfere with any Lansweeper implemented communications to End-Users including, without limitation, consent dialogs, End-User settings, alerts and notifications; (iii) remove, obscure, or alter any Lansweeper Terms or any links to or notices of those Terms; (iii) use the Cloud API or Applications to replicate or attempt to replace the user experience of the Product; (iv) seek to conceal Customer's or End-User's identity or the identity of the Applications when connecting with or setting up the Cloud API; (v) use the Cloud API in deviation of any other restrictions imposed by Lansweeper in the API Documentation; (vi) misrepresent the source of the ownership of the Customer Content, the Product and Lansweeper trademarks; or (vii) undertake or permit removal or alteration of any patent numbers, trademarks, (copyright) notices, or other labels of origin related to the Customer Content, the Products and Lansweeper trademarks.

9.15. Customer may choose to use, procure or enable other third party products or services in connection with the Product (including the Cloud Platform and Applications). Customer's use of any third party products or services (and the third party provider's access and use of any of the Customer Content) shall be subject to a separate agreement between Customer and the third party provider. Lansweeper disclaims all liability and responsibility for any third party products or services or for the acts or omissions of any third party providers (including the third party provider's security and privacy practices). Customer is responsible for its decision to allow the third party provider to access and use the Customer Content. Lansweeper is not a legal representative or agent of the third party provider, nor shall the third party provider have the right to create any liability or obligation on the part of Lansweeper.

10. SALES THROUGH RESELLERS

10.1. In case Customer purchases a Paid Subscription for the Product from a Reseller, this section applies and takes priority over any contrary provisions in the Agreement.

10.2. If Customer's current Reseller is no longer authorized to resell the Product, Customer has the obligation to continue purchasing via another Reseller or purchase directly from Lansweeper.

10.3. Lansweeper can suspend or terminate Customer's subscription if Customer fails to pay Reseller within the payment term as determined by Reseller.

10.4. The amount paid or payable by Customer's Reseller to Lansweeper for Customer's use of the Product, will be deemed the Charges paid or payable to Lansweeper for purposes of interpreting the limits set forth in clause 16 of these Terms.

10.5. The following must be established by Customer's Reseller: (i) prior notice terms for cancellation of Customer's Paid Subscription; (ii) delivery of License Key; and (iii) provisions regarding order placement, payment and taxes.

11. INTELLECTUAL PROPERTY RIGHTS

11.1. Lansweeper (and its licensors, where applicable) owns all right, title and interest, including all Intellectual Property Rights in and to the Product.

11.2. The Agreement does not convey any rights of ownership in or related to the Product or the Intellectual Property rights owned by Lansweeper (or its licensors, where applicable) other than the use rights explicitly provided in these Terms. Customer acknowledges that it has no rights whatsoever to access the Product in source code form. Any trademarks used by Lansweeper or its licensors within or associated with the Product, are trademarks of Lansweeper or third parties, and no right or license is granted to Customer to use them. Customer is not allowed to remove or change any Intellectual Property Rights, including logos and trademarks in the Product and Documentation.

11.3. The Customer (or its licensors in the event applicable) shall be the sole and exclusive owner of all (rights related to the) Customer Content including any modification of such Customer Content.

11.4. During and after the Term, Customer grants to Lansweeper a non-exclusive, worldwide, royalty-free, perpetual right and license to extract and use, adapt, display, process, perform and distribute any Aggregate Data and/or Installation Metadata at Lansweeper's sole discretion, for any purpose, including but not limited to (i) Lansweeper's provision of the Product and granting the Customer access thereto; (ii) verify Customer's compliance with the Agreement; (iii) provide Support Services, where applicable and (iv) improvement, modification and testing of the Product.

11.5. Where Aggregate Data relates to a specific End-User and allows for identification of that End-User, such Aggregate Data shall only be used for internal Lansweeper purposes.

11.6. Customer may choose to submit Feedback to Lansweeper which Lansweeper may, in connection with any of its products or services, freely use, copy, disclose, license, distribute and exploit in any manner without any obligation, royalty or restriction based on intellectual property rights or otherwise. Nothing in this Agreement limits Lansweeper's right to independently use, develop, evaluate, or market products, whether incorporating Feedback or otherwise.

12. CONFIDENTIALITY

12.1. Unless otherwise provided in the Agreement, the receiving Party shall keep the Confidential Information of the disclosing Party confidential and shall in particular (i) use the disclosing Party's Confidential Information only for the purposes of fulfilling its obligations under the Agreement; (ii) protect the confidentiality of the Confidential Information of the disclosing Party by using the same degree of care that it uses to protect the confidentiality of its own confidential information of like kind, but in no event less than reasonable care; (iii) not disclose the disclosing Party's Confidential Information to any other person except as expressly

set out in the Agreement or without obtaining the disclosing Party's prior written consent; and (iv) immediately notify the disclosing Party if it suspects or becomes aware of any unauthorised access, copying use or disclosure in any form or any of the disclosing Party's Confidential Information.

12.2. Notwithstanding clause 12.1, the receiving Party may disclose Confidential Information of the disclosing Party to its employees or third parties who are directly involved in and need to know such Confidential Information for the purpose of the provision or use of the Product. The receiving Party has or agrees to put in place confidentiality terms no less onerous than those set out in the Agreement. The disclosing Party assumes full responsibility for the acts or omissions of such person or entity.

12.3. Notwithstanding clause 12.1, the receiving Party may also disclose Confidential Information to individuals who are subject to professional or statutory obligations of confidentiality for the purpose of the Agreement.

12.4. Neither Party shall be in breach of clause 12.1 where it is required to disclose the other Party's Confidential Information by law or by a court or regulatory authority of competent jurisdiction. Where a Party is so required to make such a disclosure, it shall, where practicable and/or permissible, consult with the disclosing Party as to the terms, content or timing of the disclosure, and shall use reasonable endeavours to limit the scope of the required disclosure.

12.5. This clause 12 shall survive five (5) years after the termination or expiry of the Agreement.

13. PERSONAL DATA

13.1. The Parties agree that to the extent the GDPR applies to personal data processed under the Agreement they will comply with their obligations with respect to the processing of personal data as set out in the DPA.

14. WARRANTIES

14.1. Other than as provided in the Agreement, the Product (including the Lansweeper Data) are provided "as is" and Lansweeper makes no representations or warranties, express or implied, of any kind whatsoever (including, without limitation, satisfactory quality, fitness for a particular purpose, accuracy, correctness, security, completeness, non-infringing nature, title, custom or usage in trade). Lansweeper further makes no representations or warranties regarding, without limitation, the security, integrity, efficiency or capabilities of the Product. The Product is not personalized or customized to fit Customer's particular needs and Lansweeper may not be able to respond to or resolve all of Customer's issues, and makes no promises, guarantees or assurances to that extent. There is no warranty that the Product will be free of Error, that access will be continuous or uninterrupted, that any information provided or used with the Product will be secure, accurate, complete or timely, or that any content will be preserved or maintained without loss.

Lansweeper's exclusive remedy for damage or loss arising from breach of the warranty as set out in this clause shall be, at Lansweeper's option, (i) the replacement of the Product (or part thereof) concerned at no cost to Customer; (ii) a workaround and/or update to address the Error in a manner that provides Customer with reasonably equivalent functionality as provided in the Documentation, at no cost to Customer or (iii) in the event Lansweeper is unable to replace or correct such failure by exercising commercially reasonable efforts within a reasonable period of time, Lansweeper may terminate the Agreement and Customer's sole additional remedy shall be for Lansweeper to provide a *pro-rata* refund of any pre-paid Charges for periods after the effective date of termination.

14.2. The Product does not qualify as a firewall, antivirus, VPN, 'password manager', a SCAP compliant tool, or other product that may be used to enhance Customer's information security. Customer is solely responsible for maintaining its information security systems, to prevent unauthorized access to its network, computers, and applications.

15. INDEMNITIES

15.1. Lansweeper shall indemnify, defend and hold Customer harmless in accordance with the provisions of this clause 15 from and against any third-party claim asserted against it that the Product (when used in accordance with the Agreement) directly infringes or misappropriates the Intellectual Property Rights of such claimant (an "IP Claim"). Lansweeper will pay those costs and damages finally awarded or settled (upon terms acceptable to Lansweeper) against Customer based on such IP Claim, within the limits set forth in clause 16 and provided that: (i) Customer promptly notifies Lansweeper in writing of such IP Claim; (ii) Lansweeper has sole control of the IP Claim; (iii) Customer reasonably cooperates in all respects in the defence of each such IP Claim and all related settlement negotiations and Customer does not make any admission or disclosure or otherwise take any action prejudicial to Lansweeper; and (iv) such IP Claim does not relate to any act by Customer, including (without limitation) a change by Customer to the Product, a non-compliance with the Agreement or Lansweeper's instructions (including the Documentation), a combination of the Product (with or the addition of the Product to products or other software which has not been developed and supplied by Lansweeper, or failure to install an update where installation would have removed the cause of the infringement, or any breach of the Agreement by Customer.

15.2. If a final judgment is entered against Customer on any such IP Claim, or if in Lansweeper's reasonable opinion Customer is likely to become subject to a successful IP Claim, then Customer shall permit Lansweeper, at Lansweeper's option and expense, either: (i) to procure the right to continue using the Product; (ii) to replace or modify the same so that it becomes non-infringing, with functionality essentially being equal; or (iii) to terminate the

Agreement and provide a *pro-rata* refund of any pre-paid Charges for periods after the effective date of termination of the Agreement.

15.3. The foregoing provisions of this clause 15 set forth the entire and exclusive liability of Lansweeper with respect to any IP Claim.

15.4. Without prejudice to Lansweeper's other rights and remedies under applicable law and the Agreement, Customer will indemnify, defend and hold harmless Lansweeper from any claims, demands, actions and losses arising from or created by (i) any of Customer's acts or omissions and/or Customer's End Users' acts or omissions related to the access or use of the Product; and (ii) any Applications developed by Customer (and third parties' use thereof).

16. RISK ALLOCATION

16.1. Except in case of Lansweeper's fraud or wilful default, Lansweeper is only liable for a breach of its obligations under the Agreement if Customer notifies Lansweeper in writing through a notice of default with observance of a reasonable period for remedy of at least ten (10) Business Days calculated as from the breach and Lansweeper fails to remedy the breach within a reasonable period. The notice must contain a complete and detailed description of the breach in order to allow Lansweeper to act adequately.

16.2. Without prejudice to clause 16.1, Lansweeper's liability for a failure to comply with an obligation under the Agreement which is imputable to Lansweeper, is limited to compensation of proven direct losses in accordance with the following principles, which apply cumulatively: (i) the cumulative total aggregate liability of Lansweeper per Contract Year is limited to the greater of (a) the Charges paid by Customer in such Contract Year or (b) one (1) hundred euros (EUR 100); and (ii) without prejudice to clause 16.1, Lansweeper is not liable for any indirect damage and/or consequential damage, such as but not limited to loss of profit, loss of income, loss of revenue, loss of anticipated savings, loss of opportunity, loss of customers, claims of third parties, damage as a result of loss and/or corruption of data, loss of goodwill and reputational damage.

16.3. Without prejudice to clause 16.1, Lansweeper shall have no liability or responsibility for problems in the Product caused by misuse, misuse of Means of Access, the alteration or modification of the Product by Customer, for problems arising out of the malfunction of Customer's (internal or external) hardware, firewalls, network services, Errors caused by third party software or hardware or other infrastructure, or the configuration of such items, or for any (management) decisions that Customer or the End Users takes on the basis of the Product or for the consequences of such decisions.

16.4. Lansweeper shall not be liable due to delay or failure to comply with its obligations under the Agreement, if this delay or failure was the result of Force Majeure. In such a case, Lansweeper may suspend or terminate Customer's access to the Product by

giving Customer a prior written reasonable notice to the extent possible. In such case, Charges for Product features delivered until the termination date will be due on a pro rata basis.

17. TERM, SUSPENSION AND TERMINATION OF THE PRODUCT SUBSCRIPTION

17.1. Free Trial subscriptions are entered into for a period defined in Lansweeper's sole discretion. The Free Trial will automatically expire and not be renewed upon expiry of that period, in which case Customer's Free Trial subscription shall revert to Freeware.

17.2. Freeware is offered to Customer for an undetermined period and can be terminated by either Party by notifying the other Party at any time and for any reason without liability to Customer and Lansweeper.

17.3. Paid Subscriptions are subscribed to for an initial term of one (1) Contract Year as of the delivery of the License Key to the Billing Contact Email, which shall be automatically extended for additional Contract Years ("**Renewal Period**") unless a Party has notified the other Party by e-mail at least thirty (30) days before the end of the then-current Contract Year ("**Term**") that it does not wish to extend the subscription to the Product, in which case Customer's Paid Subscription shall revert to Freeware. For each subsequent Renewal Period, a new License Key will be delivered to Customer, starting from the Renewal Period start date.

17.4. Without prejudice to Lansweeper's other rights and remedies under applicable law and under the Agreement, in the event of a breach by Customer of the Agreement, Lansweeper shall have the right, without compensation being due, to (i) immediately suspend without prior notice a part or all of the Customer's use and access to the Product; (ii) terminate the Agreement without court intervention in case such breach has not been cured within ten (10) Business Days following Lansweeper's notice; and/or (iii) subject to a termination notice immediately terminate the Agreement in case of an irremediable breach. Without excluding any other events being considered a breach of the Agreement, the Parties agree that the following examples of events shall be considered as an irremediable material breach by Customer: (i) any form of misuse of the Product; (ii) any non-compliance with limitations on the use of the Product as stated in the Agreement or under applicable laws; (iii) any infringements on Lansweeper's Intellectual Property Rights; (iv) Customer has become insolvent or declared bankrupt, has been dissolved or entered into liquidation, or has filed a voluntary petition for proceedings in temporary relief (or composition) of creditors, provided, however, in the latter case, that Customer has not confirmed within thirty (30) days following a request by Lansweeper to that effect, that it will continue the Agreement and honor all of its obligations hereunder; or (v) Customer's subscription is restricted, suspended or terminated (whether pursuant to applicable law or core dependencies on third parties) and/or (vi) any non-compliance with Customer's payment obligations.

17.5. Subject to a notice period of forty-five (45) days Lansweeper has the right to terminate or suspend, at its sole option, the Agreement without termination compensation in the event Lansweeper ceases or is unable to offer the Product or the Customer's subscription thereto.

17.6. In the event of expiry or termination of the Agreement, the right of use granted to Customer (and its Affiliates) in respect of the Product hereunder shall immediately cease and Customer shall, upon the effective date of such expiry or termination: (i) cease using the Product; (ii) at Lansweeper's discretion, immediately return to Lansweeper or destroy all copies of the Documentation, the Product features and Confidential Information in Customer's possession, custody or control; and (iii) immediately pay any Charges outstanding at the time of termination. The Customer's License Key will be disabled as of the expiry date of the current Term or termination of this Agreement. Where the Agreement, in case of a Paid Subscription, is terminated under clause 17.5 of these Terms, Customer is entitled to receive a pro-rated refund based on the unused portion of Customer's Paid Subscription, unless such termination happened with a prior notice of forty-five (45) days prior to the expiry date of Customer's Paid Subscription Term.

17.7. Lansweeper shall delete the Customer Content that is stored within the Cloud Platform within sixty (60) days following termination. It is Customer's obligation to export its Customer Content before termination, by making use of the export functionalities available in the Cloud Platform during Customers subscription plan Term.

18. AUDIT

18.1. Lansweeper and/or its appointed third party auditor has the right to audit Customer's compliance with the Agreement. In connection with such verification, Lansweeper shall have access to all requested documents, equipment, information and personnel which are reasonably required in order to verify Customer's compliance.

18.2. Customer shall reasonably maintain the data which provides details on Customer's installation and use of the Product and this for a period of at least one (1) year following Customer's cessation of the use of the Product.

18.3. Without prejudice to Lansweeper's other rights and remedies in accordance with applicable law and/or the Agreement, if such verification or audit would reveal a non-compliance, Lansweeper has the right to invoice Customer for the costs of the audit as well as the (prior) unlicensed use of the Product during the Term of Customer's subscription.

19. MISCELLANEOUS

19.1. Lansweeper reserves the right to subcontract the execution of any part of the Agreement to third parties, without prior notice or information.

19.2. Customer may only transfer its rights and obligations under the Agreement to another entity upon prior written agreement from Lansweeper. Lansweeper is entitled to transfer its rights and obligations under the Agreement to third parties subject to informing Customer.

19.3. Lansweeper may provide complementary third-party products under Customer's subscription plan. Such complementary products may be the subject matter of a separate license agreement between Customer and the third party, detailing the license conditions subject to which the complementary product is licensed.

19.4. If a Party fails to insist that the other Party performs any of its obligations under the Agreement, or if a Party does not enforce its rights against the other Party, or if a Party delays in doing so, that will not mean that this Party has waived its rights against the other Party and will not mean that this Party does not have to comply with those obligations. If a Party does waive a default by the other Party, this Party will only do so in writing, and that will not mean that this Party will automatically waive any other later default by the other Party.

19.5. If the Agreement is concluded with Lansweeper Inc., notices are to be sent by registered mail to 11044 Research Blvd, Suite 500, Austin, TX 78759 or by e-mail to legal@lansweeper.com and if the Agreement is concluded with Lansweeper NV, notices are to be sent by registered mail to 9200 Dendermonde, Zeelsebaan 83/Z, Belgium or by email to legal@lansweeper.com. Notices by e-mail will be deemed received after Lansweeper's confirmation of receipt by Lansweeper via email. All communications and notices to be made or given pursuant to the Agreement shall be in the English language.

19.6. The provision of the Product by Lansweeper shall be governed exclusively by the Agreement and the data processing agreement. For the avoidance of doubt, the application of Customer's own terms and conditions is expressly rejected.

19.7. Termination or expiry of the Agreement, however caused, shall not affect any provision of the Agreement which is expressly or by implication intended to come into or remain in effect on or after termination or expiry including the following clauses: 11.1, 11.4, 11.6, 12, 15.3, 16, 17.6, 18, 19.7, 19.8 and 19.9.

19.8. If the Agreement is concluded with Lansweeper Inc, the Agreement is exclusively governed by the laws of Texas, USA, without regard to its conflicts of laws rules or principles. If the Agreement is concluded with Lansweeper NV, the Agreement is exclusively governed by Belgian law, without regard to its conflicts of laws rules or principles.

19.9. In the event of any dispute, Customer agrees to first try to resolve the dispute informally with Lansweeper. In the event of failure to resolve a dispute: (i) if the Agreement is concluded with Lansweeper Inc., the courts of the State of Texas, Williamson County are competent; (ii) if the Agreement is concluded with

Lansweeper NV, the courts of Lansweeper NV's registered seat are competent. The Parties agree that the UN Convention on Contracts for the International Sale of Goods (Vienna, 1980) shall not apply to the Agreement or to any dispute or transaction arising out of the Agreement. The Parties irrevocably waive any and all right to trial by jury in any legal proceeding arising out of or related to this Agreement.

19.10. These Terms are in English language. Other language versions, if provided, shall be for Customer's convenience only and shall not be binding. In case of conflict between any translation of these Terms and the English version of these Terms, the latter shall prevail.

19.11. Except where explicitly provided otherwise herein, Lansweeper may update or modify the Agreement from time to time, for specific reasons, including but not limited to (i) applicable law; (ii) changes to the Product; (iii) technical reasons; (iv) operational requirements; or (v) changes that are advantageous to Customer. If a revision meaningfully reduces Customer's rights, Lansweeper will use reasonable efforts to notify Customer (by, for example sending an email to the Customer, posting on Lansweeper's blog or in the Product itself). Customer must notify Lansweeper within fifteen (15) days of Lansweeper's notice of the modifications that Customer does not agree with such changes, and Lansweeper (at Lansweeper's option and as Customer's exclusive remedy) may either: (i) permit Customer to continue under the prior version of the Agreement until Customer's next Paid Subscription (after which the modified Agreement will apply) or (ii) allow Customer to terminate the Agreement and receive a pro-rated refund based on the unused portion of the Term of Customer's subscription.

19.12. Lansweeper may identify Customer as Lansweeper user in Lansweeper's promotional materials. Customer may at any time request via legal@lansweeper.com that Lansweeper stops doing so.

19.13. If any provision of the Agreement is or becomes illegal, invalid or unenforceable, in any respect it shall not affect or impair the legality, validity or enforceability of any other provision of the Agreement; and if such provision would be legal, valid or enforceable to the extent some part of it were deleted, such provision shall apply with the minimum modifications necessary to make it legal, valid or enforceable.

Prepared by: **Alex Cornman**
 Email: alex.cornman@lansweeper.com
 Quote Expires On: **9/25/2022**



Client:
 Mariposa County
 California
 United States

Lansweeper Inc
 11044 Research
 Boulevard, Building C
 Suite D-50
 78759 Austin
 Texas United States

Quote Creation Date: August 26, 2022
 Quote Expiration Date: September 25, 2022
 Payment Term: Net 30

Quote Q-708908

Product	Quantity	Unit Price	Term	Net Price
Lansweeper Starter	2,000.00	USD 1.00	1-Y	USD 2,000.00
Helpdesk Agent	3	USD 120.00	1-Y	USD 360.00

An overview of the features and functionalities entailed in your subscription plan can be found [here](#).

Tot

USD 2,360.00

COUNTY OF MARIPOSA

License fee prices are exclusive of VAT, other taxes and delivery costs but may still apply.
 Delivery of the Lansweeper product(s) shall happen electronically.

Rosemarie Smallcombe
 Board Chair

APPROVED AS TO LEGAL FORM:

Steven W. Dahlem
 County Counsel

Notes:

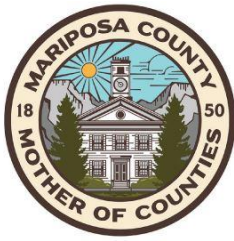
This quote is subject to our Terms of Use (lansweeper.com/terms-of-use) and identifies the details of your Paid Subscription. The capitalized terms used in this quote will have the meaning assigned to them in our Terms of Use.

"Quantity" refers to the number of Assets for a Paid Subscription or the number of Help Desk-Agents for a Help Desk-Agent Subscription.

Please refer to our Terms of Use (lansweeper.com/terms-of-use) for our payment conditions. Payment term is NET thirty (30) days from invoice date, except if otherwise stipulated in this quote or the subsequent invoice. Lansweeper reserves the right to contract and bill the Product licenses provided herein through Lansweeper NV, Lansweeper, Inc. or Cleverbridge AG/Inc. ("Cleverbridge") based on the customer's final invoicing details. In the latter case, Cleverbridge's payment conditions shall apply.

This offer is noncommittal and does not create any agreement between you and Lansweeper, unless this offer and the Terms of Use (lansweeper.com/terms-of-use) are acknowledged and accepted by you. Purchase orders are only binding when accepted by Lansweeper. The submission of a purchase order implies the acceptance of our offer and our Terms of Use (lansweeper.com/terms-of-use). Any purchase or other conditions mentioned on your purchase order are expressly excluded and shall be null and void.

Lansweeper, Inc. is a limited liability company existing under the laws of the State of Delaware, United States, with its principal business address at 11044 Research Boulevard, Building D, Suite D-500, Austin, Texas 78759.



MARIPOSA COUNTY

Clerk of the Board of Supervisors • (209) 966-3222



I.1

MEETING: September 27, 2022

TO: The Board of Supervisors

FROM: Danielle Bondshu, Clerk of the Board

RE: Closed Session: Public Employee Discipline/Dismissal/Release

☐ **CONFERENCE WITH LEGAL COUNSEL:**

☐ **Existing Litigation:**

☐ Disclosure will jeopardize existing settlement negotiations.

☐ **Anticipated Litigation**

☐ Significant exposure to litigation pursuant to subdivision (b) of Government Code section 54956.9.
Number of cases to be discussed:

☐ Initiating of litigation pursuant to subdivision (c) of Government Code section 54956.9.
Number of cases to be discussed:

☐ **CONFERENCE WITH COUNTY LABOR NEGOTIATOR**

Name of Employee Organization: _____
Name of County Designated Representative: _____
Title(s) of unrepresented individuals with whom negotiations are being conducted: _____

☐ **PUBLIC EMPLOYEE EMPLOYMENT TITLE OR POSITION TO BE FILLED:**

(Government Code Section 54957 (b) (1))

☐ **PUBLIC EMPLOYEE PERFORMANCE EVALUATION**

Position of employee under review: _____ (Government Code Section 54954.5)

☒ **PUBLIC EMPLOYEE DISCIPLINE/DISMISSAL/RELEASE** (Government Code Section 54954.5)

☐ **CONFERENCE WITH REAL PROPERTY NEGOTIATOR**

Description of real property: _____
Agency negotiator: _____
Negotiating parties: (Specify name of party or parties (not agent)): _____
Closed session will concern: () price; () terms of payment; () both.

☐ **THREAT TO PUBLIC SERVICE FACILITIES**

Name of law enforcement agency involved: _____
Title of officer of law enforcement agency: _____

☐ **LICENSE/PERMIT DETERMINATION**

License or Permit applied for: _____
Number of license or permit applicants: _____
Name of applicant(s): _____

Agenda Item - No Resolution Requested

RESULT: CLOSED SESSION HELD