

ORIGINAL

AGREEMENT FOR SERVICES #021-S1210

Financial Consulting and Training Services

THIS AGREEMENT made and entered by and between the County of El Dorado, a political subdivision of the State of California (hereinafter referred to as "County") and Fiscal Experts, Inc., a California Corporation, duly qualified to conduct business in the State of California, whose principal place of business is 5350 Dunlay Drive, Suite 2716, Sacramento, CA 95835; (hereinafter referred to as "Consultant");

RECITALS

WHEREAS, County has determined that it is necessary to obtain a Consultant to provide financial consulting and training services relative to programs and funding allocations as they relate to the California Department of Social Services; and

WHEREAS, Consultant has represented to County that it is specially trained, experienced, expert and competent to perform the special services required hereunder and County has determined to rely upon such representations; and

WHEREAS, it is the intent of the parties hereto that such services be in conformity with all applicable federal, state and local laws; and

WHEREAS, County has determined that the provision of these services provided by Consultant is in the public's best interest, and that these services are more economically and feasibly performed by outside independent Consultants as well as authorized by El Dorado County Charter, Section 210 (b) (6) and/or Government Code 31000;

NOW, THEREFORE, County and Consultant mutually agree as follows:

ARTICLE I

Scope of Services: Consultant agrees to provide personnel and resources necessary to provide financial consulting and training services to the Department of Human Services (DHS) Social Services fiscal/budgeting staff in accordance with Exhibit "A", marked "Statement of Work", "Sample DHS Assigned Task List", and Sample Consultant Completed Task List", incorporated herein and made by reference a part hereof, on an "as requested" and "as approved" basis by the DHS Chief Fiscal Officer (CFO). Services shall be relative to programs and funding allocations as they relate to the California Department of Social Services.

All written work product provided by or developed on behalf of County by Consultant under this Agreement shall be deemed to be work made for hire and shall be provided to County.

ARTICLE II

Term: This Agreement shall become effective when fully executed by all parties hereto and expire three (3) years from date thereof unless terminated earlier pursuant to the provisions of Article IX - Default, Termination, and Cancellation herein.

ARTICLE III

Compensation for Services: For services provided herein, County agrees to pay Consultant monthly in arrears and within thirty (30)-days following County's receipt and approval of itemized invoice(s) identifying services rendered. If Consultant is not paid within ninety (90)-days following DHS's receipt and approval by the department of Consultant's itemized invoice(s), Consultant reserves the right to suspend services until further notice. For the purposes of this Agreement, the billing rate shall be \$150.00 per hour.

Consultant shall submit original monthly invoices along with written authorizations to perform invoiced services to the following address:

The County of El Dorado
Department of Human Services
Attn: Accounting Unit
3057 Briw Road
Placerville, CA 95667

The total contractual obligation under this Agreement shall not exceed \$120,000.00 for both the stated services and term.

ARTICLE IV

Changes to Agreement: This Agreement may be amended by mutual consent of the parties hereto. Said amendments shall become effective only when in writing and fully executed by duly authorized officers of the parties hereto.

ARTICLE V

Consultant to County: It is understood that the services provided under this Agreement shall be prepared in and with cooperation from County and its staff. It is further agreed that in all matters pertaining to this Agreement, Consultant shall act as Consultant only to County and shall not act as Consultant to any other individual or entity affected by this Agreement nor provide information in any manner to any party outside of this Agreement that would conflict with Consultant's responsibilities to County during term hereof.

ARTICLE VI

Assignment and Delegation: Consultant is engaged by County for its unique qualifications and skills as well as those of its personnel. Consultant shall not subcontract, delegate or assign services to be provided, in whole or in part, to any other person or entity without prior written consent of County.

ARTICLE VII

Independent Consultant/Liability: Consultant is, and shall be at all times, deemed independent and shall be wholly responsible for the manner in which it performs services required by terms of this Agreement. Consultant exclusively assumes responsibility for acts of its employees, associates, and subconsultants, if any are authorized herein, as they relate to services to be provided under this Agreement during the course and scope of their employment.

Consultant shall be responsible for performing the work under this Agreement in a safe, professional, skillful, and workmanlike manner and shall be liable for its own negligence and negligent acts of its employees. County shall have no right of control over the manner in which work is to be done and shall, therefore, not be charged with responsibility of preventing risk to Consultant or its employees.

ARTICLE VIII

Fiscal Considerations: The parties to this Agreement recognize and acknowledge that County is a political subdivision of the State of California. As such, El Dorado County is subject to the provisions of Article XVI, Section 18 of the California Constitution and other similar fiscal and procurement laws and regulations and may not expend funds for products, equipment or services not budgeted in a given fiscal year. It is further understood that in the normal course of County business, County shall adopt a proposed budget prior to a given fiscal year, but that the final adoption of a budget does not occur until after the beginning of the fiscal year.

Notwithstanding any other provision of this Agreement to the contrary, County shall give notice of cancellation of this Agreement in the event of adoption of a proposed budget that does not provide for funds for the services, products, or equipment subject herein. Such notice shall become effective upon the adoption of a final budget which does not provide funding for this Agreement. Upon the effective date of such notice, this Agreement shall be automatically terminated and County released from any further liability hereunder.

In addition to the above, should the Board of Supervisors during the course of a given year for financial reasons reduce, or order a reduction, in the budget for any County department for which services were contracted to be performed, pursuant to this paragraph in the sole discretion of the County, this Agreement may be deemed to be canceled in its entirety subject to payment for services performed prior to cancellation.

ARTICLE IX

Default, Termination, and Cancellation:

- A. **Default:** Upon the occurrence of any default of the provisions of this Agreement, a party shall give written notice of said default to the party in default (notice). If the party in default does not cure the default within ten (10) days of the date of notice (time to cure), then such party shall be in default. The time to cure may be extended at the discretion of the party giving notice. Any extension of time to cure must be in writing, prepared by the party in default for signature by the party giving notice, and must specify the reason(s) for the extension and the date on which the extension of time to cure expires.
Notice given under this section shall specify the alleged default and the applicable Agreement provision and shall demand that the party in default perform the provisions of this Agreement within the applicable period of time. No such notice shall be deemed a termination of this Agreement unless the party giving notice so elects in this notice, or the party giving notice so elects in a subsequent written notice after the time to cure has expired. In the event of termination for default, County reserves the right to take over and complete the work by contract or by any other means.
- B. **Bankruptcy:** This Agreement, at the option of the County, shall be terminable in the case of bankruptcy, voluntary or involuntary, or insolvency of Consultant.
- C. **Ceasing Performance:** County may terminate this Agreement in the event Consultant ceases to operate as a business, or otherwise becomes unable to substantially perform any term or condition of this Agreement.
- D. **Termination or Cancellation without Cause:** County may terminate this Agreement in whole or in part upon seven (7)-calendar day's written notice by County without cause. If such prior termination is effected, County shall pay for satisfactory services rendered prior to the effective dates as set forth in the Notice of Termination provided to Consultant, and for such other services, which County may agree to in writing as necessary for contract resolution. In no event, however, shall County be obligated to pay more than the total amount of the contract. Upon receipt of a Notice of Termination, Consultant shall promptly discontinue all services affected, as of the effective date of termination set forth in such Notice of Termination, unless the notice directs otherwise.

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ARTICLE X

Notice to Parties: All notices to be given by the parties hereto shall be in writing and served by depositing same in the United States Post Office, postage prepaid and return receipt requested.

Notices to County shall be addressed as follows:

COUNTY OF EL DORADO
DEPARTMENT OF HUMAN SERVICES
3057 BRIW ROAD, SUITE A
PLACERVILLE, CA 95667
ATTN: KAREN COLEMAN, CHIEF FISCAL OFFICER, OR SUCCESSOR

Or to such other location as the County directs, with a copy to:

COUNTY OF EL DORADO
CHIEF ADMINISTRATIVE OFFICE
PROCUREMENT AND CONTRACTS DIVISION
330 FAIR LANE
PLACERVILLE, CA 95667
ATTN: TERRI DALY, PURCHASING AGENT, OR SUCCESSOR

Notices to Consultant shall be addressed as follows:

FISCAL EXPERTS, INC.
5350 DUNLAY DRIVE, SUITE 2716
SACRAMENTO, CA 95835
ATTN: DAN GARDNER

ARTICLE XI

Indemnity: The Consultant shall defend, indemnify, and hold the County harmless against and from any and all claims, suits, losses, damages and liability for damages of every name, kind and description, including attorney's fees and costs incurred, brought for, or on account of, injuries to or death of any person, including but not limited to workers, County employees, and the public, or damage to property, or any economic or consequential losses, which are claimed to or in any way arise out of or are connected with the Consultant's services, operations, or performance hereunder, regardless of the existence or degree of fault or negligence on the part of the County, the Consultant, subconsultant(s) and employee(s) of any of these, except for the sole, or active negligence of the County, its officers and employees, or as expressly prescribed by statute. This duty of Consultant to indemnify and save County harmless includes the duties to defend set forth in California Civil Code Section 2778.

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ARTICLE XII

Insurance: Contractor shall provide proof of a policy of insurance satisfactory to the County of El Dorado Risk Manager and documentation evidencing that Contractor maintains insurance that meets the following requirements:

- A. Full Workers' Compensation and Employers' Liability Insurance covering all employees of Contractor as required by law in the State of California.
- B. Commercial General Liability Insurance of not less than \$1,000,000.00 combined single limit per occurrence for bodily injury and property damage.
- C. Automobile Liability Insurance of not less than \$1,000,000.00 is required in the event motor vehicles are used by Contractor in the performance of the Agreement.
- D. In the event Contractor is a licensed professional, and is performing professional services under this Agreement, professional liability (for example, malpractice insurance) is required with a limit of liability of not less than \$1,000,000.00 per occurrence. For the purposes of this Agreement, professional liability is required.
- E. Contractor shall furnish a certificate of insurance satisfactory to the County of El Dorado Risk Manager as evidence that the insurance required above is being maintained.
- F. The insurance shall be issued by an insurance company acceptable to the Risk Management Division, or be provided through partial or total self-insurance likewise acceptable to the Risk Management Division.
- G. Contractor agrees that the insurance required above shall be in effect at all times during the term of this Agreement. In the event said insurance coverage expires at any time or times during the term of this Agreement, Contractor agrees to provide at least thirty (30) days prior to said expiration date, a new certificate of insurance evidencing insurance coverage as provided for herein for not less than the remainder of the term of the Agreement, or for a period of not less than one (1) year. New certificates of insurance are subject to the approval of the Risk Management Division and Contractor agrees that no work or services shall be performed prior to the giving of such approval. In the event Contractor fails to keep in effect at all times insurance coverage as herein provided, County may, in addition to any other remedies it may have, terminate this Agreement upon the occurrence of such event.
- H. The certificate of insurance must include the following provisions (including an endorsement page for the "additional insured" language) stating that:
 1. The insurer shall not cancel the insured's coverage without thirty (30) days prior written notice to County, and;
 2. The County of El Dorado, its officers, officials, employees and volunteers are included as additional insured, but only insofar as the operations under this Agreement are concerned. This provision shall apply to all liability policies except workers' compensation and professional liability insurance policies.
- I. Contractor's insurance coverage shall be primary insurance 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.
- J. Any deductibles or self-insured retentions must be declared to and approved by County. Either:
 1. Insurer shall reduce or eliminate such deductibles or self-insured retentions as respects County, its officers, officials, employees, and volunteers; or
 2. Contractor shall procure a bond guaranteeing payment of losses and related investigations, claim administration and defense expenses.

- K. Any failure to comply with the reporting provisions of the policies shall not affect coverage provided to County, its officers, officials, employees or volunteers.
- L. The insurance companies shall have no recourse against the County of El Dorado, its officers and employees or any of them for payment of any premiums or assessments under any policy issued by any insurance company.
- M. Contractor's obligations shall not be limited by the foregoing insurance requirements and shall survive expiration of this Agreement.
- N. In the event Contractor cannot provide an occurrence policy, Contractor shall provide insurance covering claims made as a result of performance of this Agreement for not less than three (3) years following completion of performance of this Agreement.
- O. Certificate of insurance shall meet such additional standards as may be determined by the contracting County Department either independently or in consultation with the Risk Management Division, as essential for the protection of County.

ARTICLE XIII

Interest of Public Official: No official or employee of County who exercises any functions or responsibilities in review or approval of services to be provided by Consultant under this Agreement shall participate in or attempt to influence any decision relating to this Agreement which affects personal interest or interest of any corporation, partnership, or association in which he/she is directly or indirectly interested; nor shall any such official or employee of County have any interest, direct or indirect, in this Agreement or the proceeds thereof.

ARTICLE XIV

Interest of Consultant: Consultant covenants that Consultant presently has no personal interest or financial interest, and shall not acquire same in any manner or degree in either: 1) any other contract connected with or directly affected by the services to be performed by this Agreement; or, 2) any other entities connected with or directly affected by the services to be performed by this Agreement. Consultant further covenants that in the performance of this Agreement no person having any such interest shall be employed by Consultant.

ARTICLE XV

Conflict of Interest. The parties to this Agreement have read and are aware of the provisions of Government Code Section 1090 et seq. and Section 87100 relating to conflict of interest of public officers and employees. Consultant attests that it has no current business or financial relationship with any County employee(s) that would constitute a conflict of interest with provision of services under this contract and will not enter into any such business or financial relationship with any such employee(s) during the term of this Agreement. County represents that it is unaware of any financial or economic interest of any public officer or employee of Consultant relating to this Agreement. It is further understood and agreed that if such a financial interest does exist at the inception of this Agreement, either party may immediately terminate this Agreement by giving written notice as detailed in the Article in the Agreement titled, "Default, Termination, and Cancellation."

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ARTICLE XVI

California Residency (Form 590): All independent Consultants providing services to the County must file a State of California Form 590, certifying their California residency or, in the case of a corporation, certifying that they have a permanent place of business in California. The Consultant shall be required to submit a Form 590 prior to execution of an Agreement or County shall withhold seven (7) percent of each payment made to the Consultant during term of the Agreement. This requirement applies to any agreement/contract exceeding \$1,500.00.

ARTICLE XVII

Taxpayer Identification Number (Form W-9): All independent Consultants or corporations providing services to the County must file a Department of the Treasury Internal Revenue Service Form W-9, certifying their Taxpayer Identification Number.

ARTICLE VIII

County Business License. It is unlawful for any person to furnish supplies or services, or transact any kind of business in the unincorporated territory of El Dorado County without possessing a County business license unless exempt under County Code Section 5.08.070.

ARTICLE XIX

Administrator: The County Officer or employee with responsibility for administering this Agreement is Karen Coleman, Chief Fiscal Officer, or successor.

ARTICLE XX

Authorized Signatures: The parties to this Agreement represent that the undersigned individuals executing this Agreement on their respective behalf are fully authorized to do so by law or other appropriate instrument and to bind upon said parties to the obligations set forth herein.

ARTICLE XXI

Partial Invalidity: If any provision of this Agreement is held by a court of competent jurisdiction to be invalid, void, or unenforceable, the remaining provisions shall continue in full force and effect without being impaired or invalidated in any way.

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ARTICLE XXII

Nondiscrimination: Assurance of compliance with the El Dorado County Department of Human Services nondiscrimination in State and Federally assisted programs requirements as follows:

Contractor hereby agrees that they shall comply with Title VI and VII of the Civil Rights Act of 1964 as amended; Section 504 of the Rehabilitation Act of 1973 as amended; the Age Discrimination Act of 1975 as amended; the Food Stamp Act of 1977, as amended, and in particular Section 272.6; Title II of the Americans with Disabilities Act of 1990; California Civil Code Section 51 et seq., as amended; California Government Code Section 11135-11139.5, as amended; California Government Code Section 12940 (c), (h) (1), (i), and (j); California Government Code Section 4450; Title 22, California Code of Regulations section 98000 – 98413; Title 24 of the California Code of Regulations, Section 3105A(e); the Dymally-Alatorre Bilingual Services Act (California Government Code Section 7290-7299.8); Section 1808 of the Removal of Barriers to Interethnic Adoption Act of 1996; and other applicable Federal and State laws, as well as their implementing regulations (including 45 Code of Federal Regulations [CFR] Parts 80, 84 and 91, 7 CFR Part 15, and 28 CFR Part 42), by ensuring that employment practices and the administration of public assistance and social services programs are nondiscriminatory, to the effect that no person shall, because of ethnic group identification, age, sex, color, disability, medical condition, national origin, race, ancestry, marital status, religion, religious creed, or political belief, be excluded from participation in or be denied the benefits of, or be otherwise subject to discrimination under any program or activity receiving Federal or State financial assistance; and hereby give assurance that it shall immediately take any measures necessary to effectuate this Agreement.

This assurance is given in consideration of and for the purpose of obtaining any and all Federal and State assistance; and Contractor hereby gives assurance that administrative methods/procedures which have the effect of subjecting individuals to discrimination or defeating the objectives of the California Department of Social Services (CDSS) Manual of Policies and Procedures (MPP) Chapter 21, shall be prohibited.

Contractor and County Representative shall, with oversight from the DHS Civil Rights Coordinator, develop and implement a plan to allow County to monitor Contractor's non-discrimination and civil rights policies and procedures, as required by the CDSS. Monitoring shall include, but is not limited to: accommodation of individuals with hearing impairments, visual impairments and other disabilities; appropriate language services, including bilingual interpreters available to provide services and how written information is effectively communicated to individuals requiring accommodations; procedures for informing participants and potential participants of their civil rights, adequate Contractor staff training in the civil rights and cultural awareness requirements of Division 21; and procedures on informing participants or potential participants of their civil rights.

By accepting this assurance, Contractor agrees to compile data, maintain records, and submit reports as required, to permit effective enforcement of the aforementioned laws, rules, and regulations, and permit authorized CDSS and/or Federal government personnel, during normal working hours, to review such records, books, and accounts as needed to ascertain compliance.

If there are any violations of this assurance, CDSS shall have the right to invoke fiscal sanctions or other legal remedies in accordance with Welfare and Institutions Code Section 10605, or Government Code Section 11135-11139.5, or any other laws, or the issue may be referred to the appropriate Federal agency for further compliance action and enforcement of this assurance.

This assurance is binding on Contractor directly or through contract, license, or other provider services, as long as it receives Federal or State assistance.

County policy is intended to be consistent with the provisions of all applicable State and Federal laws.

ARTICLE XXIII

HIPAA Compliance: As a condition of Contractor performing services for the County of El Dorado, Contractor shall comply with the HIPAA Business Associate Agreement, which is attached hereto as Exhibit "B", incorporated herein and made by reference a part hereof.

ARTICLE XXIV

Confidentiality and Information Security Provisions: Contractor shall comply with applicable laws and regulations, including but not limited to The Code of Federal Regulations, Title CFR45, parts 160-164, regarding the access to and confidentiality and security of personal identifiable information (PII) and the Social Security Act §1106 regarding disclosure of information in possession of an Agency.

Personal identifiable information (PII) means any information that identifies, relates to, describes, or is capable of being associated with, a particular individual, including but not limited to, his or her name, signature, social security number, passport number, driver's license or state identification card number, insurance policy number, education, employment, employment history, bank account number, credit card number, or any other financial information.

A. Permitted Uses and Disclosures of PII by Contractor.

- (1) **Permitted Uses and Disclosures.** Contractor shall develop and maintain an information privacy and security program that includes the implementation of administrative, technical, and physical safeguards appropriate to the size and complexity of Contractor's operations and the nature and scope of its activities. The information privacy and security programs must reasonably and appropriately protect the confidentiality, integrity, and availability of the PII that it creates, receives, maintains, or transmits; and prevent the use or disclosure of PII other than as provided for in this Agreement. Except as otherwise provided in this Agreement, Contractor, may use or disclose PII to perform functions, activities or services identified in this Agreement provided that such use or disclosure would not violate Federal or State laws or regulations.
- (2) **Specific Uses and Disclosures provisions.** Except as otherwise indicated in the Agreement, Contractor shall:

- (a) Use and disclose PII for the proper management and administration of Contractor or to carry out the legal responsibilities of Contractor, provided that such use and disclosures are permitted by law; and
- (b) Take all reasonable steps to destroy, or arrange for the destruction of a customer's records within its custody or control containing personal information which is no longer to be retained by Contractor by (1) shredding, (2) erasing, or (3) otherwise modifying the personal information in those records to make it unreadable or undecipherable through any means.

B. Responsibilities of Contractor.

- (1) Contractor agrees to safeguards:
 - (a) To prevent use or disclosure of PII other than as provided for by this Agreement. Contractor shall provide County with information concerning such safeguards as County may reasonably request from time to time; and
 - (b) Contractor shall restrict logical and physical access to confidential, personal (e.g., PII) or sensitive data to authorized users only; and
 - (c) Contractor shall implement appropriate authenticated and authorized persons. If passwords are used in user authentication (e.g., username/password combination), Contractor shall implement strong password controls on all compatible computing systems that are consistent with the National Institute of Standards and Technology (NIST) Special Publication 800-86 and SANS Institute Password Protection Policy.
- (2) Contractor shall implement the following security controls on each server, workstation, or portable (e.g. laptop computer) computing device that processes or stores confidential, personal, or sensitive data:
 - (a) Network based firewall and/or personal firewall; and
 - (b) Continuously updated anti-virus software; and
 - (c) Patch-management process including installation of all operating system/software vendor security patches.
- (3) Mitigation of Harmful Effects. To mitigate, to the extent practicable, any harmful effect that is known to Contractor of a use or disclosure of PII by Contractor or its subcontractors in violation of the requirements of this Agreement.
- (4) Agents and Subcontractors of Contractor. To ensure that any agent, including a subcontractor to which Contractor provides PII received from County, or created or received by Contractor, for the purposes of this Agreement shall comply with the same restrictions and conditions that apply through this Agreement to Contractor with respect to such information.
- (5) Notification of Electronic Breach or Improper Disclosure. During the term of this Agreement, Contractor shall notify County immediately upon discovery of any breach of PII and/or data, where the information and/or data are reasonably believed to have been acquired by an unauthorized person. Immediate notification shall be made to County Privacy Officer at (530) 621-5852. Contractor shall take prompt corrective action to cure any deficiencies and any action pertaining to such unauthorized disclosure required by applicable Federal and State laws and regulations. Contractor shall investigate such breach and provide a written report of

the investigation to County Privacy Officer, postmarked within thirty (30)-working days of the discovery of the breach.

ARTICLE XXV

Access to Records: Contractor shall provide access to the Federal, State, County or Controller General of the United States, or any of their duly authorized Federal, State or local representatives to any books, documents, papers, and records of Contractor which are directly pertinent to this specific Agreement for the purpose of making an audit, examination, excerpts, and transcriptions.

ARTICLE XXVI

Compliance with All Federal, State and Local Laws and Regulations: Contractor shall comply with all Federal, State and local laws including, but not limited to, the Americans with Disabilities Act (ADA) of 1990 (42USC12101 et. seq.) and California Government Code Sections 11135-11139.5 and all regulations, requirements, and directives pertinent to its operations. Contractor shall abide by manuals, directives and other guidance issued by the State of California. All appropriate manuals and updates shall be available for review or reference by Contractor from County's Department of Human Services.

Contractor shall further comply with all applicable laws relating to wages and hours of employment and occupational safety and to fire, safety, and health and sanitation regulations. Such laws shall include, but not be limited to, the Copeland "Anti-Kickback" Act, the Davis-Bacon Act, the Contract Work Hours and Safety Standards Act, the Clean Air Act and amendments, the Clean Water Act and amendments, and the Federal Water Pollution Control Act.

Contractor further warrants that it has all necessary licenses, permits, notices, approvals, certificates, waivers and exemptions necessary for the provision of services hereunder and required by the laws and regulations of the United States, the State of California, the County of El Dorado and all other appropriate governmental agencies and shall maintain these throughout the term of the Agreement.

ARTICLE XXVII

Venue: Any dispute resolution action arising out of this Agreement, including, but not limited to, litigation, mediation, or arbitration, shall be brought in El Dorado County, California, and shall be resolved in accordance with the laws of the State of California.

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ARTICLE XXVIII

Entire Agreement: This document and the documents referred to herein or exhibits hereto are the entire Agreement between the parties and they incorporate or supersede all prior written or oral Agreements or understandings.

REQUESTING CONTRACT ADMINISTRATOR CONCURRENCE:

By: Karen E. Coleman Dated: 10/25/11
Karen Coleman
Chief Fiscal Officer
Department of Human Services

REQUESTING DEPARTMENT HEAD CONCURRENCE:

By: Daniel Nielson Dated: 10 28-2011
Daniel Nielson, M.P.A.
Director
Department of Human Services

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IN WITNESS WHEREOF, the parties hereto have executed this Agreement #021-S1210 the day and year first below written.

-- COUNTY OF EL DORADO --

By: _____
Raymond J. Nutting, Chair
Board of Supervisors
"County"

Dated: _____

ATTEST:
Suzanne Allen de Sanchez
Clerk of the Board of Supervisors

By: _____
Deputy Clerk

Dated: _____

-- CONSULTANT --

FISCAL EXPERTS, INC.
A CALIFORNIA CORPORATION

By: Dan Gardner
Dan Gardner
President
"Consultant"

Dated: 11/1/2011

By: Dan Gardner
Corporate Secretary

Dated: 11/1/2011

EXHIBIT A

STATEMENT OF WORK

Under the supervision of DHS Management, Consultant agrees to provide specific services on an "as requested" or "as needed" basis to the Department of Human Services (DHS) and relative to programs and funding allocations as they relate to the California Department of Social Services. Such services shall be procured, tracked, and approved via "task lists" as described below and samples of which are included as part of this Exhibit A:

- A. When County requires Consultant's services, County shall submit an original "DHS Assigned Task List" to Consultant that shall contain all of the following items:
 1. Consultant's name, address and phone number
 2. Requested Work Dates
 3. Task # with specific task assigned
 4. Estimated time to accomplish assigned task
 5. Location where assigned task is located
 6. Total estimated time to accomplish assigned tasks
 7. Authorization to perform tasks statement
 8. Authorization signature from DHS CFO. It is requested, but is not a requirement of this Agreement, that all original signatures be made using blue ink.
- B. Upon completion of tasks described on "DHS Assigned Task List," Consultant shall submit an original "Consultant Accomplished Task List", to County that shall contain all of the following data:
 1. Consultant's name, address and phone number
 2. Actual Work Dates
 3. Task # with specific task accomplished
 4. Date task completed
 5. Actual time required to accomplish assigned task
 6. Additional time required to accomplish task
 7. Justification for additional time
 8. Additional accomplished task(s) detail providing information from items B 1-7, above
 9. Total estimated time to accomplish all assigned tasks
 10. Verification and approval of accomplished tasks statement from DHS.
 11. Authorization signatures from DHS CFO and Consultant. It is requested, but is not a requirement of this Agreement, that all original signatures be made using blue ink.
- C. Under supervision and as authorized by DHS Management, Consultant agrees to provide training and/or knowledge transfer to DHS staff in support of all services identified in this Statement of Work and accompanying Agreement.
- D. Consultant will work in full cooperation with DHS's Chief Fiscal Officer (CFO) or designee to identify and coordinate resource availability and participation in applicable and appropriate programs and funding allocations as they relate to DHS and the California Department of Social Services (CDSS).
- E. Consultant will work in full cooperation with DHS's CFO or designee to identify systems developed by Consultant that can be utilized by DHS as it relates to programs and funding allocations associated with CDSS.
- F. All written work product provided by or developed on behalf of County by Consultant under this Agreement shall be deemed to be work made for hire and shall be provided to County.

EXHIBIT A

El Dorado County Department of Human Services (DHS)
Sample DHS-Assigned Task List

Consultant: Fiscal Experts, Inc., 5350 Dunlay Drive, Suite 2716, Sacramento, CA 95835

Phone: 916-575-9923

Requested Work Dates: April 26-27, 2011

<i>Task #</i>	<i>Specific Task(s) Assigned</i>	<i>Estimated Time</i>	<i>Location of Task(s)</i>
1.	Review task list for April 26-27, 2011 for additions/revisions and clarification (preview copy emailed to consultant on 4-18-11).	2.00	Briw Road, Placerville, CA
2.	Discuss CWDA meeting and FAADS committee updates, including current budget proposals and the impact to EDC.	1.5	Sacramento, CA
3.	Review current TSB reports to incorporate audit reports for CEC preparation and prepare TSB for 4 th Qtr based on preliminary 3 rd Qtr CEC results.	.75	Briw Road, Placerville, CA
4.	Rev Calc review updates. Work with staff to modify CA 800 tab to include reconciliations to FAMIS	1.25	Briw Road, Placerville, CA
5.	Review realignment projections and discuss.	0.50	Sacramento, CA
6.	Update and review the 10/11 YTD Projections for Rev/Exp and Net County Cost. Prepare summary report for Mgmt. Meeting.	3.00	Sacramento, CA

Total Estimated Time to Accomplish Assigned Task(s): 9.00

The above tasks are authorized by DHS to be performed by Fiscal Experts, Inc.

Authorized Signature: _____

Karen Coleman, CFO

_____ Date

EXHIBIT A

El Dorado County Department of Human Services (DHS)
Sample Consultant Completed Task List

Consulting Group: Fiscal Experts, Inc., 5350 Dunlay Drive, Suite 2716, Sacramento, CA 95835
 Phone: 916-575-9923
 Actual Work Dates: April 26-27, 2011

Task #	Specific Tasks Accomplished	Date Completed	Actual Time	Additional Time	Justification
1.	Review task list for April 26-27, 2011 for additions/revisions and clarification (preview copy emailed to consultant on 4-18-11).	04/26/11	2.00		
2.	Discuss CWDA meeting and FAADS committee updates, including current budget proposals and the impact to EDC.	04/27/11	0.00		
3.	Review current TSB reports to incorporate audit reports for CEC preparation and prepare TSB for 4 th Qtr based on preliminary 3 rd Qtr CEC results.	04/26/11	4.00	3.25	Encountered decimal point rounding error on 3 rd Qtr reports.
4.	Rev Calc review updates. Work with staff to modify CA 800 tab to include reconciliations to FAMIS	04/26/11	1.00		
5.	Review realignment projections and discuss.	04/27/11	0.50		
6.	Update and review the 10/11 YTD Projections for Rev/Exp and Net County Cost. Prepare summary report for Mgmt. Meeting.	04/27/11	3.00		

ADDITIONAL ACCOMPLISHED TASKS

1.	Reviewed completed tasks and discuss YTD Projections with Mgmt. Discuss outline for task list for next month.	2.00	04/26/11	2.00	After preparation of summary report for management meeting (Item #6), a review of YTD Projections was assigned by CFO.
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Total Actual Time to Accomplish Assigned Task(s): 12.50

The above tasks were completed by Dan Gardner, Fiscal Experts, Inc. and verified and approved by DHS CFO.

11-
 7-347.B
 Authorized Signatures:

Karen Coleman, CFO _____ Date Dan Gardner, Fiscal Experts, Inc. _____ Date

EXHIBIT B

HIPAA Business Associate Agreement

This Business Associate Agreement is made part of the base contract ("Underlying Agreement") to which it is attached and shall be considered simultaneously in effect as of the date of commencement of the term of the Underlying Agreement ("Effective Date").

RECITALS

WHEREAS, County and Contractor (hereinafter referred to as Business Associate ("BA")) entered into the Underlying Agreement pursuant to which BA provides services to County, and in conjunction with the provision of such services, certain Protected Health Information ("PHI") and Electronic Protected Health Information ("E PHI") may be disclosed to BA for the purposes of carrying out its obligations under the Underlying Agreement; and

WHEREAS, the County and BA intend to protect the privacy and provide for the security of PHI and E PHI disclosed to BA pursuant to the Agreement in compliance with the Health Insurance Portability and Accountability Act, Pub. L. No. 104-191 of 1996 ("HIPAA"), the Health Information Technology for Economic and Clinical Health Act, Public Law 111-005 ("HITECH Act" or "Act"), and regulation promulgated thereunder by the U.S. Department of Health and Human Services ("HIPAA Regulations") and other applicable laws as may be amended from time to time; and

WHEREAS, County is a Covered Entity, as defined in the HIPAA Standards for Privacy of Individually Identifiable Health Information including but not limited to 45 CFR Section 160.103 ("Privacy Rule") and HIPAA Security Rule including but not limited to 45 CFR Parts 160, 162, and 164 ("Security Rule"), and

WHEREAS, BA, when a recipient of PHI from County, is a Business Associate as defined in the Privacy Rule, the Security Rule, and the HITECH Act, including but not limited to 42 USC Section 17938 and 45 CFR Section 160.103; and

WHEREAS, "Individual" shall have the same meaning as the term "individual" in 45 CFR § 164.501 and shall include a person who qualifies as a personal representative in accordance with 45 CFR § 164.202(g); and

WHEREAS, "Breach" shall have the meaning given to such term under the HITECH Act under 42 USC Section 17921; and

WHEREAS, "Unsecured PHI" shall have the meaning to such term under the HITECH Act and any guidance issued pursuant to such Act including, but not limited to 42 USC Section 17932(h).

NOW, THEREFORE, in consideration of the mutual promises and covenants contained herein, the Parties agree as follows:

1. **Definitions.** Unless otherwise provided in this Business Associate Agreement, capitalized terms shall have the same meanings as set forth in the Privacy Rule, as may be amended from time to time.
2. **Scope of Use and Disclosure by BA of County Disclosed PHI.**
 - a. BA shall not disclose PHI except for the purposes of performing BA's obligations under the Underlying Agreement. Further, BA shall not use PHI in any manner that would constitute a violation of the minimum necessary policies and procedures of the County, Privacy Rule, Security Rule, or the HITECH Act.
 - b. Unless otherwise limited herein, in addition to any other uses and/or disclosures permitted or authorized by this Business Associate Agreement or required by law, BA may:
 - i. use the PHI in its possession for its proper management and administration and to fulfill any legal obligations.
 - ii. disclose the PHI in its possession to a third party for the purpose of BA's proper management and administration or to fulfill any legal responsibilities of BA, or as required by law
 - iii. disclose PHI as necessary for BA's operations only if:
 1. prior to making a disclosure to a third party, BA will obtain written assurances from such third party including:
 - a. to hold such PHI in confidence and use or further disclose it only for the purpose of which BA disclosed it to the third party, or as required by law; and,
 - b. the third party will immediately notify BA of any breaches of confidentiality of PHI to extent it has obtained knowledge of such breach.
 - iv. aggregate the PHI and/or aggregate the PHI with that of other data for the purpose of providing County with data analyses related to the Underlying Agreement, or any other purpose, financial or otherwise, as requested by County.
 - v. not disclose PHI disclosed to BA by County not authorized by the Underlying Agreement or this Business Associate Agreement without patient authorization or de-identification of the PHI as authorized in writing by County.
 - vi. de-identify any and all PHI of County received by BA under this Business Associate Agreement provided that the de-identification conforms to the requirements of the Privacy Rule, 45 CFR and does not preclude timely payment and/or claims processing and receipt.
 - c. BA agrees that it will neither use nor disclose PHI it receives from County, or from another business associate of County, except as permitted or required by this Business Associate Agreement, or as required by law, or as otherwise permitted by law.
3. **Obligations of BA.** In connection with its use of PHI disclosed by County to BA, BA agrees to:
 - a. Implement appropriate administrative, technical, and physical safeguards as are necessary to prevent use or disclosure of PHI other than as permitted by the Agreement that reasonably and appropriately protects the confidentiality, integrity, and availability of the PHI in accordance with 45 CFR 164.308, 164.310, 164.312, and 164.504(e)(2). BA shall comply with the policies and procedures and documentation requirements of the HIPAA Security Rule.
 - b. Report to County within 24 hours of any suspected or actual breach of security, intrusion, or unauthorized use or disclosure of PHI of which BA becomes aware and/or any actual or suspected use or disclosure of data in violation of any applicable federal or state laws or regulations. BA shall take prompt corrective action to cure any such deficiencies and any action pertaining to such unauthorized disclosure required by applicable federal and state laws and regulations.
 - c. Report to County in writing of any access, use or disclosure of PHI not permitted by the Underlying Agreement and this Business Associate Agreement, and any Breach of Unsecured PHI of which it becomes aware without unreasonable delay and in no case later than five (5) days. To the extent the

Breach is solely a result of BA's failure to implement reasonable and appropriate safeguards as required by law, and not due in whole or part to the acts or omissions of the County, BA may be required to reimburse the County for notifications required under 45 CFR 164.404 and CFR 164.406.

- d. BA shall not use or disclose PHI for fundraising or marketing purposes. BA shall not disclose PHI to a health plan for payment or health care operations purposes if the patient has requested this special restriction, and has paid out of pocket in full for the health care item or service to which the PHI solely relates. BA shall not directly or indirectly receive remuneration in exchange of PHI, except with the prior written consent of the County and as permitted by the HITECH Act, 42 USC Section 17935(d)(2); however, this prohibition shall not affect payment by County to BA for services provided pursuant to the Agreement.

4. **PHI Access, Amendment and Disclosure Accounting.** BA agrees to:

- a. Provide access, at the request of County, within five (5) days, to PHI in a Designated Record Set, to the County, or to an Individual as directed by the County. If BA maintains an Electronic Health Record, BA shall provide such information in electronic format to enable County to fulfill its obligations under the HITECH Act, including, but not limited to, 42 USC Section 17935(e).
- b. Within ten (10) days of receipt of a request from County, incorporate any amendments or corrections to the PHI in accordance with the Privacy Rule in the event that the PHI in BA's possession constitutes a Designated Record Set.
- c. To assist the County in meeting its disclosure accounting under HIPAA:
 - i. BA agrees to implement a process that allows for an accounting to be collected and maintained by BA and its agents or subcontractors for at least six (6) years prior to the request. However, accounting of disclosure from Electronic Health Record for treatment, payment, or health care operations purposes are required to be collected and maintained for only three (3) years prior to the request, and only to the extent that BA maintains an electronic health record and is subject to this requirement. At the minimum, the information collected shall include: (i) the date of disclosure; (ii) the name of the entity or person who received PHI and, if know, the address of the entity or person; (iii) a brief description of PHI disclosed and; (iv) a brief statement of purpose of the disclosure that reasonably informs the individual of the basis for the disclosure, or a copy of the individual's authorization, or a copy of the written request for disclosure.
 - ii. Within in 30 days of notice by the County, BA agrees to provide to County information collected in accordance with this section to permit the County to respond to a request by an Individual for an accounting of disclosures of PHI.
- d. Make available to the County, or to the Secretary of Health and Human Services (the "Secretary"), BA's internal practices, books and records relating to the use of and disclosure of PHI for purposes of determining BA's compliance with the Privacy Rule, subject to any applicable legal restrictions. BA shall provide County a copy of any PHI that BA provides to the Secretary concurrently with providing such information to the Secretary.

5. **Obligations of County.**

- a. County agrees that it will promptly notify BA in writing of any restrictions on the use and disclosure of PHI agreed to by County that may affect BA's ability to perform its obligations under the Underlying Agreement, or this Business Associate Agreement.
- b. County agrees that it will promptly notify BA in writing of any changes in, or revocation of, permission by any Individual to use or disclose PHI, if such changes or revocation may affect BA's ability to perform its obligations under the Underlying Agreement, or this Business Associate Agreement.

- c. County agrees that it will promptly notify BA in writing of any known limitation(s) in its notice of privacy practices to the extent that such limitation may affect BA's use of disclosure of PHI.
- d. County shall not request BA to use or disclose PHI in any manner that would not be permissible under the Privacy Rule if done by County, except as may be expressly permitted by the Privacy Rule.
- e. County will obtain any authorizations necessary for the use or disclosure of PHI, so that BA can perform its obligations under this Business Associate Agreement and/or the Underlying Agreement.

6. Term and Termination.

- a. Term. This Business Associate Agreement shall commence upon the Effective Date and terminate upon the termination of the Underlying Agreement, as provided therein when all PHI provided by the County to BA, or created or received by BA on behalf of the County, is destroyed or returned to the County, or, or if it is infeasible to return or destroy PHI, protections are extended to such information, in accordance with the termination provisions in this Section.
- b. Termination for Cause. Upon the County's knowledge of a material breach by the BA, the County shall either:
 - c. Provide an opportunity for the BA to cure the breach or end the violation and terminate this Agreement if the BA does not cure the breach or end the violation within the time specified by the County.
 - d. Immediately terminate this Agreement if the BA has breached a material term of this Agreement and cure is not possible; or
 - e. If neither termination nor cures are feasible, the County shall report the violation to the Secretary.

7. Effect of Termination.

- a. Except as provided in paragraph (2) of this section, upon termination of this Agreement, for any reason, the BA shall, at the option of County, return or destroy all PHI that BA or its agents or subcontractors still maintain in any form, and shall retain no copies of such PHI.
- b. In the event that the County determines that returning or destroying the PHI is infeasible, BA shall provide to the County notification of the conditions that make return or destruction infeasible, and . BA shall extend the protections of this Agreement to such PHI to those purposes that make the return or destruction infeasible, for so long as the BA maintains such PHI. If County elects destruction of the PHI, BA shall certify in writing to County that such PHI has been destroyed.

8. Indemnity.

- a. BA shall indemnify and hold harmless all Agencies, Districts, Special Districts and Departments of the County, their respective directors, officers, Board of Supervisors, elected and appointed officials, employees, agents and representatives (collectively "County") from any liability whatsoever, based or asserted upon any services of BA, its officers, employees, subcontractors, agents or representatives arising out of or in any way relating to BA's performance under this Business Associate Agreement, including but not limited to property damage, bodily injury, or death or any other element of any kind or nature whatsoever including fines, penalties or any other costs and resulting from any reason whatsoever to the extent arising from the performance of BA, its officers, agents, employees, subcontractors, agents or representatives under this Business Associate Agreement. BA shall defend, at its sole expense, all costs and fees including but not limited to attorney fees, cost of investigation, defense and settlements or awards against the County in any claim or action based upon such alleged acts or omissions.
- b. With respect to any action or claim subject to indemnification herein by BA, BA shall, at its sole cost, have the right to use counsel of its choice, subject to the approval of County, which shall not be unreasonably withheld, and shall have the right to adjust, settle, or compromise any such action or

claim without the prior consent of County; provided, however, that any such adjustment, settlement or compromise in no manner whatsoever limits or circumscribes BA's indemnification of County as set forth herein. BA's obligation to defend, indemnify and hold harmless County shall be subject to County having given BA written notice within a reasonable period of time of the claim or of the commencement of the related action, as the case may be, and information and reasonable assistance, at BA's expense, for the defense or settlement thereof. BA's obligation hereunder shall be satisfied when BA has provided to County the appropriate form of dismissal relieving County from any liability for the action or claim involved.

- c. The specified insurance limits required in the Underlying Agreement of this Business Associate Agreement shall in no way limit or circumscribe BA's obligations to indemnify and hold harmless the County herein from third party claims arising from the issues of this Business Associate Agreement.
 - d. In the event there is conflict between this clause and California Civil Code Section 2782, this clause shall be interpreted to comply with Civil Code Section 2782. Such interpretation shall not relieve the BA from indemnifying the County to the fullest extent allowed by law.
 - e. In the event there is a conflict between this indemnification clause and an indemnification clause contained in the Underlying Agreement of this Business Associate Agreement, this indemnification shall only apply to the subject issues included within this Business Associate Agreement.
9. **Amendment.** The parties agree to take such action as is necessary to amend this Business Associate Agreement from time to time as is necessary for County to comply with the Privacy Rule, 45 CFR, and HIPAA generally.
10. **Survival.** The respective rights and obligations of this Business Associate Agreement shall survive the termination or expiration of this Business Associate Agreement.
11. **Regulatory References.** A reference in this Business Associate Agreement to a section in the Privacy Rule means the section as in effect or as amended.
12. **Conflicts.** Any ambiguity in this Business Associate Agreement and the Underlying Agreement shall be resolved to permit County to comply with the Privacy Rule, 45 CFR, and HIPAA generally.