

Contract #: 024-S1711
Index Code: 408220

CONTRACT ROUTING SHEET

Date Prepared: 05-06-2016 *TO Counsel 5/12/16*

Need Date: *5/17/16*

PROCESSING DEPARTMENT:

Department: HHSA/PH
Dept. Contact: Zhana Mc Cullough
Phone #: X7154
Department Head Signature: *[Signature]*
Don Ashton, M.P.A., Director

CONTRACTOR:

Name: Advanced Data Processing, Inc.
Address: 6451 N. Federal Hwy, Suite 1000
Fort Lauderdale, FL 33308
Phone: _____

CONTRACTING DEPARTMENT: HHSA/Public Health Division

Service Requested: Ambulance Billing Services
Contract Term: 07/01/2016 – 06/30/2019 Contract/Grant Value: 4.25% of net receipts (approx. \$500,000/year)
Compliance with Human Resources requirements? N/A X Yes X No: _____
Compliance verified by: The Board awarded RFP 16-918-009 for Ambulance Billing Services to Advanced Data Processing at the 03-22-2016 BOS Agenda, File ID 16-0192.

COUNTY COUNSEL: (Must approve all contracts and MOU's)

Approved: X Disapproved: _____ Date: 5/17/16 By: *[Signature]*
Approved: _____ Disapproved: _____ Date: _____ By: _____

PLEASE FORWARD TO RISK MANAGEMENT. THANK YOU!

RISK MANAGEMENT: (All contracts and MOU's except boilerplate grant funding agreements)

Approved: ✓ Disapproved: _____ Date: 5-19-16 By: *[Signature]*
Approved: _____ Disapproved: _____ Date: _____ By: _____

FDC HR/RISK
16 MAY 17 PM 04:36

OTHER APPROVAL: (Specify department(s) participating or directly affected by this contract).

NOTE: Any contract that involves the development, installation, implementation, storing, retrieving, transfer, or sending of electronic information, the acquisition of software or computer related items, or any other service/item that may be IT related, especially those that involve computers and telecommunications, must be approved by IT before submission to Counsel. This also applies to any other contract that requires approval from another department.

Departments: _____
Approved: _____ Disapproved: _____ Date: _____ By: _____
Approved: _____ Disapproved: _____ Date: _____ By: _____

[Signature] 5/12/16
CFO Review Date

[Signature] 5/10/16
Deputy Director, Administration and Contracts Date

Ⓟ 5/16/16

AGREEMENT FOR SERVICES #024-S1711
Ambulance Billing Services

THIS AGREEMENT is made and entered into by and between the County of El Dorado, a political subdivision of the State of California (hereinafter referred to as "County") and Advanced Data Processing, Inc., a subsidiary of Intermedix Corporation, a Delaware corporation, duly qualified to conduct business in the State of California, whose principal place of business is 6451 N. Federal Hwy., Suite 1000, Fort Lauderdale, FL 33308, and whose Agent for Service of Process is Registered Agent Solutions, Inc., 1220 S Street, Suite 150, Sacramento, CA 95811, (hereinafter referred to as "Contractor");

RECITALS

WHEREAS, County has determined that it is necessary to obtain a Contractor to perform ambulance billing services; and

WHEREAS, County issued a Request for Proposal No 16-918-009 to select a Contractor to perform ambulance billing services and the Board of Supervisors awarded the bid to Contractor on March 22, 2016, File ID 16-0192, in response to the Contractor's submitted proposal; 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 Contractor is in the public's best interest, and that these services are more economically and feasibly performed by outside independent Contractors as well as authorized by El Dorado County Charter, Section 210 (b) (6) and/or Government Code 31000;

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

ARTICLE I

Scope of Services: County and Contractor acknowledge and agree that Contractor was the successful responsible and responsive bidder to the aforementioned Request for Proposal. As such, there will be a transition from the current ambulance billing contractor to Contractor. Contractor and County each commit to working in the best interest of the County to transition both new and existing billings to the new Contractor.

The County provides ambulance billing services under a public utility model (PUM) including its subcontractor entities with whom the County contracts for ambulance services (Agency or Agencies). These Agencies currently include California Tahoe Emergency Services Operations Authority (CALTahoe), North Tahoe Fire Department, and El Dorado County Regional Prehospital Emergency Operations Authority (West Slope JPA). Agencies are currently designated by County Service Area as follows:

Agency	County Service Area (CSA) / Profit Center
Alpine County	Alpine County
CALTahoe	CSA 3
North Tahoe Fire Department	CSA 3
West Slope JPA	CSA 7

Prehospital Care Reports (PCR)/ Electronic Prehospital Care Reports (ePCR): At the time of this Agreement, the Health and Human Services Agency (HHSA) is in the process of soliciting bids for an electronic ePCR contractor, and will be transitioning from a paper PCR format to an electronic process. Contractor agrees to process PCRs or ePCRs in a consistent and timely manner, as requested by County. County shall arrange for Contractor to receive PCRs/ePCRs and other billing-related documentation in a timely manner.

Contractor and County agree to work together to develop a project timeline for the successful transition from PCR to ePCR upon County selection of an ePCR contractor.

A. Contractor Responsibilities: Contractor agrees to furnish the personnel and equipment necessary to perform accurate and timely billing for ambulance services.

1. **Assignment of Charges to Appropriate Profit Center (Agency):** Contractor's billing system shall contain sufficient detail to categorize billings pursuant to multiple categories (Revenue Distribution Categories) as provided by County.
 - a. County shall advise Contractor, in writing, of any changes to the Revenue Distribution Categories, at least fifteen (15) days prior to implementation.
 - b. Contractor shall provide reporting with sufficient detail to track and report accounts from each Agency submitting PCRs / ePCRs under this Agreement.
 - c. Charges will be determined on a per event basis, and assigned to a specific Agency.
 - d. Contractor shall provide the flexibility to maintain any prior Revenue Distribution structure concurrently with the current Revenue Distribution structure if required to do so by County.
2. **Ambulance Services Fees:** Contractor shall maintain a table-driven process for recording ambulance fees according to the Ambulance Fee Schedule provided by County. The current Ambulance Fee Schedule is attached hereto as Exhibits A and B, and shall be updated by notice from County on an as needed basis in accordance with the Article titled "Notice to Parties" herein. Contractor shall be able to concurrently process multiple fees based on multiple implementation dates and end dates.
3. **Bad Debt Recovery:** Contractor shall refer to County Board of Supervisors Policy B-4 attached hereto as Exhibit C, or subsequent replacement policy for appropriate timeframes for referral of accounts for bad debt recovery.

Upon determination that Contractor's billing efforts are exhausted, and within the timeframes agreed upon by both parties, Contractor shall at least monthly account for remaining balances and submit said report to the Contract Administrator.

4. **Billing System Parameters:** Contractor's billing system shall allow for a clear and traceable audit trail for initial contact verification, billing notification, and telephone

contact by Contractor's staff. Further, the software will automatically update each individual account detailing date, change or billing function. All history and noted entries will be "write protected" so no alterations can be made.

5. **Billing timetable:** Contractor shall adhere to follow up timelines in accordance with County Board Policy B-4, attached hereto as Exhibit C, or replacement timelines pursuant to any amendments or modifications to Policy B-4. County shall provide updated Policy B-4 within ten days of authorization.
 - a. Contractor's first call to a private account will occur within three (3) business days after data entry of the incident into Contractor's system.
 - b. Contractor shall determine if the client has insurance or any special circumstances that may make it difficult to pay the bill in a reasonable amount of time. This information shall be documented in the Contractor's billing system.
 - c. Contractor's follow up procedures used to elicit payment will include a data file established for each client from which information regarding the account, billing, and payment can be recorded and retrieved, and client information can be updated.
6. **Confidentiality and Information Security:** Shall be in accordance with Exhibit D, attached hereto and incorporated by reference herein.
7. **Customer Service:** Contractor shall provide access via toll-free telephone and email to meet the needs of County customers during the hours of 8 a.m. – 8 p.m. Monday through Friday Pacific Standard Time (PST), and 7 a.m. to 2 p.m. PST Saturday. Contractor shall ensure language support services as needed for non-English speaking customers. Additionally, Contractor shall offer on-line access for customers to their individual accounts.
8. **Data Access:** Contractor shall provide fully functional Internet-based inquiry access capability into its billing system for County staff and any other Agencies authorized by HHSA.
9. **Medicare and Medi-Cal/Medicaid Process:** Medicare and Medi-Cal accounts shall be processed by staff trained specifically in Medicare and Med-Cal billing. Staff shall be well versed in all aspects of Medicare and Med-Cal billing, including federal and state law. Only those staff trained in Medicare and Med-Cal billing procedures and requirements shall process denials and appeals.
 - a. **Contractual Allowance:** If payment for services is approved by a government-sponsored program or regulatory agency, and County is legally and/or contractually prohibited from collecting an amount greater than the amount authorized by such program or agency, the Contractor shall adjust the amount of any account based upon the maximum amount authorized by such program or agency. This adjustment shall be, hereinafter, referred to as a "Contractual Allowance."

Contractor shall immediately cease all collection efforts underway to collect an amount greater than the adjusted amount. The settled amount shall be exclusive of the client's "share of cost" or co-pay amount, which is not subject to adjustment and shall be reported to County.

- b. Contractor shall maintain compliance with the Medicare Secondary Payer (MSP) Act (Title 42 US Code Section 1395y (b)), (available at http://www.law.cornell.edu/uscode/uscode42/usc_sec_42_00001395---y000-.html or subsequent replacement site), which ensures that Medicare does not pay

for services and items where other health insurance or coverage has primary responsibility for payment. The MSP provisions apply to situations when Medicare is not the client's primary insurance.

- c. Contractor shall maintain a high level of proficiency in government payer regulation compliance. Contractor will maintain complete compliance with all government payers. Contractor's Medicare and Medi-Cal compliance program will be updated on a regular basis to comply with current law and regulations. Contractor will ensure compliance with State laws and local ordinances by continually educating itself as to any differences that may apply.
 - d. Electronic Billing: Contractor shall electronically bill both Medicare and Medi-Cal /Medicaid
 - i. When Contractor receives PCRs/ePCRs indicating Medicare or Medi-Cal /Medicaid coverage, Contractor will verify this information through electronic verification systems to ensure accurate initial billing
 - ii. Medicare and Medi-Cal/Medicaid claims will be transmitted daily in accordance with the current Medicare / Med-Cal format and requirements.
10. **Meetings**: Contractor's Account Manager shall meet at least once per month, including conference calls, with the EMS Agency Administrator and Chief Fiscal Officer, or designee, or other County staff, to review open accounts, accounts referred to collections, accounts referred back to the County, problems and opportunities related to ambulance billing, and other related issues. At each monthly meeting, Contractor shall review refund requests, report on all accounts considered for Collections, and review issues or items that require discussion and/or approval.
11. **Payment Processing**: Contractor shall maintain appropriate accounting procedures for reconciling all deposits, receivables, billings, patient accounts, adjustments, and refunds. Contractor shall maintain daily deposit control sheets and original documentation of payments. Acceptable forms of payment shall include cash, check, and credit card payments for invoiced services. Contractor shall ensure that all funds are deposited by clients directly into the County's designated lockbox or bank account as designated by County. Contractor shall invoice County in accordance with Article III, Compensation for Services, based on documentation obtained by accessing lockbox data.
12. **Performance Indicators**:
- a. *Target Collection Per Account*: Total Net Collections divided by the total number of trips for a given time period, measured on a date of service basis. Initial Benchmark: \$591 which is based on historic data. The Benchmark should be reviewed and adjusted at least once per year to account for changes in the market (e.g., fee level changes, legislative changes that might prohibit balance billing, affordable care act changes, etc.).
 - b. *Clean Claims Rate*: Percentage of all claims that are denied by third party payers that need to be corrected and resubmitted. Number of claims denied divided by total number of claims submitted. Benchmark: 94-96%. Clean Claims Rate is defined as a percentage of claims accepted by payors upon first submission of claims.
 - c. *Revenue Cycle*:
 - i. Days in Processing – from the point of receipt of PCR/ePCR, to initial billing. Benchmark: Thirty (30) business days.

- ii. Days in Accounts Receivable – from the point of initial billing to receipt of payment. Total Accounts Receivable divided by average daily charges. Benchmark: 40-45 days.
 - iii. Percent of Accounts Receivable over 180 days. Amount of Accounts Receivable over 180 days divided by total receivables. Benchmark: 12-14%.
 - d. Other performance indicators shall be established as mutually agreed between County and Contractor.
 - e. Monitoring of Performance Indicators shall occur on a quarterly basis. In the event Performance Indicators “Target Collection Per Account” and “Clean Claims Rate,” are below the agreed-upon benchmarks for three consecutive months, the Contractor shall submit a written corrective action plan (CAP), including a proposed timeline for correction of said finding or exception, within thirty (30) days. The County will review and approve or revise the proposed CAP. Continued non-compliance beyond the targeted dates in the CAP may lead to termination of this Agreement in accordance with the Article titled, “Default, Termination, and Cancellation” herein.
13. **Outstanding Accounts:** Contractor shall continue to work outstanding accounts upon termination or expiration of this Agreement, until such time as said accounts can be successfully transitioned to County or to another entity specified by County, in accordance with the Article titled “Default, Termination and Cancellation,” section E “Transfer of Accounts.”
 14. **Policy and Procedures:** Contractor shall establish, maintain and provide to County Policies and Procedures specific to processing standards and timelines for ambulance billing, based upon applicable rules, regulations and industry standards, as current at the time of this Agreement or as may be amended/implemented during the term of this Agreement.
 15. **Rebilling of Uncollectible Accounts:** Contractor will re-bill third party or client, at no additional charge to the County, when notified by the Collections Agent or HHS Fiscal Unit that they have found corrected or additional information.
 16. **Record Retention & Audits:** Contractor shall maintain client records, books, documents, records, and other evidence, accounting procedures and practices sufficient to reflect properly all costs, including any matching costs and expenses, all of which shall be deemed to constitute “records” for purposes of this Agreement. Such records shall clearly reflect the cost and scope of the services performed by County’s contracted ambulance service Agencies.

Contractor’s facility or office, or such part thereof as may be engaged in the performance of this Agreement, and its records shall be subject at all reasonable times to inspection, audit and reproduction by County, the State or any of its duly authorized representatives, including the Comptroller General of the United States.

Contractor shall preserve and make available its records for a period of seven (7) years from the date of final payment under this Agreement, and for such longer period, if any, as is required by applicable statute, by any other provision of this Agreement, or by either (or both) of the following:

- a. If this Agreement is terminated or partially terminated, all of the records relating to work terminated shall: (a) be preserved and made available for a period of seven (7) years from the date of any resulting final settlement; or (b) at the sole option of the County, immediately become the property of the County and shall be delivered by Contractor to the County in an electronic format as agreed upon by County.
 - b. If any litigation, claim, negotiation, audit or other action involving the records has been started before the expiration of the seven (7) 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 seven (7) year period, whichever is later.
17. **Refund Processing:** Contractor shall provide all documentation necessary for County to process and issue refunds to appropriate party.
18. **Reporting:** Submit all reports as agreed to by the 10th of each month to verify satisfactory performance in monthly meetings with EMS Agency Administrator and Chief Fiscal Officer, or designee, or other County staff. Reports to include, and not be limited to:
- a. Payments and accounting: Generate monthly Cash Receipt Reports and conduct reconciliation of all deposits, receivables, billings, patient accounts, adjustments, dishonored checks, and refunds.
 - b. Monthly Self-Pay list so that County staff may follow up with local hospitals to obtain updated facesheets.
 - c. Monthly reports for accounts considered for collections.
19. **Training:** Contractor shall provide training as requested by County Contract Administrator. Trainees may include County staff, Agency staff, or County contractors. Sample topics for said training include but may not be limited to (1) accurate and complete data documentation for use in ambulance service billing, and (2) accurate documentation to ensure maximum allowable billing.
20. **Uncollectible Accounts:** For those accounts determined to be uncollectible, Contractor shall transfer accountability for collection to HHS Finance Unit, or subsequent agent designated by County.
21. **Withhold Transfer of Accounts to Collections Agent:** Should County determine that there is a need to withhold transfer of accounts to County's Collections Agent; County may provide written notice to Contractor requesting a temporary suspension of said transfer within five (5) business days of receipt of notice. Contractor and County shall mutually agree in writing on the date transfer of accounts shall resume.

B. County Responsibilities:

- 1. From each person who receives EMS from County ("Patient"), County shall use its best efforts to obtain and forward the following information ("Patient Information") to Contractor:
 - a. The name and address of the Patient's health insurance carrier, name of policyholder or primary covered party, and any applicable group and identification numbers, as applicable;
 - b. The Patient's Medicare or Medicaid HIC numbers if applicable;
 - c. The Patient's or other responsible party's signed payment authorization and release of medical authorization form or other documentation sufficient to comply with applicable signature requirements;
 - d. The call times, transporting unit, and crew members with their license level, i.e.

- EMT-B, EMT-I, or EMT-P;
- e. Odometer readings or actual loaded miles driven such that loaded miles may be calculated;
 - f. Physician certification statements (PCS) for non-emergency transports that are to be billed to Medicare pursuant to CMS regulations; and
 - g. Any other information that Contractor may reasonably require to bill the Patient or other Payor.
2. County will provide Contractor with necessary documents required by third parties to allow for the electronic filing of claims by Contractor on County's behalf.
 3. County will provide Contractor with its approved billing policies and procedures, including dispatch protocols, fee schedules and collection protocols. County will contract with a third party collection service for uncollectible accounts after Contractor has exhausted its collection efforts.
 4. County will timely process refunds identified by Contractor for account overpayments and provide to Contractor confirmation, including other materials sent, as applicable.
 5. County will provide a lock box or bank account address to Contractor and will instruct the lock box or bank custodian agency to forward all documents to Contractor for processing.
 6. County will provide Contractor with daily bank balance reporting capabilities via the bank's designated web site.
 7. County will cooperate with Contractor in all matters to ensure proper compliance with laws and regulations.
 8. County represents and warrants that all of its employees, personnel and independent contractors involved in the delivery of EMS or otherwise performing services for County: (i) hold the licensure or certification required to perform such services, (ii) have not been convicted of a criminal offense related to health care or been listed as debarred, excluded or otherwise ineligible for participation in a Federal health care program and (iii) are not excluded persons listed on any of the following: (a) the Office of the Inspector General List of Excluded Individuals and Entities; (b) the General Services Administration's Excluded Parties List; and (c) the Office of Foreign Asset Control's Specially Designated Nationals List.
 9. County agrees to notify Contractor in the event that their Electronic Patient Care Reporting (ePCR) vendor performs any system upgrades. Notification may be made in writing to support@Contractor.com.

ARTICLE II

Term: This Agreement shall become effective upon final execution by both parties hereto and shall cover the term July 1, 2016 through June 30, 2019.

ARTICLE III

Compensation for Services:

- A. Collections by Contractor: Contractor shall ensure funds collected from Clients are submitted directly to the County of El Dorado.

- B. For billing purposes, a “service month” shall be defined as a calendar month during which Contractor performs services in accordance with this Agreement. Detailed backup for each account processed during that month shall accompany each invoice.
- C. Invoices: Contractor shall submit monthly invoices no later than thirty (30) days following the end of a service month except in those instances where Contractor obtains written approval from County Health and Human Services Agency Director, or Director’s designee granting an extension of the time to complete billing for services or expenses. The monthly invoice shall include reimbursement of refund payments issued to payers, and a listing of refunds by patient account, the amount refunded, and reason for refund. County shall pay invoices within forty-five (45) days of receipt of invoices. In the event County disputes any part of the invoiced amounts, such dispute shall be raised in writing to Contractor within thirty (30) days of receipt of invoice or the invoice shall conclusively be deemed to be accurate and correct. Contractor shall respond to any such notice of dispute within thirty (30) days of receipt thereof.
- D. Rates:
 1. 4.25% of net collections (“net collections” defined as “funds received less refunds”).
 2. For dates of service up to June 30, 2016, accounts receivable converted from prior vendor will be reimbursed at a fee of 6% of net collections.
- E. Invoices/Remittances: Shall be addressed as indicated in the table below or to such other location as County or Contractor may direct per the Article titled “Notice to Parties.”

Mail invoices to:	Mail remittance to:
Health and Human Services Agency Fiscal Unit 3057 Briw Road, Suite B Placerville, CA 95667	Advanced Data Processing, Inc. Attn: Accounts Payable 6451 N. Federal Hwy., Suite 1000 Fort Lauderdale, FL 33308

In the event that Contractor fails to deliver the documents or other deliverables required pursuant to this Agreement, County at its sole option may delay the monthly payment for the period of time of the delay, cease all payments until such time as the deliverables are received, or proceed as set forth herein below in the Article titled “Default, Termination, and Cancellation.”

ARTICLE IV

Taxes: Contractor certifies that as of today’s date, it is not in default on any unsecured property taxes or other taxes or fees owed by Contractor to County. Contractor agrees that it shall not default on any obligations to County during the term of this Agreement.

ARTICLE V

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 VI

Contractor 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, Contractor shall act as Contractor only to County and shall not act as Contractor 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 Contractor's responsibilities to County during term hereof.

ARTICLE VII

Assignment and Delegation: Contractor is engaged by County for its unique qualifications and skills as well as those of its personnel. Contractor 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 VIII

Independent Contractor/Liability: Contractor 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. Contractor exclusively assumes responsibility for acts of its employees, associates, and subContractors, if any are authorized herein, as they relate to services to be provided under this Agreement during the course and scope of their employment.

Contractor 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 Contractor or its employees.

ARTICLE IX

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 will 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 X

Audit by California State Auditor: Contractor acknowledges that if total compensation under this agreement is greater than \$10,000.00, this Agreement is subject to examination and audit by the California State Auditor for a period of three (3) years, or for any longer period required by law, after final payment under this Agreement, pursuant to California Government Code §8546.7. In order to facilitate these potential examinations and audits, Contractor shall maintain, for a period of at least three (3) years, or for any longer period required by law, after final payment under the contract, all books, records and documentation necessary to demonstrate performance under the Agreement.

ARTICLE XI

Default, Termination, and Cancellation:

- A. Default: Upon the occurrence of any default by either party 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 thirty (30) 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: If County or Contractor: (i) apply for or consent to the appointment of a petition in bankruptcy; (ii) make a general assignment for the benefit of creditors; (iii) file a petition or answer seeking reorganization or arrangement with creditors; or (iv) take advantage of any insolvency, or if any order, judgment, or decree shall be entered by any court of competent jurisdiction on the application of a creditor or otherwise adjudicating either party bankrupt or approving a petition seeking reorganization of either party or appointment of a receiver, trustee or liquidator of either party or all or a substantial part of its assets (subsections (i) through (iv), each a "Bankruptcy Event"), this Agreement shall terminate automatically and immediately upon written notice from the other party to the party who has incurred a Bankruptcy Event.

- C. Ceasing Performance: County may terminate this Agreement in the event Contractor 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 thirty (30) calendar days written notice by County without cause. If such prior termination is effected, County will pay for satisfactory services rendered prior to the effective dates as set forth in the Notice of Termination provided to Contractor, 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, Contractor 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. Contractor may terminate this Agreement in whole or in part without cause upon one hundred eighty (180) days written notice to County.
- E. Transfer of Accounts: Contractor agrees that upon termination or expiration of this Agreement, County may request and Contractor shall transfer accounts to County or to another entity specified by the County in a format described by County. Each record shall be named in a manner that accurately describes the patient record, as specified by County. County shall have the right to withhold Contractor's last payment until accounts have been transferred in a format acceptable to County.

Upon expiration or termination of this Agreement, Contractor shall:

1. Send a letter to each Account, notifying them that the Contractor will no longer be handling the Account;
2. Continue to forward all payments and information sent to it by any Account to County;
 - a. If payment is forwarded to the County within ninety (90) calendar days of expiration or termination of this Agreement, County will pay Contractor the fee as specified in the Article titled "Compensation."
 - b. If the Contractor forwards payments to County after ninety (90) calendar days following expiration or termination of this Agreement, Contractor will no longer be due, nor will the County pay, said fee.

ARTICLE XII

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
Health and Human Services Agency
3057 Briw Road, Suite A
Placerville, CA 95667
ATTN: Contracts Unit

or to such other location as the County directs.

with a carbon copy to

COUNTY OF EL DORADO
Chief Administrative Office
Procurement and Contracts Division
360 Fair Lane
Placerville, CA 95667
ATTN: Purchasing Agent

Notices to Contractor shall be addressed as follows:

INTERMEDIX CORPORATION
6451 N. Federal Hwy., Suite 1000
Fort Lauderdale, FL 33308
ATTN: Brad Williams, VP & CAO

or to such other location as the Contractor directs.

ARTICLE XIII

Change of Address: In the event of a change in address for Contractor's principal place of business, Contractor's Agent for Service of Process, or Notices to Contractor, Contractor shall notify County in writing pursuant to the provisions contained in this Agreement under the Article titled "Notice to Parties". Said notice shall become part of this Agreement upon acknowledgment in writing by the County Contract Administrator, and no further amendment of the Agreement shall be necessary provided that such change of address does not conflict with any other provisions of this Agreement.

ARTICLE XIV

Indemnity: The Contractor 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 Contractor's services, operations, or performance hereunder, regardless of the existence or degree of fault or negligence on the part of the County, the Contractor, subContractor(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 Contractor to

indemnify and save County harmless includes the duties to defend set forth in California Civil Code Section 2778.

ARTICLE XV

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 Worker's Compensation and Employer's 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 and a \$2,000,000.00 aggregate limit.
- C. Automobile Liability Insurance of not less than \$1,000,000.00 is required in the event motor vehicles are used by the Contractor in the performance of the Agreement.
- D. In the event Contractor is a licensed professional or professional consultant, and is performing professional services under this Agreement, professional liability is required with a limit of liability of not less than \$1,000,000.00 per occurrence.
- 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 will be issued by an insurance company acceptable to Risk Management, or be provided through partial or total self-insurance likewise acceptable to Risk Management.
- 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 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 Risk Management and Contractor agrees that no work or services shall be performed prior to the giving of such approval. In the event the 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 stating that:
 - 1. The insurer will not cancel the insured's coverage without prior written notice to County, and;
 - 2. The County of El Dorado, its officers, officials, employees and volunteers are included as additional insured on an additional insured endorsement, but only

insofar as the operations under this Agreement are concerned. This provision shall apply to the general liability policy.

- I. 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 in excess of the Contractor's insurance and shall not contribute with it.
- J. Any deductibles or self-insured retentions must be declared to and approved by the County, either: the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects the County, its officers, officials, employees and volunteers; or the 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 the 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 Risk Management, as essential for protection of the County.

ARTICLE XVI

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 Contractor 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 XVII

Interest of Contractor: Contractor covenants that Contractor 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. Contractor further covenants that in the performance of this Agreement no person having any such interest shall be employed by Contractor.

ARTICLE XVIII

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. Contractor 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 Contractor 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".

ARTICLE XIX

Nondiscrimination:

- A. County may require Contractor's services on projects involving funding from various state and/or federal agencies, and as a consequence, Contractor shall comply with all applicable nondiscrimination statutes and regulations during the performance of this Agreement including but not limited to the following: Contractor and its employees and representatives shall not unlawfully discriminate against any employee or applicant for employment because of race, religion, color, national origin, ancestry, physical handicap, medical condition, marital status, age, or sex; Contractor shall, unless exempt, comply with the applicable provisions of the Fair Employment and Housing Act (Government Code, Sections 12900 et seq.) and applicable regulations promulgated thereunder (California Code of Regulations, Title 2, Sections 7285.0 et seq.); the applicable regulations of the Fair Employment and Housing Commission implementing Government Code, Section 12990, set forth in Chapter 5 of Division 4 of Title 2 of the California Code of Regulations incorporated into this Agreement by reference and made a part hereof as if set forth in full; and Title VI of the Civil Rights Act of 1964, as amended. Contractor and its employees and representatives shall give written notice of their obligations under this clause as required by law.
- B. Where applicable, Contractor shall include these nondiscrimination and compliance provisions in any of its agreements that affect or are related to the services performed herein.
- C. Contractor's signature shall provide any certifications necessary under the federal laws, the laws of the State of California, including but not limited to Government Code Section 12990 and Title 2, California Code of Regulations, Section 8103.

ARTICLE XX

California Residency (Form 590): If Contractor is a California resident, Contractors must file a State of California Form 590, certifying its California residency or, in the case of a corporation, certifying that it has a permanent place of business in California. The Contractor will 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 Contractor during term of the Agreement. This requirement applies to any agreement/contract exceeding \$1,500.00.

ARTICLE XXI

Nonresident Withholding: If Contractor is not a California resident, Contractor shall provide documentation that the State of California has granted a withholding exemption or authorized reduced withholding prior to execution of this Agreement or County shall withhold seven (7%) percent of each payment made to the Contractor during term of the Agreement as required by law. This requirement applies to any agreement/contract exceeding \$1,500.00. Contractor shall indemnify and hold the County harmless for any action taken by the California Franchise Tax Board.

ARTICLE XXII

Taxpayer Identification Number (Form W-9): All independent Contractors 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 XXIII

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 XXIV

Licenses: Contractor hereby represents and warrants that Contractor and any of its subcontractors employed under this Agreement has all the applicable licenses, permits, and certifications that are legally required for Contractor and its subcontractors to practice its profession or provide the services or work contemplated under this Agreement in the State of California. Contractor and its subcontractors shall obtain or maintain said applicable licenses, permits, or certificates in good standing throughout the term of this Agreement.

ARTICLE XXV

Administrator: The County Officer or employee with responsibility for administering this Agreement is Richard Todd, Emergency Medical Services Agency Director, or successor.

ARTICLE XXVI

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 XXVII

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 will continue in full force and effect without being impaired or invalidated in any way.

ARTICLE XXVIII

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.

ARTICLE XXIX

No Third Party Beneficiaries: Nothing in this Agreement is intended, nor will be deemed, to confer rights or remedies upon any person or legal entity not a party to this agreement.

ARTICLE XXX

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: Richard W. Todd
Richard Todd, EMS Agency Director
Health and Human Services Agency

Dated: 5-26-2016

Requesting Department Head Concurrence:

By: Don Ashton
Don Ashton, M.P.A., Director
Health and Human Services Agency

Dated: 5/26/2016

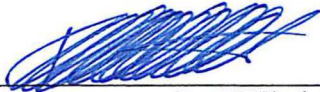
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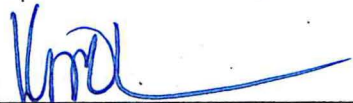
IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the dates indicated below.

-- COUNTY OF EL DORADO --

Dated: 3/22/16

By: 
Ron Mikulaco, Chair
Board of Supervisors
"County"


ATTEST:
James S. Mitrison
Clerk of the Board of Supervisors

By: 
Deputy Clerk

Dated: 3/22/16

-- CONTRACTOR --

ADVANCED DATA PROCESSING, INC.
a subsidiary of INTERMEDIX CORPORATION
(A DELAWARE CORPORATION)

By: 
Joel Portice
Chief Executive Officer
"Contractor"

Dated: 6-3-16

EXHIBIT A



**RESOLUTION NO. 186-2015
OF THE BOARD OF SUPERVISORS OF THE COUNTY OF EL DORADO
ACTING AS BOARD OF DIRECTORS OF COUNTY SERVICE AREA NO. 3**

**RESOLUTION TO ADOPT AMBULANCE RATE SCHEDULE FOR COUNTY SERVICE AREA
NO. 3 FOR AMBULANCE SERVICES**

WHEREAS, the Board of Directors of County Service Area No. 3 has determined that it is necessary to continue providing advanced life support (ALS) ambulance service within the legal boundaries of County Service Area No. 3; and

WHEREAS, the Board of Directors of County Service Area No. 3 has determined that the patients and users of such ambulance service pay a standardized rate for services to reimburse in part the cost of such ambulance service within County Service Area No. 3; and

WHEREAS, the Board of Directors of County Service Area No. 3 has determined that an annual adjustment of ambulance rates shall be based on an average of the changes in the US Medical Care Services and the San Francisco-Oakland All Items indices of the Federal Bureau of Labor Statistics Consumer Price Index. In the event that the average of US Medical Care Services and the San Francisco-Oakland All Items indices is zero or a negative percentage in any given year, ambulance rates shall not be changed during that year; and

WHEREAS, the Board of Directors of County Service Area No. 3 has determined to continue ALS billing county-wide as a matter of policy.


NOW, THEREFORE, BE IT RESOLVED:

1. That the Board of Directors of County Service Area No. 3 do hereby adopt, effective November 17, 2015, the Ambulance Rate Schedule attached hereto as Exhibit A for ambulance services within the said County Service Area; and
2. That the Board of Directors of County Service Area No. 3 do hereby adopt and approve an annual adjustment of ambulance rates based on an average of the changes in the US Medical Care Services and San Francisco-Oakland All Items indices of the Federal Bureau of Labor Statistics Consumer Price Index; and
3. That the billing for said services and collections thereof shall be managed by the Fiscal Unit of the Health and Human Services Agency of the County of El Dorado.

PASSED AND ADOPTED by the Board of Supervisors of the County of El Dorado at a regular meeting of said Board, held on November 17, 2015 by the following vote of said Board:

Attest:
James S. Mitrison
Clerk of the Board of Supervisors

Ayes: Novasel, Ranalli, Mikulaco, Frentzen, Veerkamp
Noes: None
Absent: None

By:  _____
Deputy Clerk

 _____
Brian Veerkamp
Chair, Board of Supervisors

EXHIBIT A

**2015 EL DORADO COUNTY
AMBULANCE RATE SCHEDULE**

Effective November 17, 2015

Description	Rate
ALS Emergency Base Rate ¹ – Resident	\$1,427
ALS Emergency Base Rate – Nonresident*	\$1,683
ALS Non-Emergency Base Rate ² – Resident	\$1,427
ALS Non-Emergency Base Rate – Nonresident*	\$1,683
ALS Level 2 ³ – Resident	\$1,504
ALS Level 2 – Nonresident*	\$1,760
Mileage	\$31/mile
Facility Waiting Time (per 1/4 hour)	\$263
Oxygen Use	\$111
Standby (Per Hour)	\$195
Critical Care Transport ⁴ – Resident	\$2,111
Critical Care Transport – Nonresident*	\$2,367
Treatment – No Transport ⁵	\$406
Medical Supplies & Drugs ⁶	Market Cost + 15%

¹ ALS Emergency Base Rate: This base rate is charged for all emergency transports for which the patient was transported to an acute care hospital or rendezvous point with an air ambulance at least 0.1 mile from the pick up location.

² ALS Non-Emergency Base Rate: This base rate is charged for non-emergency transfers from a private residence, convalescent care, skilled nursing facility, or hospital and does not require an emergency response (i.e., red lights and siren) to the pick up location.

³ ALS Level 2: This charge applies when there has been a medically necessary administration of at least three different medications or the provision of one or more of the following ALS procedures: manual defibrillation/cardioversion, endotracheal intubation, central venous line, cardiac pacing, chest decompression, surgical airway, or intraosseous line.

⁴ Critical Care Transport: This charge applies when a patient receives care from a registered nurse during transport from a hospital to another receiving facility.

⁵ Treatment – No Transport: This charge applies when the patient receives an assessment and at least one ALS intervention (i.e., ECG monitor, IV, glucose, etc.), but then refuses transport or is transported by other means (i.e., private car, air ambulance, etc.)

⁶ Medical Supplies & Drugs: Medical supplies and drugs are billed at provider's net cost plus a handling charge of 15% to cover the costs of materials, ordering, shipping and inventory control.

* Nonresident: Charge applies to a patient whose home address includes a city, state or zip code located outside El Dorado County.

EXHIBIT B



RESOLUTION NO. 187-2015
OF THE BOARD OF SUPERVISORS OF THE COUNTY OF EL DORADO
ACTING AS BOARD OF DIRECTORS OF COUNTY SERVICE AREA NO. 7

**RESOLUTION TO ADOPT AMBULANCE RATE SCHEDULE FOR COUNTY SERVICE AREA
NO. 7 FOR AMBULANCE SERVICES**

WHEREAS, the Board of Directors of County Service Area No. 7 has determined that it is necessary to continue providing advanced life support (ALS) ambulance service within the legal boundaries of County Service Area No. 7; and

WHEREAS, the Board of Directors of County Service Area No. 7 has determined that the patients and users of such ambulance service pay a standardized rate for services to reimburse in part the cost of such ambulance service within County Service Area No. 7; and

WHEREAS, the Board of Directors of County Service Area No. 7 has determined that an annual adjustment of ambulance rates shall be based on an average of the changes in the US Medical Care Services and the San Francisco-Oakland All Items indices of the Federal Bureau of Labor Statistics Consumer Price Index. In the event that the average of US Medical Care Services and the San Francisco-Oakland All Items indices is zero or a negative percentage in any given year, ambulance rates shall not be changed during that year; and

WHEREAS, the Board of Directors of County Service Area No. 7 has determined to continue ALS billing county-wide as a matter of policy.

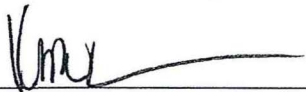
NOW, THEREFORE, BE IT RESOLVED:

1. That the Board of Directors of County Service Area No. 7 do hereby adopt, effective November 17, 2015, the Ambulance Rate Schedule attached hereto as Exhibit A for ambulance services within the said County Service Area; and
2. That the Board of Directors of County Service Area No. 7 do hereby adopt and approve an annual adjustment of ambulance rates based on the average of changes in the US Medical Care Services and San Francisco-Oakland All Items indices of the Federal Bureau of Labor Statistics Consumer Price Index; and
3. That the billing for said services and collections thereof shall be managed by the Fiscal Unit of the Health and Human Services Agency of the County of El Dorado.

PASSED AND ADOPTED by the Board of Supervisors of the County of El Dorado at a regular meeting of said Board, held on November 17, 2015 by the following vote of said Board:

Attest:
James S. Mitrison
Clerk of the Board of Supervisors

Ayes: Novasel, Ranalli, Mikulaco, Frentzen, Veerkamp
Noes: None
Absent: None

By:  _____
Deputy Clerk

 _____
Brian Veerkamp
Chair, Board of Supervisors

EXHIBIT A

**2015 EL DORADO COUNTY
AMBULANCE RATE SCHEDULE**

Effective November 17, 2015

Description	Rate
ALS Emergency Base Rate ¹ – Resident	\$1,427
ALS Emergency Base Rate – Nonresident*	\$1,683
ALS Non-Emergency Base Rate ² – Resident	\$1,427
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ALS Level 2 ³ – Resident	\$1,504
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Mileage	\$31/mile
Facility Waiting Time (per 1/4 hour)	\$263
Oxygen Use	\$111
Standby (Per Hour)	\$195
Critical Care Transport ⁴ – Resident	\$2,111
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Treatment – No Transport ⁵	\$406
Medical Supplies & Drugs ⁶	Market Cost + 15%

¹ ALS Emergency Base Rate: This base rate is charged for all emergency transports for which the patient was transported to an acute care hospital or rendezvous point with an air ambulance at least 0.1 mile from the pick up location.

² ALS Non-Emergency Base Rate: This base rate is charged for non-emergency transfers from a private residence, convalescent care, skilled nursing facility, or hospital and does not require an emergency response (i.e., red lights and siren) to the pick up location.

³ ALS Level 2: This charge applies when there has been a medically necessary administration of at least three different medications or the provision of one or more of the following ALS procedures: manual defibrillation/cardioversion, endotracheal intubation, central venous line, cardiac pacing, chest decompression, surgical airway, or intraosseous line.

⁴ Critical Care Transport: This charge applies when a patient receives care from a registered nurse during transport from a hospital to another receiving facility.

⁵ Treatment – No Transport: This charge applies when the patient receives an assessment and at least one ALS intervention (i.e., ECG monitor, IV, glucose, etc.), but then refuses transport or is transported by other means (i.e., private car, air ambulance, etc.)

⁶ Medical Supplies & Drugs: Medical supplies and drugs are billed at provider's net cost plus a handling charge of 15% to cover the costs of materials, ordering, shipping and inventory control.

* Nonresident: Charge applies to a patient whose home address includes a city, state or zip code located outside El Dorado County.



EXHIBIT C

COUNTY OF EL DORADO, CALIFORNIA
BOARD OF SUPERVISORS POLICY

Subject: COLLECTIONS - RECOVERY OF PUBLIC FUNDS	Policy Number B-4	Page Number: Page 1 of 8
	Date Adopted: 12/13/1988	Revised Date: 01/24/2012

BACKGROUND:

The Board of Supervisors recognizes Article XVI, Section 6 of the California Constitution prohibits a gift of public money or a thing of value to another governmental entity, private individual or association, and that all property held under the County's care and control is in trust for the people of the State of California.

The Board further recognizes, as part of the County's fiduciary duty to safeguard the property and monies held in public trust, the importance that the County enforce just and legal obligations by efficient collection practices within its departments.

In view of the foregoing concerns, the Board of Supervisors adopts the following policy guidelines. This policy supersedes previous Board policy on Recovery of Public Funds (B-4) revised 9/24/2002. The purpose of this policy is to accomplish the following:

- a) Establish the priority and scope of the requirements for individual departments to collect debts for services and/or assistance rendered by County employees or County programs;
- b) Establish the guidelines for referral of County debt to the Revenue Recovery Division;
- c) Establish the specific procedures for referral of certain debt to County Counsel;
- d) Establish the specific requirements and processes for discharge of accountability pursuant to Government Code Sections 25257 through 25259.

POLICY:

Collection of just and legal obligations and debts owed to the County is a high priority concern of the Board of Supervisors. Departments and officers of the County are to prioritize collection of any obligations within their departments according to this policy.



**COUNTY OF EL DORADO, CALIFORNIA
BOARD OF SUPERVISORS POLICY**

Subject: COLLECTIONS - RECOVERY OF PUBLIC FUNDS	Policy Number B-4	Page Number: Page 2 of 8
	Date Adopted: 12/13/1988	Revised Date: 01/24/2012

This policy shall not apply to those debts and obligations for which a specified collection procedure exists under federal, state, or local laws, statutes, or regulations; for example, the billing and collection of property taxes or the course of action required in the event of non-payment.

I. INDIVIDUAL COUNTY DEPARTMENT DEBT COLLECTION

- a) Departments are directed to bill the recipient of services or monies for which an obligation to repay the County is incurred as soon as possible or within thirty (30) days from the date such services or monies are provided.
- b) If not paid within thirty (30) days from the initial billing, a second billing shall be prepared and sent.
- c) If full payment is not received within 90 days from the date services were initially provided, the department shall refer the case to the Revenue Recovery Division to enforce the obligation.
- d) If Revenue Recovery Division rejects the debt, the debt remains the responsibility of the originating department until the debt is collected in full or the department head is discharged from accountability as detailed in section IV of this policy.
- e) Health and Human Services Agency

Multiple governmental regulations, standards, and procedures govern the various programs administered by the Health and Human Services Agency (HHS). Collection regulations for HHS programs can be complex and subject to revision by the funding agency and the state or the federal government and are beyond the control of the County.



**COUNTY OF EL DORADO, CALIFORNIA
BOARD OF SUPERVISORS POLICY**

Subject: COLLECTIONS - RECOVERY OF PUBLIC FUNDS	Policy Number B-4	Page Number: Page 3 of 8
	Date Adopted: 12/13/1988	Revised Date: 01/24/2012

HHSA has primary responsibility for collection activities and maintains a collections specialist on staff to coordinate collection efforts on behalf of HHSA administered programs. HHSA shall have discretion in determining when a case is referred to the Revenue Recovery Division for further collection enforcement as collection requirements and circumstances vary by program. HHSA programs that do not have specialized collection requirements or circumstances shall comply with Sections a) through c) as noted above.

HHSA shall maintain written departmental policies and procedures for collections activities that deviate from those outlined in this policy. Such policies and procedures shall be subject to periodic review by state or federal funding agencies or the County Auditor-Controller.

i. Health Care Services

A host of complex insurance and governmental regulations, standards and procedures, governs the health care insurance industry. In addition, various contracts and agreements obligate the County to accept partial payments from certain governmental payers as payment in full for health care services. Billing and collection practices are governed and regulated by both State and Federal regulations. Such billing and collection regulations are dynamic in nature and are subject to frequent revision beyond the scope and control of the County. In practice, each payer type requires a unique claims process and payment time frame. Additionally, a hierarchy of payers exists that require claims to be submitted for payment or denial by a certain payer before a claim can be submitted to the next level payer.

The HHSA has primary responsibility for collection on these accounts. Due to the complex nature of these claims and the requirement for a unique skill set on the part



**COUNTY OF EL DORADO, CALIFORNIA
BOARD OF SUPERVISORS POLICY**

Subject: COLLECTIONS - RECOVERY OF PUBLIC FUNDS	Policy Number B-4	Page Number: Page 4 of 8
	Date Adopted: 12/13/1988	Revised Date: 01/24/2012

of the payment processor, HHS may utilize the services of the Revenue Recovery Division or may contract with a third party billing entity to provide initial and delinquent payment processing and billing services.

In many cases, the County is legally and/or contractually prohibited from collecting an amount greater than the amount authorized by a governmental payer (i.e. Medi-Cal and Medicare). In those instances, HSD or its designee is authorized to adjust (decrease) the balance due based on the maximum payment authorized by such payer as a collection allowance, exclusive of any client "share of cost" or co-pay amount. As an example, Medi-Cal claims are paid at the State Maximum Allowable Rate (SMA) which is typically less than the billed amount. The difference between the original billing and the SMA payment would be adjusted as a collection allowance.

II. REFERRAL TO REVENUE RECOVERY DIVISION FOR COLLECTION

- a) All Departments are required to complete the Revenue Recovery Referral Form when forwarding debts to the Revenue Recovery Division for collection enforcement.
- b) The Revenue Recovery Division shall review each request and either accept or reject the debts. If an account is rejected it shall be returned to the requesting Department for further action.
- c) Following referral of debt to the Revenue Recovery Division, should the Department receive oral or written notice that a debtor has filed an action or proceeding in bankruptcy of any type, the Department shall immediately notify the Revenue Recovery Division.
- d) The County Department responsible for administering the Revenue Recovery Division shall be authorized to collect and retain fees for the full cost of operating the Revenue



**COUNTY OF EL DORADO, CALIFORNIA
BOARD OF SUPERVISORS POLICY**

Subject: COLLECTIONS - RECOVERY OF PUBLIC FUNDS	Policy Number B-4	Page Number: Page 5 of 8
	Date Adopted: 12/13/1988	Revised Date: 01/24/2012

Recovery Division, including indirect costs and the cost of legal counsel assigned to county debt collection matters. Fees will be based on a methodology approved by the Auditor-Controller. Departments will be notified of this fee on an annual basis.

- e) After a debt is referred to Revenue Recovery for collection, any negotiations to settle accounts must be handled by the Revenue Recovery Division staff.
- f) The decision to allow a Department to recall a case that was referred to Revenue Recovery, will be made on a case-by-case basis at the discretion of the Revenue Recovery management staff.

III. REFERRAL OF CERTAIN DEBT TO COUNTY COUNSEL

- a) Any Department receiving oral or written notice that a debtor of the County has filed an action or proceeding in bankruptcy of any type should immediately refer the case to County Counsel for legal advice if the debt has not previously been referred to Revenue Recovery for collection.
- b) Collection of the full amount of legal obligations shall be accomplished to the greatest extent practicable, taking into account the totality of circumstances relating to any particular case including but not limited to the reasonableness of enforcement and the best interests of the public. For matters in litigation or pending litigation, County Counsel shall have authority to resolve any collection matter in which the original claim is less than twenty-five thousand dollars (\$25,000.00) upon determination that such action is in the best interests of the public.



COUNTY OF EL DORADO, CALIFORNIA
BOARD OF SUPERVISORS POLICY

Subject: COLLECTIONS - RECOVERY OF PUBLIC FUNDS	Policy Number B-4	Page Number: Page 6 of 8
	Date Adopted: 12/13/1988	Revised Date: 01/24/2012

IV. DISCHARGE OF ACCOUNTABILITY

Government Code Section 25257 to 25259.5

These code sections govern the discharge of accountability of debts due and payable to the County. The law allows the Board of Supervisors to make an order discharging the department, officer, or employee from further accountability and if appropriate may direct the County Auditor-Controller to adjust any charge against the department, officer, or employee in a like amount.

The discharge from accountability does not constitute a release of any person from liability for payment of any amount.

a) When County debts are determined to be uncollectible for any of the following reasons, the accounts shall be presented to the Board of Supervisors annually for discharge from further accountability to collect the debts:

1. The amount owing is too small to justify the cost of collection;
2. Death of the debtor;
3. Bankruptcy;
4. Statute of Limitations has expired.

b) The application for discharge of accountability shall include the following:

1. The amount owing;
2. The names of the debtors or persons liable and the amounts owed by each, except where disclosure of such information is prohibited by state or federal law;



**COUNTY OF EL DORADO, CALIFORNIA
BOARD OF SUPERVISORS POLICY**

Subject: COLLECTIONS - RECOVERY OF PUBLIC FUNDS	Policy Number B-4	Page Number: Page 7 of 8
	Date Adopted: 12/13/1988	Revised Date: 01/24/2012

3. The specific reason (under Section a) for the request to discharge the debt;
4. A verification by the applicant that the facts presented are true and correct.

V. IMPLEMENTATION

Each department, to the extent permitted by law, shall review its internal policies, practices and procedures to ensure consistency with this policy and to avoid further services or additional assistance to debtors who currently owe repayment or are in default of an obligation to that department or to the County.

VI. JOINT AND SEVERAL OBLIGATIONS

It shall be the County policy that obligations imposed by law as "joint and several" shall be enforced accordingly, i.e., where the law specified one or more parties are responsible for payment of an obligation, no "splitting" is to be utilized and the debt is to be enforced fully against each and every party until paid in full.

VII. RATES AND FEES

Unless otherwise provided by law, the rate used to calculate the amount obligated to be repaid by responsible parties shall be that rate established and in effect at the time the obligation is incurred. For matters that have proceeded to judgment, the judgment amount together with any additional charges or fees is the amount of the obligation. For matters that are in litigation or pending litigation, the established rate may be adjusted to conform to law or the sufficiency of proof.



COUNTY OF EL DORADO, CALIFORNIA
BOARD OF SUPERVISORS POLICY

Subject: COLLECTIONS - RECOVERY OF PUBLIC FUNDS	Policy Number B-4	Page Number: Page 8 of 8
	Date Adopted: 12/13/1988	Revised Date: 01/24/2012

Absent a judgment or written agreement between the County and the debtor to the contrary, payments shall be credited as to debts first incurred and legally enforceable and thereafter to subsequent obligations accrued against a debtor.

VIII. ABILITY TO ASSIGN OR SELL ACCOUNTS RECEIVABLE

Government Code Section 16585 and 26220(a)

The Board of Supervisors may, by a four-fifths vote of its members, assign, sell or transfer a part or all of its accounts receivable to a private debt collector, private persons, or other entity. Such purchaser will be selected based on a competitive bidding process. In order to complete the sale of any Health Services Department receivables, the purchaser must certify that HIPAA guidelines will be followed and that the County will be indemnified from any action arising from collections activity.

To facilitate the sale of any accounts receivable, the County must first provide notice to the debtor in writing at the address of record, notifying the debtor that unless the accounts receivable debt is paid or appealed within a specific time period of sixty (60) days, the debt will be transferred or sold. The County is prohibited from assigning, selling or transferring accounts receivable if a debt has been contested.

Primary Departments: County Counsel and Child Support Services Revenue Recovery Division

Authority Cited: California Constitution Article XVI, Section 6

Government Code §§ 16585, 25257 through 25259.5 and 26220(a)

Exhibit D

- 1) **HIPAA Compliance:** As a condition of Contractor performing services for the County of El Dorado, Contractor agrees to fully comply with all terms and conditions of County's Business Associate Agreement, attached hereto as Exhibit E (incorporated herein and made by reference a part hereof).
- 2) **Confidentiality and Information Security Provisions:** Contractor shall comply with applicable Federal, State, and local laws and regulations, including but not limited to the Code of Federal Regulations Title 45, parts 160-164, regarding the confidentiality and security of Personally Identifiable Information (PII).

Personally Identifiable Information 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 only 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 client's records within its custody or control containing personal information that 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
 - i) Contractor shall restrict logical and physical access to confidential, personal (e.g., PII) or sensitive data to authorized users only; and
 - ii) Contractor shall implement a system to identify 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.
 - b) 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:
 - i) Network based firewall or personal firewall; and
 - ii) Continuously updated anti-virus software; and
 - iii) Patch-management process including installation of all operating system/software vendor security patches.
 - c) Mitigation of Harmful Effects. Contractor shall 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.
 - d) Agents and Subcontractors of Contractor. The same restrictions and conditions that apply through this Agreement to Contractor, shall also apply to Contractor's subcontractors and agents.
 - e) 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 or data, where the information or data are reasonably believed to have been acquired by an unauthorized person. Notification shall be made to County Privacy Officer as soon as possible but not later than five (5) business days of discovery, at (530) 621-5565. 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.

Exhibit E

HIPAA Business Associate Agreement

This Business Associate Agreement is made part of the base contract (“Underlying Agreement”) to which it is attached, as of the date of commencement of the term of the Underlying Agreement (the “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 (“EPHI”) 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 EPHI 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 (the “HITECH” Act), and regulation promulgated thereunder by the U.S. Department of Health and Human Services (the “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 Privacy Rule and Security Rule, including but not limited to 45 CFR Section 160.103 ; 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);

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:
- (1) use the PHI in its possession for its proper management and administration and to fulfill any legal obligations.
 - (2) 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
 - (3) disclose PHI as necessary for BA's operations only if:
 - (a) prior to making a disclosure to a third party, BA will obtain written assurances from such third party including:
 - (i) 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,
 - (ii) the third party will immediately notify BA of any breaches of confidentiality of PHI to extent it has obtained knowledge of such breach.
 - (4) 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.
 - (5) 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.
 - (6) 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. Security Incidents and/or Unauthorized Use or Disclosure. BA shall report to County a successful Security Incident or any Use and/or Disclosure of PHI other than as provided for by this Agreement or permitted by applicable law within a reasonable time of becoming aware of such Security Incident and/or unauthorized Use or Disclosure (as soon as possible but not later than ten (10) days thereafter), in accordance with the notice provisions set forth herein. BA shall take (i) prompt action to cure any such deficiencies as reasonably requested by County, and (ii) any action pertaining to such Security Incident and/or unauthorized Use or Disclosure required by applicable federal and state laws and regulations. If such successful Security Incident or unauthorized Use or Disclosure results in a breach as defined in the HITECH Act, then County shall comply with the requirements of Section 3.b below. The Parties acknowledge and agree that this Section constitutes notice by BA to County of the ongoing existence and occurrence of attempted but Unsuccessful Security Incidents as defined herein. "Unsuccessful Security Incidents" will include, but not be limited to, pings and other broadcast attacks on BA's firewall, port scans, unsuccessful log-on attempts, denials of service and any combination of the above, so long as no such incident results in unauthorized access, use or disclosure of PHI.

Report to County as soon as possible but no later than five (5) days 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. Breach of Unsecured PHI. The provisions of this Section 3.B. are effective with respect to the discovery of a breach of unsecured PHI occurring on or after September 23, 2009. With respect to any unauthorized acquisition, access, use or disclosure of County's PHI by BA, its agents, or subcontractors, BA shall (i) investigate such unauthorized acquisition, access, use, or disclosure; (ii) determine whether such unauthorized acquisition, access, use or disclosure constitutes a reportable breach under the HITECH Act; and (iii) document and retain its

findings under clauses (i) and (ii). If BA discovers that a reportable breach has occurred, BA shall notify County of such reportable breach in writing as soon as possible but not later than ten (10) days of the date BA discovers such breach. BA shall be deemed to have discovered a breach as of the first day that the breach is either known to BA or any of its employees, officers or agents, other than the person who committed the breach, or by exercising reasonable diligence should have been known to BA or any of its employees, officers or agents, other than the person who committed the breach. To the extent the information is available to BA, BA's written notice shall include the information required by 45 CFR § 164.410(c). BA shall promptly supplement the written report with additional information regarding the Breach as it obtains such information. BA shall cooperate with County in meeting County's obligations under the HITECH Act with respect to such breach. 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 ten (10) 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 ten (10) 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:

(1) 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.

(2) 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:
- (1) 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.
 - (2) Immediately terminate this Agreement if the BA has breached a material term of this Agreement and cure is not possible; or
 - (3) If neither termination nor cures are feasible, the County shall report the violation to the Secretary.
- C. Effect of Termination.
- (1) 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.
 - (2) 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.

7. 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.

8. 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.
9. Survival The respective rights and obligations of this Business Associate Agreement shall survive the termination or expiration of this Business Associate Agreement.
10. 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.
11. 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.