

# **MEMORANDUM OF UNDERSTANDING**

*#684-PHD1107*

*between*

**EL DORADO COUNTY SUPERIOR COURT**

*and*

**EL DORADO COUNTY PUBLIC HEALTH DEPARTMENT**

*regarding*

**COLLABORATIVE JUSTICE DUI COURT EXPANSION PROJECT GRANT**

*and*

**DUI COURT SERVICES**

**THIS Memorandum of Understanding (“MOU”)**, made and entered by and between the Superior Court of El Dorado County, a political subdivision of the State of California (hereinafter referred to as "SUPERIOR COURT"), and the County of El Dorado, also a political subdivision of the State of California (hereinafter referred to as "COUNTY");

## **W I T N E S S E T H**

**WHEREAS**, SUPERIOR COURT and COUNTY have collaboratively sought funding for a DUI Court Expansion Project Program to provide DUI Court services, and SUPERIOR COURT and COUNTY have successfully obtained a grant from the Judicial Council of California for that purpose; and

**WHEREAS**, COUNTY, through its Public Health Department, administers El Dorado County DUI Drug Court services; and

**WHEREAS**, SUPERIOR COURT desires to make this grant funding available to COUNTY for the purpose of providing El Dorado County DUI Court services; and

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

**NOW, THEREFORE**, the parties hereto mutually agree as follows:

## **1. TERM**

This MOU is effective September 1, 2007 and shall remain in force until July 31, 2009, consistent with the grant term, unless earlier terminated pursuant to provisions of Section 6 herein. This MOU may also be extended up to sixty (60) days after the ending date of the grant term based upon extension from the AOC.

## **2. SUPERIOR COURT AGREES TO:**

Serve as the Fiscal Agent to the COUNTY for these grant funds. SUPERIOR COURT agrees to provide grant funding to the Public Health Department, who will administer and staff the DUI Court Expansion Project program for El Dorado County. Furthermore, SUPERIOR COURT agrees to the following terms in exchange for County's agreement to administer the program:

- A. Eligible El Dorado County participants into the Collaborative Justice DUI Court Expansion Project Program.
- B. Eligible El Dorado County participants that participate in the Collaborative Justice DUI Court Expansion Project Program shall also be required to participate in the regular DUI Program. Participant fees would be paid by participants in the regular DUI Program to EDCA Lifeskills for the DUI PC1000 Program.
- C. Observe the maximum funding and client participation limits imposed by the Grant, and coordinate with Public Health to ensure that limits are not exceeded and only eligible participants are admitted to the Program.
- D. Monitor clients' participation in the Collaborative Justice DUI Court Expansion Project Program during court appearances.
- E. Coordinate with the Public Health Department, Probation Departments, and treatment providers concerning clients' progress in treatment.
- F. Receive and process monthly invoices from the Public Health Department for Collaborative Justice DUI Court Expansion Project Program Grant expenditures.
- G. Evaluate monthly invoices from the Public Health Department to confirm that they are allowable under the terms of the Collaborative Justice DUI Court Expansion Project Program Grant.
- H. Advance funds to the Public Health Department for Collaborative Justice DUI Court Expansion Project Program Grant expenses within 30 days of receiving an allowable invoice.
- I. Submit invoices to the Judicial Council of California to draw down grant funds.

## **3. COUNTY AGREES TO:**

- A. Provide a part time Health Education Coordinator to perform case management and coordinate alcohol abuse counseling for clients who receive grant funded services. The Health Education Coordinator assigned to the project will:
- i. Receive referrals from SUPERIOR COURT and/or the Probation Department identifying clients eligible for services.
  - ii. Assess clients to determine the appropriate level and type of alcohol/substance abuse treatment and ancillary services.
  - iii. Refer clients to contracted alcohol/substance abuse treatment providers for intensive services, and arrange for ancillary services as needed.
  - iv. Coordinate with the Courts, Probation Departments, and treatment providers concerning clients' progress in treatment.
  - v. Deliver counseling and crisis intervention services to program participants as needed.
  - vi. Collect demographic information on Collaborative Justice DUI Court Expansion Project Program participants.
  - vii. Assist in grant management including attending meetings, producing reports, monitoring expenditures, and maintaining records of grant funded activities.
  - viii. Attend training, seminars, and other professional development activities as needed.
- B. Contract with alcohol/substance abuse treatment providers to deliver services to eligible clients, and contract with Probation Department for part time Probation officer services and alcohol testing.
- C. Perform grant management and reporting necessary to comply with Judicial Council of California requirements.
- D. Submit accurate invoices to SUPERIOR COURT for Collaborative Justice DUI Court Expansion Project Program expenditures.
- E. COUNTY agrees to adhere to all the terms of the State of California Standard Agreement Exhibit A, STANDARD PROVISIONS, and Exhibit B, SPECIAL PROVISIONS attached hereto and made by reference a part hereof. These exhibits are subject to revision from time to time by the Grantor; any revisions shall be provided to COUNTY and incorporated into this MOU. Exhibits A and B to the State of California Standard Agreement are attached hereto respectively as Exhibits A and B to this MOU.

#### **4. FISCAL PROVISIONS**

SUPERIOR COURT agrees to compensate COUNTY monthly, based on invoices submitted by the Public Health Department. SUPERIOR COURT shall reimburse COUNTY within thirty (30) days of receipt of original invoices that comply with Judicial Council of California and the Office of Traffic Safety requirements, attached as hereto Exhibits C and D, and are allowable expenses as defined in the grant terms. Exhibits C and D are incorporated fully herein by reference. Total payment to COUNTY shall not exceed \$316,612.00 over the term. The total amount for fiscal year 07-08 shall not exceed \$161,056.00 and for fiscal year 08-09 shall not exceed \$155,556.00.

## **5. GENERAL PROVISIONS**

- A. This MOU may be amended by written mutual consent of both parties.
- B. Either party may terminate this MOU without cause upon thirty (30) days written notice to the other. If such prior termination is effected by SUPERIOR COURT, SUPERIOR COURT will pay for satisfactory services rendered prior to the effective dates as set forth in the Notice of Termination provided to COUNTY, and for such other services, which parties may agree to in writing as necessary for contract resolution. In no event, however, shall SUPERIOR COURT be obligated to pay more than the total amount of the contract. Upon receipt of a Notice of Termination by SUPERIOR COURT, COUNTY 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.
- C. It is agreed that the parties shall be subject to examination and audit of any records associated with the provision of services, claims to obtain funding, and payment records for a period of four (4) years after final payment under this MOU. The examination and audit shall be confined to these matters connected with the performance of the MOU including, but not limited to, a cost of administering this MOU not to exceed ten (10) percent of the total amount.
- D. This MOU is not in effect or enforceable until signed by authorized representatives of both parties.

## **6. INDEMNITY**

El Dorado County shall indemnify, defend and hold harmless SUPERIOR COURT, its officers, agents, employees and representatives from and against any and all claims, losses, liabilities or damages, demands and actions including payment of reasonable attorney's fees, arising out of or resulting from the performance of this MOU, caused in whole or in part by any negligent or willful act or omission of El Dorado County, its officers, agents, employees, subcontractors, or anyone directly or indirectly employed by any of them regardless of whether caused in part by a party indemnified hereunder.

SUPERIOR COURT shall indemnify, defend and hold harmless El Dorado County, its officers, agents, employees and representatives from and against any and all claims, losses, liabilities or damages, demands and actions including payment of reasonable attorney's fees, arising out of or resulting from the performance of this MOU, caused in whole or in part by any negligent or willful act or omission of SUPERIOR COURT, its officers, agents, employees, subcontractors, or anyone directly or indirectly employed by any of them regardless of whether caused in part by a party indemnified hereunder.

## **7. NOTICES**

Any notice required or permitted under this MOU shall be in writing and shall be served by United State Postal Service upon the other party.

Notice to SUPERIOR COURT shall be addressed as follows:

EL DORADO COUNTY SUPERIOR COURT  
1354 JOHNSON BLVD., SUITE 2  
SOUTH LAKE TAHOE, CA 96150  
ATTN: HON. SUZANNE KINGSBURY

Notice to COUNTY shall be addressed as follows:

EL DORADO COUNTY PUBLIC HEALTH DEPARTMENT  
931 SPRING STREET  
PLACERVILLE, CA 95667  
ATTN: GAYLE ERBE-HAMLIN, DIRECTOR

**8. ADMINISTRATION:** The El Dorado County Officer or employee with responsibility for administering this Memorandum of Understanding is Gayle Erbe-Hamlin, Director of Public Health or successor.

**IN WITNESS WHEREOF**, the parties hereto have executed this MOU on the dates indicated herein above.

**EL DORADO COUNTY SUPERIOR COURT**

\_\_\_\_\_  
**Suzanne Kingsbury**  
Presiding Judge

\_\_\_\_\_  
Date

**PUBLIC HEALTH DEPARTMENT**

\_\_\_\_\_  
**Gayle Erbe-Hamlin**  
Director of Public Health

\_\_\_\_\_  
Date

**EL DORADO COUNTY**

\_\_\_\_\_  
**Helen K. Baumann**  
Board Chairman  
El Dorado County Board of Supervisors

\_\_\_\_\_  
Date

**ATTEST:**  
**Cindy Keck, Clerk**

**By:** \_\_\_\_\_ **Date:** \_\_\_\_\_  
**Deputy Clerk**

State of California Standard Agreement  
Contract No. 1011611 with Superior Court of California, County of El Dorado

**EXHIBIT A**  
**STANDARD PROVISIONS**  
*Collaborative Justice Courts Substance Abuse Focus Program*

1. Relationship of Parties

The Court and the agents and employees of the Court, in the performance of this Agreement, shall act in an independent capacity and not as officers or employees or agents of the Judicial Council of California / Administrative Office of the Courts.

2. Termination for Cause

The State may terminate this Agreement and be relieved of the payment of any consideration to the Court if the Court fails to perform the provisions of this Agreement at the time and in the manner provided. If the Agreement is terminated, the State may proceed with the Work in any manner it deems proper. The cost to the State to perform this Agreement shall be deducted from any sum due the Court under this Agreement or any other agreement, and the balance, if any, shall be paid to the Court upon demand.

3. No Assignment

Without the written consent of the State, the Court shall not assign this Agreement in whole or in part.

4. Time of Essence

Time is of the essence in this Agreement.

5. Validity of Alterations

Alteration or variation of the terms of this Agreement shall not be valid unless made in writing and signed by the parties, and an oral understanding or agreement that is not incorporated shall not be binding on any of the parties.

6. Consideration

The consideration to be paid to the Court under this Agreement shall be compensation for all the Court's expenses incurred in the performance of this Agreement, including travel and per diem, unless otherwise expressly provided.

*END OF EXHIBIT*

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**EXHIBIT B  
 SPECIAL PROVISIONS**

*Collaborative Justice Courts Substance Abuse Focus Program*

**I. Definitions**

Terms defined below and elsewhere throughout the Contract Documents shall apply to the Agreement as defined.

- A. **"Administrative Director"** refers to that individual, or authorized designee, empowered by the State to make final and binding executive decisions on behalf of the State.
- B. **"Amendment"** means a written document issued by the State and signed by the Contractor which alters the Contract Documents and identifies the following: (i) a change in the Work; (ii) a change in Contract Amount; (iii) a change in time allotted for performance; and/or (iv) an adjustment to the Agreement terms.
- C. **"Appropriation Year"** means the period of time that the legislative authority has authorized spending for a defined purpose. The Appropriation Year for agreements funded by the Legislature of the State of California commences July 1 and ends on June 30 of each year. The Appropriation Year for agreements funded by the United States Congress commences October 1 and ends on September 30 of each year.
- D. **"Collaborative Justice Courts Substance Abuse Focus Program" or "Program"** refers to all activity relative to this Agreement including activity of the Contractor, its Subcontractors, the State and the State's representatives, pertaining to promoting innovation in collaborative justice courts, as further set forth in Exhibit D, Work to be Performed, that address complex community problems exacerbated by substance abuse related offenses.
- E. **"Confidential Information"** means trade secrets, financial, statistical, personnel, technical, and other Data and information relating to the State's business or the business of its constituents. Confidential Information does not include (i) information that is already known by the receiving party, free of obligation of confidentiality to the disclosing party; (ii) information that becomes generally available to the public, other than as a result of disclosure by the receiving party in breach of this Agreement; (iii) information that is independently developed by the receiving party without reference to the Confidential Information; and (iv) information that the receiving party rightfully obtains from a Third Party free of the obligation of confidentiality to the disclosing party.
- F. The **"Contract"** or **"Contract Documents"** constitute the entire integrated agreement between the State and the Contractor, as attached to and incorporated by a fully



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executed State Standard Agreement form. The terms "Contract" or "Contract Documents" may be used interchangeably with the term "**Agreement**."

- G. "**Contract Amount**" means the total amount of the Grant encumbered under this Agreement for any reimbursement by the State to the Court for performance of the Work, in accordance with the Contract Documents.
- H. The "**Court**" or "**Contractor**" refers to the Superior Court of the State of California identified on the fully executed State Standard Agreement as contracting with the State. "**Grantee**" shall hold the same meaning as "Contractor."
- I. "**Court Model**" refers to one (1) of the possible types of collaborative justice courts, as further set forth in Exhibit D, Work to be Performed, that are acceptable as part of the Program, if approved and funded by the State under this Agreement.
- J. "**Data**" means all types of raw data, articles, papers, charts, records, reports, studies, research, memoranda, computation sheets, questionnaires, surveys, and other documentation.
- K. "**Day**" means calendar day, unless otherwise specified.
- L. "**Deliverable(s)**" or "**Submittal(s)**" means one or more items, if specified in the Contract Documents, that the Contractor shall complete and deliver or submit to the State for acceptance.
- M. "**Force Majeure**" means a delay which impacts the timely performance of Work which neither the Court nor the State are liable because such delay or failure to perform was unforeseeable and beyond the control of the party. Acts of Force Majeure include, but are not limited to:
  - i. Acts of God or the public enemy;
  - ii. Acts or omissions of any government entity;
  - iii. Fire or other casualty for which a party is not responsible;
  - iv. Quarantine or epidemic;
  - v. Strike or defensive lockout; and,
  - vi. Unusually severe weather conditions.
- N. "**Grant**" means the amount available for funding the Program for the 2006-2007 Appropriation Year, pursuant to the local assistance California Collaborative and Drug Court Projects section of the California Budget Act.
- O. "**Invoice Instructions**" refers to the document entitled "Invoice Reporting Instructions, Collaborative Justice Courts Substance Abuse Focus Program", as distributed by the AOC.

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- P. **"Material"** means all types of tangible personal property, including but not limited to goods, supplies, equipment, commodities, and information and telecommunication technology.
- Q. **"Notice"** means a written document initiated by the authorized representative of either party to this Agreement and given by:
- i. Depositing in the U. S. Mail (or approved commercial express carrier) prepaid to the address of the appropriate authorized representative of the other party, which shall be effective upon date of receipt; or
  - ii. Hand-delivered to the other party's authorized representative, which shall be effective on the date of service.
- R. **"Program"** refers to all activity relative to this Agreement including activity of the Court, its Subcontractors, the State, and the State's representatives. The term "Program" may be used interchangeably with the term "Collaborative Justice Courts Substance Abuse Focus Program".
- S.
- T. The **"State"** refers to the Judicial Council of California / Administrative Office of the Courts (**"AOC"**).
- U. **"State Standard Agreement"** means the form used by the State to enter into agreements with other parties. Several originally signed, fully executed versions of the State Standard Agreement, together with the integrated Contract Documents, shall each represent the Agreement as an individual **"Contract Counterpart."**
- V. **"Subcontractor"** shall mean an individual, firm, partnership, or corporation having a contract, purchase order, or agreement with the Contractor, or with any Subcontractor of any tier for the performance of any part of the Agreement. When the State refers to Subcontractor(s) in this document, for purposes of this Agreement and unless otherwise expressly stated, the term "Subcontractor" includes, at every level and/or tier, all subcontractors, subconsultants, suppliers, and materialmen.
- W. **"Suspend Work Order"** means the written Notice, delivered in accordance with this Agreement, by which the State may require the Court to suspend all, or any part, of the Work of this Agreement, for the period set forth in the Suspend Work Order. The Suspend Work Order shall be specifically identified as such and shall indicate that it is issued pursuant to the Suspend Work provision in this Exhibit B.
- X. **"Task(s)"** means one or more functions, if specified in the Contract Documents, to be performed by the Contractor for the State.
- Y. **"Third Party"** refers to any individual, association, partnership, firm, company, corporation, consultant, Subcontractor, or combination thereof, including joint ventures, other than the State or the Court, which is not a party to this Agreement.

- Z. **"Work" or "Work to be Performed"** may be used interchangeably to refer to the service, labor, Materials, Data, and other items necessary for the execution, completion and fulfillment of the Agreement by the Court to the satisfaction of the State. Work may be defined to include Tasks, Deliverables, and or Submittals, as required by the Contract.

2. Manner of Performance of Work

The Contractor shall complete all Work specified in these Contract Documents to the State's satisfaction and in compliance with the Nondiscrimination No Harassment Clause, as set forth in this Exhibit B.

3. Termination Other Than for Cause

- A. In addition to termination for cause under Exhibit A, Standard Provisions paragraph 3, the State may terminate this Agreement at any time upon providing the Court written Notice at least ten (10) Days before the effective date of termination. Upon receipt of the termination Notice, the Court shall promptly discontinue all services affected unless the Notice specifies otherwise.
- B. If the State terminates all or a portion of this Agreement other than for cause, the State shall pay the Court for the fair value of satisfactory services rendered before the termination, not to exceed the total Contract Amount.

4. State's Obligation Subject to Availability of Funds

- A. The State's obligation under this Agreement is subject to the availability of authorized funds. The State may terminate the Agreement or any part of the Work, without prejudice to any right or remedy of the State, for lack of appropriation of funds. If expected or actual funding is withdrawn, reduced or limited in any way prior to the expiration date set forth in this Agreement, or in any Amendment hereto, the State may, upon written Notice to the Court, terminate this Agreement in whole or in part. Such termination shall be in addition to the State's rights to terminate for convenience or default.
- B. Payment shall not exceed the amount appropriated. If the Agreement is terminated for non-appropriation:
- i. The State will be liable only for payment in accordance with the terms of this Agreement for services rendered prior to the effective date of termination; and
  - ii. The Court shall be released from any obligation to provide further services pursuant to the Agreement as are affected by the termination.
- C. Funding for this Agreement beyond the current Appropriation Year is conditional upon appropriation of sufficient funds to support the activities described in this

Agreement. Should such an appropriation not be approved, the Agreement will terminate at the close of the current Appropriation Year.

5. Suspend Work

- A. The State may, at any time by written Notice as a Suspend Work Order to the Court, require the Court to stop all, or any part, of the Work of this Agreement, for a period up to ninety (90) Days after the Suspend Work Order is delivered to the Court, and for any further period to which the parties may agree. The Suspend Work Order shall be specifically identified as such and shall indicate it is issued under this provision. Upon receipt of the Suspend Work Order, the Court shall immediately comply with its terms and take all reasonable steps to minimize the incurrence of costs allocable to the Work covered by the Suspend Work Order during the period of Work stoppage. Within a period of ninety (90) Days after a Suspend Work Order is delivered to the Court, or within any extension of that period to which the parties shall have agreed, the State shall either:
  - i. Cancel the Suspend Work Order; or
  - ii. Terminate the Work covered by the Suspend Work Order as provided for in either of the termination provisions of this Agreement.
- B. If a Suspend Work Order issued under this provision is canceled or the period of the Suspend Work Order or any extension thereof expires, the Court shall resume Work. The State shall make an equitable adjustment in the delivery schedule and/or the Contract Amount, and the Agreement shall be modified, in writing, accordingly, if:
  - i. The Suspend Work Order results in an increase in the time required for, or in the Court's cost properly allocable to the performance of any part of this Agreement; and
  - ii. The Court asserts its right to an equitable adjustment within thirty (30) Days after the end of the period of Work stoppage; however, if the State decides the facts justify the action, the State may receive and act upon a proposal submitted at any time before final payment under this Agreement.
- C. If a Suspend Work Order is not canceled and the Work covered by the Suspend Work Order is terminated in accordance with the Termination Other Than For Cause provision or the State's Obligation Subject to Availability of Funds provision, as set forth under Exhibit B, the State shall allow reasonable costs resulting from the Suspend Work Order in arriving at the termination settlement.
- D. The State shall not be liable to the Contractor for loss of profits because of the Suspend Work Order issued under this provision.

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6. Deficient Performance

Should the State find the Court or any of its Subcontractors to be deficient in any aspects of performance under this Agreement, the Court shall submit a proposed corrective action plan to the State. The corrective action plan shall identify specific action to be taken to correct the deficient performance and shall be submitted within forty-five (45) Days after notification of the deficiencies. Should the Court fail to present a corrective action plan as required or take appropriate corrective action, the State shall notify the Court in writing that this Agreement is terminated, in whole or in part.

7. Agreement Administration/Communication

- A. Under this Agreement, the Program Manager shall monitor and evaluate the Court's performance. The Program Manager for this Agreement is Nancy Taylor. All requests and communications about the Work to be Performed under this Agreement shall be made through the Program Manager. Any Notice from the Court to the State shall be in writing and shall be delivered as follows:

Judicial Council of California  
Administrative Office of the Courts  
Nancy Taylor, Program Manager  
455 Golden Gate Avenue  
San Francisco, CA 94102-3688

- B. Notice to the Court shall be directed in writing to:

Superior Court of California, County of El Dorado  
Mr. Stephen P. Cascioppo  
2850 Fairlane Court  
Placerville, CA 95667

8. Standard of Professionalism

The Court shall conduct all work consistent with professional standards for the industry and type of work being performed under the Agreement.

9. Acceptance of the Work

- A. The Program Manager shall be responsible for the sign-off acceptance of all the Work required and submitted pursuant to this Agreement. Prior to approval of the Work and prior to approval for reimbursement, the Program Manager will apply the acceptance criteria set forth in subparagraph B of this provision, as appropriate, to determine the acceptability of the Work provided by the Court. Unsatisfactory ratings will be resolved as set forth in this provision.

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- B. Acceptance Criteria for Work ("Criteria") provided by the Court pursuant to this Agreement:
- i. Timeliness: The Work was delivered on time;
  - ii. Completeness: The Work contained the Data, Materials, and features required in the Contract; and
  - iii. Technical accuracy: The Work is accurate as measured against commonly accepted standard (for instance, a statistical formula, an industry standard, or de facto marketplace standard).
- C. The Court shall provide the Work to the State, in accordance with direction from the Program Manager. The State shall accept the Work, provided the Court has delivered the Work in accordance with the Criteria. The State's Program Manager shall use the Acceptance and Signoff Form, provided as Attachment 1 of Exhibit F, to notify the Court of the Work's acceptability.
- D. If the State rejects the Work provided, the State's Program Manager shall submit to the Court a written rejection using Attachment 1, Acceptance and Signoff Form, describing in detail the failure of the Work as measured against the Criteria. If the State rejects the Work, then the Court shall have a period of ten (10) business days from receipt of the Notice of rejection to correct the stated failure(s) to conform to the Criteria.
- E. If the Program Manager requests further change, the Court shall meet with the Program Manager, within three (3) business days of such request, to discuss changes for the final submission of the Work. The Court shall provide the Work within three (3) business days after this meeting, at which time the Work will be accepted or the question of its acceptability referred to the Administrative Director of the AOC and a principal of the Court, as set forth in subparagraph F below.
- F. If agreement cannot be reached between the State's Program Manager and the Court on the Work's acceptability, a principal of the Court and the Administrative Director of the AOC, or its designee, shall meet to discuss the problem. If agreement cannot be reached, in the reasonable judgment of the Administrative Director of the AOC, or its designee, and/or the Court fails to cure such deficiencies that are perceived in the Work to the reasonable satisfaction of the Administrative Director, or its designee, in the reasonable time established by the Administrative Director, the State may reject the Work and will notify the Court in writing of such action and the reason(s) for so doing. Upon rejection of the Work, the State may terminate this Agreement pursuant to the terms of Standard Provisions paragraph 3, as set forth in Exhibit A.
10. Close Out Procedures
- A. Close out is the process by which the Program Manager determines that all applicable administrative and financial actions are completed by the Contractor.

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- B. The final statistical report shall detail how the funds expended under this Agreement were utilized in reaching the goals set forth in Exhibit D, Work to be Performed. It shall also include a summary of all expenses incurred to date if not already reported. Any available or unexpended funds will be reduced from the Contract Amount.

11. Non-Duplication of Grant-Funded Expenditures

The Court certifies that neither the Court or any Subcontractors have any ongoing or completed projects with the State, or other funding sources, that duplicate or overlap any Work contemplated or described in this Agreement. The Court agrees that any pending or proposed request for other funds that would duplicate or overlap Work under this Agreement will be revised to exclude any such duplication of funded expenditures. Any such duplication of expenditures subsequently determined by audit will be subject to recovery by the State.

12. No Supplantation

The Court certifies in good faith that, by signing this Agreement, no supplantation of nonfederal, state, or county funds will occur with Grant funds. Grant funds may not be used to supplant or replace already allocated funding for salaries of any current Court staff (including judges, district attorneys, public defenders, drug court coordinators, probation officers, treatment personnel or clerical staff). Funds provided pursuant to this Grant may only be used for pay for new or expanded services for which no funds have been previously identified.

13. Accounting System Requirement

The Court shall establish and maintain an adequate system of accounting, financial records and internal controls to accurately account for funds received and disbursed in accordance with applicable federal and state requirements and the Trial Court Financial Policies and Procedures Manual. The accounting system and financial records must reflect total Program cost, including State funds and any other fund sources included under this Agreement.

14. Retention of Records

The Court shall maintain all financial Data, supporting documents, and all other records relating to performance and billing under this Agreement for a period in accordance with state and federal law, a minimum retention period being no less than four (4) years. The retention period starts from the date of the submission of the final payment request. The Court is also obligated to adequately protect such Data against fire or other damage.

15. Right to Audit

- A. The Court shall permit all Data and records relating to performance, procedures, and billing to the State under this Agreement to be inspected and or audited, at any



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reasonable time, by the authorized representative of any of the following or its designee:

- i. The State; and
- ii. The Bureau of State Audits.

B. The right of each agency to inspect and or audit this Agreement is independent of whether or not any other audit or inspection has been performed.

16. Audit Compliance

The Court shall accept responsibility for receiving, replying to, and or complying with any audit exceptions by appropriate state and federal audit agencies that directly relate to the services to be performed under this Agreement. A draft of any reply shall be reviewed and approved for release by AOC Internal Audit prior to release to the cognizant entity. A copy of the final reply shall be submitted to AOC Internal Audit.

17. Lobbying

Funds awarded to the Court shall not be used, indirectly or directly, to influence Executive Orders or similar promulgation by federal, state, or local agencies, or to influence the passage or defeat of any legislation by federal, state, or local legislative bodies.

18. Political Activities

The Court shall not contribute or make available Grant funds, Program personnel, or equipment awarded by the Agreement to any political party or association, or the campaign of any candidate for public or party office. The Court shall not use funds awarded to the Court in advocating or opposing any ballot measure, initiative, or referendum. Finally, the Court and employees of the Court shall not intentionally identify the State with any partisan or nonpartisan political activity associated with a political party or association or campaign of any candidate for public or party office.

19. Confidentiality

All financial, statistical, personnel, technical, and other Confidential Information relating to the State's operation that are designated confidential by the State and are disclosed to the Court shall be protected by the Court from unauthorized use and disclosure.

20. Limitation on Publication

The Court shall not publish or submit for publication any article, press release, or other writing relating to the Court's services for the State without prior review and written permission by the State. The State review shall be completed within thirty (30) Days of



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submission to the Program Manager and, if permission is denied, the State shall provide its reasons for denial in writing.

21. Copyrights and Rights in Data

- A. The State reserves the right to use and copyright, in whole or in part, any Data produced with funding from this Agreement.
- B. The Court agrees not to copyright any Data produced with funding from this Agreement unless the State gives the Court express permission to do so. If such permission is obtained and the Data is copyrighted, the State will be given an exemption that reserves for it the right to use, duplicate, and disseminate the Data without fee.

22. Ownership of Results

- A. Any interest of the Contractor in Data in any form, or other documents and/or recordings prepared by the Contractor for performance of services under this Agreement shall become the property of the State. Upon the State's written request, the Contractor shall provide the State with all this Data within thirty (30) Days of the request.
- B. The Contractor agrees not to assert any rights at common law, or in equity, or establish any claim to statutory copyright in such Data. The Contractor shall not publish or reproduce such Data in whole, or part, or any manner or form, or authorize others to do so without the written consent of the State.

23. Publications

The following disclaimer will accompany the dissemination and/or publication of all Data developed under funding from this Agreement:

"The preparation of this Data was financially assisted by the State of California. The opinions, findings, and conclusions in this publication are those of the author and not necessarily those of the State. The State reserves a royalty-free, nonexclusive, and irrevocable license to reproduce, publish, and use this Data. The State also reserves a royalty-free, nonexclusive, and irrevocable license to authorize not-for-profit agencies and other governmental agencies to use this Data."

24. Changes and Amendments

Changes or Amendments to any component of the Contract Documents can be made only with prior written approval from the Program Manager. Requests for changes or Amendments must be submitted in writing and must be accompanied by a narrative description of the proposed change and the reasons for the change. Additional funds may not be encumbered under the Agreement due to an act of Force Majeure, although the

State of California Standard Agreement  
Contract No. 1011611 with Superior Court of California, County of El Dorado

performance period of the Agreement may be amended due to an act of Force Majeure. After the Program Manager reviews the request, a written decision shall be provided to the Court. Amendments to the Agreement shall be authorized via bilateral execution of a State Standard Agreement.

25. Assignments or Subcontracting

- A. This Agreement is based upon the unique expertise of the Court. Therefore, in addition to the prohibition against assignment under Exhibit A, Standard Provisions paragraph 4, No Assignment, it is the policy of the State to withhold consent from proposed assignments, or novations, when such transfer of responsibility would operate to decrease the State's likelihood of receiving performance under this Agreement. No performance of this Agreement or any portion thereof may be assigned by the Court without the express written consent of the State, and any attempt by the Court to assign this Agreement without the express written consent of the State shall be void and shall constitute a breach of this Agreement. If the Court is authorized by the State to assign, or if the Court subcontracts this Agreement in whole or in part, all the terms of this Agreement shall be included in such subcontract or assignment.
- B. The Court shall provide the Program Manager with copies of any memoranda of understanding, subcontracts, purchase orders, lease/rental agreements or any other Program related agreements, as requested.

26. Insurance Requirements

The Court shall ensure that any Subcontractors maintain adequate insurance coverage, as set forth below in accordance with Trial Court Financial Policies and Procedures No. FIN 7.01:

- A. Subcontractors providing services to the Court shall maintain and show proof of adequate insurance coverage before beginning the Work of this Contract.
- B. Subcontractor insurance policies must be endorsed to include the Court as an additional insured. The Court must receive certificates of insurance from the Subcontractor, or verify coverage is current and on file with the Court, prior to the beginning of any Work.
- C. Subcontractors shall maintain insurance coverage that is appropriate to their business operations and the nature of the work, goods, or services provided to the Court. Examples of the types of insurance coverage generally maintained by reputable Subcontractors include, but are not limited to the following:
  - i. Workers Compensation and Employer's Liability.
  - ii. Commercial General Liability including property damage and bodily injury.
  - iii. Automobile Liability – Owned, non-owned, and hired vehicles, including bodily injury and property damage.

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- iv. Professional Liability (errors and omissions malpractice) - Required if a Subcontractor provides professional design services (attorneys, consultants, architects, engineers, etc.).

27. Conflict of Interest

- A. The Court and employees of the Court shall not participate in proceedings that involve the use of State funds or that are sponsored by the State if the person's partner, family, or organization has a financial interest in the outcome of the proceedings. The Court and employees of the Court shall also avoid actions resulting in or creating the appearance of (i) use of an official position with the government for private gain; (ii) preferential treatment to any particular person associated with this Agreement or the Work of this Agreement; (iii) loss of independence or impartiality; (iv) a decision made outside official channels; or (v) adverse effects on the confidence of the public in the integrity of the government or this Agreement.

- B. The Court certifies and shall require any Subcontractor to certify to the following:

Former State employees will not be awarded a contract for two (2) years from the date of separation if that employee had any part of the decision making process relevant to the contract, or for one (1) year from the date of separation if that employee was in a policy making position in the same general subject area as the proposed contract within the twelve (12) month period of his or her separation from state service.

28. National Labor Relations Board

By executing this Agreement, the Court certifies under penalty of perjury under the laws of the State of California that no more than one (1) final, unappealable finding of contempt of court by a federal court has been issued against the Court within the immediately preceding two (2) year period because of the Court's failure to comply with an order of the National Labor Relations Board.

29. Drug-Free Workplace

The Court certifies that it will provide a drug-free workplace as required by California Government Code, sections 8355 through 8357.

30. Nondiscrimination/No Harassment Clause

- A. During the performance of this Agreement, the Contractor and its Subcontractors shall not unlawfully discriminate against any employee or applicant for employment because of race, religion, color, national origin, ancestry, physical or mental disability, medical condition, marital status, age (over 40), sex, or sexual orientation. The Contractor shall ensure that the evaluation and treatment of employees and applicants for employment are free of such discrimination.

- B. During the performance of this Agreement, the Contractor and its Subcontractors shall not engage in unlawful harassment, including sexual harassment, with respect to any persons with whom the Contractor or its Subcontractors interact in the performance of this Agreement. The Contractor and its Subcontractors shall take all reasonable steps to prevent harassment from occurring.
- C. The Contractor shall comply with applicable provisions of the Fair Employment and Housing Act, California Government Code, Sections 12990 *et seq.*, and the applicable regulations promulgated under California Code of Regulations, title 2, Sections 7285 *et seq.* The applicable regulations of the Fair Employment and Housing Commission implementing California Government Code, Section 12990, set forth in chapter 5 of division 4 of title 2 of the California Code of Regulations, are incorporated into this Agreement by reference and made a part of it as if set forth in full.
- D. The Contractor and any of its Subcontractors shall give written Notice of their obligations under this clause to labor organizations with which they have a collective bargaining or other agreement.
- E. The Contractor shall include the nondiscrimination/no harassment and compliance provisions of this clause in any and all subcontracts issued to perform Work under the Agreement.

31. Americans with Disabilities Act

By signing this Agreement, the Court assures the State that it complies with applicable provisions of the Americans with Disabilities Act ("ADA") of 1990 (42 U.S.C. sections 012101 *et seq.*), which prohibits discrimination on the basis of disability, as well as with all applicable regulations and guidelines issued pursuant to the ADA.

32. California Law

This Agreement shall be subject to and construed in accordance with the laws of the State of California.

33. Severability

If any term or provision of this Agreement is found to be illegal or unenforceable, this Agreement shall remain in full force and effect and that term or provision shall be deemed stricken.

34. Waiver

The omission by either party at any time to enforce any default or right, or to require performance of any of this Agreement's terms, covenants, or provisions by the other party at

State of California Standard Agreement  
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the time designated, shall not be a waiver of the default or right, nor shall it affect the right of the party to enforce those provisions later.

35. Signature Authority

The parties signing this Agreement certify that they have proper authorization to do so.

36. Survival

The termination or expiration of the Agreement shall not relieve either party of any obligation or liability accrued hereunder prior to or subsequent to such termination or expiration, nor affect or impair the rights of either party arising under the Agreement prior to or subsequent to such termination or expiration, except as expressly provided herein.

37. Entire Agreement

This Agreement, consisting of all documents as defined herein, constitutes the entire agreement between the parties with respect to the subject matter hereof and shall supersede all previous proposals, both oral and written, negotiations, representations, commitments, writing and all other communications between the parties. No waiver, alteration, modification of, or addition to the terms and conditions contained herein shall be binding unless expressly agreed in writing by a duly authorized officer of the State.

*END OF EXHIBIT*

Judicial Council of California  
ADMINISTRATIVE OFFICE OF THE COURTS  
455 Golden Gate Avenue, San Francisco, California 94102



APPLICATION FOR  
California DUI Court Expansion Project  
State FY 2007-2008

Application Checklist

- |   |                          |
|---|--------------------------|
| 1. Grant Application Cover Page   | <input type="checkbox"/> |
| 2. Proposal Narrative   | <input type="checkbox"/> |
| 3. Statement Regarding Verifying Use of <i>The Ten Guiding Principles of DWI Courts</i> | <input type="checkbox"/> |
| 4. Application Budget Sheet   | <input type="checkbox"/> |
| 5. Reporting Commitment Form  | <input type="checkbox"/> |

Completed applications must be e-mailed and hard copies postmarked by:  
**July 13, 2007**

Send applications electronically to:  
dave.bressler@jud.ca.gov

AND

Mail an original plus two copies of the signed application to:

Dave Bressler  
Judicial Council of California  
Administrative Office of the Courts  
455 Golden Gate Avenue  
San Francisco, California 94102

This application kit is also available via the Internet at  
<http://serranus.courtinfo.ca.gov/programs/grants/current.htm>

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# 1 INFORMATION ON THE APPLICATION PROCESS

## 1.1 Introduction

The Judicial Council of California, Administrative Office of the Courts, Center for Families, Children & the Courts received a grant from the California Office of Traffic Safety (OTS) to implement the California DUI Court Expansion Project. The project is designed to assist in the development, expansion and evaluation of DUI courts in California. The selected DUI courts will apply a collaborative justice model<sup>1</sup> to their DUI case processing and will adhere to the National Drug Court Institute's (NDCI) *The Ten Guiding Principles of DWT<sup>2</sup> Courts* (see Section 3.5). This grant will fund no less than five (5) new DUI court expansion pilot sites throughout California. The courts will be funded for a two year period.

The Judicial Council of California, chaired by the Chief Justice of California, is the policy making body for the California court system. The Administrative Office of the Courts (AOC), the staff agency for the council, assists both the council and its chair in performing their duties. The Center for Families, Children & the Courts (CFCC), a division of the AOC, is dedicated to improving the quality of justice and services to meet the diverse needs of children, youth, families, and self-represented litigants in the California courts.

## 1.2 General Information

### 1.2.1 Applicant Eligibility

All California superior courts that are interested in implementing a DUI court program are eligible to apply. Counties with existing DUI/DWI courts may apply to expand to a new location within the jurisdiction if the existing DUI/DWI court programs are fully funded by the court. Counties may choose to partner with neighboring jurisdictions to submit a regional, multi-county application.

### 1.2.2 Due Date and Submission Instructions

Completed applications must be e-mailed to the AOC by July 13, 2007. In addition, an original and two copies of your signed application must be submitted in hard copy by hand-delivery or postmarked by U.S. mail by midnight, July 13, 2007. For assistance, contact Dave Bressler at [dave.bressler@jud.ca.gov](mailto:dave.bressler@jud.ca.gov) or 415-865-7703.

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<sup>1</sup> The Collaborative Justice Courts Advisory Committee, appointed by the Chief Justice of California, has adopted the following brief definition: "Collaborative justice courts include the integration of services with judicial case processing, ongoing judicial intervention, close monitoring of and immediate response to behavior, multidisciplinary involvement, and collaboration with community-based and government organizations."

<sup>2</sup> Driving While Intoxicated



### **1.2.3 Grant Award Size**

The project will distribute a total of \$2.5 million dollars to no less than five courts chosen through a competitive application process. Funds are to be disbursed over a two year cycle. Grant award funding levels will be based on the following:

- Court program components;
- Number of defendants estimated to participate in the DUI court based on current DUI filings in the jurisdiction covered; and
- Other review criteria as listed in Section 1.2.5.

Please note that grant funds will be disbursed via reimbursement on a monthly basis only after required monthly financial reports and invoices are received. Quarterly statistical reports are required. Only expenses incurred during the contractual funding cycle can be reimbursed. Goods and services procured must be provided or performed during the contractual funding cycle.

### **1.2.4 Use of Funds**

**Grantees must adhere to all funding, procurement, and reporting requirements as put forth in the OTS Grant Program Manual. To access this manual:**

**<http://www.ots.ca.gov/grants/program.asp>**

Grant funds may not be used to supplant (or replace) already allocated funding for salaries of any current trial court or other justice system partner staff (including judges, district attorneys, public defenders, DUI court coordinators, probation officers, or support staff from partnering agencies).

Acceptable expenses can include:

- Personnel and contractual services costs for DUI court program staff working directly on the delivery of the DUI court program. Examples of services include: intake and psychosocial assessment; physical exams and lab tests; urine testing; individual, group, and family counseling; and case management;
- Travel to project-related activities including the Effective Practices Summit Project Kick-Off, regional planning symposia, and conferences;
- Educational activities and research to enhance the program performance;
- Supplies;
- Indirect costs (capped at 10% of DUI court salaries); and
- Other direct costs such as printing, computer equipment (cannot exceed \$5,000 per item) and software as approved by the AOC project manager.

Ineligible uses of funds include:

- Supplantation of existing funds or salaries;
- Drug treatment (e.g. Naltrexone);
- Interlock devices;
- Facilities and construction costs;

- Office furniture; and
- Food and/or drink.

Please see Chapter 2 of the OTS Grant Program Manual for a more detail description of allowable and non-allowable costs. Please see: <http://www.ots.ca.gov/grants/program.asp>

### **1.2.5 Application Review**

A review committee will be formed to make funding recommendations to the Judicial Council's Collaborative Justice Courts Advisory Committee. The timeline for funding recommendations and project implementation is as follows:

Applications due to AOC:	July 13, 2007
Application review/notification of awards:	July 20, 2007
Project period:	August 1, 2007 to July 31, 2009

Recommendations for awards will be based on the following criteria:

- Completeness and comprehensiveness of the application;
- Perceived ability of your court to effectively establish a DUI court based on *The Ten Guiding Principles of DWI Courts* set forth by NDCI;
- Level of your court's experience and expertise with the collaborative justice court model;
- Commitment to meeting the goals of the project;
- Reasonableness of budget request given proposed program objectives;
- Ability to work productively with outside agencies and AOC staff and contribute meaningful data/results;
- Existing component(s) within your court program that address issues dealing with cultural competency;
- Successful expenditure of funds during previous AOC grant funding programs (if applicable); and
- Successful completion of quarterly and/or monthly financial reporting requirements for previous grant funding programs (if applicable).

## **2 BACKGROUND INFORMATION**

DUI is a major, continuing problem that endangers both the public at large and the individual driver. The California Department of Motor Vehicles reported 1,445 alcohol-involved fatalities statewide in 2003, accounting for 34 percent of all fatalities. There were 31,322 alcohol-involved injuries in the same year, and 185,973 total DUI arrests. From 1998-2003, California has witnessed a 35 percent increase in alcohol-involved DUI fatalities (Annual Report of the California DUI Management Information System, 2005).

Traditional sanctions designed to address DUI offenders (often jail time, less than rigorous probation, and a mandatory educational program) have yielded mixed and unsatisfactory results. Recidivism is of great concern. DUI offenders originally convicted in 1994 were studied over nine years. At that time 25 percent had at least one subsequent DUI conviction and 28 percent had at least one DUI incident. As this study indicates, DUI offenders continue to be substance dependent and pose a serious danger to the community.

As a result, new types of DUI courts, modeled from drug courts, have developed across the country, as well as in California. These courts focus on high-risk multiple DUI offenders, who are held accountable and make lasting behavioral changes as a result of regular testing for substance use, self-help meetings or court approved treatment programs, and close participation by probation departments and service providers. Nationally, there are over 200 DUI/DWI Courts and hybrid DUI/Drug Courts, the latter being drug courts that also take DUI offenders.

Evaluation results of these developing programs have been very promising, and compare favorably with the proven effectiveness of drug courts. A National Institute of Justice study of 2,020 drug court graduates from 95 courts showed 16.4 percent had been arrested and charged with a serious offense after one year and 27.5 percent after two years (Roman, Townsend, & Bhati, 2003). Similarly, the University of New Mexico's evaluation of the Bernalillo County DWI/Drug Court showed a recidivism rate of only 10.6 percent (Guerin, 2002). Finally, the Idaho Office of Highway Safety found a 70 percent completion rate and 4 percent re-arrest rate for the DUI Court in Kootenai County (2003).

The goal of this project is to apply effective collaborative justice court principles and practices in targeting repeat DUI offenders by establishing DUI courts in no less than five jurisdictions throughout the state.

## **2.1 DUI Court Expansion Project Participation Requirements**

The courts selected as DUI courts must agree to:

1. Implement the specific program components required by this grant application, including those described in the court's proposal;
2. Identify an individual to serve as coordinator for the effort proposed in response to the grant application. The person must be an employee or on contract with the court and be in a position to coordinate within the court to implement the project. The coordinator must also be able to coordinate between the court and the AOC over the course of implementation;

3. Participate fully in the program evaluation and cost benefit analysis by providing requested data to AOC research staff as described in Section 2.2;
4. Participate in the Effective Practices Summit. At the beginning of the grant cycle, a project kick-off summit will convene. The purpose of the summit is for experienced DUI courts to share lessons learned with new DUI court expansion pilot sites. Courts must also agree to participate in other program activities such as periodic conference calls;
5. Participate in a Regional Planning/Implementation Symposia. Two regional symposia will be held for court teams from expansion sites to provide technical assistance in planning and implementing DUI courts and to train sites on the use of cost-benefit evaluation tools;
6. Serve as a mentor to other courts interested in implementing DUI court programs; and
7. Work collaboratively with the AOC to help identify promising practices and essential service standards and provide input as needed in the development of rules, protocols, and relevant legislation needed for the implementation of additional DUI courts in California.

## **2.2 Evaluation Requirements**

The AOC has built in an evaluation component of the DUI Court Program and, as part of this evaluation, will be conducting a cost-analysis study. The evaluation is designed to measure the costs of the DUI Court Program, and compare them to traditional DUI case processing.

In order to meet the data requirements for this study, pilot sites must comply with AOC data collection requests and evaluation needs. The following are examples of data that courts may be asked to retrieve and/or collect for this purpose:

- DUI court data on individual participants (e.g. hearings attended, status of compliance with court orders, testing results, etc.);
- Administrative data on individual DUI court participants from relevant partner agencies such as probation or behavioral health treatment providers; and
- Budget and finance reports from DUI Courts and partnering agencies.

## **3 APPLICATION INSTRUCTIONS**

## Chapter 2

### *Allowable Costs*

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#### 2.1 GENERAL

This chapter sets forth basic principals for determining allowable costs under the Highway Traffic Safety Program. These principles are not intended to identify the circumstances or dictate the extent of funding under a particular grant.

The application of these principles is based on the fundamental premise that:

- Applicant agencies are responsible for efficient and effective administration of the grant through the application of sound management practices.
- Applicant agencies assume responsibility for administering grant funds in a manner consistent with underlying agreements, grant objectives, and the terms and conditions of the grant agreement.
- Costs are compatible with the applicable federal requirements from:
  - Highway Safety Grant Funding Policy for NHTSA Field Administered Grants
  - OMB Circular A-87; Cost Principles for State and Local Governments
  - OMB Circular A-21; Cost Principles for Educational Institutions
  - OMB Circular A-122; Cost Principles for Non-Profit Organizations
  - OMB Circular A-133; Audits of States, Local Governments, and Non-Profit Organizations

#### 2.2 DEFINITIONS

##### Applicable Credits

Receipts or reductions of expenditure-type transactions that offset or reduce expense items allocable to grants as direct or indirect costs. Examples are: purchase discounts, rebates or allowances, recoveries or indemnities on losses, insurance refunds or rebates, and adjustments of overpayments or erroneous charges.

##### Cost

The amount of money or value exchanged for property or services as determined on a cash, accrual, or other recognized accounting system.

##### Cost Allocation Plan

The documentation, including the allocation methods used to identify, accumulate, and distribute allowable indirect costs under grants and contracts.

##### Direct Allocations

## Chapter 2

### *Allowable Costs*

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Joint costs, such as depreciation, rental costs, operation and maintenance of facilities, telephone expenses, and the like that are prorated individually as direct costs using a base which accurately measures the benefits received by each award or other activity. Direct allocations must be identified in the budget and distribution methods approved by OTS to be reimbursed as a grant cost.

#### Direct Costs

Those expenses which can be charged directly as a part of the cost of a product or service, or of a government unit or operating unit. These are distinguished from overhead and other indirect costs which must be prorated among several products or services, or governmental units or operating units.

#### Indirect Costs

Those expenses incurred which from their nature cannot be readily associated with a specific grant. Like overhead expenses, these expenses are prorated to the grant based on benefit received from their incurrence.

### **2.3 ELIGIBILITY REQUIREMENTS**

To be eligible for reimbursement under OTS grants, costs must:

- Be a necessary and reasonable grant cost
- Not be a general governmental expense
- Be authorized or not prohibited under State or local laws/regulations
- Be consistent with applicant agency's regular procedures and apply uniformly to both grant related activities and non-grant related activities
- Be net of all applicable credits and adequately documented
- Be authorized in the budget of the grant agreement
- Not be a prepayment
- Not be incurred before or after the grant period
- Not be unreimbursed costs shifted from another grant

### **2.4 TOTAL GRANT COSTS**

Total grant costs consist of the allowable direct cost of the grant, plus its allocable portion of allowable indirect costs, less applicable credits. There is no universal rule for classifying specific cost items as either direct or indirect. Under different accounting

## Chapter 2

### *Allowable Costs*

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systems, a cost may be direct with respect to a specific service or function, but indirect with respect to the grant. It is, however, essential that the accounting system treat each item of cost consistently, either as direct, direct allocation, or an indirect cost.

#### **2.5 ALLOWABLE DIRECT COSTS**

All direct costs are categorized in the grant agreement as personnel, travel, contractual services, nonexpendable property, or other direct costs. Examples of typical direct costs reimbursable for each category under highway traffic safety grants are listed below. For a complete list of allowable costs for federal programs, see the applicable OMB Circular on cost principles referenced in 2.1.

##### **2.5.1 Personnel Costs**

This category should contain only the direct compensation for salaries and fringe benefits of applicant agency employees hired expressly for the grant and for the time and effort spent on grant related activities.

- Salaries – May include wages, salaries, or special compensations provided the cost for the individual employee is (a) reasonable for the services rendered, and (b) follows an appointment made in accordance with state or local laws and rules and meets federal requirements.

**Note: Reimbursements of individual salaries that result in a salary savings to the applicant agency are not allowable.**

- Fringe Benefits – Employee benefits for authorized absences such as annual leave and sick leave, as well as employer's contributions to social security, health insurance, workmen's compensation, and the like provided they are granted under approved plans, and are distributed equitably to the grant and all other activities.

**Note: Costs for authorized absences are only reimbursable up to the amount earned during the term of the grant.**

##### **2.5.2 Travel Expenses**

This category should contain the direct expenses for grant related travel incurred by personnel identified in the budget. Allowable costs include transportation, subsistence, and lodging, incurred in accordance with applicant agencies documented travel policies. If lodging policies do not contain maximum allowable rates, lodging costs should not exceed



## Chapter 2

### *Allowable Costs*

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the state rate unless written justification is submitted and approved by OTS. If documented policies do not exist, state travel policies will apply. These may be obtained from your Coordinator.

**Note: Out of state trips require individual written trip approval from OTS prior to incurring costs unless already identified in the Schedule B and B-1 of the Grant Agreement.**

#### 2.5.3 Contractual Services

This category should contain any professional services and associated costs necessary to complete grant objectives that are not available through the applicant agency and require contractual agreements in accordance with the applicant agency's normal procurement procedures. This category also applies to mini-grants to sub-recipients completing grant objectives through an award process.

**Note: All draft subcontracts must be submitted to OTS for reimbursement approval prior to fully executing contract.**

#### 2.5.4 Equipment

This category should include only those nonexpendable, tangible personal property items with a useful life of more than one year, which cost \$5,000 or more per item, and are specifically required to carry out grant activities. The total cost of equipment includes modifications, attachments, accessories, or auxiliary apparatus necessary to make it usable for grant purposes including tax, shipping, and installation, excluding any discounts. Examples of typical traffic safety related equipment include motorcycles, radar trailers, and some extrication equipment.

#### 2.5.5 Other Direct Costs

This category should include direct items of expense, such as educational materials, promotional items, supplies, minor equipment, and services not requiring contractual agreements, acquired or consumed for purposes of the grant.

**Note: The cost of any items or services, which would not otherwise be allowable, using applicant agency's general funds are not allowable using grant funds. In addition any joint costs that are prorated as direct costs to the grant must have allocation method reviewed for reimbursement eligibility in advance by OTS.**



## Chapter 2

### *Allowable Costs*

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#### 2.6 INDIRECT COSTS

Indirect costs are those: (a) incurred for a common or joint purpose benefiting more than one cost objective, and (b) not readily assignable to the cost objectives specifically benefited, without effort disproportionate to the results achieved. Indirect cost pools should be distributed to benefited cost objectives on bases that will produce an equitable result in consideration of relative benefits derived.

Typical indirect costs may include depreciation and use allowances on buildings and equipment, the costs of operating and maintaining facilities and equipment, and general administration and general expenses.

The Office of Traffic Safety (OTS), in accordance with permissible limits of federal funding guidelines (OMB Circular A-87), limits indirect cost reimbursement for its grant agreements and their primary contractual service agreements based on the following policies.

2.6.1 Allowable indirect costs, as defined in the circular, shall be reimbursed at a predetermined fixed rate to agencies that have an approved Indirect Cost Rate Proposal on file using the following guidelines:

- Up to 15 percent of total direct personnel costs, including fringe benefits, of the applicant agency if personnel costs are included in the budget.
- Administrative oversight charges in which the applicant agency subcontracts the grant activities or services to a second external entity, shall be limited to three (3) percent of the subcontract amount, excluding property.

**Note: Depending on the nature of the grant and/or budgeted costs, there may be exceptions to the two criteria mentioned above. Indirect cost can be negotiated for these exceptions. Also, some grant revisions may result in re-negotiations of indirect costs. In some cases, this may result in a lesser amount approved than originally negotiated.**

#### 2.7 ALLOWABLE COSTS WITH SPECIFIC CONDITIONS OR LIMITATIONS

The following is a list of selected costs that are allowable under specific conditions. Contact your Coordinator for additional guidance on allowable costs or refer to the appropriate OMB Circular for cost principles referenced in 2.3(a).

- Travel for Out-of-State Individuals – Costs for travel related expenses for out-of-state individuals are allowable if expenses are for specific services benefiting the grant.

## Chapter 2

### *Allowable Costs*

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- New Training Curricula and Materials – Costs for development are allowable if they will not duplicate materials already developed for similar purposes by U.S. DOT/NHTSA/FHWA or the State of California.
- Meetings and Conference – Costs of meetings and conferences, where the primary purpose is the dissemination of technical information, are allowable, including meals, transportation, rental of meeting facilities, and other incidental costs. Adequate records must be maintained to document that the primary purpose of the meeting was for dissemination of technical information.
- Promotional Items and Activities – Costs are allowable to support a grant with promotional activities, which offer incentives or encourage the general public to adopt highway safety practices. Documentation must be available to show activities do not violate local laws. Promotional items and activities must directly relate to the grant objectives and contain a traffic safety message related to the grant.

**Note: Cash Prizes/Gift Certificates and Scholarships will be considered on an exception basis as allowable costs. OTS must approve a separate written request detailing special circumstances for their allowances. These authorizations will be considered on a limited basis.**

- Paid Media – Costs are allowed for the purchase of program advertising space in the mass communication media such as television, radio time, cinema, internet, print media, and billboard space. However, special reporting documents are required. Additional information is available from your Coordinator.

**Note: Costs should be displayed as a separate line item in the budget specifically identifying paid media.**

## 2.8 UNALLOWABLE COSTS FOR SELECTED ITEMS

The following is a list of selected costs that are ineligible for reimbursement under the Highway Traffic Safety Program. For additional information relating to unallowable costs please refer to the appropriate OMB Circular on cost principles referenced in 2.3(a) or ask your Coordinator.

### Facilities and Construction

- Highway construction, maintenance, or design

## Chapter 2

### *Allowable Costs*

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- Construction or reconstruction of permanent facilities, such as paving, driving ranges, towers, and non-portable skid pads
- Highway safety appurtenances including longitudinal barriers (such as guardrails), regulatory and warning signs and supports, field reference markers, luminaire supports, and utility poles
- Construction, rehabilitation, or remodeling of any building or structure
- Cost of land
- Purchase of office furnishings and fixtures such as but not limited to the following:

Desk	Credenza	Storage Cabinet
Chair	Book	Portable Partition
Table	Filing Cabinet	Picture, Wall Clock
Shelving	Floor Covering	Draperies & Hardware
Coat Rack	Office Planter	Fixed Lighting/Lamp

Equipment – Traffic signal preemption systems

Training – Cost of individual's salary while pursuing training or the salary of the individual's replacement, unless salary is already supported by grant.

#### Program Administration

- Supplanting, which includes the use of funds for routine and/or existing governmental expenditures, or activities that constitute general expenses required to carry out overall responsibilities of governmental entity
- Coffee, bottled water, or any other beverages, candy, donuts, snacks, or any other food items (See 2.7, Meetings and Conferences, for meal exception)
- Entertainment costs including amusement, and social activities and any costs directly associated with such costs (such as tickets to shows or sporting events, meals, lodging, rentals, transportation, and gratuities)
- Alcoholic beverages for any consumption purposes including controlled training settings for law enforcement
- Cost of overnight or courier mail service

## Chapter 2

### *Allowable Costs*

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- Contributions and donations, including cash, property, and services to others, regardless of the recipient
- Cost of fund raising, including financial campaigns, solicitation of gifts, and similar expenses incurred to raise capital or obtain contributions
- Contingency provisions for contributions to a contingency reserve or similar provision for unforeseen events excluding self-insurance reserves
- Fines, penalties, damages, and other settlements resulting from violations or non-compliance
- Costs of commercial insurance that protects contractor for correction of defects in materials or workmanship
- Costs not recovered under one grant agreement are unallowable under other grant agreements.