County of Los Angeles
CHIEF EXECUTIVE OFFICE
713 KENNETH HAHN HALL OF ADMINISTRATION
LOS ANGELES, CALIFORNIA 90012
(213) 974-1101
http://ceo.lacounty.gov

WILLIAM T FUJIOKA
Chief Executive Officer

Board of Supervisors
GLORIA MOLINA
First District

YVONNE B. BURKE
Second District

ZEV YAROSLAVSKY
Third District

DON KNABE
Fourth District

MICHAEL D. ANTONOVICH
Fifth District

May 6, 2008

The Honorable Board of Supervisors
County of Los Angeles
383 Kenneth Hahn Hall of Administration
500 West Temple Street
Los Angeles, CA 90012

Dear Supervisors:

DEPARTMENT OF MENTAL HEALTH: APPROVE REVISED MENTAL HEALTH SERVICES ACT AGREEMENT NO. 07-77319-000 WITH THE STATE OF CALIFORNIA DEPARTMENT OF MENTAL HEALTH FOR FISCAL YEARS 2004-05, 2005-06, 2006-07 AND 2007-08 (ALL SUPERVISORIAL DISTRICTS) (3 VOTES)

SUBJECT

Request Board adoption of a resolution approving the new State of California Department of Mental Health (State) Mental Health Services Act (MHSA) Agreement, which will provide $494,507,510 in funding for the term July 1, 2004 through June 30, 2008.

IT IS RECOMMENDED THAT YOUR BOARD:

1. Adopt and instruct the Chair to sign and execute the attached resolution (Attachment I) approving the new State MHSA Agreement No. 07-77319-000 (Attachment II) with the County of Los Angeles - Department of Mental Health (DMH), to provide MHSA funding in the total amount of $494,507,510 for the term of July 1, 2004 through June 30, 2008. The resolution also authorizes the Director of the Department of Mental Health to approve future amendments or modifications to the Agreement. This new Agreement No. 07-77319-000 supersedes the MHSA Agreement No. 05-75524-000 approved by your Board on June 19, 2007.

2. Authorize the Director of the Department of Mental Health, or his designee, to sign two copies of the MHSA Agreement No. 07-77319-000 and forward both originals to the State.

3. Delegate authority to the Director of the Department of Mental Health to sign future amendments or modifications to the Agreement, upon prior Chief Executive Office (CEO) and County Counsel approval, to accept additional funding allocations that may be released by the State based on additional plan approvals

PURPOSE/JUSTIFICATION OF RECOMMENDED ACTIONS

On February 11, 2008, the State forwarded to DMH new MHSA Agreement No. 07-77319-000, superseding the previous MHSA Agreement No. 05-75524-000 approved by your Board on June 19, 2007. Welfare and Institutions Code Section 5650 requires that the Board of Supervisors approve the Agreement.

The new Agreement will function as the authorization instrument for disbursement of MHSA funds from the State to the County. The Agreement currently includes a total of $494,507,510 as planning estimates for the various MHSA components, as follows:

- Community Program Planning for Fiscal Year 2004-05 ($2,906,559);
- Community Services and Supports (CSS) for Fiscal Years 2005-06 to 2007-08 ($307,360,811);
- MHSA Housing Program for Fiscal Year 2007-08 ($115,571,200);
- Workforce Education and Training (WET) for Fiscal Year 2006-07 ($34,667,140); and
- Prevention and Early Intervention (PEI) for Fiscal Year 2007-08 ($34,001,800).

To date, the State has approved DMH plans in the amount of $314,054,106, for the following:

- Community Program Planning ($2,906,559)
- CSS Services ($301,622,900)
- WET Planning and Early Implementation ($2,450,147)
- PEI Planning ($7,074,500)

DMH is in the process of completing and submitting to the State the required documentation to use the yet to be approved CSS services funds on additional expenses related to the CSS service plans. Plans for the WET and PEI programs are currently in the initial stages of development. A plan for the Housing Program has been prepared and posted for public comment.

This term of the Agreement is July 1, 2004 through June 30, 2008. This Agreement was forwarded to DMH on February 11, 2008, and supersedes MHSA Agreement No. 05-75524-000 approved by your Board on June 19, 2007. Thus, submission of the

Agreement meets the exemption criteria number two (2), noted in the CEO's memo dated September 7, 2000, regarding timely submission of contracts for Board approval.

Implementation of Strategic Plan Goals

The recommended Board actions are consistent with the principles of the Countywide Strategic Plan, Programmatic Goal No. 7, "Health and Mental Health." Board approval will enable DMH to plan and continue to provide MHSA services to mental health consumers in Los Angeles County.

FISCAL IMPACT/FINANCING

There is no increase in net County cost.

The new Agreement, effective July 1, 2004 through June 30, 2008, will provide funding of $494,507,510, fully funded by the State, for mental health services approved as part the County's approved MHSA plan.

FACTS AND PROVISIONS/LEGAL REQUIREMENTS

The MHSA, adopted by the California electorate on November 2, 2004, creates a new and permanent revenue source, administered by the State, for the transformation and expanded delivery of mental health services provided by the State and county agencies.

The MHSA addresses a broad continuum of prevention, early intervention and service needs and the necessary infrastructure, technology, and training elements to effectively support the system. Components of the MHSA plan will include the elements required by Welfare and Institutions Code (W&I) Section 5847 and related regulations including CSS, PEI, WET, housing innovations, and capital facilities and technology. After initial implementation, MHSA requires localities to transition to development of an integrated plan for the comprehensive system. Funding provided through MHSA will be used to transform the current mental health system from one that focuses primarily on clinical services into one in which DMH can partner with clients, their families, and their communities to enable mental health clients to attain their goals for recovery, and support the larger community in more effectively addressing mental health needs.

DMH initiated a fast-paced planning process in 2004 to develop the CSS Plan. The Department engaged in a process which included over 10,000 individuals throughout the County. Stakeholders proposed creating a transformed system which is intended to provide culturally competent services for people of all ages who are the most severely challenged by mental health issues. Participants in the planning process included people who receive services, family members, community leaders, community service providers, staff from County departments including DMH, and many others.

Stakeholders also represented a broad range of age groups and racial/ethnic communities.

Using State guidelines that stipulated a range of services that could be funded with CSS money, stakeholders developed services with the intent of transforming the system. They recommended moving away from traditional approaches that tend to emphasize illness to a focused approach that promotes recovery, wellness, and continuing improvement among individuals with mental illnesses.

After obtaining your approval on October 11, 2005, DMH submitted the CSS Plan to the State. The State granted its final approval for the Los Angeles County Plan on February 14, 2006. On May 9, 2006, your Board authorized the Director of DMH to accept MHSA funding from the State to implement the CSS Plan, and on June 11, 2007, your Board approved MHSA Agreement No. 05-75524-000.

The proposed Agreement supersedes the current agreement and makes the following changes:

- The term of the proposed Agreement is July 1, 2004 through June 30, 2008, whereas the current agreement has a term of February 14, 2006 through June 30, 2008.

- The new Agreement includes the Community Program Planning amount of $2,906,559 for Fiscal Year 2004-05, which is not included in the current agreement. The acceptance of these funds was approved by your Board on April 19, 2005;

- The proposed Agreement includes a CSS System Improvement Amount of $1,631,761 for Fiscal Year 2005-06, which is not included in the current agreement;

- The proposed Agreement clarifies that the funding of CSS related Information Technology funding in the amount of $4,062,000 and one-time funding of $6,798,045 is from Fiscal Year 2005-06 funding; and

- The proposed Agreement increases the funding for FY 2007-08 CSS services funding to $126,876,060 from $96,078,296 and adds in the planning estimates for WET, PEI and the Housing Program. In addition, the proposed Agreement indicates total Approved Plan Amounts of $314,054,106, as compared to $269,193,375 in the current agreement.

The proposed, Agreement, has been reviewed and approved by County Counsel.

CONTRACTING PROCESS

Not applicable.

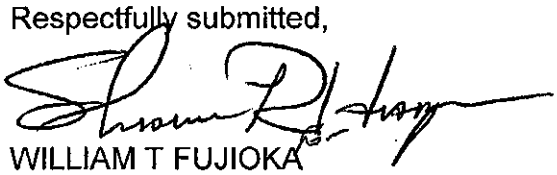
IMPACT ON CURRENT SERVICES

The proposed Agreement will enable DMH to plan and continue to provide MHSA services to mental health consumers in Los Angeles County.

CONCLUSION

The Department of Mental Health will need one copy of the adopted Board actions and the original executed resolution. It is requested that the Executive Officer, Board of Supervisors, notify the Department of Mental Health, Contracts Development and Administration Division, at (213) 738-4684 when this document is available.

Respectfully submitted,



WILLIAM T FUJIOKA
Chief Executive Officer

WTF:SRH:SAS
MLM:DAS:yb

Attachments (2)

c: County Counsel
Director, Department of Mental Health
Chairperson, Mental Health Commission

050608_DMH_MHSA Agreement

ATTACHMENT I

RESOLUTION OF
THE BOARD OF SUPERVISORS OF
COUNTY OF LOS ANGELES
STATE OF CALIFORNIA

Now, Therefore, Be It Resolved that the Board of Supervisors of the County of Los Angeles, does hereby approve and authorize the Director of the Department of Mental Health to sign the State Mental Health Services Agreement No. 07-77319-000 with the State of California Department of Mental Health for Fiscal Years 2004-05, 2005-06, 2006-07 and 2007-08. It is further resolved that the Board approves and authorizes the Director of the Department of Mental Health to approve future Amendments or Modifications of Agreement No. 07-77319-000.

The foregoing Resolution was adopted on the ____ day of _____, 2008, by the Board of Supervisors of the County of Los Angeles, and ex-officio the governing body of all other special assessment and taxing districts, agencies and authorities, for which said Board so acts.

Attest:
SACHI HAMAI, Executive Officer
Board of Supervisors of the
County of Los Angeles

_____
Chair, Board of Supervisors

By _____
Deputy

APPROVED AS TO FORM:

OFFICE OF THE COUNTY COUNSEL

By _____
Deputy County Counsel

MENTAL HEALTH SERVICES ACT (MHSA) AGREEMENT

Los Angeles County Dept. of Mental Health 550 South Vermont, 12th Floor Los Angeles, CA 90020	Agreement No. Modification No.	07-77319-000 NEW

State of California Department of Mental Health Systems of Care Division 1600 9th Street Sacramento, CA 95814	Funding Source: MHSA FUNDS Term of Agreement: 07/01/2004-06/30/2008

This MHSA Agreement is entered into by and between the State of California, Department of Mental Health, hereinafter referred to as the State and Los Angeles County, hereinafter referred to as the County. The County agrees to operate a program in accordance with the provisions of this agreement and to have an approved Three-Year Program and Expenditure Plan addressing the component(s) referenced below for the above named County filed with the State pursuant to the Mental Health Services Act. This modification consists of this sheet and those of the following exhibits, which are attached hereto and by this reference made a part hereof:

Funding Detail Chart · Exhibit A, pages 1 through 7
(Shaded areas in Exhibit A, Distribution Funding Detail, indicate the amount to be distributed to the County upon execution of the MHSA Agreement.)

General Provisions and Standards of Conduct: Exhibit B, pages 1 through 12

Purpose: To incorporate and add MHSA funds as follows:
1. Community Program Planning FY 04/05
2. Community Services and Supports FY 05/06 – FY 07/08
3. Workforce Education and Training FY 06/07
4. Prevention and Early Intervention FY 07/08

If additional funds are awarded, they will be unilaterally incorporated into this Agreement.

Allocation(s): The State agrees to reimburse the County not to exceed the amount listed hereinafter as "Total Plan Approved Amount".	Total Plan Approved Amount	$314,054,106
	Prior Amount Distributed:	$251,096,430
	Increase/Decrease:	$32,870,422
	Total Distributed:	$283,966,852

This agreement is exempt from Section 10295 of Chapter 2 of Part 2 of Division 2 of the Public Contract Code and is exempt from review or approval of the Dept. of General Services and the Dept. of Finance.

Approved for County (by signature)

_____

Name and title:
Date Signed _____

Approved for the State (DMH) (by signature) _____ DMH Procurement and Contracts Officer Date Signed _____	I hereby certify that to my knowledge, the budgeted funds are available for the period and purpose of expenditure as stated herein: _____ Signature of DMH Accounting Officer Date Signed _____

Planning Estimate

	SFY 2004-05	SFY 2005-06	SFY 2006-07	SFY 2007-08	Total
Planning Estimate					
Community Program Planning	$2,906,559				$2,906,559
Community Services & Support					
Services		$89,792,800	$90,691,911	$126,876,100	$307,360,811
MHSA Housing Program				$115,571,200	$115,571,200
Workforce Education & Training (WET)			$34,667,140		$34,667,140
Capital Facilities & Technological Needs (Cap/Tech)				$0	$0
Prevention and Early Intervention (PEI)				$34,001,800	$34,001,800
Innovation					$0
Total Planning Estimate	$2,906,559	$89,792,800	$125,359,051	$276,449,100	$494,507,510

Plan Approved Amount and Remaining Unapproved Amount

	PCA	SFY 2004-05	SFY 2005-06	SFY 2006-07	SFY 2007-08	Total
Plan Approved Amount						
Community Program Planning	27609	$2,906,559				$2,906,559
Community Services & Support (CSS)						
Extension of Planning	27617		$0			$0
System Improvement	27618		$1,631,761			$1,631,761
One-Time Technology	27627		$4,062,000			$4,062,000
Other One-Time	27619		$40,948,684			$40,948,684
Services	27613		$37,413,667	$90,690,728	$126,876,060	$254,980,455
Prudent Reserve	27621					$0
MHSA Housing Program					$0	$0
Total CSS		$0	$84,056,112	$90,690,728	$126,876,060	$301,622,900
Workforce Education & Training (WET)						
Planning and Early Implementation	27641			$2,450,147		$2,450,147
WET Activities	27640			$0		$0
Total WET		$0	$0	$2,450,147	$0	$2,450,147
Capital Facilities & Technological Needs (Cap/Tech)				$0		
Capital Facilities	27650					$0
Technological Needs	27651					$0
Total Cap/Tech		$0	$0	$0	$0	$0
Prevention and Early Intervention (PEI)						
Planning	27631				$7,074,500	$7,074,500
Services	27630					$0
State Administered Projects	27633					$0
Total PEI		$0	$0	$0	$7,074,500	$7,074,500
Innovation						
CSS Innovation	27614					$0
PEI Innovation	27632					$0
Total Innovation		$0	$0	$0	$0	$0
Total Plan Approved Amount		$2,906,559	$84,056,112	$93,140,875	$133,950,560	$314,054,106
Remaining Unapproved Amount		N/A	$5,736,888	$32,218,176	$142,498,540	$180,453,404

Distribution Funding Detail

SFY 2004-05

		1	2	3	4=1+2+3	5	6=4+5
Funding Source	PCA	Prior Distributed Amount	Amount to be Distributed by this Agreement/ Modification	Decrease	Total Amount Distributed to Date	Total Amount to be Distributed by Future Modifications	Total Approved Amount
SFY 2004-05							
Community Program Planning	27699	$2,906,559			$2,906,559		$2,906,559
Adjustment for Reversion					$0		$0
Total Community Program Planning		$2,906,559		$0	$2,906,559		$2,906,559
Total SFY 2004-05		$2,906,559	$0	$0	$2,906,559	$0	$2,906,559

Distribution Funding Detail

SFY 2005-06

		1	2	3	4=1+2+3	5	6=4+5
Funding Source	PCA	Prior Distributed Amount	Amount to be Distributed by this Agreement/ Modification	Decrease	Total Amount Distributed to Date	Total Amount to be Distributed by Future Modifications	Total Approved Amount
SFY 2005-06							
Community Services and Supports (CSS)					$0		$0
Extension of Planning	27617	$0	$0		$0		$0
System Improvement	27618	$3,263,522	$0		$3,263,522		$1,831,781
One-Time Technology	27627	$3,856,200	$205,800		$4,062,000		$4,062,000
Other One-Time	27619	$40,948,684	$0		$40,948,684	$0	$40,948,684
Services	27613	$37,413,667	$0		$37,413,667	$0	$37,413,667
Prudent Reserve	27621				$0		$0
Adjustment for Reversion					$0		$0
Total CSS		$85,482,073	$205,800	$0	$85,687,873	$0	$84,056,112
Total SFY 2005-06		$85,482,073	$205,800	$0	$85,687,873	$0	$84,056,112

Distribution Funding Detail

SFY 2006-07

		1	2	3	4=1+2+3	5	6=4+5
Funding Source	PCA	Prior Distributed Amount	Amount to be Distributed by this Agreement/ Modification	Decrease	Total Amount Distributed to Date	Total Amount to be Distributed by Future Modifications	Total Approved Amount
SFY 2006-07							
Community Services and Supports (CSS)							
Services	27613	$90,690,728	$0		$90,690,728	$0	$90,690,728
Prudent Reserve	27621				$0	$0	$0
MHSA Housing Program					$0	$0	$0
Adjustment for Reversion					$0	$0	$0
Total CSS		$90,690,728	$0	$0	$90,690,728	$0	$90,690,728
Workforce Education & Training (WET)							
Planning and Early Implementation	27641	$0	$2,450,147		$2,450,147	$0	$2,450,147
WET Activities (75%)	27640				$0		$0
Adjustment for Reversion					$0		$0
Total WET		$0	$2,450,147	$0	$2,450,147	$0	$2,450,147
Total SFY 2006-07		$90,690,728	$2,450,147	$0	$93,140,875	$0	$93,140,875

Distribution Funding Detail

SFY 2007-08

		1	2	3	4=1+2+3	5	6=4+5
Funding Source	PCA	Prior Distributed Amount	Amount to be Distributed by this Agreement/ Modification	Decrease	Total Amount Distributed to Date	Total Amount to be Distributed by Future Modifications	Total Approved Amount
SFY 2007-08							
Community Services and Supports (CSS)							
Services (75%)	27613	$72,017,070	$23,139,975		$95,157,045	$31,719,015	$126,876,060
Prudent Reserve	27621		$0		$0		$0
MHSA Housing Program			$0		$0		$0
Adjustment for Reversion					$0		$0
Total CSS		$72,017,070	$23,139,975	$0	$95,157,045	$31,719,015	$126,876,060
Capital Facilities & Technological Needs (Cap/Tech)							
Capital Facilities	27650				$0		$0
Technological Needs	27651				$0		$0
Adjustment for Reversion							
Total Cap/Tech		$0	$0	$0	$0	$0	$0
Prevention and Early Intervention (PEI)							
Planning	27631	$0	$7,074,500		$7,074,500		$7,074,500
Services (75%)	27630				$0		$0
State Administered Projects	27633				$0		$0
Adjustment for Reversion							
Total PEI		$0	$7,074,500	$0	$7,074,500	$0	$7,074,500
Innovation							
CSS (75%)	27614				$0		$0
PEI (75%)	27632				$0		$0
Adjustment for Reversion							
Total Innovation		$0	$0	$0	$0	$0	$0
Total SFY 2007-08		$72,017,070	$30,214,475	$0	$102,231,545	$31,719,015	$133,950,560

Distribution Funding Summary

Funding Source	PCA	Prior Distributed Amount	Amount to be Distributed by this Agreement/ Modification	Decrease	Total Amount Distributed to Date	Total Amount to be Distributed by Future Modifications	Total Approved Amount
Total All Fiscal Years							
SFY 2004-05		$2,906,559	$0	$0	$2,906,559	$0	$2,906,559
SFY 2005-06		$85,482,073	$205,800	$0	$85,687,873	$0	$84,056,112
SFY 2006-07		$90,690,728	$2,450,147	$0	$93,140,875	$0	$93,140,875
SFY 2007-08		$72,017,070	$30,214,475	$0	$102,231,545	$31,719,015	$133,950,560
Total All Fiscal Years		$251,096,430	$32,870,422	$0	$283,966,852	$31,719,015	$314,054,106
Less: Assigned Funds							
MHSA Housing		$0	$0	$0	$0	$0	$0
State Administered Projects		$0	$0	$0	$0	$0	$0
Total Assigned Funds		$0	$0	$0	$0	$0	$0
Less: Total Adjustment for Reversion		$0	$0				
Net Distribution		$251,096,430	$32,870,422		$283,966,852	$31,719,015	$314,054,106

Mental Health Services Act Agreement

County: Los Angeles

1. Compliance

In performance of this agreement, the County will fully comply with:

a). The provisions of the Mental Health Services Act and all applicable regulations, related statutes, directives, policies, procedures and amendments.

b). State of California, Department of General Services, Terms and Conditions which can be accessed at http://www.documents.dgs.ca.gov/ol/GTC-307.doc

The County will ensure diligence in managing programs under this agreement, including performing sufficient monitoring activities and taking prompt corrective action against known violations of the MHSA.

If, at any point during the duration of this Agreement, the state determines that the County is out of compliance with any provision in this Agreement, the State may request a plan of correction, after providing the County with written notification and the basis for the finding of noncompliance.

This agreement contains the entire agreement of the parties and supersedes all negotiations, verbal or otherwise and any other agreement between the parties hereto. This agreement is not intended to and will not be construed to create the relationship of agent, servant, employee, partnership, joint venture or association between the State and the County. The County represents and warrants it is free to enter into and fully perform this agreement.

2. Certification / Assurances

Except as otherwise indicated, the following certifications apply to all Counties:

a). Unenforceable Provision: In the event that any provision of this agreement is unenforceable or held to be unenforceable, then the parties agree that all other provisions of this agreement have force and effect and shall not be affected hereby.

b). Indemnification: Pursuant to the provision of Section 895.4 of the California Government Code, each party agrees to indemnify and hold the other party harmless from all liability for damage to persons or property arising out of or resulting from acts or omissions of the indemnifying party.

c). Performance Contract: The County acknowledges that this Agreement meets the requirements for the distribution of Mental Health Act Services funding in a Performance Contract as required in Chapter 2 of the Welfare & Institutions Code beginning with Section 5650 and agrees to comply with the provisions in Section 5650 – 5667 et seq.

3. Standards of Conduct

The following standards apply to all Counties:

a). Every reasonable course of action will be taken by the County in order to maintain the integrity of this expenditure of public funds and to avoid favoritism and questionable or improper conduct. This

Agreement will be administered in an impartial manner, free from efforts to gain personal, financial or political gain.

b). An executive or employee of the County or an elected official in the County, will not solicit or accept money or any other consideration from a third person, for the performance of an act reimbursed in whole or part by the County or the State. Supplies, materials, equipment or services purchased with Agreement funds will be used solely for purposes allowed under this Agreement. No member of the County Board will cast a vote on the provision of services by that member (or any organization, which that member represents) or vote on any matter which would provide direct financial benefit to that member (or immediate family of the member) or any business or organization which the member directly represents.

c). The State, by written notice to the County, may terminate the right of the County to proceed under this Agreement if it is found, after notice and hearing by the State, that gratuities were offered or given by the County or any agent or representative of the County to any officer or employee of the State with a view toward securing a contract or securing favorable treatment with respect to the awarding, amending, or performing of such Agreement, provided that the existence of the facts upon which the State makes such findings that shall be an issue may be reviewed in any competent court.

In the event this Agreement is terminated as provided in the paragraph above, the State shall be entitled:

(a) to pursue the same remedies against the County as it could pursue in the event of the breach of the Agreement by the County, and

(b) as a predetermined amount of liquidated damages in addition to any other damages to which it may be entitled by law, to exemplary damages in an amount which shall be not less than three times the cost incurred by the State in providing any such gratuities to any such officer or employee.

The rights and remedies of the County provided in this clause shall not be exclusive and are in addition to any other rights and remedies provided by law or under this Agreement. The County warrants by execution of this Agreement that no person or selling agency has been employed or retained to solicit or secure this Agreement upon a Contract or understanding for a commission, percentage, brokerage or contingent fee, excepting bona fide employees of the County, for the purpose of securing business. For breach or violation of this warranty, the State shall have the right to annul this Agreement without liability, paying only for the values of the work actually returned, or in its discretion to deduct from the contract price or consideration, or otherwise recover, the full amount of such commission, percentage, brokerage, or contingent fee.

d). County employees, and sub-contractors and/or consultants retained by the County with funds provided under this agreement must comply with the provisions of Government Code Section 19990.

4. <u>Subcontracting</u>

The County certifies that:

a). Any of the work or services specified in this agreement which will be performed by other than the County will be evidenced by a written agreement specifying the terms and conditions of such performance.

b). The County will maintain and adhere to an appropriate system, consistent with federal, state and local law, for the award and monitoring of contracts which contain acceptable standards for insuring accountability.

c). The system for awarding contracts will contain safeguards to insure that the County does not contract with any entity whose officers have been convicted of fraud or misappropriation of funds.

d). Subcontractors will comply with the Confidentiality requirements set forth in provision 17 of this Agreement.

5. **Insurance**
The County hereby warrants that it carries and shall maintain in full force and effect during the full term of this contract and any extensions to said term:
- Sufficient and adequate Worker's Compensation Insurance for all of its employees who will be engaged in the performance of this Agreement and agrees to furnish to the State satisfactory evidence thereof at any time the State may request the same; and,
- Sufficient and adequate Liability Insurance to cover any and all potential liabilities and agrees to furnish to State satisfactory evidence thereof upon request by the State.

6. **Resolution**
The County must provide the State with a copy of a resolution, order, motion or ordinance of the local governing body which by law has the authority to enter into an agreement, authorizing execution of this Agreement. Documents submitted authorizing execution of the Agreement must reference the Agreement number and must contain a statement of approval by the local governing body.

Additionally, the County may designate an individual to act as fiscal and programmatic administrative agent for the purposes of this Agreement. If the County exercises this discretion, they must provide the State with a copy of a resolution, order, motion, or ordinance of the local governing body which by law has authority to enter into an agreement, authorizing the designation of an agent. Preferably resolutions should authorize a designated position rather than a named individual.

7. **Payment**
Upon the approval date of this Agreement pursuant to an approved Three-Year Program and Expenditure Plan and/or annual update, with the exception of funds approved for local planning purposes, the State shall distribute MHSA funds for approved Three-Year Program and Expenditure Plans and updates to the County as follows:
- Seventy-Five percent (75%) of State Fiscal Year Plan Approved amount upon Three-Year Program and Expenditure Plan(s) approval or the start of the State Fiscal year, whichever is later;
- Twenty-Five percent (25%) of State Fiscal Year Plan Approved amount upon receipt by the State of completed fiscal and programmatic reports.

The County's failure to submit completed required fiscal and programmatic reports may affect future State Fiscal Year distributions.

Funds requested by the County and approved by the State for local planning purposes will be distributed in total upon approval by the State.

Funds assigned by the County as allowed under provision #10 of this Agreement will be distributed and/or transferred pursuant to the terms delineated in the Assignment document.

8. **Accounting and Use of Funds**

a). The County shall utilize funds provided under this agreement in accordance with its approved Three-Year Program and Expenditure plan, the MHSA, state regulations and directives, policies and procedures established by the State.

b). The County will comply with controls, record keeping and fund accounting procedure requirements of MHSA, and all applicable regulations, directives, policies and procedures to ensure the proper disbursal of, and accounting for, program funds paid to the County and disbursed by the County, under this Agreement.

c). Income (including interest income) generated as a result of the receipt of MHSA activities, will be utilized in accordance with the MHSA, state regulations and directives, and policy and procedures established by the State. The County will account for any such generated income separately.

d). The County shall account for MHSA funds in accordance with MHSA Section 5892 (f) and in a manner to allow the State to exercise its responsibility under MHSA Section 5892 (h).

e). The County will identify, as a part of the proposed Three-Year Program and Expenditure Plan, a Prudent Reserve from allocations for client services. If approved, the Prudent Reserve will be retained by the County and must be accounted for separately in the local Mental Health Services Fund. The Prudent Reserve may not be expended unless approval is obtained through the Three-Year Program and Expenditure Plan Amendment process.

9. **Amendments**

This Agreement may be unilaterally modified by the State only under any of the following circumstances:

a). A modification to the Agreement is required in order to:
- provide planning funds in response to an approved request;
- implement a program component under a County's Three-Year Program and Expenditure Plan in response to a County's approved request;
- expand services under an existing program component under a County's Three-Year Program and Expenditure Plan in response to a County's approved request.

b). There is an increase or decrease in state MHSA funding levels.

c). There is a change in state law or regulation requiring a change in the provisions of this agreement.

d). Funds awarded to the County have not been expended in accordance with the County's approved Three-Year Program and Expenditure Plan.

Except as provided above, this Agreement may be modified only in writing by the mutual agreement of both parties, through either the mandatory annual update process or by submission of a separate written request for amendment. Three-Year Program and Expenditure Plan amendments must follow the process outlined in the MHSA, regulations, directives, policies, and procedures.

Either the State or the County may request a Three-Year Program and Expenditure Plan Amendment.

No additional MHSA funds shall be provided to the County pursuant to the proposed amendment unless and until the State has approved the County's request.

10. **Assignment**
By mutual consent, the County may assign the funding reserved for the County for specific MHSA activities to the State for the purposes of implementing state administered MHSA projects. Such assignment will occur through an assignment agreement executed between the State and the County which specifies the purpose of the agreement and the source of funds. The State will retain the right to sub-contract for the provision of services intended by the assignment.

11. **Reporting**
The County will compile and submit reports of services, activities, performance attainment, expenditures, status of cash and closeout information by the specified dates as prescribed by the State in regulations, directives, and policies. Failure to adhere to the specified reporting requirements may result in funds not being released.

12. **Termination**
The State may terminate this agreement in whole or in part when it has determined that the County has substantially violated a specific provision of the MHSA regulations or implementing state legislation. The State will provide a termination notice in writing to the County.

Upon the County's receipt of notice of termination from the State, and except as otherwise directed in the notice, the County shall:

A. Stop work on the date specified in the notice;
B. Place no further orders or enter into any further subcontracts for materials, services or facilities except as necessary to complete work under the Contract up to effective date of termination;
C. Terminate all orders and subcontracts;
D. Promptly take all other reasonable and feasible steps to minimize any additional cost, loss, or expenditure associated with work terminated, including, but not limited to reasonable settlement of all outstanding liability and claims arising out of termination of orders and subcontracts;
E. Deliver or make available to the State all data, drawings, specifications, reports, estimates, summaries, and such other information and materials as may have been accumulated by the County under this Agreement, whether completed, partially completed, or in progress;
F. In the event of termination, an equitable adjustment in the funds provided by this Agreement shall be made. Such adjustment shall include reasonable compensation for all services rendered, materials, supplies, and expenses incurred pursuant to this Agreement prior to the effective date of termination;
G. In the event an adjustment is made as specified in Item F above, the County will promptly return to the State all unexpended distributions advanced pursuant to Item 7 of the Agreement.

Notices to the County will be addressed to:
Director
Los Angeles County Dept. of Mental Health
550 South Vermont, 12th Floor
Los Angeles, CA 90020

13. **Records**

a). The County will retain all records pertinent to this Agreement for a period of five (5) years from the date of expiration of this Agreement. If, at the end of five (5) years, there is litigation or an audit involving those records, the County will retain the records until the resolution of such litigation or audit.

b). The State or their designee will have access to and right to examine, monitor and audit all records, documents, conditions and activities related to programs funded by this Agreement. For purposes of this section, "access to" means that the County shall at all times maintain a complete set of records

and documents related to programs funded by this agreement and shall make these records available to the State or their designee in a central location. The County's performance under the terms and conditions herein specified will be subject to an evaluation by the State of the adequacy of the services performed, timeliness of response and a general impression of the competency of the County and its staff.

14. Audits

a). From time to time, the State may inspect the facilities, systems, books and records of the County to monitor compliance with this Agreement. The County shall promptly remedy any violation of any provision of this Agreement and shall certify the same to the State in writing. The fact that the State inspects, or fails to inspect, or has the right to inspect, the County's facilities, systems and procedures does not relieve the County of its responsibilities to comply with this Agreement. The State's failure to detect or detection, but failure to notify the County or require the County's remediation of any unsatisfactory practice, does not constitute acceptance of such practices or a waiver of the State's enforcement rights under this Agreement.

b). The County will maintain and make available to auditors, at all levels, accounting and program records including supporting source documentation and cooperate with all auditors.

c). The County and/or auditors performing monitoring or audits of the County or its sub-contracting service providers will immediately report to the State any incidents of fraud, abuse or other criminal activity in relation to this agreement, the MHSA, or its regulations.

15. Disallowed Costs

The County will use funds provided under this Agreement for the purposes specified in the MHSA and approved Three-Year Program and Expenditure Plan. Except to the extent that the State determines it will assume liability, the County will be liable for and will repay, to the State, any amounts expended under this Agreement found not to be in accordance with MHSA, applicable regulations, directives, policies and the Three-Year Program and Expenditure Plan or this agreement.

16. Conflict Resolution

Should a dispute arise between the County and the State relating to performance or disallowed costs under this Agreement, other than disputes governed by the dispute resolution process set forth in CCR, Title 9, Division 1, Chapter 11, the County shall, prior to exercising any other remedy that may be available, file a "Notice of Dispute" with the State within 15 (fifteen) days of discovery of the problem. Within 15 (fifteen) days, the State shall meet with the County, review the factors in the dispute, and recommend a means for resolving the dispute before a written response is provided to the County. The State shall provide a written response to the County within 30 (thirty) days of the meeting.

Notices of Dispute shall be sent to:

DMH Review/Appeal Officer
Department of Mental Health
1600 9th Street, Room 100
Sacramento, CA 95814
Telephone: (916) 654-2526
Fax: (916) 654-5591

In the event of a dispute, the language contained in this Agreement shall prevail over any other language, including that contained in the County's Three-Year Program and Expenditure Plan.

In the event the County disagrees with the State's written response to the Notice of Dispute, the County retains the right to appeal any determination of the State relating to County performance or disallowed costs under this Agreement. Appeals from determinations shall be conducted through the established appeals process for determinations by the State.

The County and the State shall continue to perform their duties and obligations under this Agreement during any dispute.

17. **Confidentiality Requirements**
Acknowledging the County's continuing obligation to follow existing legal mandates regarding protection and/or release of information maintained by the County, the following Confidentiality Requirements apply:

1. General Requirements
   A. The County will not disclose data or documents or disseminate the contents of the final or any preliminary report without express permission of the Agreement Manager.

   B. Permission to disclose information or documents on one occasion or at public hearings held by the Department of Mental Health relating to the same shall not authorize the County to further disclose such information or documents on any other occasions.

   C. The County will not comment publicly to the press or any other media regarding the data or documents generated, collected, or produced in connection with this Agreement, or the Department of Mental Health's actions on the same, except to the Department of Mental Health staff, the County's own personnel involved in the performance of this Agreement, at a public hearing, or in response to the questions from a legislative committee.

   D. If requested by the State, the County shall require each of its employees or officers who will be involved in the performance of this Agreement to agree to the above terms in a form to be approved by the State and shall supply the State with evidence thereof.

   E. Each subcontract shall contain the foregoing provisions related to the confidentiality of data and nondisclosure of the same.

   F. After any data or documents submitted has become a part of the public records of the State, the County may, if it wishes to do so, at its own expense and upon approval by the Agreement Manager, publish or utilize the same but shall include the following legend:

      LEGAL NOTICE: This report was prepared as an account of work sponsored by the Department of Mental Health, but does not necessarily represent the views of the Department or any of its employees except to the extent, if any, that it has formally been approved by the Department. For information regarding any such action, communicate directly with the Department at P.O. Box 952050, Sacramento, California, 94252-2050. Neither said Department nor the State of California, nor any officer or employee thereof, or the County or any of its Subcontractors makes any warranty, express or implied, or assumes any legal liability whatsoever for the contents of this document. Nor does any party represent that use of the data contained herein would not infringe upon privately owned rights without obtaining permission or authorization from any party who has any rights in connection with the data.

G. "Data" as used in this Agreement means recorded information, regardless of form or characteristics, of a scientific or technical nature. It may, for example, document research, experimental, developmental or engineering work; or be usable or be used to define a design or process; or support a premise or conclusion asserted in any deliverable document called for by this Agreement. The data may be graphic or pictorial delineations in media, such as drawings or photographs, charts, tables, mathematical modes, collections or extrapolations of data or information, etc. It may be in machine form, as punched cards, magnetic tape, computer printouts, or may be retained in computer memory.

H. "Proprietary data" is such data as the County has identified in a satisfactory manner as being under County's control prior to commencement of performance of this Agreement and which has been reasonably demonstrated as being of a proprietary force and effect at the time this Agreement is commenced.

I. "Generated data" is that data, which a County has collected, collated, recorded, deduced, read out or postulated for utilization in the performance of this Agreement. Any electronic data processing program, model or software system developed or substantially modified by the County in the performance of this Agreement at County expense, together with complete documentation thereof, shall be treated in the same manner as generated data.

J. "Deliverable data" is that data which under terms of this Agreement is required to be delivered to the State. Such data shall be property of the State.

K. "Generated data" shall be the property of the State unless and only to the extent that it is specifically provided otherwise herein.

L. The title to the County's proprietary data shall remain in the County's possession throughout the term of this Agreement and thereafter. As to generated data which is reserved to the County by express terms of this Agreement and as to any preexisting or proprietary data which has been utilized to support any premise, postulate or conclusion referred to or expressed in any deliverable hereunder, the County shall preserve the same in a form which may be introduced in evidence in a court of competent jurisdiction at the County's own expense for a period of not less than three years after receipt by the State of the final report or termination of this Agreement and any and all amendments hereto, or for three years after the conclusion or resolution of any and all audits or litigation relevant to this Agreement, whichever is later.

M. Prior to the expiration of such time and before changing the form of or destroying any such data, the County shall notify the State of any such contemplated action; and the State may within 30 days after said notification determine whether it desires said data to be further preserved and, if the State so elects, the expense of further preserving said data shall be paid for by the State. The County agrees that the State shall have unrestricted reasonable access to the same during said three-year period and throughout the time during which said data is preserved in accordance with this Agreement, and the County agrees to use best efforts to furnish competent witnesses or to identify such competent witnesses to testify in any court of law regarding said data.

N. Each party shall designate an employee who shall be responsible for overall security and confidentiality of its data and information systems and each party shall notify the other of any changes in that designation. As of this date, the following are those individuals:

FOR THE STATE

Information Security Officer
Department of Mental health
1600 9th Street Room 150
Sacramento, CA 95814

FOR THE COUNTY

Information Security/Privacy Officer
550 South Vermont, 12th Floor
Los Angeles, CA 90020

2. Confidentiality Requirements relating to the Health Insurance Portability and Accountability Act (HIPAA)

A. The County shall comply with applicable laws and regulations, including but not limited to Sections 14100.2 and 5328 et seq. of the Welfare and Institutions Code, Section 431.300 et seq. of Title 42, Code of Federal Regulations, and the Health Insurance Portability and Accountability Act (HIPAA), including but not limited to Section 1320 d et seq, of Title 42, United States Code and its implementing regulations (including but not limited to Title 45, CFR, Parts 160, 162 and 164) regarding the confidentiality and security of individually identifiable health information (IIHI).

B. Permitted Uses and Disclosures of IIHI by the County.
(1) *Permitted Uses and Disclosures.* Except as otherwise provided in this Agreement, the County, may use or disclose IIHI 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, the County may:
(a) Use and disclose IIHI for the proper management and administration of the County or to carry out the legal responsibilities of the County, provided that such use and disclosures are permitted by law.
(b) Use IIHI to provide data aggregation services to The State. Data aggregation means the combining of IIHI created or received by the County for the purposes of this Agreement with IIHI received by the County in its capacity as the County of another HIPAA covered entity, to permit data analyses that relate to the health care operations of the State.

C. Responsibilities of the County.
The County agrees to prevent use or disclosure of IIHI other than as provided for by this Agreement. The County 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 the County'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 IIHI that it creates, receives, maintains, or transmits; and prevent the use or disclosure of IIHI other than as provided for by this Agreement. The County shall provide the State with information concerning such safeguards as the State may reasonably request from time to time.

The County shall restrict logical and physical access to confidential, personal (e.g., PHI) or sensitive data to authorized users only.

The County shall implement appropriate authentication methods to ensure information system access to confidential, personal (e.g., IIHI) or sensitive data is only granted to properly authenticated and authorized persons. If passwords are used in user authentication (e.g., username/password combination), the County shall implement strong password controls on all compatible computing systems that are consistent with the National Institute of Standards and Technology (NIST) Special Publication 800-68 and the SANS Institute Password Protection Policy.

The County shall:

(1) Implement the following security controls on each server, workstation, or portable (e.g., laptop computer) computing device that processes or stores confidential, personal, or sensitive data:
   (a) Network-based firewall and/or personal firewall
   (b) Continuously updated anti-virus software
   (c) Patch-management process including installation of all operating system/software vendor security patches

(2) Encrypt all confidential, personal, or sensitive data stored on portable electronic media (including, but not limited to, CDs and thumb drives) and on portable computing devices (including, but not limited to, laptop computers and PDAs) with a solution that uses proven industry standard algorithms. The County shall not transmit confidential, personal, or sensitive data via e-mail or other Internet transport protocol over a public network unless, at minimum, a 128-bit encryption method (for example AES, 3DES, or RC4) is used to secure the data.

D. Mitigation of Harmful Effects. To mitigate, to the extent practicable, any harmful effect that is known to the County of a use or disclosure of IIHI by the County or its Subcontractors in violation of the requirements of this Agreement.

E. Agents and Subcontractors of the County. To ensure that any agent, including a Subcontractor to which the the County provides IIHI received from the State, or created or received by the County, for the purposes of this Agreement shall comply with the same restrictions and conditions that apply through this Agreement to the County with respect to such information.

F. Notification of Electronic Breach or Improper Disclosure. During the term of this Agreement, the County shall notify the State immediately upon discovery of any breach of Medi-Cal related IIHI and/or data, where the information and/or data is reasonably believed to have been acquired by an unauthorized person. Immediate notification shall be made to the State Information Security Officer, within two business days of discovery, at (916) 651-6776. County 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. County shall investigate such breach and provide a written report of the investigation to the State Information Security Officer, postmarked within thirty (30) working days of the discovery of the breach to the address below:

Information Security Officer
Office of HIPAA Compliance
California Department of Mental Health
1600 9th Street, Room 150
Sacramento, CA 95814

G. Employee Training and Discipline. To train and use reasonable measures to ensure compliance with the requirements of this Agreement by employees who assist in the performance of functions or activities under this Agreement and use or disclose IIHI; and discipline such employees who intentionally violate any provisions of this Agreement, including by termination of employment.

H. Audits, Inspection and Enforcement. From time to time, Subcontractor may inspect the facilities, systems, books and records of the County to monitor compliance with this Agreement. The County shall promptly remedy any violation of any provision of this Agreement and shall certify the same to the Subcontractor Information Security Officer in writing The fact that Subcontractor inspects, or fails to inspect, or has the right to inspect, the County's facilities, systems and procedures does not relieve the County of its responsibilities to comply with this Agreement. The State's failure to detect or detection, but failure to notify the County or require the County's remediation of any unsatisfactory practice, does not constitute acceptance of such practices or a waiver of the State's enforcement rights under this Agreement.

I. Termination for Cause. Upon the State's knowledge of a material breach of this Agreement by the County, the State shall either:
   (1) Provide an opportunity for the County to cure the breach or end the violation and terminate this Agreement if the County does not cure the breach or end the violation within the time specified by the State.
   (2) Immediately terminate this Agreement if the County has breached a material term of this Agreement and cure is not possible; or,
   (3) If neither cure nor termination is feasible, the State Information Security Officer shall report the violation to the Secretary of the U.S. Department of Health and Human Services.

J. Judicial or Administrative Proceedings. The State may terminate this Agreement, effective immediately, if (i) the County is found liable in a civil matter or guilty in a criminal matter proceeding for a violation of the HIPAA Privacy or Security Rule or (ii) a finding or stipulation that the County has violated a privacy or security standard or requirement of HIPAA, or other security or privacy laws is made in an administrative or civil proceeding in which the County is a party.

K. Effect of Termination. Upon termination or expiration of this Agreement for any reason, the County shall return or destroy all IIHI received from the State that the County still maintains in any form, and shall retain no copies of such IIHI or, if return or destruction is not feasible, it shall continue to extend the protections of this Agreement to such information, and limit further use of such IIHI to those purposes that make the return or destruction of such IIHI infeasible. This provision shall apply to IIHI that is in the possession of Subcontractors or agents of the County.

L. Miscellaneous Provisions.
   (1) Disclaimer. The State makes no warranty or representation that compliance by the County with this Agreement, HIPAA or the HIPAA regulations will be adequate or satisfactory for the County's own purposes or that any information in the County's possession or control, or transmitted or received by the County is, or will be, secure from unauthorized use or disclosure. The County is solely responsible for all decisions made by the County regarding the safeguarding of IIHI.

   (2) Assistance in Litigation or Administrative Proceedings. The County shall make itself, and use its best efforts to make any Subcontractors, employees or agents assisting The County in the performance of its obligations under this Agreement, available to the State at no cost to the State to testify as witnesses, or otherwise, in the event of litigation or administrative proceedings being commenced against the State, its directors, officers or employees for claimed violation of HIPAA, the HIPAA regulations or other laws relating to security and privacy based upon actions or inactions of the County and/or its Subcontractor, employee, or agent, except where the County or its Subcontractor, employee, or agent is a named adverse party.

   (3) No Third-Party Beneficiaries. Nothing expressed or implied in the terms and conditions of this Agreement is intended to confer, nor shall anything herein confer, upon any person other than

the State or the County and their respective successors or assignees, any rights remedies, obligations or liabilities whatsoever.

(4) Interpretation. The terms and conditions in this Agreement shall be interpreted as broadly as necessary to implement and comply with HIPAA, the HIPAA regulations and applicable State laws. The parties agree that any ambiguity in the terms and conditions of this Agreement shall be resolved in favor of a meaning that complies and is consistent with applicable laws.

(5) Regulatory References. A reference in the terms and conditions of this Agreement to a section in the HIPAA regulations means the section as in effect or as amended.

(6) Survival. The respective rights and obligations of the County under Section 17.2 L (2) of this Agreement shall survive the termination or expiration of this Agreement.

(7) No Waiver of Obligations. No change, waiver or discharge of any liability or obligation hereunder on any one or more occasions shall be deemed a waiver of performance of any continuing or other obligation, or shall prohibit enforcement of any obligation, on any other occasion.

18. Signatures

This Agreement is of no force and effect until signed by both of the parties hereto. The County will not commence performance prior to the beginning of this Agreement or upon final approval.