

**CARSON CITY BOARD OF SUPERVISORS**  
**Minutes of the June 2, 2022 Meeting**  
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**DRAFT**

A regular meeting of the Carson City Board of Supervisors was scheduled for 8:30 a.m. on Thursday, June 2, 2022, in the Community Center Robert “Bob” Crowell Boardroom, 851 East William Street, Carson City, Nevada.

**PRESENT:**

Mayor Lori Bagwell  
Supervisor Stacey Giomi, Ward 1  
Supervisor Maurice White, Ward 2  
Supervisor Stan Jones, Ward 3  
Supervisor Lisa Schuette, Ward 4

**STAFF:**

Nancy Paulson, City Manager  
Dan Yu, Assistant District Attorney  
Stephanie Hicks, Deputy City Manager  
Tamar Warren, Senior Public Meetings Clerk

**NOTE:** A recording of these proceedings, the Board’s agenda materials, and any written comments or documentation provided to the Clerk, during the meeting, are part of the public record. These materials are available for review, in the Clerk’s Office, during regular business hours. All meeting minutes are available for review at: <https://www.carson.org/minutes>.

**1 - 4. CALL TO ORDER, ROLL CALL, INVOCATION, AND PLEDGE OF ALLEGIANCE**

(8:33:26) – Mayor Bagwell called the meeting to order at 8:33 a.m. Ms. Warren called roll and noted the presence of a quorum. Nick Emery, Pastor, Hope Crossing Community Church provided the invocation. Court Administrator Max Cortes led the Pledge of Allegiance.

**5. PUBLIC COMMENT**

(8:35:00) – Mayor Bagwell entertained public comments. Carson City Sheriff Ken Furlong explained that he had requested agendizing a school safety discussion at the next Board of Supervisors/Carson City School District joint meeting in response to many inquiries received regarding school safety in Carson City.

(8:36:26) – Deni French introduced himself and referenced a Nevada Appeal column regarding pollination and the bee population in Carson City. He also addressed agenda item 14.A and believed that the property should be available for bidding instead of abandonment or to be used as a habitat for insects.

(8:39:01) – Mayor Bagwell announced that items 10.B and 11.C would be pulled from the agenda altogether. She also noted that item 14 would precede item 13.

**6. FOR POSSIBLE ACTION: APPROVAL OF MINUTES – MAY 5, 2022.**

(8:39:40) – Mayor Bagwell introduced the item and entertained comments or corrections and when none were forthcoming a motion.

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**(8:39:53) – Supervisor Giomi moved to approve the minutes of the May 5, 2022 Board of Supervisors meeting provided as late material. The motion was seconded by Supervisor Jones and carried 5-0-0.**

**7. SPECIAL PRESENTATIONS**

**7.A PRESENTATION OF A PROCLAMATION RECOGNIZING JUNE 2, 2022, AS FRED ROPER DAY.**

(8:41:08) – Mayor Bagwell read into the record a proclamation, incorporated into the record, recognizing June 2, 2022, as Fred Roper Day. The Board joined Mr. Roper and his family for a commemorative photograph.

**7.B PRESENTATION OF A PROCLAMATION RECOGNIZING JUNE 15, 2022, AS "WORLD ELDER ABUSE AWARENESS DAY."**

(8:46:57) – Mayor Bagwell read into the record a proclamation, incorporated into the record, recognizing June 15, 2022, as World Elder Abuse Awareness Day. Molly Walt, Chief Executive Officer of the Nevada Rural Counties RSVP Program, Inc., thanked the Board and the community for their support. She also reminded everyone “not to forget our elders” and encouraged volunteers to join the “Good Neighbor Program.”

**7.C PRESENTATION OF A PROCLAMATION RECOGNIZING JUNE 2022 AS NATIONAL POLLINATOR MONTH.**

(8:51:00) – Mayor Bagwell read into the record a proclamation, incorporated into the record, recognizing June 2022 as National Pollinator Month. Bee City USA’s Committee Chairperson Kelly Clark thanked Mayor Bagwell and the Supervisors for their support and invited the community to participate in the upcoming pollinator events. Mayor Bagwell invited the Board to join Ms. Clark, Carson City Open Space Manager Lyndsey Boyer, and other team members for a commemorative photograph.

**8. CITY MANAGER**

**8.A FOR DISCUSSION ONLY: DISCUSSION AND PRESENTATION REGARDING THE NEVADA ASSOCIATION OF COUNTIES ("NACO") PLAN FOR THE 82ND (2023) SESSION OF THE NEVADA LEGISLATURE.**

(8:57:08) – Mayor Bagwell introduced the item. The Nevada Association of Counties (NACO) Executive Director Vinson Guthreau provided background and reviewed a PowerPoint presentation, incorporated into the record, which provided an overview of NACO and its upcoming events. He also introduced NACO’s Government Affairs Manager, Jennifer Berthiaume, who provided a preliminary outlook on the upcoming 2023 legislative session. Mayor Bagwell thanked the presenters. This item was not agendized for action.

**CONSENT AGENDA**

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(9:21:00) – Mayor Bagwell introduced the item and inquired whether the Board wished to pull items from the Consent Agenda. When none were forthcoming, she entertained a motion, reminding the Board that items 10.B and 11.C would be pulled from consideration.

(9:21:16) – Supervisor Giomi moved to approve the Consent Agenda consisting of items 9.A, 10.A, 10.C, 10.D, 11.A, 11.B, 11.D, 11.E, and 11.F as published. Supervisor White seconded the motion.

<b>RESULT:</b>	<b>APPROVED (5-0-0)</b>
<b>MOVER:</b>	Supervisor Giomi
<b>SECONDER:</b>	Supervisor White
<b>AYES:</b>	Supervisors Giomi, Jones, Schuette, White, and Mayor Bagwell
<b>NAYS:</b>	None
<b>ABSTENTIONS:</b>	None
<b>ABSENT:</b>	None

**9. FINANCE**

**9.A FOR POSSIBLE ACTION: DISCUSSION AND POSSIBLE ACTION REGARDING THE REPORT ON THE CONDITION OF EACH FUND IN THE TREASURY AND THE STATEMENTS OF RECEIPTS AND EXPENDITURES THROUGH MAY 20, 2022, PER NRS 251.030 AND NRS 354.290.**

**10. HEALTH AND HUMAN SERVICES**

**10.A FOR POSSIBLE ACTION: DISCUSSION AND POSSIBLE ACTION REGARDING THE CREATION OF A FULL-TIME GRANT-FUNDED BILINGUAL PUBLIC HEALTH NURSE (“PHN”) POSITION IN THE CARSON CITY DEPARTMENT OF HEALTH AND HUMAN SERVICES (“CCHHS”), WHICH WILL PROVIDE SERVICES TO THE CCHHS DIVISIONS OF CLINICAL SERVICES AND EPIDEMIOLOGY.**

**10.B FOR POSSIBLE ACTION: DISCUSSION AND POSSIBLE ACTION REGARDING A PROPOSED ACCEPTANCE OF A GRANT FROM THE STATE OF NEVADA, DEPARTMENT OF HEALTH AND HUMAN SERVICES, DIVISION OF PUBLIC AND BEHAVIORAL HEALTH, FOR THE AMOUNT OF \$103,499 REIMBURSED IN FISCAL YEAR (“FY”) 2023, EFFECTIVE JULY 1, 2022, THROUGH JUNE 30, 2023.**

This item was pulled from consideration

**10.C FOR POSSIBLE ACTION: DISCUSSION AND POSSIBLE ACTION REGARDING A PROPOSED ACCEPTANCE OF A GRANT FROM THE STATE OF NEVADA, DEPARTMENT OF HEALTH AND HUMAN SERVICES, DIVISION OF PUBLIC AND BEHAVIORAL HEALTH, IN THE AMOUNT OF \$70,148 REIMBURSED IN FISCAL YEAR (“FY”) 2022 AND FY 2023, EFFECTIVE APRIL 29, 2022, THROUGH APRIL 28, 2023.**

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**10.D FOR POSSIBLE ACTION: DISCUSSION AND POSSIBLE ACTION REGARDING (1) A PROPOSED RATIFICATION OF THE ACCEPTANCE OF A GRANT AWARD FROM THE STATE OF NEVADA DEPARTMENT OF HEALTH AND HUMAN SERVICES, DIVISION OF PUBLIC AND BEHAVIORAL HEALTH, IN THE AMOUNT OF \$276,098, REIMBURSED IN TWO EQUAL AMOUNTS OF \$138,049 IN FISCAL YEAR (“FY”) 2022 AND FY 2023, EFFECTIVE JULY 1, 2021, THROUGH JUNE 30, 2023, AND (2) AMENDMENT NO. 1 TO THE GRANT AWARD, INCREASING THE TOTAL AMOUNT OF THE GRANT TO \$337,521, REIMBURSED IN THE AMOUNT OF \$171,752 IN FY 2022 AND \$165,769 IN FY 2023.**

**11. PURCHASING AND CONTRACTS**

**11.A FOR POSSIBLE ACTION: DISCUSSION AND POSSIBLE ACTION REGARDING A PROPOSED \$45,000 INCREASE IN ANNUAL PURCHASE AUTHORITY, BEYOND THE PREVIOUSLY APPROVED PURCHASE AUTHORITY IN THE AMOUNT OF \$227,600, TO PURCHASE FOOD FOR CARSON CITY JAIL INMATES FROM VENDORS INCLUDING, BUT NOT LIMITED TO, BAKEMARK, NATIONAL FOOD GROUP, NICHOLAS AND COMPANY AND FRANCO AMERICAN BAKING COMPANY, RESULTING IN A NEW, ANNUAL NOT TO EXCEED AMOUNT OF \$272,600 THROUGH JUNE 30, 2022.**

**11.B FOR POSSIBLE ACTION: DISCUSSION AND POSSIBLE ACTION REGARDING (1) A PROPOSED \$71,500 INCREASE IN PURCHASE AUTHORITY FOR THE AGREEMENT BETWEEN WASHOE COUNTY AND CARSON CITY FOR THE WASHOE COUNTY REGIONAL MEDICAL EXAMINER’S OFFICE (“WCRMEO”) TO PROVIDE FORENSIC PATHOLOGY SERVICES TO THE CARSON CITY SHERIFF’S OFFICE AND CORONER (“CCSO”), INCREASING THE ANNUAL NOT TO EXCEED AMOUNT FOR FISCAL YEAR (“FY”) 2022 FROM \$148,500 TO \$220,000, AND (2) A PROPOSED \$45,000 INCREASE IN PURCHASE AUTHORITY FOR FY 2023 FROM \$148,500 TO \$193,500, INCREASING THE AGGREGATE NOT TO EXCEED AMOUNT TO \$607,000.**

**11.C FOR POSSIBLE ACTION: DISCUSSION AND POSSIBLE ACTION REGARDING A PROPOSED \$2,360 INCREASE IN PURCHASE AUTHORITY TO PAC MACHINE CO., INC. (“PAC”), BEYOND THE PREVIOUSLY APPROVED \$67,485 FOR THE SOUTH LIFT PUMP STATION REPLACEMENT PUMP, TO COVER ADDITIONAL FREIGHT COSTS, RESULTING IN A NEW NOT TO EXCEED AMOUNT OF \$69,845.**

This item was pulled from consideration.

**11.D FOR POSSIBLE ACTION: DISCUSSION AND POSSIBLE ACTION REGARDING A DETERMINATION THAT SIERRA NEVADA CONSTRUCTION, INC. (“SNC”) IS THE LOWEST RESPONSIVE AND RESPONSIBLE BIDDER PURSUANT TO NEVADA REVISED STATUTES (“NRS”) CHAPTER 338 AND WHETHER TO AWARD CONTRACT NO. 21300315, WITH UP TO THREE ADDITIVE ALTERNATIVES, TO SNC FOR PAVEMENT PRESERVATION AT SEVERAL CARSON CITY PARKING LOTS (“PROJECT”) FOR A TOTAL AMOUNT NOT TO EXCEED \$272,807.70.**

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**11.E FOR POSSIBLE ACTION: DISCUSSION AND POSSIBLE ACTION REGARDING A DETERMINATION THAT A&K EARTH MOVERS, INC. (“A&K”) IS THE LOWEST RESPONSIVE AND RESPONSIBLE BIDDER PURSUANT TO NEVADA REVISED STATUTES (“NRS”) CHAPTER 338 AND WHETHER TO AWARD CONTRACT NO. 21300314 FOR THE MULTIPURPOSE ATHLETIC CENTER (“MAC”) WEST PARKING LOT PROJECT (“PROJECT”) TO A&K FOR A TOTAL AMOUNT NOT TO EXCEED \$492,800.**

**11.F FOR POSSIBLE ACTION: DISCUSSION AND POSSIBLE ACTION REGARDING CONTRACT NO. 21300331 WITH COURTSMART DIGITAL SYSTEM (“CDS”) AS THE SOLE SOURCE VENDOR TO UPGRADE THE EXISTING AUDIO/VIDEO SYSTEM FOR THE FIRST JUDICIAL DISTRICT COURT, JUVENILE COURT AND THE CARSON CITY JUSTICE/MUNICIPAL COURT FOR A NOT TO EXCEED AMOUNT OF \$162,359 TO BE FUNDED FROM THE COURTS RESTRICTED FUNDS.**

**END OF CONSENT AGENDA**

**ORDINANCES, RESOLUTIONS, AND OTHER ITEMS**

**12. ITEM(S) PULLED FROM THE CONSENT AGENDA WILL BE HEARD AT THIS TIME**

No items were pulled from consideration.

**13. PURCHASING AND CONTRACTS**

**13.A FOR POSSIBLE ACTION: DISCUSSION AND POSSIBLE ACTION REGARDING CONFLICT COUNSEL ATTORNEY SERVICES CONTRACT NO. 20300005-C FOR THE PROVISION OF CONFLICT COUNSEL SERVICES IN THE FIRST JUDICIAL DISTRICT COURT AND THE CARSON CITY JUSTICE/MUNICIPAL COURT FROM JUNE 2, 2022 THROUGH JUNE 30, 2022 IN THE AMOUNT OF \$12,500 AND \$14,583.34 PER MONTH THEREAFTER FOR FISCAL YEAR (“FY”) 2023, FOR A TOTAL AMOUNT OF \$187,500.08, TO BE AWARDED TO ONE OF THE FOLLOWING ATTORNEYS: DANIEL J. SPENCE, ANDREW COATES, CHRISTOPHER DAY, RICHARD MOLEZZO, MARIA PENCE OR PAUL YOHEY.**

(9:22:03) – Mayor Bagwell introduced the item. Ms. Paulson gave background, incorporated into the Staff Report, and explained that one of the conflict counsel services attorneys, John Malone, had resigned effective May 20, 2022. She also reminded the Board that they must select a replacement conflict counsel, per the Indigent Defense Representation Plan, adding that recruitment efforts were pursued in the Nevada Appeal, the Washoe County Bar Association, and the First Judicial District Bar Association. Ms. Paulson noted that letters of interest and resumes were received from Daniel J. Spence, Andrew Coates, Christopher Day, Richard Molezzo, Maria Pence, and Paul Yohey, adding that the judges of the First Judicial District and the Carson City Justice/Municipal Court had recommended Mr. Spence as their candidate of choice. She also stated that Mr. Spence, who was present in the audience, was being recommended by Staff for his previous experience as conflict counsel for the City from 2019-2021 and had an office in Carson City. Ms. Paulson noted that she had received confirmation

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from former conflict counsel and attorney Kay Ellen Armstrong that she would assist Mr. Spence to fulfil the new Department of Indigent Defense Standards requirements until Mr. Spence had handled a significant portion of three felony jury trials to completion. Mayor Bagwell received confirmation that Mr. Spence was the only candidate present in person or via WebEx, although all applicants had been invited to attend. Mayor Bagwell invited Mr. Spence to the speakers' table.

(9:27:15) – Mr. Spence responded to questions by the Board. He provided information on his law practice and informed Mayor Bagwell that criminal law was of great interest to him, and he wished to help the community. He also believed that his background in family law allowed him to serve his clients better. He also confirmed that the mentorship received from Ms. Armstrong would not be at Carson City's expense. Deputy District Attorney Todd Reese clarified for Supervisor Giomi that under the Department of Indigent Defense Services (DIDS) regulations, Mr. Spence must meet its criteria to be assigned a case, whether it would go to trial or not. Supervisor Jones expressed his displeasure regarding a letter received from DIDS and thanked Mr. Spence for attending the meeting. Mayor Bagwell noted that no other candidates were present and entertained public comments.

(9:35:17) – Mr. French inquired about the weight of input (i.e. the letter from DIDS) to the Board and Mayor Bagwell clarified that the Board reads and considers every submission. She also entertained a motion.

**(9:36:43) – Supervisor Giomi moved to award the contract as presented to Daniel J. Spence. The motion was seconded by Supervisor White.**

<b>RESULT:</b>	<b>APPROVED (5-0-0)</b>
<b>MOVER:</b>	Supervisor Giomi
<b>SECONDER:</b>	Supervisor White
<b>AYES:</b>	Supervisors Giomi, Jones, Schuette, White, and Mayor Bagwell
<b>NAYS:</b>	None
<b>ABSTENTIONS:</b>	None
<b>ABSENT:</b>	None

**14. COMMUNITY DEVELOPMENT - PLANNING**

**14.A FOR POSSIBLE ACTION: DISCUSSION AND POSSIBLE ACTION REGARDING A REQUEST FOR THE ABANDONMENT OF A PUBLIC RIGHT-OF-WAY (BALSAM STREET) TOTALING APPROXIMATELY 60 FEET, ABUTTING THE PROPERTIES LOCATED AT 5179 SILVER SAGE DRIVE (APN 009-232-03), 5229 SILVER SAGE DRIVE (APN 009-233-01) AND 5290 CENTER DRIVE (APN 009-233-02).**

(9:21:45) – Mayor Bagwell introduced the item and entertained Board comments or questions; however, none were forthcoming. She also addressed the earlier public comment on the item by Mr. French, noting that because the property was given to the City, it could not be sold “and the rules require it to be absorbed by whence it came.” Mayor Bagwell entertained a motion.

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**(9:22:45) – Supervisor Jones moved to approve the Order of Abandonment. The motion was seconded by Supervisor Schuette.**

<b>RESULT:</b>	<b>APPROVED (5-0-0)</b>
<b>MOVER:</b>	Supervisor Jones
<b>SECONDER:</b>	Supervisor Schuette
<b>AYES:</b>	Supervisors Giomi, Jones, Schuette, White, and Mayor Bagwell
<b>NAYS:</b>	None
<b>ABSTENTIONS:</b>	None
<b>ABSENT:</b>	None

**15. BOARD OF SUPERVISORS**

**NON-ACTION ITEMS:**

**FUTURE AGENDA ITEMS**

**STATUS REVIEW OF PROJECTS**

**INTERNAL COMMUNICATIONS AND ADMINISTRATIVE MATTERS**

**CORRESPONDENCE TO THE BOARD OF SUPERVISORS**

**STATUS REPORTS AND COMMENTS FROM THE MEMBERS OF THE BOARD**

**STAFF COMMENTS AND STATUS REPORT**

(9:37:12) – Mayor Bagwell entertained Board reports. Ms. Paulson announced that according to the Porter Group, Senators Jacky Rosen and Catherine Cortez Masto had included several projects, requested by the Board, in the 2023 appropriations bills.

**CLOSED NON-MEETING TO CONFER WITH MANAGEMENT REPRESENTATIVES AND COUNSEL**

(9:38:47) – Mayor Bagwell announced that this discussion would take place after adjournment.

**16. PUBLIC COMMENT**

(9:38:57) – Mayor Bagwell entertained final public comments; however, none were forthcoming.

**17. FOR POSSIBLE ACTION: TO ADJOURN**

(9:39:07) – Mayor Bagwell adjourned the meeting at 9:39 a.m.

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The Minutes of June 2, 2022 Carson City Board of Supervisors meeting are so approved on this 7<sup>th</sup> day of July, 2022.

\_\_\_\_\_  
LORI BAGWELL, Mayor

ATTEST:

\_\_\_\_\_  
AUBREY ROWLATT, Clerk-Recorder

Attachments: written public comments

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**DRAFT**

A special meeting of the Carson City Board of Supervisors was scheduled for 8:30 a.m. on Friday, June 24, 2022, in the Community Center Robert “Bob” Crowell Boardroom, 851 East William Street, Carson City, Nevada.

**PRESENT:**

Mayor Lori Bagwell  
Supervisor Stacey Giomi, Ward 1  
Supervisor Maurice White, Ward 2  
Supervisor Lisa Schuette, Ward 4

**STAFF:**

Aubrey Rowlatt, Clerk-Recorder  
Stephanie Hicks, Deputy City Manager  
Benjamin Johnson, Senior Deputy District Attorney  
Tamar Warren, Senior Public Meetings Clerk

**NOTE:** A recording of these proceedings, the Board’s agenda materials, and any written comments or documentation provided to the Clerk, during the meeting, are part of the public record. These materials are available for review, in the Clerk’s Office, during regular business hours. All meeting minutes are available for review at: <https://www.carson.org/minutes>.

**1 - 3. CALL TO ORDER, ROLL CALL, INVOCATION, AND PLEDGE OF ALLEGIANCE**

(8:31:30) – Mayor Bagwell called the meeting to order at 8:31 a.m. Ms. Warren called roll and noted the presence of a quorum. Supervisor Jones was absent. At Mayor Bagwell’s request, Mr. Johnson led the Pledge of Allegiance.

**4. PUBLIC COMMENT**

(8:32:00) – Mayor Bagwell entertained public comments; however, none were forthcoming. She also read into the record a prayer submitted by Patricia Gordon and incorporated into the record.

**5. CLERK-RECORDER**

**5.A FOR POSSIBLE ACTION: DISCUSSION AND POSSIBLE ACTION REGARDING THE CANVASS OF THE VOTE FOR THE JUNE 14, 2022, PRIMARY ELECTION.**

(8:33:08) – Mayor Bagwell introduced the item. Ms. Rowlatt introduced Miguel Camacho, Elections Chief Deputy Clerk. She called this year's primary elections challenging, noting that several simultaneous events were taking place at the Community Center which also served as the polling location. Ms. Rowlatt thanked many of the City departments for their assistance including Information Technology, Public Works, Parks and Recreation, Carson City Sheriff's Office, Alternative Sentencing, and the Office of the District Attorney. Ms. Rowlett also thanked the elections staff, and the "overabundant" election workers, comprising over 100 individuals. Mayor Bagwell noted that she had received three positive phone calls praising elections team member Emily Toups.

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(8:36:42) – Ms. Rowlett gave background on previous elections and reported a 34.56 percent voter turnout this year, adding that the low turnout was "average" for a primary election. She also reviewed the mail and in-person voting processes and the election results which are incorporated into the record as late material and responded to clarifying questions. Ms. Rowlett outlined the address correction process for 3,800 returned ballots through the mail, which she noted would follow federal law, prior to the November general election. She also provided several suggestions to overcome the challenges they faced such as:

- Electronic poll book technology updates
- Planning for the right number of election workers
- Additional election worker training to accommodate new technologies
- Having a consistent and secure polling location without additional event distractions and to avoid voter confusion

(8:49:05) – Mayor Bagwell entertained public comments and when none were forthcoming, a motion. The Board thanked Ms. Rowlett and her Staff for a “superb job.”

**(8:49:17) – Supervisor White moved to accept the canvass of the vote for the primary election held on June 14, 2022. The motion was seconded by Supervisor Schuette.**

<b>RESULT:</b>	<b>APPROVED (4-0-0)</b>
<b>MOVER:</b>	Supervisor White
<b>SECONDER:</b>	Supervisor Schuette
<b>AYES:</b>	Supervisors Giomi, Schuette, White, and Mayor Bagwell
<b>NAYS:</b>	None
<b>ABSTENTIONS:</b>	None
<b>ABSENT:</b>	Supervisor Jones

**CLOSED NON-MEETING TO CONFER WITH MANAGEMENT REPRESENTATIVES AND COUNSEL**

This item did not take place.

**6. PUBLIC COMMENT**

(8:51:15) – Mayor Bagwell entertained final public comments; however, none were forthcoming.

**7. FOR POSSIBLE ACTION: TO ADJOURN**

(8:51:21) – Mayor Bagwell adjourned the meeting at 8:51 a.m.

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The Minutes of June 24, 2022 Carson City Board of Supervisors special meeting are so approved on this 7<sup>th</sup> day of July, 2022.

\_\_\_\_\_  
LORI BAGWELL, Mayor

ATTEST:

\_\_\_\_\_  
AUBREY ROWLATT, Clerk-Recorder

Attachments: written public comments

# PROCLAMATION

## Parks and Recreation Month

July 2022

*WHEREAS*, Parks and recreation are an integral part of communities throughout this country, including Carson City; and

*WHEREAS*, Carson City's Parks, Recreation and Open Space Department's mission is to provide exceptional parks, open space, and diverse recreational opportunities to enhance the quality of life in Carson City, while preserving our natural resources for future generations; and

*WHEREAS*, Carson City is proud to provide safe spaces for people to connect with nature, find solace, and recreate outdoors; and

*WHEREAS*, Carson City has more parks per capita than the national average. The City's park system consists of over than 8,000-acres providing recreation opportunities that help build a healthy, active community which aids in the prevention of chronic disease, provides therapeutic recreation services for individuals of all abilities, and improves the mental and emotional health of its citizens; and

*WHEREAS*, Carson City's natural areas are fundamental to environmental stewardship by improving air and water quality, protecting groundwater, preventing flooding, and preserving wildlife habitat; and

*WHEREAS*, Carson City's park and recreation facilities enhance the community's economic vitality by increasing property values, while promoting tourism, the attraction and retention of businesses, and crime reduction; and

*WHEREAS*, Carson City is honored to be a Tree City USA and the first Bee City USA in Nevada; and

*WHEREAS*, the U.S. House of Representatives and the National Recreation and Parks Association have designated July as Parks and Recreation Month and called upon communities throughout the country to recognize the importance of parks and recreation.

*NOW, THEREFORE*, I, Lori Bagwell, Mayor of Carson City, on behalf of the Board of Supervisors, do hereby proclaim July 2022 as "**Parks and Recreation Month**" in Carson City, and I urge all residents to spend time in their favorite parks and enjoy this beautiful region we call home.

Dated this 1st day of July 2022.



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Lori Bagwell, Mayor



## STAFF REPORT

**Report To:** Board of Supervisors **Meeting Date:** July 7, 2022

**Staff Contact:** Sheri Russell, Chief Financial Officer

**Agenda Title:** For Possible Action: Discussion and possible action regarding the report on the condition of each fund in the treasury and the statements of receipts and expenditures through June 24, 2022, per NRS 251.030 and NRS 354.290. (Sheri Russell, srussell@carson.org)

Staff Summary: NRS 251.030 requires the Chief Financial Officer (for the purpose of the statute acting as the County Auditor) to report to the Board of Supervisors, at each regular meeting thereof, the condition of each fund in the treasury. NRS 354.290 requires the County Auditor to report to the Board of Supervisors a statement of revenues and expenditures based on the accounts and funds as were used in the budget. A more detailed accounting is available on the City's website – [www.carson.org](http://www.carson.org).

**Agenda Action:** Formal Action / Motion **Time Requested:** Consent

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### Proposed Motion

I move to accept the report.

### Board's Strategic Goal

Efficient Government

### Previous Action

N/A

### Background/Issues & Analysis

A "Condition of the Treasury Report" is attached indicating the beginning balance, receipts, disbursements, and the ending balance of each cash account for every fund in the City as of June 24, 2022.

It is important to note that there will always be timing differences with these balances - for example, while all departments take deposits to the bank on a daily basis, there is usually a delay between when the reports are prepared and when they are entered into the system.

### Applicable Statute, Code, Policy, Rule or Regulation

NRS 251.030 and 354.290

### Financial Information

**Is there a fiscal impact?** No

**If yes, account name/number:**

**Is it currently budgeted?**

**Explanation of Fiscal Impact:** N/A

**Alternatives**

N/A

**Attachments:**

[BOS Cash Report 06-24-2022.pdf](#)

**Board Action Taken:**

Motion: \_\_\_\_\_

- 1) \_\_\_\_\_
- 2) \_\_\_\_\_

Aye/Nay

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
(Vote Recorded By)

# CONDITION OF THE TREASURY REPORT

CASH ACTIVITY BETWEEN 06/03/2022 & 06/24/2022

FUND	FUND NAME	BEGINNING BALANCE	RECEIPTS	DISBURSEMENTS	ENDING BALANCE
101	GENERAL FUND	\$ 16,086,050.14	\$ 876,840.04	\$ 3,293,030.81	\$ 13,669,859.37
201	AIRPORT FUND	0.07	-	-	0.07
202	COOPERATIVE EXTENSION FUND	286,352.89	598.64	30,326.44	256,625.09
208	SUPPLEMENTAL INDIGENT FUND	3,273,312.85	5,376.33	29,907.17	3,248,782.01
210	CAPITAL PROJECTS FUND	24,596,199.08	2,338.90	560,249.63	24,038,288.35
215	SENIOR CENTER FUND	402,448.52	2,337.46	45,454.82	359,331.16
225	CARSON CITY TRANSIT FUND	314,442.67	18,595.46	27,475.96	305,562.17
230	LIBRARY GIFT FUND	50,982.86	328.05	3,000.00	48,310.91
235	LANDSCAPE MAINTENANCE FUND	487,967.51	-	140.66	487,826.85
236	ADMINISTRATIVE ASSESSMENT FUND	46,977.20	2,555.00	1,362.28	48,169.92
237	S. CARSON NEIGHBORHOOD IMPROV. DIST.	20,855.26	144.00	1,026.20	19,973.06
240	TRAFFIC/TRANSPORTATION FUND	20,957.57	770.00	601.56	21,126.01
245	CAMPO FUND	67,833.72	50.00	14,248.42	53,635.30
250	REGIONAL TRANSPORTATION FUND	4,175,558.82	49,332.85	89,555.21	4,135,336.46
253	V & T INFRASTRUCTURE FUND	2,450,500.00	-	-	2,450,500.00
254	QUALITY OF LIFE FUND	5,394,084.08	1,016.75	105,007.90	5,290,092.93
256	STREET MAINTENANCE FUND	1,687,924.96	34,545.15	210,642.61	1,511,827.50
275	GRANT FUND	9,444,481.49	538,918.00	816,513.58	9,166,885.91
280	COMMISSARY FUND	159,844.23	8,970.86	33,219.31	135,595.78
287	911 SURCHARGE FUND	1,193,282.64	67,875.00	17,518.13	1,243,639.51
310	INFRASTRUCTURE TAX FUND	1,853,477.65	-	63,389.18	1,790,088.47
340	EXTRAORDINARY MAINTENANCE FUND	12,487,045.55	-	220,897.00	12,266,148.55
350	RESIDENTIAL CONSTRUCTION TAX FUND	999,964.84	16,000.00	-	1,015,964.84
410	DEBT SERVICE FUND	3,565,758.38	-	2,741,357.93	824,400.45
501	AMBULANCE FUND	4,239,536.36	62,232.45	263,778.47	4,037,990.34
505	STORMWATER FUND	1,787,149.80	123,095.89	223,726.80	1,686,518.89
510	WASTEWATER FUND	24,283,235.67	1,073,349.94	632,652.75	24,723,932.86
520	WATER FUND	24,851,818.14	1,194,928.98	856,701.98	25,190,045.14
525	BUILDING PERMITS FUND	1,321,960.76	91,396.36	223,478.09	1,189,879.03
530	CEMETERY FUND	537,224.04	9,308.50	5,561.28	540,971.26
560	FLEET MANAGEMENT FUND	2,195,998.20	107,551.67	204,110.96	2,099,438.91
570	GROUP MEDICAL INSURANCE FUND	(325,778.36)	724,866.13	349,333.97	49,753.80
580	WORKERS COMPENSATION FUND	3,877,520.67	89,269.68	18,562.19	3,948,228.16
590	INSURANCE FUND	2,019,799.49	23,919.09	16,860.49	2,026,858.09
602	REDEVELOPMENT ADMINISTRATIVE FUND	139,999.73	-	15,496.13	124,503.60
603	REDEVELOPMENT REVOLVING FUND	2,848,008.65	-	10,185.34	2,837,823.31
604	REDEVELOPMENT TAX INCREMENT FUND	346,052.90	3,634.16	-	349,687.06
730	SCHOOL DEBT FUND	14,340,802.43	20,623.83	92,301.98	14,269,124.28
740	CARSON CITY TOURISM AUTHORITY	2,872,058.50	209,775.64	91,113.67	2,990,720.47
748	CARSON CITY SCHOOL OPERATING FUND	180,740.28	35,083.39	7,907.29	207,916.38
750	STATE OF NEVADA FUND	789,760.01	103,563.84	1,792.16	891,531.69
752	RANGE IMPROVEMENT FUND	131.71	34.94	-	166.65
756	EAGLE VALLEY WATER DISTRICT FUND	173.06	29.53	-	202.59
760	WATER SUB-CONSERVANCY FUND	2,120.14	27,520.73	51,811.31	(22,170.44) <sup>1</sup>
765	FISH AND GAME FUND	7,118.06	-	-	7,118.06
770	FORFEITURE ACCOUNT	102,719.33	-	3,419.19	99,300.14
780	DOWNTOWN NEIGHBORHOOD IMPROV. DIST.	141,576.71	22.26	557.08	141,041.89
793	CONTROLLER'S TRUST FUND	2,621.50	-	-	2,621.50
850	CARSON CITY OPEB TRUST FUND	2,727,094.63	73,512.95	288.21	2,800,319.37
<b>TOTAL</b>		<b>\$ 178,355,745.39</b>	<b>\$ 5,600,312.45</b>	<b>\$ 11,374,564.14</b>	<b>\$ 172,581,493.70</b>

<sup>1</sup> Timing difference - payroll reimbursement check received but not posted yet.



## STAFF REPORT

**Report To:** Board of Supervisors **Meeting Date:** July 7, 2022

**Staff Contact:** Sheri Russell, Chief Financial Officer

**Agenda Title:** For Possible Action: Discussion and possible action regarding a proposed resolution to levy the Carson City Fiscal Year ("FY") 2022-2023 ad valorem tax rates as certified by the Nevada Tax Commission. (Sheri Russell, srussell@carson.org)

Staff Summary: By law, the Board of Supervisors sets the Carson City tax rates annually after the Nevada Tax Commission certifies the tax rates. The proposed resolution sets the tax rates as approved during the Board of Supervisors and Redevelopment Authority budget hearings and also sets the local rates for other governing bodies per the attached schedule.

**Agenda Action:** Resolution **Time Requested:** Consent

---

### **Proposed Motion**

I move to adopt Resolution No. \_\_\_\_\_.

### **Board's Strategic Goal**

Efficient Government

### **Previous Action**

February 3, 2022 – Budget assumptions presentation; the tax rate of 3.57 was approved for FY 2022-2023.

### **Background/Issues & Analysis**

No change from prior year property tax rate.

### **Applicable Statute, Code, Policy, Rule or Regulation**

NRS 361.460

### **Financial Information**

**Is there a fiscal impact?** Yes

**If yes, account name/number:** Various funds - property tax revenues.

**Is it currently budgeted?** Yes

**Explanation of Fiscal Impact:** Property tax revenue budgeted in various funds in the FY 2022-23 Final Budget.

### **Alternatives**

Adopt or amend the resolution.

**Attachments:**

[Resolution 2022-23 Ad Valorem Tax Rates.docx](#)

[Exhibit A FY23.pdf](#)

**Board Action Taken:**

Motion: \_\_\_\_\_

- 1) \_\_\_\_\_
- 2) \_\_\_\_\_

Aye/Nay

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
(Vote Recorded By)

RESOLUTION NO. \_\_\_\_\_

A RESOLUTION TO LEVY THE FY 2022-23 AD VALOREM TAX RATES AS CERTIFIED BY THE NEVADA TAX COMMISSION

WHEREAS, the Nevada Tax Commission has heretofore certified the maximum ad valorem tax rates for Carson City; and

WHEREAS, NRS 361.460 requires that the Carson City Board of Supervisors by resolution proceed to levy the ad valorem tax rates not to exceed the certified tax rates; and

WHEREAS, the 2022-23 ad valorem tax rates for Carson City and other tax entities are attached hereto and incorporated herein as Exhibit A.

NOW, THEREFORE, the Carson City Board of Supervisors does hereby resolve, the following ad valorem tax rates shall be levied for Carson City during the fiscal year 2022-23: 3.5400 for District 2.6 and 3.5700 for all other Districts in Carson City.

ADOPTED this \_\_\_\_\_ day of \_\_\_\_\_, 2022.

AYES: Supervisors \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

NAYS: Supervisors \_\_\_\_\_

ABSENT: Supervisors \_\_\_\_\_

\_\_\_\_\_  
LORI BAGWELL, Mayor

ATTEST:

\_\_\_\_\_  
AUBREY ROWLATT, Clerk-Recorder

EXHIBIT A

REAL PROPERTY TAX RATES FOR YEAR		2022-2023		
TAX DISTRICT	TAX ENTITIES	INDIVIDUAL TAX RATE		PER DISTRICT TOTAL TAX RATE PER \$100
1.0	CARSON CITY OPERATING	1.9053		
	REGIONAL JUVENILE FACILITY	<u>0.0569</u>	1.9622	
	COOPERATIVE EXTENSION		0.0128	
	CARSON CITY SENIOR CITIZENS		0.0500	
	ACCIDENT INDIGENT		0.0150	
	MEDICAL INDIGENT		0.1000	
	CAPITAL PROJECTS		0.0500	
	SCHOOL OPERATING		0.7500	
	SCHOOL DEBT (VOTED)		0.4300	
	STATE OF NEVADA		<u>0.1700</u>	
	<b>BASE RATE:</b>		<b><u>3.5400</u></b>	
PLUS	SUB-CONSERVANCY	<u>0.0300</u>	=	<b><u>3.5700</u></b>
1.5	REDEVELOPMENT DISTRICT BASE (3.5400) + SUB-CONSERVANCY	<u>0.0300</u>	=	<b><u>3.5700</u></b>
1.6	SO. CARSON REDEVELOPMENT BASE (3.5400) + SUB-CONSERVANCY	<u>0.0300</u>	=	<b><u>3.5700</u></b>
1.7	SO. CARSON REDEVELOPMENT BASE (3.5400) + SUB-CONSERVANCY	<u>0.0300</u>	=	<b><u>3.5700</u></b>
2.1	BASE (3.5400) + SUB-CONSERVANCY	<u>0.0300</u>	=	<b><u>3.5700</u></b>
2.3	BASE (3.5400) + SUB-CONSERVANCY	<u>0.0300</u>	=	<b><u>3.5700</u></b>
2.4	BASE (3.5400) + SUB-CONSERVANCY	<u>0.0300</u>	=	<b><u>3.5700</u></b>
2.5	BASE (3.5400) + SUB-CONSERVANCY	<u>0.0300</u>	=	<b><u>3.5700</u></b>
2.6	BASE (3.5400)	<u>0.0000</u>	=	<b><u>3.5400</u></b>
2.7	BASE (3.5400) + SUB-CONSERVANCY	<u>0.0300</u>	=	<b><u>3.5700</u></b>
2.8	BASE (3.5400) + SUB-CONSERVANCY	<u>0.0300</u>	=	<b><u>3.5700</u></b>



# STAFF REPORT

**Report To:** Board of Supervisors **Meeting Date:** July 7, 2022

**Staff Contact:** Carol Akers, Purchasing & Contracts Administrator and Sheri Russell, Chief Financial Officer

**Agenda Title:** For Possible Action: Discussion and possible action regarding temporary staffing services for Fiscal Year (“FY”) 2023 utilizing State of Nevada joinder contracts 99AWC-NV21-7576 with Marathon Staffing Group, Inc. (“Marathon”), 99AWC-NV21-7577 with Manpower Temporary Services (“Manpower”) and 99AWC-NV21-7575 with Acro Service Corporation (“Acro”), for a total not to exceed amount of \$1,088,647. (Carol Akers, cakers@carson.org and Sheri Russell, srussell@carson.org)

Staff Summary: The State of Nevada issued a request for proposals for temporary employment services in December 2020 and awarded contracts to Marathon, Manpower and Acro. Staff has reviewed the contracts and recommends joining on all three. This will provide a wide selection of temporary staffing needed throughout the City for FY 2023. The not to exceed amount of \$1,088,647 will be funded from hourly and project accounts of various City Departments and Elected Offices, and comprises a base amount of \$1,000,577, plus an \$88,070 contingency to cover any unforeseen needs throughout FY 2023.

**Agenda Action:** Formal Action / Motion **Time Requested:** Consent

### Proposed Motion

I move to approve the joinder contracts as presented.

### Board's Strategic Goal

Efficient Government

### Previous Action

N/A

### Background/Issues & Analysis

In past years, the City’s budgeting and actual expenditures for temporary staffing were as follows:

	Budgeted	Spent
FY 2022	\$1,227,407	\$702,950 (Through 6/14/2022)
FY 2021	\$1,000,000	\$1,088,679
FY 2020	\$1,250,000	\$ 709,881

The three joinder contracts to be utilized, detailed below, each expire on June 30, 2025:

Contract # 99AWC-NV21-7575 between the State of Nevada and Acro

Contract # 99AWC-NV21-7576 between the State of Nevada and Marathon

Contract # 99AWC-NV21-7577 between the State of Nevada and Manpower

[https://purchasing.nv.gov/Contracts/Documents/Temporary\\_Employment\\_Services/](https://purchasing.nv.gov/Contracts/Documents/Temporary_Employment_Services/)

This is an annual request. The purchase amount exceeds \$50,000 and therefore requires Board of Supervisors' approval.

**Applicable Statute, Code, Policy, Rule or Regulation**

NRS 332.195

**Financial Information**

**Is there a fiscal impact?** Yes

**If yes, account name/number:** See attached spreadsheet.

**Is it currently budgeted?** Yes

**Explanation of Fiscal Impact:** Each department will manage their temporary staffing budgets. FY 2023 expenditures are not anticipated to exceed \$1,088,647. The current total FY 2023 budget is \$1,000,577, plus an additional \$88,070 in contingency for any unforeseen needs throughout the year. Additional funding needs for temporary staffing would be brought before this Board, as necessary.

**Alternatives**

Do not approve joinder contracts and/or provide alternative direction to staff.

**Attachments:**

[FY 2023 Temp Staffing Budget Summary.pdf](#)

[Temporary Staffing percentages.pdf](#)

**Board Action Taken:**

Motion: _____	1) _____	Aye/Nay
	2) _____	_____
		_____
		_____
		_____

\_\_\_\_\_  
(Vote Recorded By)

Org	Object	Dept	Description	2020 Actual	2021 Actual	2022 Revised Budget *	2022 Actual (6-14-2022)	2023 Revised Budget
1010300	500125	Treasurer	TEMPORARY STAFFING	\$ 657.55	\$ -	\$ -	\$ -	\$ -
1010500	500125	DA's Office	TEMPORARY STAFFING	-	4,383.27	-	-	-
1010701	500125	Finance	TEMPORARY STAFFING	19,976.85	-	-	-	-
1012512	500125	Fire Ops	TEMPORARY STAFFING	11,785.07	-	-	-	-
1012515	500125	Fire Prev.	TEMPORARY STAFFING	22,056.42	1,842.29	-	-	-
1012520	500125	Fire Training	TEMPORARY STAFFING	429.31	-	632.00	-	632.00
1012705	500125	Juvenile	TEMPORARY STAFFING	4,424.88	-	-	-	-
1012800	500125	Alt. Sentencing	TEMPORARY STAFFING	-	3,300.49	-	28,986.52	-
1013012	500125	Engineering	TEMPORARY STAFFING	15,588.09	123.60	15,000.00	824.34	15,000.00
1013015	500125	GIS	TEMPORARY STAFFING	-	-	1,900.00	237.31	1,900.00
1013034	500125	Facilities	TEMPORARY STAFFING	3,898.27	98.88	5,000.00	-	5,000.00
1013904	500125	Landfill	TEMPORARY STAFFING	81,457.85	55,858.71	100,000.00	37,581.94	100,000.00
1014700	500125	Courts	TEMPORARY STAFFING	80,104.13	28,702.48	94,859.00	1,691.36	-
1015012	500125	Parks Admin	TEMPORARY STAFFING	65,671.09	65,884.00	13,884.00	(64.74)	13,884.00
1015018	500125	Parks: YSA	TEMPORARY STAFFING	8,772.35	31,589.04	-	-	-
1015054	500125	MAC	TEMPORARY STAFFING	2,970.18	202.46	42,000.00	-	-
1015057	500125	Recreation	TEMPORARY STAFFING	-	1,323.10	-	-	-
1016200	500125	Library	TEMPORARY STAFFING	38,252.30	14,405.74	37,000.00	660.98	37,000.00
1016800	500125	Health	TEMPORARY STAFFING	16,572.21	1,520.59	7,500.00	857.01	7,500.00
2086550	500125	Supp. Indigent	TEMPORARY STAFFING	15,946.40	22,532.29	25,000.00	22,962.00	-
2326200	500125	Business Dev.	TEMPORARY STAFFING	7,267.68	-	-	-	-
2545012	500125	QofL- Maint.	TEMPORARY STAFFING	16,154.34	29,034.98	60,761.00	-	60,761.00
2563038	500125	Street Maint.	TEMPORARY STAFFING	100,674.45	104,668.18	120,000.00	46,539.87	120,000.00
2750600	500125	Grant- ARPA/CARES	TEMPORARY STAFFING	9,992.94	24,190.40	-	-	-
2756574	500125	Grant - Welfare	TEMPORARY STAFFING	8,204.64	9,880.74	-	8,868.88	-
2756800	500125	Grant - Health	TEMPORARY STAFFING	68,477.75	557,919.43	991,951.00	526,615.83	20,000.00
2802020	500125	Commissary	TEMPORARY STAFFING	9,878.16	8,244.56	15,000.00	1,218.72	15,000.00
5012525	500125	Ambulance	TEMPORARY STAFFING	7,972.20	3,568.95	15,000.00	-	15,000.00
5103201	500125	Wastewater	TEMPORARY STAFFING	4,434.70	11,127.38	20,000.00	549.56	20,000.00
5203502	500125	Water	TEMPORARY STAFFING	48,912.49	79,424.21	75,000.00	23,909.23	75,000.00
5251414	500125	Building Permits	TEMPORARY STAFFING	16,901.05	22,037.12	38,000.00	-	25,000.00
5305067	500125	Cemetery	TEMPORARY STAFFING	661.17	238.56	1,500.00	-	1,500.00
5603025	500125	Fleet	TEMPORARY STAFFING	8,834.59	6,577.92	14,400.00	1,511.29	14,400.00
6027505	500125	Redevelopment	TEMPORARY STAFFING	12,951.51	-	13,000.00	-	13,000.00
				<b>\$ 709,880.62</b>	<b>\$ 1,088,679.37</b>	<b>\$ 1,707,387.00</b>	<b>\$ 702,950.10</b>	<b>\$ 560,577.00</b>

\*Prior to any augmentations proposed at the June 16th meeting.

Health Roll-forward 440,000.00  
Contingency 10% 3 year average 88,070.00

\$ 709,880.62	2020	
1,088,679.37	2021	
843,540.12	2022	
<b>\$ 880,700.04</b>	<b>3 year average</b>	<b>\$ 1,088,647.00</b>

**Contract for Services of Temporary Staffing**

<b>Staffing Agency</b>	<b>Contractor Recruitment</b>	<b>City Recruitment</b>	<b>Employee Tax/Benefit Cost Fees (included in %)</b>
Marathon Staffing Group, Inc.	Hourly + 29.8%	Hourly + 24.9%	18.3%
Manpower	Hourly + 34%	Hourly + 25%	21.28%
Acro Service Corporation	Hourly + 33.45%	Hourly + 23.45%	18.925%



## STAFF REPORT

**Report To:** Board of Supervisors

**Meeting Date:** July 7, 2022

**Staff Contact:** Carol Akers, Purchasing & Contracts Administrator and Darren Schulz, Public Works Director

**Agenda Title:** For Possible Action: Discussion and possible action regarding purchase authority under joinder contracts for a total amount not to exceed \$1,137,554 for Fiscal Year (“FY”) 2023 to secure: (1) bulk fuel and related delivery services utilizing State of Nevada joinder contract 99SWC-NV20-4287 with Interstate Oil Company (“Interstate”), 99SWC-NV20-4867 with Carson Valley Oil Co., Inc. (“Carson Oil”) and 99SWC-NV20-4283 with Flyers Energy, LLC (“Flyers”); and (2) additional fuel access through a card lock fueling network using State of Nevada joinder contract 99SWC-NV21-7551 with Pilot Thomas Logistics, LLC (“Pilot”). (Carol Akers, cakers@carson.org and Mike Shaffer, mshaffer@carson.org)

**Staff Summary:** Through these joinder contracts, the City purchases bulk fuel for City-owned vehicles and provides a card lock fueling network which allows City employees to refuel City vehicles when unable to refuel at a City refueling location.

**Agenda Action:** Formal Action / Motion

**Time Requested:** Consent

### **Proposed Motion**

I move to approve the purchase authority as presented.

### **Board's Strategic Goal**

Efficient Government

### **Previous Action**

N/A

### **Background/Issues & Analysis**

The joinder contracts with Interstate, Carson Oil and Flyers (collectively, “Bulk Fuel Contracts”) permit the purchase of bulk fuel and associated delivery services. Since bulk fuel prices fluctuate daily, the Bulk Fuel Contracts require that each daily purchase be made from the lowest cost supplier, which is determined by obtaining quotes from the three contracted vendors in the region to determine the lowest cost for the day.

The joinder contract with Pilot would permit City employees to purchase fuel for an amount based on market fluctuations at gas stations through the card lock fueling network when fuel through the Bulk Fuel Contracts is unavailable.

The FY 2023 not to exceed amount of \$1,137,554 is for the entire City and based on the budgets for each City department that will utilize these joinder contracts, as provided in the supporting materials. The updated FY 2023 fuel cost projections are based on current fuel pricing and historical monthly fuel consumption.

This is an annual request; the purchase amount exceeds \$50,000 and therefore requires Board of Supervisors' approval pursuant to City policy.

The Bulk Fuel Contracts, detailed below, all expire January 31, 2024:

- 99SWC-NV20-4287 between the State of Nevada and Interstate
  - 99SWC-NV20-4867 between the State of Nevada and Carson Oil
  - 99SWC-NV20-4283 between the State of Nevada and Flyers
- [https://purchasing.nv.gov/Contracts/Documents/Bulk\\_Fuels/](https://purchasing.nv.gov/Contracts/Documents/Bulk_Fuels/)

The card lock joinder contract, detailed below, expires March 31, 2025:

- 99SWC-NV21-7551 between the State of Nevada and Pilot
- [https://purchasing.nv.gov/Contracts/Documents/Fuel\\_Card\\_Lock/](https://purchasing.nv.gov/Contracts/Documents/Fuel_Card_Lock/)

**Applicable Statute, Code, Policy, Rule or Regulation**

NRS 332.195

**Financial Information**

**Is there a fiscal impact?** Yes

**If yes, account name/number:** City-wide vehicle fuel/oil accounts that were approved in the FY 2023 budget. See attached spreadsheet.

**Is it currently budgeted?** Yes

**Explanation of Fiscal Impact:** Each department will manage their account. FY 2023 expenditures will not exceed \$1,137,554.

**Alternatives**

Do not approve joinder contracts and purchases and/or provide alternative direction to staff.

**Attachments:**

[Vehicle Fuel 2023.pdf](#)

**Board Action Taken:**

Motion: _____	1) _____	Aye/Nay
	2) _____	_____
		_____
		_____
		_____

\_\_\_\_\_  
(Vote Recorded By)

Org	Object	Dept	Description	2020 Actual	2021 Actual	2022 Revised Budget *	2022 Actual (6-14-2022)	2023 Revised Budget
1010400	500660	Assessor	VEHICLE FUEL/OIL	475.15	520.89	1,400.00	567.41	1,400.00
1010500	500660	DA's Office	VEHICLE FUEL/OIL	1,044.63	2,147.99	3,000.00	2,195.68	3,000.00
1010620	500660	Purchasing	VEHICLE FUEL/OIL	896.47	995.52	1,000.00	498.21	1,000.00
1010710	500660	IT	VEHICLE FUEL/OIL	128.81	927.86	735.00	1,185.25	735.00
1011425	500660	Planning	VEHICLE FUEL/OIL	1,123.44	1,251.22	1,425.00	1,411.39	1,425.00
1012005	500660	Sheriff:Admin	VEHICLE FUEL/OIL	8,206.26	6,516.36	5,800.00	10,714.68	5,800.00
1012011	500660	Sheriff: Investigations	VEHICLE FUEL/OIL	20,530.06	25,953.75	23,000.00	33,959.40	32,000.00
1012012	500660	Sheriff: Operations	VEHICLE FUEL/OIL	110,392.01	127,820.50	126,900.00	172,442.02	156,900.00
1012013	500660	Sheriff: General	VEHICLE FUEL/OIL	0.00	227.80	2,000.00	1,646.43	2,000.00
1012014	500660	Sheriff: Detention	VEHICLE FUEL/OIL	2,762.01	1,395.00	4,000.00	808.47	4,000.00
1012018	500660	Sheriff: TriNet	VEHICLE FUEL/OIL	1,325.33	878.25	3,000.00	1,281.32	3,000.00
1012505	500660	Fire: Admin	VEHICLE FUEL/OIL	2,941.89	2,713.31	1,225.00	4,236.59	1,225.00
1012512	500660	Fire: Operations	VEHICLE FUEL/OIL	27,039.19	33,034.82	35,000.00	48,770.66	35,000.00
1012515	500660	Fire: Prevention	VEHICLE FUEL/OIL	5,658.98	9,220.61	11,000.00	14,640.87	11,000.00
1012520	500660	Fire: Training	VEHICLE FUEL/OIL	3,302.28	5,271.21	3,000.00	9,263.61	3,000.00
1012545	500660	Fire: Wildland	VEHICLE FUEL/OIL	584.08	2,199.54	5,500.00	6,029.64	5,500.00
1012705	500660	Juvenile Probation	VEHICLE FUEL/OIL	4,153.33	3,445.29	6,500.00	6,934.66	6,500.00
1012706	500660	Juvenile Detention	VEHICLE FUEL/OIL	131.90	0.00	0.00	0.00	0.00
1012800	500660	Alt. Sentencing	VEHICLE FUEL/OIL	4,312.61	3,542.02	6,255.00	2,948.19	6,255.00
1013034	500660	Facilities	VEHICLE FUEL/OIL	10,800.01	14,286.50	13,260.00	21,522.41	13,260.00
1013904	500660	Landfill	VEHICLE FUEL/OIL	174,648.43	198,386.44	205,000.00	321,603.95	205,000.00
1015005	500660	Parks: Admin	VEHICLE FUEL/OIL	2,177.53	1,088.75	595.00	172.52	595.00
1015012	500660	Parks: Maintenance	VEHICLE FUEL/OIL	31,890.45	32,499.38	42,500.00	44,514.18	42,500.00
1015057	500660	Parks: Recreation	VEHICLE FUEL/OIL	1,075.69	498.70	2,625.00	1,324.45	2,625.00
1016200	500660	Library	VEHICLE FUEL/OIL	0.00	0.00	420.00	0.00	420.00
1016800	500660	Health	VEHICLE FUEL/OIL	1,076.60	2,241.25	2,500.00	1,342.87	2,500.00
1016853	500660	Environmental Health	VEHICLE FUEL/OIL	0.00	0.00	3,000.00	0.00	3,000.00
1016854	500660	Douglas Environ. Health	VEHICLE FUEL/OIL	1,505.02	1,877.30	2,000.00	3,221.35	2,000.00
2253026	500660	Transit	VEHICLE FUEL/OIL	89,304.25	99,299.92	160,000.00	153,283.20	130,000.00
2401424	500660	Parking	VEHICLE FUEL/OIL	574.03	406.83	900.00	506.34	900.00
2545047	500660	QofL: Open Space	VEHICLE FUEL/OIL	5,425.13	4,423.52	7,000.00	6,351.89	7,000.00
2563038	500660	Street Maint.	VEHICLE FUEL/OIL	103,065.15	108,149.80	140,000.00	176,594.37	140,000.00
5012525	500660	Ambulance	VEHICLE FUEL/OIL	31,257.93	35,457.78	35,000.00	50,615.07	35,000.00
5012535	500660	Ambulance: Med.Trans	VEHICLE FUEL/OIL	11,140.70	11,788.09	14,000.00	15,395.05	14,000.00
5012537	500660	Ambulance: BLS	VEHICLE FUEL/OIL	105.19	0.00	8,000.00	0.00	8,000.00
5053702	500660	Stormwater	VEHICLE FUEL/OIL	2,306.97	4,126.61	9,000.00	4,545.63	9,000.00
5103201	500660	Wastewater	VEHICLE FUEL/OIL	56,748.56	40,281.27	56,000.00	86,977.28	56,000.00
5203502	500660	Water	VEHICLE FUEL/OIL	46,379.27	60,188.84	70,000.00	77,519.99	70,000.00
5305067	500660	Cemetery	VEHICLE FUEL/OIL	1,359.78	230.56	2,000.00	458.01	2,000.00
5603025	500660	Fleet	VEHICLE FUEL/OIL	8,217.07	8,608.40	10,000.00	8,696.06	10,000.00
5900745	500660	Insurance	VEHICLE FUEL/OIL	0.00	0.00	600.00	0.00	600.00
				\$ 774,066.19	\$ 851,901.88	\$ 1,025,140.00	\$ 1,294,179.10	\$ 1,034,140.00

10% Contingency 103,414.00

\$ 1,137,554.00

\*Prior to any augmentations proposed at the June 16, 2022 meeting.



# STAFF REPORT

**Report To:** Board of Supervisors **Meeting Date:** July 7, 2022

**Staff Contact:** Carol Akers, Purchasing & Contracts Administrator and Darren Schulz, Public Works Director

**Agenda Title:** For Possible Action: Discussion and possible action regarding authorization to purchase Celatom FW12 diatomaceous earth filter media for municipal water treatment from EP Minerals, LLC (“EPM”) for a not to exceed annual amount of \$90,000 through Fiscal Year (“FY”) 2023. (Carol Akers, cakers@carson.org and Eddy Quaglieri, equaglieri@carson.org)

Staff Summary: The Water Division of Carson City’s Public Works Department anticipates the use of approximately 160 tons of diatomaceous earth filter media annually to treat municipal water. EPM is the only known local supplier that can reliably provide the quantity and quality of diatomaceous earth needed for municipal water treatment.

**Agenda Action:** Formal Action / Motion **Time Requested:** Consent

### Proposed Motion

I move to approve the purchase authority as requested.

### Board's Strategic Goal

Efficient Government

### Previous Action

June 17, 2021 – The Board of Supervisors approved \$90,000 in purchase authority for Celatom FW12 diatomaceous earth from EPM, as a sole-source vendor.

### Background/Issues & Analysis

Diatomaceous earth is the solid filter media for treating all surface waters at the Quill Water Treatment Plant. It is a porous powder material which coats the pressure vessel’s stainless steel mesh screens which in turn captures all the contaminants, viruses and protozoa providing high quality drinking water. The Quill Water Treatment Plant is designed to rely on diatomaceous earth for the treatment of surface waters.

For FY 2022, EPM provided Celatom FW12 diatomaceous earth to the City for \$562.80 per ton, including delivery.

For FY 2023, EPM's pricing for Celatom FW12 diatomaceous earth is as follows:

Time Period	City Arranges Delivery	EPM Delivers to City
July 1, 2022 – October 31, 2022	N/A	\$562.80 per ton
November 1, 2022 – December 15, 2022	\$559.76 per ton	\$621.76 per ton
December 16, 2022 – April 30, 2023	\$559.76 per ton	Unknown
May 1, 2023 – June 30, 2023	Unknown	Unknown

EPM will provide pricing information every six months.

This is an annual request. The purchase amount exceeds \$50,000; therefore, City policy requires approval by the Board of Supervisors.

**Applicable Statute, Code, Policy, Rule or Regulation**

NRS 332.115(1)(a)

**Financial Information**

**Is there a fiscal impact?** Yes

**If yes, account name/number:** Water Fund Chemicals account 5203502-500637

**Is it currently budgeted?** Yes

**Explanation of Fiscal Impact:** If approved, account 5203502-500637 will be decreased annually by \$90,000, the available budget for FY 2023 is \$124,964.

**Alternatives**

Do not approve purchase authority and/or provide alternative direction to staff.

**Attachments:**

[EP Minerals Sole Source letter 2022.pdf](#)

[Quote though 10-31-22.pdf](#)

[Quote through 4-30-23.pdf](#)

**Board Action Taken:**

Motion: \_\_\_\_\_

- 1) \_\_\_\_\_
- 2) \_\_\_\_\_

Aye/Nay

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_  
(Vote Recorded By)

June 16, 2022

**Via Email**

Attn: Edmund Quaglieri  
Utility Manager  
Carson City Public Works  
3505 Butti Way  
Carson City, NV 89701

**Subject: Sole Source Letter**

This letter will confirm that EP Minerals, a US Silica Company is the sole source provider of Celatom® FW12 Diatomaceous Earth filter powder for use in municipal potable water filtration systems. We appreciate your continued support of EP Minerals, A US Silica Company.

Sincerely,

*Natalie Schanze*

Natalie Schanze  
National Distribution Manager, Filtration and Performance Materials  
EP Minerals, a U.S. Silica Company

May 25, 2021

**Edmund Quaglieri**  
Water Utility Manager  
Carson City Public Works  
3505 Butti Way  
Carson City, Nv. 8970  
775-283-7356

Re: Carson City Water Utility Contract, Water Treatment Plant Filter Media

Mr. Quaglieri,

EP Minerals would like to extend the following pricing for the Carson City Water Utility, Water Treatment Plant Filter Media Requirements.

Product: Celatom<sup>®</sup> FW12, 50 lb bags  
Packaging: 39 bags/pallet  
Freight mode: Flat Bed  
Unit price: \$14.07/bag, delivered  
Price Per Ton (39 bags/pallet): \$562.80/short ton delivered  
Fuel Surcharges: Separate line item to the buyers account  
Payment Terms: Net 30 days  
Delivery Terms: Delivered  
Pricing is effective November 1, 2021 through October 31, 2022

We look forward to continued service to the Carson City Water Treatment facility.

Sincerely,

Frank Arpa  
EP Minerals, A US Silica Company  
9785 Gateway Drive  
Reno, NV 89521  
775-622-6384

June 14, 2022

Carson City Public Works  
3505 Butti Way  
Carson City, NV 89701  
Attn: Eddy Quaglieri

RE: EP Minerals Prices: November 1, 2022- April 30, 2023

Dear Eddy:

Please find below pricing for your needs. Due to logistics instability, the freight portion is only valid from today until December 15, 2022. We would need to be able to update freight costs after that time. If you have any questions, let me know as I will be your contact for ordering moving forward.

Product Name	Product weight	Packaging info	Mode of Transportation	Price per ton FOB	Price per unit FOB
Celatom FW12	50 lb.	39 bags per pallet	Flat Bed OTR	\$ 559.76	\$13.79
Product Name	Product weight	Packaging info	Mode of Transportation	Price/ton delivered until 12/15/22 only	Price per unit Delivered until 12/15/22 only
Celatom FW12	50 lb.	39 bags per pallet	Flat Bed OTR	\$621.76	\$15.54

*Pricing includes pallets and stretch wrap.*

**Supply Chain Security/Leadtime:** Two perlite plants provide flexibility and supply chain security. All sites produce packaged goods and bulk (rail and truck). Understanding your forecast and keeping inventory on hand can reduce the typical lead time of weeks down to days.

**Logistics:** An in-house logistics team can arrange deliveries to suit your needs. They coordinate enclosed or flatbed OTR, intermodal, bulk rail, or bulk truck to ensure on-time delivery.

**Service:** We partner with our customers to create a delivery schedule based on past usage. Open communication with myself and our customer service team before and during crush is key to exceeding expectations.

**Technical Service and R&D Capabilities:** The technical team has over 30 years of filtration experience and can help reduce costs by conducting filtration audits with detailed reports with suggestions on process improvements. Moreover, the full R&D lab in the Reno, NV office helps provide solutions for customers.

I look forward to providing you with best in class service. Please feel free to call or email me with any questions, 775-750-9793 or [Natalie.schanze@ussilica.com](mailto:Natalie.schanze@ussilica.com).

All the Best,

*Natalie Schanze*

Natalie Schanze  
Filtration and Performance Materials



## STAFF REPORT

**Report To:** Board of Supervisors

**Meeting Date:** July 7, 2022

**Staff Contact:** Carol Akers, Purchasing and Contracts Administrator and Darren Schulz, Public Works Director

**Agenda Title:** For Possible Action: Discussion and possible action regarding authorization for the purchase of water meters and related parts from Badger Meter Inc. ("Badger") for a not to exceed amount of \$100,000 through Fiscal Year ("FY") 2023. (Carol Akers, cakers@carson.org and Eddy Quaglieri, equaglieri@carson.org)

Staff Summary: Carson City provides and maintains water meters for residents, the cost of which is offset by utility connection fees. The Water Utility Division ("Division") of the City's Public Works Department monitors most of its water meters with the Orion Automatic Meter Reading System ("Orion System"), which is designed to be compatible with only Badger meters and parts. The Division expects to expend approximately \$100,000 on Badger meters and parts in FY 2023.

**Agenda Action:** Formal Action / Motion

**Time Requested:** Consent

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### Proposed Motion

I move to approve the purchase authority as requested.

### Board's Strategic Goal

Efficient Government

### Previous Action

N/A

### Background/Issues & Analysis

The Division seeks authority to purchase Badger meters and related parts, as needed throughout FY 2023, to help ensure timely installation and maintenance of water meters. Included with this item is a quote from Badger showing the applicable pricing for the period of July 1, 2022 to June 30, 2023.

There has been an increase in demand for meters and related equipment over the last three years due to the increase in development around the City and due to Division efforts to proactively replace batteries in water meter transponders, which prevents lapses in data reporting. Ultimately, costs for water meters and related parts are offset by the utility connection fees the City levies on new connections.

Badger meters and parts are necessary to maintain compatibility with the City's existing Orion System; therefore, this purchase is not adapted to competitive bidding.

This is an annual request. The purchase amount exceeds \$50,000; therefore, City policy requires approval by the Board of Supervisors.

**Applicable Statute, Code, Policy, Rule or Regulation**

NRS 332.115(1)(a), (c), (d)

**Financial Information**

**Is there a fiscal impact?** Yes

**If yes, account name/number:** Water Fund Water Meters & Service Account 5203502-500449

**Is it currently budgeted?** Yes

**Explanation of Fiscal Impact:** If approved, the account will be reduced by a not to exceed amount of \$100,000 for FY 2023. The available budget is \$125,000.

**Alternatives**

Do not approve purchase authority and/or provide alternative direction to staff.

**Attachments:**

[Badger Meter Sole Source Letter.pdf](#)

[EXTENSION YEAR 3-ALL METERS \(070122 TO 063023\).pdf](#)

**Board Action Taken:**

Motion: _____	1) _____	Aye/Nay
	2) _____	_____
		_____
		_____
		_____

\_\_\_\_\_  
(Vote Recorded By)



4545 W Brown Deer Road  
PO Box 245036  
Milwaukee, Wisconsin 53224-9536  
414-355-0400 | 800-876-3837  
[www.badgermeter.com](http://www.badgermeter.com)

January 18, 2022

Mr. Eddy Quaglieri, Water Utility Manager  
Public Works Department  
3505 Butti Way  
Carson City, NV 89701

**RE: Sole Source Letter**

Dear Mr. Quaglieri:

This correspondence confirms that Badger Meter is the sole authorized manufacturer of Badger Meter products for the state of Nevada.

In the event you have any questions regarding this correspondence, we can be reached by telephone at 800-876-3837 ext. 17237 or via email at [bids@badgermeter.com](mailto:bids@badgermeter.com).

Sincerely,

BADGER METER, INC.

A handwritten signature in blue ink, appearing to read 'Charla D. Dury'.

Charla D. Dury  
Assistant Secretary and Proposal Lead



4545 W Brown Deer Road Milwaukee WI 53223  
PO Box 245036 Milwaukee WI 53224-9536  
Phone: 800-876-3837 Fax: 888-371-5982

**Created Date** 11-05-2020

**Customer ID** 00270129

**To**  
CARSON CITY UTILITIES  
3505 BUTTI WAY  
CARSON CITY  
Nevada 897013498

**Effective Dates** 07-01-2022 - 06-30-2023

Salesperson	Proposal Subject	Shipping Terms / INCO Terms	Payment Terms
007469 M. Brian Helphand	EXTENSION YEAR 3 - ALL METERS (7/1/22 TO 6/30/23)	CPT DESTINATION	NET 30 DAYS

Line #	Description	Qty	Unit Net Price USD	Line Totals USD
1	<b>BMI Part No.: 100-6269</b> <b>Cat String:</b> DS-BAB-PP1P-XXD3-Y2-XXXX-XXXXX-XXX-XX-XX-XX-XX-B0A <b>Description:</b> Disc, M25 5/8"(3/4x7-1/2), PL Btm 430SS-1, PL, SN Yr 9D & PBB, BMI STD,	1	57.37	57.37
2	<b>BMI Part No.: 101-6358</b> <b>Cat String:</b> R4-BA1-M1DA-2A1-8BE-NN-AG-TH-AA-B0A <b>Description:</b> REG 4, M25, HR-E, ORION ME, PL Lid/Shrd-GRY, Slit Scrw, 8D-0.1 Gal, SN YR 9D in & out, Thru Ld Instl Kit, TT-10', Grnd/Ocean-Pause, BMI STD,	1	151.17	151.17
3	<b>BMI Part No.: 101-6239</b> <b>Cat String:</b> DS-KCC-PC3S-XXD3-Y2-XXXX-XXXXX-XXX-XX-XX-XX-XX-B0A <b>Description:</b> Disc, 70 1"(10-3/4), CI Btm 430SS, SS, SN Yr 9D & PBB, BMI STD,	1	150.57	150.57
4	<b>BMI Part No.: 102-2615</b> <b>Cat String:</b> R4-KC1-M1DA-2A1-8BE-NN-AG-TH-AA-B0A <b>Description:</b> REG 4, M70, HR-E, ORION ME, PL Lid/Shrd-GRY, Slit Scrw, 8D-0.1 Gal, SN YR 9D in & out, Thru Ld Instl Kit, TT-10', Grnd/Ocean-Pause, BMI STD,	1	151.17	151.17
5	<b>BMI Part No.: 100-8063</b> <b>Cat String:</b> DS-NDB-PTNS-XXD3-Y2-XXXX-XXXXX-XXX-XX-XX-XX-XX-B0A <b>Description:</b> Disc, M120 1-1/2"-ELL Dr w/TP, 316SS, SS, SN Yr 9D & PBB, BMI STD,	1	351.42	351.42

**Thank you for your business!**

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Line #	Description	Qty	Unit Net Price USD	Line Totals USD
6	<b>BMI Part No.: 100-9180</b> <b>Cat String:</b> R4-ND1-M1DA-2A1-8CE-NN-AG-TH-AA-B0A <b>Description:</b> REG 4, M120, HR-E, ORION ME, PL Lid/Shrd-GRY, Slit Scrw, 8D-1 Gal, SN YR 9D in & out, Thru Ld Instl Kit, TT-10', Grnd/Ocean-Pause, BMI STD,	1	158.72	158.72
7	<b>BMI Part No.: 100-8065</b> <b>Cat String:</b> DS-REB-PTNS-XXD3-Y2-XXXX-XXXXX-XXX-XX-XX-XX-XX-B0A <b>Description:</b> Disc, M170 2"-ELL Dr w/TP, 316SS, SS, SN Yr 9D & PBB, BMI STD,	1	530.09	530.09
8	<b>BMI Part No.: 100-9183</b> <b>Cat String:</b> R4-RD1-M1DA-2A1-8CE-NN-AG-TH-AA-B0A <b>Description:</b> REG 4, M170- 2", HR-E, ORION ME, PL Lid/Shrd-GRY, Slit Scrw, 8D-1 Gal, SN YR 9D in & out, Thru Ld Instl Kit, TT-10', Grnd/Ocean-Pause, BMI STD,	1	158.72	158.72
9	<b>BMI Part No.: 100-6372</b> <b>Cat String:</b> TS-TDF-PT1-XX-X-T1-Y2-XXXX-XXXXX-XXX-XX-XX-XX-XX-B0A <b>Description:</b> TSM, 1-1/2" EL w/TP Intg Strn, 316SS-1, SN Yr 9D & PBB, BMI STD,	1	829.91	829.91
10	<b>BMI Part No.: 102-9184</b> <b>Cat String:</b> R4-TD1-M1DA-2A1-6EE-NN-AG-TH-AA-B0A <b>Description:</b> REG 4, 1-1/2"TSM, HR-E, ORION ME, PL Lid/Shrd-GRY, Slit Scrw, 6D-100 Gal, SN YR 9D in & out, Thru Ld Instl Kit, TT-10', Grnd/Ocean-Pause, BMI STD,	1	197.58	197.58
11	<b>BMI Part No.: 100-6375</b> <b>Cat String:</b> TS-TEJ-PT1-XX-X-T1-Y2-XXXX-XXXXX-XXX-XX-XX-XX-XX-B0A <b>Description:</b> TSM, 2" EL w/TP Intg Strn, 316SS-1, SN Yr 9D & PBB, BMI STD,	1	884.78	884.78
12	<b>BMI Part No.: 105-8294</b> <b>Cat String:</b> R4-TE1-M1DA-2A1-8CE-NN-AG-TH-AA-B0A <b>Description:</b> REG 4, 2"TSM, HR-E, ORION ME, PL Lid/Shrd-GRY, Slit Scrw, 8D-1 Gal, SN YR 9D in and out, Thru Ld Instl Kit, TT-10', Grnd/Ocean-Pause, BMI STD,	1	197.58	197.58
13	<b>BMI Part No.: 100-7206</b> <b>Cat String:</b> TS-TFK-PT1-XX-X-T1-Y2-XXXX-XXXXX-XXX-XX-XX-XX-XX-B0A <b>Description:</b> TSM, 3" Rnd w/TP Intg Strn, 316SS-1, SN Yr 9D & PBB, BMI STD,	1	1,162.53	1,162.53

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Line #	Description	Qty	Unit Net Price USD	Line Totals USD
14	<b>BMI Part No.: 104-1338</b> <b>Cat String:</b> R4-TF1-M1DA-2A1-8CE-NN-AG-TH-AA-B0A <b>Description:</b> REG 4, 3"TSM, HR-E, ORION ME, PL Lid/Shrd-GRY, Slit Scrw, 8D-1 Gal, SN YR 9D in & out, Thru Ld Instl Kit, TT-10', Grnd/Ocean-Pause, BMI STD,	1	197.58	197.58
15	<b>BMI Part No.: 100-6076</b> <b>Cat String:</b> TS-TGK-PT1-XX-X-T1-Y2-XXXX-XXXXX-XXX-XX-XX-XX-XX-B0A <b>Description:</b> TSM, 4" Rnd w/TP Intg Stnr, 316SS-1, SN Yr 9D & PBB, BMI STD,	1	1,268.19	1,268.19
16	<b>BMI Part No.: 105-8295</b> <b>Cat String:</b> R4-TG1-M1DA-2A1-8CE-NN-AG-TH-AA-B0A <b>Description:</b> REG 4, 4"TSM, HR-E, ORION ME, PL Lid/Shrd-GRY, Slit Scrw, 8D-1 Gal, SN YR 9D in and out, Thru Ld Instl Kit, TT-10', Grnd/Ocean-Pause, BMI STD,	1	197.58	197.58
17	<b>BMI Part No.: 100-6284</b> <b>Cat String:</b> TS-THB-PT1-XX-X-T1-Y2-XXXX-XXXXX-XXX-XX-XX-XX-XX-B0A <b>Description:</b> TSM, 6" Rnd w/TP, 316SS-1, SN Yr 9D & PBB, BMI STD,	1	3,189.35	3,189.35
18	<b>BMI Part No.: 105-8296</b> <b>Cat String:</b> R4-TH1-M1DA-2A1-8DE-NN-AG-TH-AA-B0A <b>Description:</b> REG 4, 6"TSM, HR-E, ORION ME, PL Lid/Shrd-GRY, Slit Scrw, 8D-10 Gal, SN YR 9D in and out, Thru Ld Instl Kit, TT-10', Grnd/Ocean-Pause, BMI STD,	1	197.58	197.58
19	<b>BMI Part No.: 100-7272</b> <b>Cat String:</b> TS-TJB-PT2-XX-X-T1-Y2-XXXX-XXXXX-XXX-XX-XX-XX-XX-B0A <b>Description:</b> TSM, 8" Rnd w/TP, 316SS-2, SN Yr 9D & PBB, BMI STD,	1	3,613.97	3,613.97
20	<b>BMI Part No.: 103-0168</b> <b>Cat String:</b> R4-TJ1-M1DA-2B1-8DE-NN-AG-TH-AA-B0A <b>Description:</b> REG 4, 8"TSM, HR-E, ORION ME, PL Lid/Shrd-GRY, Trx Scrw, 8D-10 Gal, SN YR 9D in & out, Thru Ld Instl Kit, TT-10', Grnd/Ocean-Pause, BMI STD,	1	197.58	197.58
21	<b>BMI Part No.: 101-4150</b> <b>Cat String:</b> CS-CFA-P-T4XX-X-C1-Y2-XXXX-XXXXX-XX-XX-X-XX-XX-XX-XX-XX-B0A <b>Description:</b> CSM, 3" Rnd w/TP, 316SS-4, SN Yr 9D & PBB, BMI STD,	1	1,879.12	1,879.12

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Line #	Description	Qty	Unit Net Price USD	Line Totals USD
22	<b>BMI Part No.: 105-8352</b> <b>Cat String:</b> R4-CF2-M1DA-2A1-8BE-NN-AG-TH-AA-B0A <b>Description:</b> REG 4, 3"CSM LO, HR-E, ORION ME, PL Lid/Shrd-GRY, Slt Scrw, 8D-0.1 Gal, SN YR 9D in and out, Thru Ld Instl Kit, TT-10', Grnd/Ocean-Pause, BMI STD,	1	216.77	216.77
23	<b>BMI Part No.: 105-8353</b> <b>Cat String:</b> R4-CF3-M1DA-2A1-8CE-NN-AG-TH-AA-B0A <b>Description:</b> REG 4, 3"CSM HI, HR-E, ORION ME, PL Lid/Shrd-GRY, Slt Scrw, 8D-1 Gal, SN YR 9D in and out, Thru Ld Instl Kit, TT-10', Grnd/Ocean-Pause, BMI STD,	1	216.77	216.77
24	<b>BMI Part No.: 103-5763</b> <b>Cat String:</b> CS-CGA-P-T4XX-X-C1-Y2-XXXX-XXXXX-XX-XX-X-XX-XX-XX-XX-B0A <b>Description:</b> CSM, 4" Rnd w/TP, 316SS-4, SN Yr 9D & PBB, BMI STD,	1	3,253.96	3,253.96
25	<b>BMI Part No.: 105-8354</b> <b>Cat String:</b> R4-CG2-M1DA-2A1-8BE-NN-AG-TH-AA-B0A <b>Description:</b> REG 4, 4"CSM LO, HR-E, ORION ME, PL Lid/Shrd-GRY, Slt Scrw, 8D-0.1 Gal, SN YR 9D in and out, Thru Ld Instl Kit, TT-10', Grnd/Ocean-Pause, BMI STD,	1	216.77	216.77
26	<b>BMI Part No.: 105-8355</b> <b>Cat String:</b> R4-CG3-M1DA-2A1-8CE-NN-AG-TH-AA-B0A <b>Description:</b> REG 4, 4"CSM HI, HR-E, ORION ME, PL Lid/Shrd-GRY, Slt Scrw, 8D-1 Gal, SN YR 9D in and out, Thru Ld Instl Kit, TT-10', Grnd/Ocean-Pause, BMI STD,	1	216.77	216.77
27	<b>BMI Part No.: 103-1905</b> <b>Cat String:</b> CS-CHA-P-T4XX-X-C1-Y2-XXXX-XXXXX-XX-XX-X-XX-XX-XX-XX-B0A <b>Description:</b> CSM, 6" Rnd w/TP, 316SS-4, SN Yr 9D & PBB, BMI STD,	1	4,858.21	4,858.21
28	<b>BMI Part No.: 105-8357</b> <b>Cat String:</b> R4-CH2-M1DA-2A1-8BE-NN-AG-TH-AA-B0A <b>Description:</b> REG 4, 6"CSM LO, HR-E, ORION ME, PL Lid/Shrd-GRY, Slt Scrw, 8D-0.1 Gal, SN YR 9D in and out, Thru Ld Instl Kit, TT-10', Grnd/Ocean-Pause, BMI STD,	1	216.77	216.77
29	<b>BMI Part No.: 105-8358</b> <b>Cat String:</b> R4-CH3-M1DA-2A1-8DE-NN-AG-TH-AA-B0A <b>Description:</b> REG 4, 6"CSM HI, HR-E, ORION ME, PL Lid/Shrd-GRY, Slt Scrw, 8D-10 Gal, SN YR 9D in and out, Thru Ld Instl Kit, TT-10', Grnd/Ocean-Pause, BMI STD,	1	216.77	216.77

**Thank you for your business!**

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Line #	Description	Qty	Unit Net Price USD	Line Totals USD
30	<b>BMI Part No.: 100-6311</b> <b>Cat String:</b> SB-SFA-PTNAX <b>Description:</b> Plte Strnr Brz, 3" Rnd w/DP, 316SS, SS Stds-Nuts/Std Blk Gskt,	1	528.50	528.50
31	<b>BMI Part No.: 100-6312</b> <b>Cat String:</b> SB-SGA-PTNAX <b>Description:</b> Plte Strnr Brz, 4" Rnd w/ DP, 316SS, SS Stds-Nuts/Std Blk Gskt,	1	705.00	705.00
32	<b>BMI Part No.: 100-6146</b> <b>Cat String:</b> SB-SHA-PTNAX <b>Description:</b> Plte Strnr Brz, 6" Rnd w/DP, 316SS, SS Stds-Nuts/Std Blk Gskt,	1	891.45	891.45
33	<b>BMI Part No.: 100-6680</b> <b>Cat String:</b> SS-SJA-PZNEX <b>Description:</b> Stl Strnr, 8" Rnd w/DP, Zinc Pltd, Znc Pltd Blts-Nuts/Std Blk Gskt,	1	1,539.23	1,539.23
34	<b>BMI Part No.: 103-2934</b> <b>Cat String:</b> HM-HFE-P-T1-XX-XX-X-T1-H9-L1-XX-8A2X-1L1-ENN-XX-XX-XX-B0A <b>Description:</b> Fire Hydrant, 3" AL Red, 316SS-1, SN Yr 9D Head, Local, Lck Brz Lid/shrd, Slt Scrw, Street read, Gal, SN YR 9D in & out, BMI STD,	1	781.49	781.49
35	<b>BMI Part No.: 103-5898</b> <b>Cat String:</b> HM-HFE-P-T1-SA-SA-X-T1-H9-L1-XX-8A2X-1L1-ENN-XX-XX-XX-B0A <b>Description:</b> Fire Hydrant, 3" AL Red, 316SS-1, 3 1/2 - 7 1/2 NH STD, 3 1/2 - 7 1/2 NH STD, SN Yr 9D Head, Local, Lck Brz Lid/shrd, Slt Scrw, Street read, Gal, SN YR 9D in & out, BMI STD,	1	862.00	862.00
36	<b>BMI Part No.: 33334-023</b> <b>Description:</b> CHAMB & DISC ASSY M-25 SERV SST TR	1	43.11	43.11
37	<b>BMI Part No.: 33334-056</b> <b>Description:</b> CHAM&DISC ASSY M-35 SST-TR SER	1	81.55	81.55

**Notes and Assumptions**

If applicable, sales tax and freight, if included on the proposal, is an estimate and will be recalculated based on rates and tax status in effect at the time of invoicing.

Actual lead time to be provided at time of order.

To aid in processing your order, please include the Quote number on the PO that is submitted for this proposal.

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If you would like to place an order, please contact us at [Utilityorders2@badgermeter.com](mailto:Utilityorders2@badgermeter.com) or by calling 1-800-876-3837.

**Thank you for your business!**

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## STAFF REPORT

**Report To:** Board of Supervisors

**Meeting Date:** July 7, 2022

**Staff Contact:** Carol Akers, Purchasing and Contracts Administrator and Darren Schulz, Public Works Director

**Agenda Title:** For Possible Action: Discussion and possible action regarding Contract No. 23300049 ("Contract") with Carson Pump, LLC ("Carson Pump") for water well repairs, for a not to exceed amount of \$100,000 through June 30, 2023. (Carol Akers, cakers@carson.org and Eddy Quaglieri, equaglieri@carson.org)

Staff Summary: Annually, the Carson City Public Works Department ("Public Works") contracts with Carson Pump for the purchase of pumps, related parts and well rehabilitation and repair services.

**Agenda Action:** Formal Action / Motion

**Time Requested:** Consent

### Proposed Motion

I move to approve the contract as requested.

### Board's Strategic Goal

Efficient Government

### Previous Action

N/A

### Background/Issues & Analysis

On a yearly basis, Public Works performs planned and unplanned maintenance on the City's 30 water wells. The goal is to perform routine scheduled maintenance on those wells that are in the worst condition to prevent an unanticipated operational failure. The Water Division of Public Works has created a Well Maintenance and Rehabilitation program that aligns with this contract as well as the Division's capital improvement program.

### Applicable Statute, Code, Policy, Rule or Regulation

NRS 332.115(1)(c) and 338.011(1)

### Financial Information

**Is there a fiscal impact?** Yes

**If yes, account name/number:** Water Fund Pumps/Motor Replacement Account 5203505-507395 and Well Rehabilitation Program 5203505-507010 (P350508002)

**Is it currently budgeted?** Yes

**Explanation of Fiscal Impact:** If approved, accounts will be reduced by a not to exceed amount of \$100,000.00 for FY 2023. The available budget for account 5203505-507395 is \$150,000.00 and 5203505-507010 (P350508002) is \$122,864.00, for a total of \$272,864.00.

**Alternatives**

Do not approve the contract and/or provide alternative direction to staff.

**Attachments:**

[23300049 Draft Contract.pdf](#)

**Board Action Taken:**

Motion: \_\_\_\_\_

1) \_\_\_\_\_

2) \_\_\_\_\_

Aye/Nay

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_  
(Vote Recorded By)

**INDEPENDENT CONTRACTOR AGREEMENT**

**Contract No. 23300049**

**Title: Carson Pump On-Call Services**

THIS CONTRACT is made and entered into this \_\_\_\_\_ day of \_\_\_\_\_, 2022, by and between Carson City, a consolidated municipality, a political subdivision of the State of Nevada, hereinafter referred to as "CITY", and Carson Pump, LLC, hereinafter referred to as "CONTRACTOR".

**WITNESSETH:**

**WHEREAS**, the Purchasing and Contracts Administrator for **CITY** is authorized pursuant to Nevada Revised Statutes (hereinafter referred to as "NRS") 332 and Carson City Purchasing Resolution #1990-R71, to approve and accept this Contract as set forth in and by the following provisions; and

**WHEREAS, CONTRACTOR'S** compensation under this agreement (does \_\_\_) (does not X) utilize in whole or in part money derived from one or more federal grant funding source(s); and

**WHEREAS**, it is deemed necessary that the services of **CONTRACTOR** for **CONTRACT No. 23300049** (hereinafter referred to as "Contract") are both necessary and in the best interest of **CITY**; and

**NOW, THEREFORE**, in consideration of the aforesaid premises, and the following terms, conditions and other valuable consideration, the parties mutually agree as follows:

**1. REQUIRED APPROVAL:**

T This Contract shall not become effective until and unless approved by the Carson City Board of Supervisors and all required documents are received and signed by all parties.

**2. SCOPE OF WORK (Incorporated Contract Documents):**

2.1 **CONTRACTOR** shall provide and perform the following services set forth in **Exhibit A**, which shall all be attached hereto and incorporated herein by reference for and on behalf of **CITY** and hereinafter referred to as the "SERVICES".

2.2 **CONTRACTOR** represents that it is duly licensed by **CITY** for the purposes of performing the SERVICES.

2.3 **CONTRACTOR** represents that it is duly qualified and licensed in the State of Nevada for the purposes of performing the SERVICES.

2.4 **CONTRACTOR** represents that it and/or the persons it may employ possess all skills and training necessary to perform the SERVICES described herein and required hereunder. **CONTRACTOR** shall perform the SERVICES faithfully, diligently, in a timely and professional manner, to the best of its ability, and in such a manner as is customarily performed by a person who is in the business of providing such services in similar circumstances. **CONTRACTOR** shall be responsible for the professional quality and technical accuracy of all SERVICES furnished by **CONTRACTOR** to **CITY**.

For P&C Use Only	
CCBL expires	_____
NVCL expires	_____
GL expires	_____
AL expires	_____
WC expires	_____

## INDEPENDENT CONTRACTOR AGREEMENT

Contract No. 23300049

Title: Carson Pump On-Call Services

2.5 **CONTRACTOR** represents that neither the execution of this Contract nor the rendering of services by **CONTRACTOR** hereunder will violate the provisions of or constitute a default under any other contract or agreement to which **CONTRACTOR** is a party or by which **CONTRACTOR** is bound, or which would preclude **CONTRACTOR** from performing the SERVICES required of **CONTRACTOR** hereunder, or which would impose any liability or obligation upon **CITY** for accepting such SERVICES.

2.6 Before commencing with the performance of any SERVICES under this Contract, **CONTRACTOR** shall obtain all necessary permits and licenses as may be necessary. Before and during the progress of work under this Contract, **CONTRACTOR** shall give all notice and comply with all the laws, ordinances, rules and regulations of every kind and nature now or hereafter in effect promulgated by any Federal, State, County, or other Governmental Authority, relating to the performance of work under this Contract. If **CONTRACTOR** performs any work that is contrary to any such law, ordinance, rule or regulation, it shall bear all the costs arising therefrom.

2.7 It is expressly understood and agreed that all SERVICES done by **CONTRACTOR** shall be subject to inspection and acceptance by **CITY** and approval of SERVICES shall not forfeit the right of **CITY** to require correction, and nothing contained herein shall relieve **CONTRACTOR** of the responsibility of the SERVICES required under the terms of this Contract until all SERVICES have been completed and accepted by **CITY**.

### 3. **CONTRACT TERM:**

3.1 The term of this Contract begins on July 7, 2022, subject to Carson City Board of Supervisors' approval (anticipated to be July 7, 2022) and ends June 30, 2023, unless sooner terminated by either party as specified in **Section 7** (CONTRACT TERMINATION).

### 4. **NOTICE:**

4.1 Except any applicable bid and award process where notices may be limited to postings by **CITY** on its Bid Opportunities website ([www.carson.org](http://www.carson.org)), all notices or other communications required or permitted to be given under this Contract shall be in writing and shall be deemed to have been duly given if delivered personally in hand, by e-mail, by regular mail, by telephonic facsimile with simultaneous regular mail, or by certified mail, return receipt requested, postage prepaid on the date posted, and addressed to the other party at the address specified below.

4.2 Notice to **CONTRACTOR** shall be addressed to:

Dan Tramp, Owner  
Carson Pump, LLC  
PO Box 20159  
Carson City, NV 89721  
775-888-9926  
[dan@carsonpump.com](mailto:dan@carsonpump.com)

# INDEPENDENT CONTRACTOR AGREEMENT

Contract No. 23300049

Title: Carson Pump On-Call Services

4.3 Notice to **CITY** shall be addressed to:

Carson City Purchasing and Contracts Department  
Carol Akers, Purchasing & Contracts Administrator  
201 North Carson Street, Suite 2  
Carson City, NV 89701  
775-283-7362 / FAX 775-887-2286  
[CAkers@carson.org](mailto:CAkers@carson.org)

## 5. COMPENSATION:

5.1 The parties agree that **CONTRACTOR** will provide the SERVICES specified in **Section 2** (SCOPE OF WORK) and **CITY** agrees to pay **CONTRACTOR** the Contract's compensation based upon the Rate Fee Schedule for a not to exceed maximum amount One Hundred Thousand Dollars and 00/100 (\$100,000.00), and hereinafter referred to as "Contract Sum".

5.2 Contract Sum represents full and adequate compensation for the completed SERVICES, and includes the furnishing of all materials; all labor, equipment, tools, and appliances; and all expenses, direct or indirect, connected with the proper execution of the SERVICES.

5.3 **CONTRACTOR** shall provide **CITY** with a scope of work for each task to be completed and if approved, **CONTRACTOR** will be provided a "Task Order" authorizing the work.

5.4 **CITY** does not agree to reimburse **CONTRACTOR** for expenses unless otherwise specified.

## 6. TIMELINESS OF BILLING SUBMISSION:

6.1 The parties agree that timeliness of billing is of the essence to this Contract and recognize that **CITY** is on a fiscal year which is defined as the period beginning July 1 and ending June 30 of the following year. All billings for dates of service prior to July 1 must be submitted to **CITY** no later than the first Friday in August of the same year. A billing submitted after the first Friday in August will subject **CONTRACTOR** to an administrative fee not to exceed \$100.00. The parties hereby agree this is a reasonable estimate of the additional costs to **CITY** of processing the billing as a stale claim and that this amount will be deducted from the stale claim payment due to **CONTRACTOR**.

## 7. CONTRACT TERMINATION:

7.1 Termination Without Cause:

7.1.1 Any discretionary or vested right of renewal notwithstanding, this Contract may be terminated upon written notice by mutual consent of both parties or unilaterally by either party without cause.

7.1.2 **CITY** reserves the right to terminate this Contract for convenience whenever it considers termination, in its sole and unfettered discretion, to be in the public interest. In the event that the Contract is terminated in this manner, payment will be made for SERVICES actually completed. If termination occurs under this provision, in no event shall **CONTRACTOR** be entitled to anticipated profits on items of SERVICES not performed as of the effective date of the termination or compensation for any other item, including but not limited to, unabsorbed overhead.

## INDEPENDENT CONTRACTOR AGREEMENT

Contract No. 23300049

Title: Carson Pump On-Call Services

**CONTRACTOR** shall require that all subcontracts which it enters related to this Contract likewise contain a termination for convenience clause which precludes the ability of any subcontractor to make claims against **CONTRACTOR** for damages due to breach of contract, lost profit on items of SERVICES not performed, or unabsorbed overhead, in the event of a convenience termination.

### 7.2 Termination for Nonappropriation:

7.2.1 All payments and SERVICES provided under this Contract are contingent upon the availability of the necessary public funding, which may include various internal and external sources. In the event that Carson City does not acquire and appropriate the funding necessary to perform in accordance with the terms of the Contract, the Contract shall automatically terminate upon **CITY'S** notice to **CONTRACTOR** of such nonappropriation, and no claim or cause of action may be based upon any such nonappropriation.

### 7.3 Cause Termination for Default or Breach:

7.3.1 A default or breach may be declared with or without termination.

7.3.2 This Contract may be terminated by either party upon written notice of default or breach to the other party as follows:

7.3.2.1 If **CONTRACTOR** fails to provide or satisfactorily perform any of the conditions, work, deliverables, goods, or any SERVICES called for by this Contract within the time requirements specified in this Contract or within any granted extension of those time requirements; or

7.3.2.2 If any state, county, city or federal license, authorization, waiver, permit, qualification or certification required by statute, ordinance, law, or regulation to be held by **CONTRACTOR** to provide the goods or SERVICES or any services required by this Contract is for any reason denied, revoked, debarred, excluded, terminated, suspended, lapsed, or not renewed; or

7.3.2.3 If **CONTRACTOR** becomes insolvent, subject to receivership, or becomes voluntarily or involuntarily subject to the jurisdiction of the bankruptcy court; or

7.3.2.4 If **CITY** materially breaches any material duty under this Contract and any such breach impairs **CONTRACTOR'S** ability to perform; or

7.3.2.5 If it is found by **CITY** that any quid pro quo or gratuities in the form of money, services, entertainment, gifts, or otherwise were offered or given by **CONTRACTOR**, or any agent or representative of **CONTRACTOR**, to any officer or employee of **CITY** with a view toward securing a contract or securing favorable treatment with respect to awarding, extending, amending, or making any determination with respect to the performing of such contract; or

7.3.2.6 If it is found by **CITY** that **CONTRACTOR** has failed to disclose any material conflict of interest relative to the performance of this Contract.

### 7.4 Time to Correct (Declared Default or Breach):

7.4.1 Termination upon a declared default or breach may be exercised only after providing seven (7) calendar days written notice of default or breach, and the subsequent failure of the defaulting or breaching party, within five (5) calendar days of providing that default or breach

# INDEPENDENT CONTRACTOR AGREEMENT

Contract No. 23300049

Title: Carson Pump On-Call Services

notice, to provide evidence satisfactory to the aggrieved party demonstrating that the declared default or breach has been corrected. Time to correct shall run concurrently with any notice of default or breach and such time to correct is not subject to any stay with respect to the nonexistence of any Notice of Termination. Untimely correction shall not void the right to termination otherwise properly noticed unless waiver of the noticed default or breach is expressly provided in writing by the aggrieved party. There shall be no time to correct with respect to any notice of termination without cause or termination for nonappropriation.

## 7.5 Winding Up Affairs Upon Termination:

7.5.1 In the event of termination of this Contract for any reason, the parties agree that the provisions of this **Subsection 7.5** survive termination:

7.5.1.1 The parties shall account for and properly present to each other all claims for fees and expenses and pay those which are undisputed and otherwise not subject to set off under this Contract. Neither party may withhold performance of winding up provisions solely based on nonpayment of fees or expenses accrued up to the time of termination; and

7.5.1.2 **CONTRACTOR** shall satisfactorily complete SERVICES in progress at the agreed rate (or a pro rata basis if necessary) if so requested by **CITY**; and

7.5.1.3 **CONTRACTOR** shall execute any documents and take any actions necessary to effectuate an assignment of this Contract if so requested by **CITY**; and

7.5.1.4 **CONTRACTOR** shall preserve, protect, and promptly deliver into **CITY** possession all proprietary information in accordance with "**Section 19**".

## 7.6 Notice of Termination:

7.6.1 Unless otherwise specified in this Contract, termination shall not be effective until seven (7) calendar days after a party has provided written notice of default or breach, or notice of without cause termination. Notice of Termination may be given at the time of notice of default or breach, or notice of without cause termination. Notice of Termination may be provided separately at any time after the running of the 7-day notice period, and such termination shall be effective on the date the Notice of Termination is provided to the party unless a specific effective date is otherwise set forth therein. Any delay in providing a Notice of Termination after the 7-day notice period has run without a timely correction by the defaulting or breaching party shall not constitute any waiver of the right to terminate under the existing notice(s).

## 8. **REMEDIES:**

Except as otherwise provided for by law or this Contract, the rights and remedies of the parties shall not be exclusive and are in addition to any other rights and remedies provided by law or equity, including, without limitation, actual damages, and to a prevailing party reasonable attorney's fees and costs. The parties agree that, in the event a lawsuit is filed and a party is awarded attorney's fees by the court, for any reason, the amount of recoverable attorney's fees shall not exceed the rate of \$125 per hour. **CITY** may set off consideration against any unpaid obligation of **CONTRACTOR** to **CITY**.

## 9. **LIMITED LIABILITY:**

**CITY** will not waive and intends to assert available NRS Chapter 41 liability limitations in all cases. Contract liability of both parties shall not be subject to punitive damages. Liquidated damages shall not apply unless otherwise expressly provided for elsewhere in this Contract. Damages for any **CITY** breach shall never exceed

# INDEPENDENT CONTRACTOR AGREEMENT

Contract No. 23300049

Title: Carson Pump On-Call Services

the amount of funds appropriated for payment under this Contract, but not yet paid to **CONTRACTOR**, for the fiscal year budget in existence at the time of the breach. **CONTRACTOR'S** tort liability shall not be limited.

## 10. **FORCE MAJEURE:**

Neither party shall be deemed to be in violation of this Contract if it is prevented from performing any of its obligations hereunder due to strikes, failure of public transportation, civil or military authority, act of public enemy, accidents, fires, explosions, or acts of God, including, without limitation, earthquakes, floods, winds, or storms. In such an event the intervening cause must not be through the fault of the party asserting such an excuse, and the excused party is obligated to promptly perform in accordance with the terms of this Contract after the intervening cause ceases.

## 11. **INDEMNIFICATION:**

11.1 To the extent permitted by law, including, but not limited to, the provisions of NRS Chapter 41, each party shall indemnify, hold harmless and defend, not excluding the other's right to participate, the other party from and against all liability, claims, actions, damages, losses, and expenses, including but not limited to reasonable attorney's fees and costs, arising out of any alleged negligent or willful acts or omissions of the indemnifying party, its officers, employees and agents. Such obligation shall not be construed to negate, abridge, or otherwise reduce any other right or obligation of the indemnity which would otherwise exist as to any party or person described in this Section.

11.2 Except as otherwise provided in **Subsection 11.4** below, the indemnifying party shall not be obligated to provide a legal defense to the indemnified party, nor reimburse the indemnified party for the same, for any period occurring before the indemnified party provides written notice of the pending claim(s) or cause(s) of action to the indemnifying party, along with:

11.2.1 a written request for a legal defense for such pending claim(s) or cause(s) of action; and

11.2.2 a detailed explanation of the basis upon which the indemnified party believes that the claim or cause of action asserted against the indemnified party implicates the culpable conduct of the indemnifying party, its officers, employees, and/or agents.

11.3 After the indemnifying party has begun to provide a legal defense for the indemnified party, the indemnifying party shall not be obligated to fund or reimburse any fees or costs provided by any additional counsel for the indemnified party, including counsel through which the indemnified party might voluntarily choose to participate in its defense of the same matter.

11.4 After the indemnifying party has begun to provide a legal defense for the indemnified party, the indemnifying party shall be obligated to reimburse the reasonable attorney's fees and costs incurred by the indemnified party during the initial thirty (30) day period of the claim or cause of action, if any, incurred by separate counsel.

## 12. **INDEPENDENT CONTRACTOR:**

12.1 **CONTRACTOR**, as an independent contractor, is a natural person, firm or corporation who agrees to perform SERVICES for a fixed price according to his or its own methods and without subjection to the supervision or control of the **CITY**, except as to the results of the SERVICES, and not as to the means by which the SERVICES are accomplished.

12.2 It is mutually agreed that **CONTRACTOR** is associated with **CITY** only for the purposes and to the extent specified in this Contract, and in respect to performance of the contracted SERVICES pursuant to this Contract. **CONTRACTOR** is and shall be an independent contractor and, subject only to the terms of this Contract, shall have the sole right to supervise, manage, operate, control, and direct performance of the details incident to its duties under this Contract.

12.3 Nothing contained in this Contract shall be deemed or construed to create a partnership or joint

## INDEPENDENT CONTRACTOR AGREEMENT

Contract No. 23300049

Title: Carson Pump On-Call Services

venture, to create relationships of an employer-employee or principal-agent, or to otherwise create any liability for **CITY** whatsoever with respect to the indebtedness, liabilities, and obligations of **CONTRACTOR** or any other party.

12.4 **CONTRACTOR**, in addition to **Section 11** (INDEMNIFICATION), shall indemnify and hold **CITY** harmless from, and defend **CITY** against, any and all losses, damages, claims, costs, penalties, liabilities, expenses arising out of or incurred in any way because of, but not limited to, **CONTRACTOR'S** obligations or legal duties regarding any taxes, fees, assessments, benefits, entitlements, notice of benefits, employee's eligibility to work, to any third party, subcontractor, employee, state, local or federal governmental entity.

12.5 Neither **CONTRACTOR** nor its employees, agents, or representatives shall be considered employees, agents, or representatives of **CITY**.

### 13. **INSURANCE REQUIREMENTS (GENERAL):**

13.1 **NOTICE: The following general insurance requirements shall apply unless these general requirements are altered by any specific requirements set forth in CITY'S solicitation for bid document, the adopted bid or other document incorporated into this Contract by the parties.**

13.2 **CONTRACTOR**, as an independent contractor and not an employee of **CITY**, must carry policies of insurance in amounts specified and pay all taxes and fees incident hereunto. **CITY** shall have no liability except as specifically provided in this Contract.

13.3 **CONTRACTOR** shall not commence work before: (1) **CONTRACTOR** has provided the required evidence of insurance to **CITY** Purchasing and Contracts, and (2) **CITY** has approved the insurance policies provided by **CONTRACTOR**.

13.4 Prior approval of the insurance policies by **CITY** shall be a condition precedent to any payment of consideration under this Contract and **CITY'S** approval of any changes to insurance coverage during the course of performance shall constitute an ongoing condition subsequent this Contract. Any failure of **CITY** to timely approve shall not constitute a waiver of the condition.

13.5 *Insurance Coverage (13.6 through 13.23):*

13.6 **CONTRACTOR** shall, at **CONTRACTOR'S** sole expense, procure, maintain and keep in force for the duration of this Contract the following insurance conforming to the minimum requirements specified below. Unless specifically specified herein or otherwise agreed to by **CITY**, the required insurance shall be in effect prior to the commencement of work by **CONTRACTOR** and shall continue in force as appropriate until the later of:

13.6.1 Final acceptance by **CITY** of the completion of this Contract; or

13.6.2 Such time as the insurance is no longer required by **CITY** under the terms of this Contract.

13.6.3 Any insurance or self-insurance available to **CITY** under its coverage(s) shall be in excess of and non-contributing with any insurance required from **CONTRACTOR**. **CONTRACTOR'S** insurance policies shall apply on a primary basis. Until such time as the insurance is no longer required by **CITY**, **CONTRACTOR** shall provide **CITY** with renewal or replacement evidence of insurance no less than thirty (30) calendar days before the expiration or replacement of the required insurance. If at any time during the period when insurance is required by this Contract, an insurer or surety shall fail to comply with the requirements of this Contract, as soon as **CONTRACTOR** has knowledge of any such failure, **CONTRACTOR** shall immediately notify **CITY** and immediately replace such insurance or bond with an insurer meeting the requirements.

13.7 *General Insurance Requirements (13.8 through 13.23):*

13.8 **Certificate Holder:** Each certificate shall list Carson City c/o Carson City Purchasing and

## INDEPENDENT CONTRACTOR AGREEMENT

Contract No. 23300049

Title: Carson Pump On-Call Services

Contracts, 201 N. Carson Street, Suite 2, Carson City, NV 89701 as a certificate holder.

13.9 **Additional Insured:** By endorsement to the general liability insurance policy evidenced by **CONTRACTOR**, The City and County of Carson City, Nevada, its officers, employees and immune contractors shall be named as additional insureds for all liability arising from this Contract.

13.10 **Waiver of Subrogation:** Each liability insurance policy, except for professional liability, shall provide for a waiver of subrogation in favor of City.

13.11 **Cross-Liability:** All required liability policies shall provide cross-liability coverage as would be achieved under the standard ISO separation of insureds clause.

13.12 **Deductibles and Self-Insured Retentions:** Insurance maintained by **CONTRACTOR** shall apply on a first dollar basis without application of a deductible or self-insured retention unless otherwise specifically agreed to by **CITY**. Such approval shall not relieve **CONTRACTOR** from the obligation to pay any deductible or self-insured retention. Any deductible or self-insured retention shall not exceed \$5,000.00 per occurrence, unless otherwise approved by **CITY**.

13.13 **Policy Cancellation:** Except for ten (10) calendar days' notice for non-payment of premium, **CONTRACTOR** or its insurers must provide thirty (30) calendar days prior written notice to Carson City Purchasing and Contracts if any policy will be canceled, non-renewed or if required coverage and /or limits reduced or materially altered, and shall provide that notices required by this paragraph shall be sent by mail to Carson City Purchasing and Contracts, 201 N. Carson Street, Suite 2, Carson City, NV 89701. When available, each insurance policy shall be endorsed to provide thirty (30) days' notice of cancellation, except for ten (10) days' notice for non-payment of premium, to City.

13.14 **Approved Insurer:** Each insurance policy shall be issued by insurance companies authorized to do business in the State of Nevada or eligible surplus lines insurers under federal and Nevada law and having agents in Nevada upon whom service of process may be made, and currently rated by A.M. Best as "A-VII" or better.

13.15 **Evidence of Insurance:** Prior to commencement of work, **CONTRACTOR** must provide the following documents to Carson City Purchasing and Contracts, 201 North Carson Street, Suite 3, Carson City, NV 89701:

13.16 **Certificate of Insurance:** **CONTRACTOR** shall furnish City with a certificate(s) of insurance, executed by a duly authorized representative of each insurer, showing compliance with the insurance requirements set forth herein. The Acord 25 Certificate of Insurance form or a form substantially similar must be submitted to Carson City Purchasing and Contracts to evidence the insurance policies and coverages required of **CONTRACTOR**.

13.17 **Additional Insured Endorsement:** An Additional Insured Endorsement (CG20 10 or C20 26), signed by an authorized insurance company representative, must be submitted to Carson City Purchasing and Contracts to evidence the endorsement of **CITY** as an additional insured per **Subsection 13.9** (Additional Insured).

13.18 **Schedule of Underlying Insurance Policies:** If Umbrella or Excess policy is evidenced to comply with minimum limits, a copy of the Underlying Schedule from the Umbrella or Excess insurance policy may be required.

13.19 **Review and Approval:** Documents specified above must be submitted for review and approval by **CITY** Purchasing and Contracts prior to the commencement of work by **CONTRACTOR**. Neither approval by **CITY** nor failure to disapprove the insurance furnished by **CONTRACTOR** shall relieve **CONTRACTOR** of **CONTRACTOR'S** full responsibility to provide the insurance required by this Contract. Compliance with the insurance requirements of this Contract shall not limit the liability of **CONTRACTOR** or its sub-contractors, employees or agents to **CITY** or others, and shall be in addition to and not in lieu of any other remedy available to **CITY** under this Contract or otherwise. **CITY** reserves the right to request

## INDEPENDENT CONTRACTOR AGREEMENT

Contract No. 23300049

Title: Carson Pump On-Call Services

and review a copy of any required insurance policy or endorsement to assure compliance with these requirements.

### 13.20 COMMERCIAL GENERAL LIABILITY INSURANCE:

**CONTRACTOR** shall maintain commercial general liability (CGL) and, if necessary, commercial umbrella insurance with a limit of not less than \$1,000,000 each occurrence.

13.20.1 *Minimum Limits required:*

13.20.2 Two Million Dollars (\$2,000,000.00) - General Aggregate.

13.20.3 Two Million Dollars (\$2,000,000.00) - Products & Completed Operations Aggregate.

13.20.4 One Million Dollars (\$1,000,000.00) - Each Occurrence.

13.20.5 CGL insurance shall be written on ISO occurrence form CG 00 01 04 13 (or a substitute form providing equivalent coverage) and shall cover liability arising from premises, operations, products-completed operations, personal and advertising injury, and liability assumed under an insured contract [(including the tort liability of another assumed in a business contract)].

13.20.6 City and County of Carson City, Nevada, its officers, employees and immune contractors shall be included as an additional insured under the CGL, using ISO additional insured endorsement CG 20 10 or CG 20 26, or a substitute providing equivalent coverage, and under the commercial umbrella, if any.

13.20.7 This insurance shall apply as primary insurance with respect to any other insurance or self-insurance programs afforded to City There shall be no endorsement or modification of the CGL to make it excess over other available insurance; alternatively, if the CGL states that it is excess or pro rata, the policy shall be endorsed to be primary with respect to the additional insured.

13.20.8 There shall be no endorsement or modification of the CGL limiting the scope of coverage for liability assumed under a contract.

13.20.9 Contractor waives all rights against City and its agents, officers, directors and employees for recovery of damages to the extent these damages are covered by the commercial general liability or commercial umbrella liability insurance maintained pursuant to this Contract. Insurer shall endorse CGL policy as required to waive subrogation against City with respect to any loss paid under the policy.

### 13.21 BUSINESS AUTOMOBILE LIABILITY INSURANCE:

13.21.1 *Minimum Limit required:*

13.21.2 Contractor shall maintain automobile liability and, if necessary, commercial umbrella liability insurance with a limit of not less than \$1,000,000 each accident for bodily injury and property damage.

13.21.3 Such insurance shall cover liability arising out of owned, hired, and non-owned autos (as applicable). Coverage as required above shall be written on ISO form CA 00 01, CA 00 05, CA 00 25, or a substitute form providing equivalent liability coverage.

## INDEPENDENT CONTRACTOR AGREEMENT

Contract No. 23300049

Title: Carson Pump On-Call Services

13.21.4 Contractor waives all rights against City and its agents, officers, directors and employees for recovery of damages to the extent these damages are covered by the automobile liability or other liability insurance obtained by **CONTRACTOR** pursuant this Contract.

### 13.22 PROFESSIONAL LIABILITY INSURANCE (Architects, Engineers and Land Surveyors)

13.22.1 *Minimum Limit required:*

13.22.2 **CONTRACTOR** shall maintain professional liability insurance applying to all activities performed under this Contract with limits not less than One Million Dollars (\$1,000,000.00) and Two Million Dollars (\$2,000,000) in the aggregate.

13.22.3 Retroactive date: Prior to commencement of the performance of this Contract.

13.22.4 **CONTRACTOR** will maintain professional liability insurance during the term of this Contract and for a period of three (3) years after termination of this Contract unless waived by the City. In the event of non-renewal or other lapse in coverage during the term of this Contract or the three (3) year period described above, **CONTRACTOR** shall purchase Extended Reporting Period coverage for claims arising out of **CONTRACTOR's** negligence acts, errors and omissions committed during the term of the Professional Liability Policy. The Extended Reporting Period shall continue through a minimum of three (3) years after termination date of this Contract.

13.22.5 A certified copy of this policy may be required.

### 13.23 WORKERS' COMPENSATION AND EMPLOYER'S LIABILITY INSURANCE:

13.23.1 **CONTRACTOR** shall provide workers' compensation insurance as required by NRS Chapters 616A through 616D inclusive and Employer's Liability insurance with a minimum limit not less than \$1,000,000 each accident for bodily injury by accident or \$1,000,000 each employee for bodily injury by disease.

13.23.2 **CONTRACTOR** may, in lieu of furnishing a certificate of an insurer, provide an affidavit indicating that **CONTRACTOR** is a sole proprietor; that **CONTRACTOR** will not use the services of any employees in the performance of this Contract; that **CONTRACTOR** has elected to not be included in the terms, conditions, and provisions of NRS Chapters 616A-616D, inclusive; and that **CONTRACTOR** is otherwise in compliance with the terms, conditions, and provisions of NRS Chapters 616A-616D, inclusive.

13.23.3 **CONTRACTOR** waives all rights against City and its agents, officers, directors, and employees for recovery of damages to the extent these damages are covered by the workers' compensation and employer's liability or commercial umbrella liability insurance obtained by Contractor pursuant to this Contract. Contractor shall obtain an endorsement equivalent to WC 00 03 13 to affect this waiver.

## 14. BUSINESS LICENSE:

14.1 **CONTRACTOR** shall not commence work before **CONTRACTOR** has provided a copy of his Carson City business license to Carson City Purchasing and Contracts.

14.2 The Carson City business license shall continue in force until the later of: (1) final acceptance by **CITY** of the completion of this Contract; or (2) such time as the Carson City business license is no longer

# INDEPENDENT CONTRACTOR AGREEMENT

Contract No. 23300049

Title: Carson Pump On-Call Services

required by CITY under the terms of this Contract.

## 15. COMPLIANCE WITH LEGAL OBLIGATIONS:

**CONTRACTOR** shall procure and maintain for the duration of this Contract any state, county, city, or federal license, authorization, waiver, permit, qualification or certification required by statute, ordinance, law, or regulation to be held by **CONTRACTOR** to provide the goods or SERVICES or any services of this Contract.

**CONTRACTOR** will be responsible to pay all government obligations, including, but not limited to, all taxes, assessments, fees, fines, judgments, premiums, permits, and licenses required or imposed by law or a court. Real property and personal property taxes are the responsibility of **CONTRACTOR** in accordance with NRS Chapter 361 generally and NRS 361.157 and 361.159, specifically regarding for profit activity. **CONTRACTOR** agrees to be responsible for payment of any such government obligations not paid by its subcontractors during performance of this Contract. **CITY** may set-off against consideration due any delinquent government obligation.

If the CITY was required by NRS 332.039(1) to advertise or request a proposal for this Agreement, by signing this Agreement, the **CONTRACTOR** provides a written certification that the **CONTRACTOR** is not currently engaged in, and during the Term shall not engage in, a Boycott of Israel. The term "Boycott of Israel" has the meaning ascribed to that term in Section 3 of Nevada Senate Bill 26 (2017). The **CONTRACTOR** shall be responsible for fines, penalties, and payment of any State of Nevada or federal funds that may arise (including those that the CITY pays, becomes liable to pay, or becomes liable to repay) as a direct result of the **CONTRACTOR's** non-compliance with this Section.

## 16. WAIVER OF BREACH:

Failure to declare a breach or the actual waiver of any particular breach of this Contract or its material or nonmaterial terms by either party shall not operate as a waiver by such party of any of its rights or remedies as to any other breach.

## 17. SEVERABILITY:

If any provision contained in this Contract is held to be unenforceable by a court of law or equity, this Contract shall be construed as if such provision did not exist and the nonenforceability of such provision shall not be held to render any other provision or provisions of this Contract unenforceable.

## 18. ASSIGNMENT / DELEGATION:

To the extent that any assignment of any right under this Contract changes the duty of either party, increases the burden or risk involved, impairs the chances of obtaining the performance of this Contract, attempts to operate as a novation, or includes a waiver or abrogation of any defense to payment by **CITY**, such offending portion of the assignment shall be void, and shall be a breach of this Contract. **CONTRACTOR** shall neither assign, transfer nor delegate any rights, obligations or duties under this Contract without the prior written approval of **CITY**. The parties do not intend to benefit any third party beneficiary regarding their respective performance under this Contract.

## 19. CITY OWNERSHIP OF PROPRIETARY INFORMATION:

Any files, reports, histories, studies, tests, manuals, instructions, photographs, negatives, blue prints, plans, maps, data, system designs, computer programs, computer codes, and computer records (which are intended to be consideration under this Contract), or any other documents or drawings, prepared or in the course of preparation by **CONTRACTOR** (or its subcontractors) in performance of its obligations under this Contract shall be the exclusive property of **CITY** and all such materials shall be delivered into **CITY** possession by **CONTRACTOR** upon completion, termination, or cancellation of this Contract. **CONTRACTOR** shall not use, willingly allow, or cause to have such materials used for any purpose other than performance of **CONTRACTOR'S** obligations under this Contract without the prior written consent of **CITY**. Notwithstanding the foregoing, **CITY** shall have no proprietary interest in any materials licensed for use by **CITY** that are subject to patent, trademark or copyright protection.

# INDEPENDENT CONTRACTOR AGREEMENT

Contract No. 23300049

Title: Carson Pump On-Call Services

## 20. PUBLIC RECORDS:

Pursuant to NRS 239.010, information or documents received from **CONTRACTOR** may be open to public inspection and copying. **CITY** will have the duty to disclose unless a particular record is made confidential by law or a common law balancing of interests. **CONTRACTOR** may clearly label specific parts of an individual document as a "trade secret" or "confidential" in accordance with NRS 332.061, provided that **CONTRACTOR** thereby agrees to indemnify and defend **CITY** for honoring such a designation. The failure to so label any document that is released by **CITY** shall constitute a complete waiver of any and all claims for damages caused by any release of the records.

## 21. CONFIDENTIALITY:

**CONTRACTOR** shall keep confidential all information, in whatever form, produced, prepared, observed or received by **CONTRACTOR** to the extent that such information is confidential by law or otherwise required by this Contract.

## 22. FEDERAL FUNDING:

*22.1 In the event federal grant funds are used for payment of all or part of this Contract:*

22.1.1 **CONTRACTOR** certifies, by signing this Contract, that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any federal department or agency. This certification is made pursuant to the regulations implementing Executive Order 12549, Debarment and Suspension, 28 C.F.R. pt. 67, § 67.510, as published as pt. VII of the May 26, 1988, Federal Register (pp. 19160-19211), and any relevant program-specific regulations. This provision shall be required of every subcontractor receiving any payment in whole or in part from federal funds.

22.1.2 **CONTRACTOR** and its subcontractors must be registered in the US Government System for Award Management (SAM) for verification on projects with federal funding.

22.1.3 **CONTRACTOR** and its subcontractors shall comply with all terms, conditions, and requirements of the Americans with Disabilities Act of 1990 (P.L. 101-136), 42 U.S.C. 12101, as amended, and regulations adopted thereunder contained in 28 C.F.R. 26.101-36.999, inclusive, and any relevant program-specific regulations.

22.1.4 **CONTRACTOR** and its subcontractors shall comply with the requirements of the Civil Rights Act of 1964, as amended, the Rehabilitation Act of 1973, P.L. 93-112, as amended, and any relevant program-specific regulations, and Executive Order 11478 (July 21, 2014) and shall not discriminate against any employee or offeror for employment because of race, national origin, creed, color, sex, sexual orientation, gender identity, religion, age, disability or handicap condition (including AIDS and AIDS-related conditions).

22.1.5 If and when applicable to the particular federal funding and the Scope of Work under this Contract, **CONTRACTOR** and its subcontractors shall comply with: American Iron and Steel (AIS) provisions of P.L. 113- 76, Consolidated Appropriations Act, 2014, Section 1605 – Buy American (100% Domestic Content of iron, steel and manufactured goods); Federal Highway Administration (FHWA) 23 U.S.C. § 313 – Buy America, 23 C.F.R. §635.410 (100% Domestic Content of steel, iron and manufactured products); Federal Transit Administration (FTA) 49 U.S.C. § 5323(j), 49 C.F.R. Part 661 – Buy America Requirements (See 60% Domestic Content for buses and other Rolling Stock).

# INDEPENDENT CONTRACTOR AGREEMENT

Contract No. 23300049

Title: Carson Pump On-Call Services

## 23. LOBBYING:

23.1 The parties agree, whether expressly prohibited by federal law, or otherwise, that no funding associated with this Contract will be used for any purpose associated with or related to lobbying or influencing or attempting to lobby or influence for any purpose the following:

23.1.1 Any federal, state, county or local agency, legislature, commission, council or board;

23.1.2 Any federal, state, county or local legislator, commission member, council member, board member, or other elected official; or

23.1.3 Any officer or employee of any federal, state, county or local agency; legislature, commission, council or board.

## 24. GENERAL WARRANTY:

**CONTRACTOR** warrants that it will perform all SERVICES required hereunder in accordance with the prevailing standard of care by exercising the skill and care normally required of individuals performing the same or similar SERVICES, under the same or similar circumstances, in the State of Nevada.

## 25. PROPER AUTHORITY:

The parties hereto represent and warrant that the person executing this Contract on behalf of each party has full power and authority to enter into this Contract. **CONTRACTOR** acknowledges that this Contract is effective only after approval by the Carson City Board of Supervisors and only for the period of time specified in this Contract. Any SERVICES performed by **CONTRACTOR** before this Contract is effective or after it ceases to be effective is performed at the sole risk of **CONTRACTOR**.

## 26. GOVERNING LAW / JURISDICTION:

This Contract and the rights and obligations of the parties hereto shall be governed by, and construed according to, the laws of the State of Nevada, without giving effect to any principle of conflict-of-law that would require the application of the law of any other jurisdiction. **CONTRACTOR** consents and agrees to the jurisdiction of the courts of the State of Nevada located in Carson City, Nevada for enforcement of this Contract.

## 27. ENTIRE CONTRACT AND MODIFICATION:

This Contract and its integrated attachment(s) constitute the entire Contract of the parties and such are intended as a complete and exclusive statement of the promises, representations, negotiations, discussions, and other Contracts that may have been made in connection with the subject matter hereof. Unless an integrated attachment to this Contract specifically displays a mutual intent to amend a particular part of this Contract, general conflicts in language between any such attachment and this Contract shall be construed consistent with the terms of this Contract. Unless otherwise expressly authorized by the terms of this Contract, no modification or amendment to this Contract shall be binding upon the parties unless the same is in writing and signed by the respective parties hereto and approved by the Carson City Board of Supervisors. Conflicts in language between this Contract and any other agreement between **CITY** and **CONTRACTOR** on this same matter shall be construed consistent with the terms of this Contract. The parties agree that each has had their respective counsel review this Contract which shall be construed as if it was jointly drafted.

**INDEPENDENT CONTRACTOR AGREEMENT**

**Contract No. 23300049**

**Title: Carson Pump On-Call Services**

**28. ACKNOWLEDGMENT AND EXECUTION:**

This Contract may be executed in counterparts. The parties hereto have caused this Contract to be signed and intend to be legally bound thereby as follows:

**CITY**

Executive Office  
Purchasing and Contracts Department  
201 North Carson Street, Suite 2  
Carson City, Nevada 89701  
Telephone: 775-283-7362  
Fax: 775-887-2286  
[CAkers@carson.org](mailto:CAkers@carson.org)

**CITY'S LEGAL COUNSEL**

Carson City District Attorney

I have reviewed this Contract and approve as to its legal form.

By: \_\_\_\_\_  
Sheri Russell, Chief Financial Officer

By: \_\_\_\_\_  
Deputy District Attorney

Dated \_\_\_\_\_

Dated \_\_\_\_\_

**CONTRACTOR will not be given authorization to begin work until this Contract has been signed by Purchasing and Contracts**

**BY:** Carol Akers  
Purchasing & Contracts Administrator

Acct# 5203505-507395 &  
Project# P350508002  
5203505-507010

By: \_\_\_\_\_

Dated \_\_\_\_\_

**INDEPENDENT CONTRACTOR AGREEMENT**

**Contract No. 23300049**

**Title: Carson Pump On-Call Services**

Undersigned deposes and says under penalty of perjury: That he/she is **CONTRACTOR** or authorized agent of **CONTRACTOR**; that he/she has read the foregoing Contract; and that he/she understands the terms, conditions and requirements thereof.

**CONTRACTOR**

**BY:** Dan Tramp

**TITLE:** Owner

**FIRM:** Carson Pump, LLC

**CARSON CITY BUSINESS LICENSE #:** BL-001922

**Address:** PO Box 20159

**City:** Carson City      **State:** NV      **Zip Code:** 89721

**Telephone:** 775-888-9926

**E-mail Address:** [dan@carsonpump.com](mailto:dan@carsonpump.com)

\_\_\_\_\_  
(Signature of Contractor)

**DATED** \_\_\_\_\_

**STATE OF** \_\_\_\_\_ )

)ss

**County of** \_\_\_\_\_ )

Signed and sworn (or affirmed before me on this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
(Signature of Notary)

(Notary Stamp)

**INDEPENDENT CONTRACTOR AGREEMENT**

**Contract No. 23300049**

**Title: Carson Pump On-Call Services**

**CONTRACT ACCEPTANCE AND EXECUTION:**

The Board of Supervisors for Carson City, Nevada at their publicly noticed meeting of July 7, 2022 approved the acceptance of the attached Contract hereinbefore identified as **CONTRACT No. 23300049**. Further, the Board of Supervisors authorizes the Mayor of Carson City, Nevada to sign this document and record the signature for the execution of this Contract in accordance with the action taken.

**CARSON CITY, NEVADA**

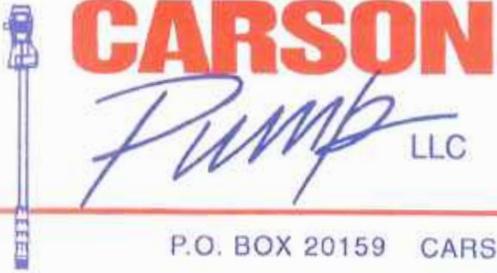
\_\_\_\_\_  
LORI BAGWELL, MAYOR

DATED this 7<sup>th</sup> day of July, 2022.

**ATTEST:**

\_\_\_\_\_  
AUBREY ROWLATT, CLERK-RECORDER

DATED this 7th day of July, 2022.



- Turbine and Submersible Sales & Service
- Complete Well Rehabilitations
- Aquifer Testing – Turbine or Submersible

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P.O. BOX 20159 CARSON CITY, NV 89721 (775) 888-9926 FAX (775) 888-9928

### 2022 Labor Rates for Service Work

10 ton Boom truck	\$275/hr.
15 ton pump rig & 2 men	\$300/hr.
25 ton pump rig & 2 men	\$350/hr.
35 ton crane & 3 men	\$390/hr.
Service call (1 man & pickup)	\$160/hr.

Costs do not include any parts if required



## STAFF REPORT

**Report To:** Board of Supervisors

**Meeting Date:** July 7, 2022

**Staff Contact:** Carol Akers, Purchasing & Contracts Administrator and Darren Schulz, Public Works Director

**Agenda Title:** For Possible Action: Discussion and possible action regarding authorization to purchase Sodium Hypochlorite ("Bleach") for use at the Carson City Water Resource Recovery Facility ("WWRF"), the Quill Water Treatment Plant ("Quill") and the Aquatic Center utilizing joinder contract (#212528) between the City of Tucson ("Tucson") and Thatcher Company of Arizona, Inc. ("Thatcher") for a not to exceed amount of \$160,000 through September 30, 2022. (Carol Akers, cakers@carson.org and Andy Hummel, ahummel@carson.org)

Staff Summary: The Carson City Public Works and Parks, Recreation and Open Space Departments utilize Bleach to disinfect water at the WWRF, Quill and the Aquatic Center. The joinder contract (#212528) will expire on September 30, 2022. Chemical prices have been extremely volatile over the last year; therefore, staff will pursue further options beyond September 30, 2022, including potentially bidding this purchase.

**Agenda Action:** Formal Action / Motion

**Time Requested:** Consent

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### **Proposed Motion**

I move to approve the purchase authority as requested.

### **Board's Strategic Goal**

Efficient Government

### **Previous Action**

N/A

### **Background/Issues & Analysis**

This is an annual request. The purchase amount exceeds \$50,000 and therefore requires Board of Supervisors' approval pursuant to City policy.

Joinder contract being utilized:

Tucson and Thatcher

Contract #212528, expires September 30, 2022, with three remaining options to renew for one year each

<https://www.omniapartners.com/publicsector/suppliers/thatcher-chemicals/contract-documentation#c39074>

### **Applicable Statute, Code, Policy, Rule or Regulation**

NRS 332.195

### **Financial Information**

**Is there a fiscal impact? Yes**

**If yes, account name/number:** Wastewater Fund Chemicals Account 5103201-500637  
Water Fund Chemicals Account 5203502-500637  
Parks General Fund Chemicals Account 1015055-500637

**Is it currently budgeted? Yes**

**Explanation of Fiscal Impact:** If approved, the \$160,000 for Fiscal Year (“FY”) 2023 will come out of the Accounts listed:  
Wastewater Chemicals Account 5103201-500637 for \$110,000; FY 2023 available budget is \$404,000.  
Water Chemicals Account 5203502-500637 for \$40,000; FY 2023 available budget is \$124,964.  
Parks General Fund Chemicals Account 1015055-500637 for \$10,000; FY 2023 available budget is \$25,020.

**Alternatives**

Do not approve purchase authority and/or provide alternative direction to staff.

**Attachments:**

**Board Action Taken:**

Motion: _____	1) _____	Aye/Nay
	2) _____	_____
		_____
		_____
		_____

\_\_\_\_\_  
(Vote Recorded By)



## STAFF REPORT

**Report To:** Board of Supervisors

**Meeting Date:** July 7, 2022

**Staff Contact:** Carol Akers, Purchasing & Contracts Administrator and Nicki Aaker, Health & Human Services Director

**Agenda Title:** For Possible Action: Discussion and possible action regarding authorization to purchase vaccines utilizing the Minnesota Multistate Contract Alliance for Pharmacy ("MMCAP") joinder contract with Sanofi Pasteur Inc. ("Sanofi") for a not to exceed amount of \$56,168 through June 30, 2023. (Carol Akers, cakers@carson.org and Nicki Aaker, naaker@carson.org)

Staff Summary: The Carson City Department of Health and Human Services utilizes MMCAP Contract No. MMS2000294 to purchase vaccinations and immunization supplies from Sanofi for vaccination through Clinical Services and Public Health Preparedness Community vaccination efforts. This will be funded from the Health and Human Services Private Vaccine and Community Vaccine & Outreach revenue accounts through June 30, 2023.

**Agenda Action:** Formal Action / Motion

**Time Requested:** Consent

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### **Proposed Motion**

I move to approve the purchase authority as requested.

### **Board's Strategic Goal**

Efficient Government

### **Previous Action**

N/A

### **Background/Issues & Analysis**

This is an annual request. The purchase amount exceeds \$50,000 and therefore requires Board of Supervisors' approval pursuant to City policy.

Contracts being utilized: (Joinder) MMCAP Contract No. MMS 2000294 (expires June 30, 2024).

### **Applicable Statute, Code, Policy, Rule or Regulation**

NRS 332.115 and 332.195

### **Financial Information**

Is there a fiscal impact? Yes

**If yes, account name/number:** Grant Fund / Private Vaccine – G680020004 and Community Vaccine & Outreach – G680020027

**Is it currently budgeted?** Yes

**Explanation of Fiscal Impact:** Funding is provided by the Private Vaccine and Community Vaccine and Outreach program income accounts and restricted prior year funding from vaccine and clinic accounts. If approved, the accounts will be reduced by up to \$56,168. The available budget for these two programs for FY 2023, after projected restricted roll-forward amounts, is \$774,599. See Vaccine Funding Worksheet attached.

**Alternatives**

Do not approve the purchase authority and/or provide alternative direction to staff.

**Attachments:**

[FY23 BOS Vaccines Funding Worksheet.pdf](#)

[Sanofi MMCAP Contract No. 2000294\\_Expires 6.30.24.pdf](#)

**Board Action Taken:**

Motion: _____	1) _____	Aye/Nay
	2) _____	_____
		_____
		_____
		_____

\_\_\_\_\_  
(Vote Recorded By)

**FY23 VACCINE FUNDING (over \$50K each)**

		Joinder Contract Amounts	Current Available Funding
<b>Program Revenue - Health Restricted Funds</b>			
G680020004 G-SUPPLIES	Private Vaccine	\$ 98,446	\$ 261,919
G680020027 G-SUPPLIES	Community Vaccine & Outreach	\$ 57,006	\$ 512,680
<b>TOTAL</b>		<b>\$ 155,452</b>	<b>\$ 774,599</b>

<b>FY23 EXPENDITURES BY VENDOR</b>	
GlaxoSmithKline	\$ 99,284
Sanofi Pasteur Inc.	\$ 56,168
<b>TOTAL</b>	<b>\$ 155,452</b>

dif \$ -

<b>Revenue Account Fund Availability</b>	
<b>G680020004 - Private Vaccine Revenue</b>	
FY21 Budget (carry forward)	\$ 126,325
FY22 YTD expenses	\$ (160,898)
FY22 encumbrances	\$ (23,634)
FY22 YTD revenue	\$ 170,126
FY23 est revenue	\$ 150,000
<b>Total</b>	<b>\$ 261,919</b>

<b>G680020027 - Comm Vaccine &amp; Outreach Rev</b>	
FY21 Budget (carry forward)	\$ 426,924
FY22 YTD expenses	\$ (65,608)
FY22 encumbrances	\$ (13,542)
FY22 YTD revenue	\$ 64,907
FY23 est revenue	\$ 100,000
<b>Total</b>	<b>\$ 512,680</b>



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Minnesota Department of Administration  
Office of State Procurement  
50 Sherburne Avenue, Suite 112 Administration Building, St. Paul, MN 55155  
Phone: 651.201.2420

**Sanofi Pasteur, Inc.**

**Agreement Number: MMS2000294**

**Prepared on: June 17, 2020**

**PREFIX A**

**Definitions and Acronyms**

Are attached and incorporated into the Agreement

**Definitions**

1. **Administrative Fee:** Means (1.5%) of Contract Pricing for Products or as listed on **Attachment A**, which will supersede Prefix A.
2. **Agreement:** Means the resulting agreement that is reached between MMCAP Infuse and the Vendor.
3. **Authorized Wholesaler(s):** AmerisourceBergen Drug Corporation, ASD Specialty Healthcare, LLC, Cardinal Health, FFF Enterprises, Inc., McKesson Medical-Surgical Government Solutions, LLC, Morris & Dickson Co., LLC.
4. **Class of Trade:** All Members are eligible for contract pricing.
5. **Contract Pricing:** Means the price that the Vendor has agreed to provide the Products to MMCAP Infuse and its Membership as set forth on **Attachment A** and any subsequent amendment to this Agreement.
  - A. **Non-Fixed Pricing:** Means all Products identified as such on **Attachment A** or any subsequent amendment to this Agreement.
  - B. **Wholesale Acquisition Cost (WAC) Minus** - a percentage or dollar amount off WAC that changes by providing MMCAP Infuse prior written notice of the price change along with the new WAC and contract price.
6. **Days:** (Not required to be capitalized) Unless otherwise specified in this Agreement, all references to days will be calendar days.
7. **Failure to Supply (FTS):** Deleted in its entirety.
8. **Government Unit:** Any entity as defined by Minnesota Statute 471.59.
9. **Member:** Means an approved MMCAP Infuse State or other Government Unit that has executed a membership application and Member agreement with MMCAP Infuse.
10. **Membership:** Means the joint power cooperative comprised of the MMCAP Infuse authorized States, Members, and other Government Units.
11. **Onboarding Date:** Means the Vendor must allow new Members to access to the Agreement within seven (7) days of notice by MMCAP Infuse and/or the completion of the required paperwork on **Attachment C**.
12. **Order Form:** Means the document or electronic platform Member utilizes to obtain Products.
13. **Primary Account Representative:** Mackenzie Fetterman, Deputy Director, Government Accounts, [Mackenzie.Fetterman@sanofi.com](mailto:Mackenzie.Fetterman@sanofi.com), 570-957-3381
14. **Products:** Means all products offered by the Vendor in this Agreement, which are identified in **Attachment A**.
15. **State:** Means one of the recognized fifty (50) states of the United States of America.

## AGREEMENT FOR MMCAP INFUSE NO. MMS2000294

THIS Agreement is entered into as of the Effective Date by and between the State of Minnesota acting through its Commissioner of Administration (“**Minnesota**”) on behalf of MMCAP Infuse (“**MMCAP Infuse**”) and Sanofi Pasteur, Inc., a corporation with an address of 1 Discovery Drive, Swiftwater, PA 18370 (“**Vendor**” or “**Sanofi**” or “**Sanofi Pasteur**”).

### Contract Term:

1. **Effective Date:** July 1, 2020, or the date MMCAP Infuse obtains all required signatures as required under Minnesota Statute, whichever is later.
2. **Expiration Date:** June 30, 2024.
3. The Contract Term may be extended upon mutual agreement of MMCAP Infuse and Vendor.

## AGREEMENT COMPONENTS

The following components are the Agreement; all referenced Prefix and Attachments, are attached and incorporated into this Agreement.

1. **Prefix A:** Definitions
2. **Attachment A:** Products and Pricing
3. **Attachment B:** Further Discounts– Vax Value Program
  - Exhibit A:** List of Practice Locations
  - Exhibit B:** Sanofi Pasteur Product Category Definitions
  - Exhibit C:** Vaccines and Products for Vax Value
  - Addendum A to Exhibit C:** Tier Selection Pricing
4. **Attachment C:** Not applicable
5. **Attachment D:** Required Reporting
6. **Attachment E:** MN Statutory Language

## ARTICLE I PRICING AND CHANGES

- 1.1 **Notices.** All notices under this Article must be sent to: MMCAP\_Infuse.Contracts@state.mn.us.
- 1.2 **Pricing Structure:** Pricing for Products are listed on **Attachment A** and will remain in effect during the Contract Term.
- 1.3 **Fixed Pricing.** Reserved. Price Reductions. After the Effective Date, Vendor may submit to MMCAP Infuse price reductions but must notify MMCAP Infuse before they can take effect.
- 1.4 **Non-Fixed Pricing.** All Non-Fixed Pricing requires notice of increases be submitted to MMCAP Infuse at least thirty (30) days before the requested increases may take effect. Vendor cannot increase prices until one hundred twenty (120) calendar days after the Effective Date of the Agreement. In the event of any price reductions, Vendor will advise MMCAP Infuse as set forth on Paragraph 1.3.
- 1.5 **Wholesale Acquisition Cost (WAC) Minus Percentage or Dollar Pricing.** If specifically noted on **Attachment A** that the prices are a percentage or price off WAC, the price may be changed by providing MMCAP Infuse at least five (5) business days’ prior written notice of the price change along with the new WAC and pricing. Notices of WAC increases must be sent to MMCAP Infuse. In the event Vendor does not notify MMCAP Infuse of a WAC increase, Vendor must honor wholesalers’ chargebacks for the most recent previous pricing until such time as MMCAP Infuse receives notice of the WAC increase.
- 1.6 **Notice to MMCAP Infuse:** Vendor must provide justification for all price increases. In the event Vendor does not notify MMCAP Infuse of a price increase, Vendor must honor wholesalers’ chargebacks for the most recent previous Contract price until such time as MMCAP Infuse receives notice of and approves the price increase.
- 1.7 **Notice to Authorized Wholesalers.** The Vendor must notify any and all Authorized Wholesalers of price changes. If Vendor fails to send price notification(s), Vendor agrees to honor all chargebacks at the lower Contract Pricing until such time the Authorized Wholesalers receive notice of and approves the price change. Vendor must confirm with MMCAP Infuse that price changes have been sent to the Authorized Wholesalers.
- 1.8 **Competitive Pricing.** Deleted in its entirety.
- 1.9 **Vendor’s Right of First Refusal on Equivalent Products.** If an equivalent product’s market price is less than the Contract Pricing, MMCAP Infuse will provide ten (10) days to the Vendor to match the price. If the Vendor does not match the price or fails to respond, MMCAP Infuse reserves the right to dual award or re-award the Product(s).
  - A. In the event Vendor increases the Contract Pricing, MMCAP Infuse reserves the right to obtain quotes from other vendors and to dual or re-award a Product to the vendor offering the best value.
- 1.10 **Value-Added Programs.** Members must be offered any programs normally offered to the Vendor’s general customer base (e.g., rebates, tiered pricing, continuing education courses, marketing information, etc.) at the same or lower cost as that offered to the general customer base.

- 1.11 **Product Dating.** All Products supplied to MMCAP Infuse Authorized Wholesalers or directly to MMCAP Infuse Members must have an expiration date of at least six months later than the delivery date unless the unique stability characteristics of the product require a shorter dating period. However, all Products supplied must still be usable on the date received by the Members.
- 1.12 **Annual Bid Cycle.** Deleted in its entirety.
- 1.13 **Changes.** Any changes to this Agreement, including but not limited to product additions/deletions, price changes, NDC changes, changes to terms and conditions, etc., must be made in writing as an amendment and must be fully executed by the effective date of the amendment. With the exception of changes to Contract Pricing which are subject to Paragraph 1.7, Vendor must send confirmation of amendment changes, including but not limited to additions/deletions, NDC changes, Product removals, etc., to the Authorized Wholesalers within two (2) business days of the time that documentation of the change is received by the Vendor from MMCAP Infuse. If MMCAP Infuse's Authorized Wholesalers do not receive the notification(s), Vendor agrees to honor all chargebacks at the Contract Pricing from the effective date indicated on the amendment. Vendor-generated Product offers and notifications may be used as amendments to **Attachment A** by submitting to MMCAP Infuse a letter on Vendor's letterhead with the following elements (**Offer Letter**):
- A. Offer Date
  - B. MMCAP Infuse Contract Number
  - C. Action (e.g., addition, deletion, price change, NDC conversion)
  - D. NDC Number
  - E. Product Description
  - F. Packaging
  - G. Most recent previous Contract Price
  - H. New Contract Price
  - I. Pricing Type
  - J. Effective Date
  - K. Signature of an individual authorized to bind Vendor's change to contract.

Upon written acceptance by MMCAP Infuse, Offer Letter will automatically amend **Attachment A** of this Agreement. If MMCAP Infuse indicates that aspects of the Offer Letter conflict with Agreement at that time, Paragraph 11.5 will apply to any subsequent conflicts and/or issues that may arise subsequently. If MMCAP Infuse executes the Offer Letter and provides counters, the Vendor has fifteen (15) days to object to MMCAP Infuse's counters before they are deemed as accepted by Vendor. In the event the Vendor is unwilling or unable to provide offers in this format, MMCAP Infuse will draft all amendments. Vendor must countersign the amendments drafted by MMCAP Infuse to be incorporated into the Agreement. Amendments must be countersigned by the Vendor by the earlier of the following (A): fifteen (15) days; or (B) the Expiration Date.

## **ARTICLE II SUPPLYING AND AVAILABILITY**

- 2.1 **Authorized Wholesaler Requirements.** Vendor will notify the Authorized Wholesalers of the initial Products and Contract Pricing and any subsequent changes.
- A. All sales of Products to Members must be through the Authorized Wholesalers or directly from Vendor, as described in Article III Payment, Direct Orders, and Delivery. Vendor must establish and maintain chargeback agreement(s) with the Authorized Wholesalers.
  - B. Vendor must notify MMCAP Infuse immediately of any issues (e.g., failure to negotiate terms, etc.) with Authorized Wholesalers that could affect the Contract Products' availability. Notices must be sent to: MMCAP\_Infuse.Contracts@state.mn.us.
- 2.2 **Dual Award.** MMCAP Infuse reserves the right to award or dual award Products based on the following: family awards, product formulations, (e.g., alcohol free/sugar free, flavor, product, size), packaging type based on facility need (e.g., non-metal tubes for correctional facilities, etc.), drugs not carried by Authorized Wholesalers, drugs not eligible for reimbursement by Medicaid, look-alike/sound-alike products, products with tall-man lettering, products with unit-of-use barcoding, specific products requested by Members, recall situations, product availability and shortages, quality concerns, failure to supply situations, and in situations that are in the best interest of MMCAP Infuse and its Members.
- 2.3 **First DataBank, Inc.** All contracted prescription Products must have an 11-digit NDC code that is registered with First DataBank, Inc., unless such designation is expressly waived by MMCAP Infuse.
- A. If NDC codes are not applicable (e.g., OTC products), Vendor must use the product's UPC number to create an 11-digit number by adding a zero to the sixth position (e.g., 5-5 [99999-99999] becomes 5-4-2 [99999-0999-99]). If the Product does not have an NDC number or a UPC code, Vendor must use its product number with leading zeroes (e.g., product #90024 = 00000-0900-24).
  - B. Vendor must report Products to Authorized Wholesalers using only these approved formats.

- 2.4 **Product Discontinuation.** With the exception of a recall, If the Vendor assigns, discontinues, or deletes a Product during the Agreement, Vendor must provide written notice to MMCAP Infuse and Authorized Wholesaler at least sixty (60) days prior. If the Vendor removes a Product, Vendor will honor Contract Pricing until the Authorized Wholesalers' inventories are depleted or a mutually agreed upon removal date.
- 2.5 **Price Audits and Corrections.** In the event of a Contract Pricing error that is attributable to the Vendor, Vendor agrees to accept credit/rebills for the past twelve (12) calendar months. When MMCAP Infuse discovers an error in pricing, it will notify Vendor.
- 2.6 **Product Recalls.** Vendor will supply a copy of its returned goods/credit policy to MMCAP Infuse and/or Authorized Wholesalers upon request.
- 2.7 **Returned Goods/Credits.**
- A. Indirect sales: Product(s) not purchased directly from Vendor should be returned to the site of purchase under their terms of sales. Indirectly purchased product(s) can be returned to Sanofi Pasteur upon expiration for destruction only.
  - B. Direct Sales: All returns must comply with federal and state laws and regulations. With the exception of the products listed below, Vendor offers 100% credit (credit based on the invoice purchase price) upon expiration on all listed Vendor Product(s) purchased directly from Vendor that are returned within 1 year after the expiration date. All expired Product(s) must be shipped prepaid to:  
  
Sanofi Pasteur c/o Inmar, Inc.  
4332 Empire Road, South Dock,  
Fort Worth, TX 76155.
- i. Collect shipments will not be accepted. All returns must have a Return Authorization form completed on the Inmar portal at <https://returns.healthcare.inmar.com>. Please contact Vendor Customer Service for instructions on returning product due to physical defect or for purchases not made directly from Vendor. All Product(s) manufactured by Vendor and returned to Vendor at Inmar, Inc. will be destroyed. If Members have any questions regarding the Return Authorization or Return Goods Policy, please contact Customer Service at Vendor's headquarters at 1-800-VACCINE (1-800-822-2463).
  - ii. Vendor's Return Goods Policy is subject to change without prior notification, and does not provide any return rights for:
    - Imogam® Rabies-HT, Rabies Immune Globulin (Human) USP, Heat Treated
    - YF-VAX®, Yellow Fever Vaccine
  - iii. Vendor reserves the right to designate additional specific Products or Product configurations as not returnable for exchange or credit.
  - iv. Further, Vendor shall not be responsible for, and shall not accept returns of, Product(s) adversely affected by force majeure conditions, including but not limited to power outages, flood or other utility or weather-related occurrences.
  - v. Vendor Representatives are not permitted to deliver or pick up Product(s) from Members for return.
  - vi. Vendor Representatives may offer information about the return policy; however, the ultimate decision and the responsibility for selecting the items and making the return rest with the Member. Vendor's Products supplied through the federal Vaccines for Children program of any other government program contract where Product(s) are purchased under special conditions will not be exchanged or replaced. Vendor will continue to accept these product(s) for proper disposal.
- 2.8 **Backorders.** Vendor must provide written notice of all Product backorders expected to last longer than thirty (30) calendar days and/or inability to supply situations to MMCAP Infuse within twenty-four (24) hours of the knowledge of the situation. Notices must include the reason(s) for and the expected duration of the issue. Notices must be sent to: [MMCAP\\_Infuse.Contracts@state.mn.us](mailto:MMCAP_Infuse.Contracts@state.mn.us).
- 2.9 **Failure to Supply (FTS).** Deleted in its entirety.

### **ARTICLE III** **PAYMENT, DIRECT ORDERS, AND DELIVERY**

- 3.1 **Conditions of Payment.** All Products provided by the Vendor under this Agreement must be performed to the satisfaction of MMCAP Infuse and the Member, and in accordance with all applicable federal, state, and local laws, ordinances, rules, and regulations. The Vendor will not receive payment for work found by MMCAP Infuse to be unsatisfactory or performed in violation of federal, state, or local law.
- 3.2 **Payment Method.** Vendor will accept Electronic Funds Transfer (EFT), credit card, or P-Card as a payment method and Member will initiate this process with its financial institution. Arrangements for establishing payment via Electronic Funds Transfer (EFT) may be made by contacting Sanofi Pasteur, Credit Services at 1-800-822-2463.

- 3.3 **Federal Funds.** Payments under this Agreement may be made from federal funds. The Vendor is responsible for compliance with all federal requirements imposed on these funds and accepts full financial responsibility for any requirements imposed by the Vendor's failure to comply with federal requirements.
- 3.4 **Orders.** As a condition for purchasing under this Agreement, purchasers must be Members in good standing with MMCAP Infuse. Vendor may use their own Order Forms. To the extent that the terms of any Order Form(s) conflict with the terms of this Agreement, the terms of this Agreement supersede. Each Member will be responsible for payment for Products to the Vendor and MMCAP Infuse will not be liable for any unpaid invoice of any Member. Vendor agrees to invoice the Members as established in this Agreement.
- A. The use of obtaining a Product from the Order Form constitutes a binding contract. All Products furnished will be subject to inspection and acceptance by the ordering entity after delivery. No substitutions or cancellations are permitted without written approval of the Member. Back orders, failure to meet delivery requirements, or failures to meet specifications in the Order Form and/or the Agreement authorizes the ordering entity to cancel the order, or any portion of it, purchase elsewhere, and charge the full increase in cost and administrative handling to the Vendor.
- 3.5 **Termination of Individual Orders.** Members may terminate, immediately or as identified by Member, individual Order Forms, in whole or in part, upon written notice to Vendor upon the occurrence of any of the following events:
- A. The Member fails to receive funding, or appropriations, limitations or other expenditure authority at levels sufficient to pay for Products to be purchased under the Order Form;
- B. Federal or state laws, regulations, or guidelines are modified or interpreted in such a way that either the purchase of the Contract Items under the Order Form are prohibited, or the Member is prohibited from paying for the Products from the planned funding source; or
- C. Vendor commits any material breach of this Agreement or Order Form.
- Upon receipt of written notice of termination, Vendor will stop performance under the Order Form as directed by the Member. If a standing Order Form is terminated, the Member must pay Vendor in accordance with the terms of this Agreement for goods delivered and accepted by the Member.
- 3.6 **Jurisdiction and Venue of Orders.** Upon completion of the Dispute Resolution process outlined in this Agreement, and solely with the prior written consent of MMCAP Infuse and the State of Minnesota Attorney General's Office, the Member may bring a claim, action, suit, or proceeding against Vendor. The Member's request to MMCAP Infuse to bring the claim, action, suit, or proceeding must identify the desired jurisdiction, venue, and governing law. As it applies to purchases made by a Member, nothing in the Agreement will be construed to deprive the Member of its sovereign immunity, or of any legal requirements, prohibitions, protections, exclusions, or limitations of liability applying to this Agreement or afforded by the Member's law.
- 3.7 **Shipment for Products.** Vendor must distribute and deliver the Products covered under this Agreement to all Members, including the states of Alaska and Hawaii. If the Member account is in good standing, the Vendor will at no time, refuse to deliver to any Member without the prior written approval by the Member and MMCAP Infuse. Delivery for Products under this Agreement shall be FOB Destination, freight prepaid is allowed, unless otherwise agreed to by Vendor and Member. Vendor will not add any fuel surcharges to the purchase under this Agreement. Notwithstanding the foregoing, emergency orders, rush orders, orders for products not regularly stocked by Vendor's local servicing distribution center, products dropped shipped from Vendor's contracted supplier, and orders not regularly scheduled are subject to an added shipping and handling charge determined by Vendor and disclosed to Member before a purchase is made.
- A. Delivery Schedule: Upon request from Member, Vendor will work with Member to establish a routine delivery schedule. Delivery for stock items will occur within three (3) business days, from the date the Product is ordered. It is understood that deliveries to Alaska or Hawaii may take longer. All expedited deliveries will be made next day, or on the next scheduled delivery day (excluding Alaska and Hawaii), unless communicated otherwise. Should any Member have a question regarding a shipment, please contact a Sanofi Pasteur Representative or call Customer Account Management at Sanofi Pasteur's corporate headquarters, toll-free at 1-800-VACCINE (1-800-822-2463), Monday through Friday, between 8:30 AM and 6:00PM Eastern Time.
- B. Hazardous Materials: Vendor will only ship hazardous materials as allowed by the appropriate government regulations.
- C. Damaged Products: All damaged Products will be reported to Vendor's customer service department and applicable credits will be issued within ten (10) days from date of notification of the damaged item.
- D. Lost Products: All lost Products will be reported to Vendor's customer service department. Vendor will issue credit within ten (10) days of notification of lost Product; alternatively, re-shipment of missing Product will occur immediately after notification.
- E. No Minimum Order Requirements: During the Agreement, there will be no minimum order requirements or extra charges assessed to orders, regardless of order size or payment amount.
- F. Special Conditions for Products: If applicable to the Products offered under this Agreement, Vendor will maintain appropriate temperatures and environmental conditions in accordance with manufacturer requirements for delivery of the Products to the Members. All refrigerated Products will be shipped in returnable coolers or disposable coolers with appropriate packaging to maintain the required temperature range. Products requiring refrigeration will be clearly marked as such. Temperature monitors will be used

if they are required by the manufacturer. If Member refuses Products that have been inadequately packaged, the Member will notify Vendor's customer service department to log the complaint. Any costs associated with the return of Product due to improper packaging or transport, will be at the expense of the Vendor.

- 3.8 **Invoicing.** Vendor will submit an invoice with each order.
- A. **Invoice Fields:** At a minimum, Vendor's invoice will contain the following fields:
- i. Member name and Vendor-assigned account number for the Member;
  - ii. Invoice line number and Member's order number (Member must provide an order number at the time of order for this to appear on Vendor's invoice);
  - iii. Bill to and ship to address;
  - iv. Invoice date;
  - v. Vendor's SKU item number, Product name/description and packaging as associated with NDC number (if applicable to this Agreement);
  - vi. Unit price, quantity ordered, quantity shipped, extension (unit price multiplied by the quantity shipped), and total invoice price; and
  - vii. Applicable omit codes (e.g., manufacturer backorder, manufacturer discontinued, etc.).
- B. **Invoice Disputes:** Member will notify Vendor of any known dispute with an invoice within fifteen (15) days from receipt of the invoice. If all, or a portion of the disputed invoice is found to be in error, Vendor shall issue a credit and/or adjust the original invoice to the Member appropriately, and provide a corrected invoice. Where the above is prohibited by a Member state's applicable law(s), the Vendor shall comply with requirements of that state's law(s) related to disputed invoices. Vendor will make a good faith effort to resolve known disputes related to Agreement pricing within thirty (30) days of notice of the dispute. This clause will in no way be deemed a limitation on the parties, as it relates to the future auditing and/or correction of invoices.
- i. In the event that applicable state law mandates set-off by a Member, such set-off rights shall be exercised only to the extent expressly set forth in the applicable statute.
- 3.9 **Payment Terms.** Direct terms are 2% - 30/Net 31 for any items shipped, including partial shipments. Prompt payment discount does not apply to any appropriate Federal Excise taxes/Surcharges. An additional 1% savings is available for all orders placed online through [www.vaccineshoppe.com](http://www.vaccineshoppe.com).
- 3.10 **Credits and Rebills.** Vendor will process credits and rebills as notifications are received from a Member. In the case of an invoice dispute, Vendor will promptly issue credits/rebills, after the Dispute Resolution process set forth in this Agreement.
- A. Vendor credits are valid until they are refunded or the account has used payment.
  - B. In the event of a facility closure, or other extreme event where the Member will not be making another purchase through Vendor, the Member may cash out its credit(s).
  - C. If directed by a Member, a credit can be transferred from one account to another account.
  - D. The Vendor will take all commercially reasonable steps to ensure that credits that become available close to the end of the Member's fiscal year, are activated for use by the Member no later than five (5) days before the end of the fiscal year.
  - E. Vendor's credit memo will contain, but is not limited to the following information:
    - i. original order number and invoice number;
    - ii. itemized listing of the Product affected;
    - iii. any new invoices associated with the credit; and
    - iv. Net credit amount available to the Member.
- 3.11 **Price Audits and Corrections.** In the event of a Contract Pricing error that is attributable to the Vendor, Vendor agrees to process credit/rebills for the past six (6) calendar months. When a Member or MMCAP Infuse discovers an error in pricing, they will notify Vendor.

#### **ARTICLE IV**

#### **TERMINATION, CANCELLATION, AND REMEDIES**

- 4.1 **Cancellation.** MMCAP Infuse may cancel this Agreement any time, without cause, upon sixty (60) days' written notice to the other Vendor.
- 4.2 **Termination for Cause.** Either party may terminate this Agreement at any time on the basis the other party breached this Agreement. The moving party must provide written notice to the other party, which upon the receiving party has sixty (60) days to cure the defects. Upon sixty days (60), the breaching party has not cured the defects, the moving party may terminate this Agreement after ten (10) subsequent days.
- 4.3 **Termination for Insufficient Funding.** MMCAP Infuse may immediately terminate this Agreement if it does not obtain funding from the Minnesota Legislature, or other funding source; or if funding cannot be continued at a level sufficient to allow for the payment of the Products covered here. Termination must be by written or electronic mail notice to the Vendor. MMCAP Infuse is not obligated to pay for any Products that are provided after notice and effective date of termination. However, the vendor will be entitled to payment, determined on a pro rata basis, for

Products satisfactorily performed to the extent that funds are available. Minnesota will not be assessed any costs, fees, or other charges if the Agreement is terminated because of the decision of the Minnesota Legislature, or other funding source, not to appropriate funds. MMCAP Infuse must provide the Vendor notice of the lack of funding within a reasonable time of MMCAP Infuse receiving that notice.

- A. For orders made by a Member, Vendor agrees to the applicable statutory terms of the applicable Member if the Member fails to receive funding, or appropriations, limitations or other expenditure authority at levels enough to pay for the Products.
- 4.4 **Force Majeure.** Parties will not be considered in default in the performance of its obligations in the Agreement to the extent that performance of any such obligations is prevented or delayed by acts of God, war, riot or other catastrophes beyond the reasonable control of the party. Force majeure will not apply to the extent that the act or occurrence could have been reasonably foreseen and reasonable action could have been taken to prevent the delay or failure to perform. A party claiming excuse of performance under this provision must provide the other party prompt written notice of the failure to perform, take commercially reasonable efforts to mitigate the damages caused to all parties, and take all necessary steps to bring about performance as soon as practicable.
- 4.5 **Breach.** In the event of a breach of this Agreement, MMCAP Infuse and Members reserve the right to pursue any other remedy available by law. Vendors may be removed from the Vendor's list; suspended; or debarred from receiving a contract for failure to comply with terms and conditions of the Agreement.
- 4.6 **Failure to Perform.** Upon failure to perform the following items in the time and manner as set forth herein, the following fees shall be paid by Vendor:
- A. **Late Administrative Fee Payments:** As provided for in statute for late payments to the State of Minnesota.
- 4.7 **Dispute Resolution.** Vendor and MMCAP Infuse will handle dispute resolution for unresolved issues using the following procedure.
- A. **Notification.** Parties shall promptly notify each other of any known dispute and work in good faith to resolve such dispute within a reasonable period of time.
  - B. **Escalation.** If parties are unable to resolve the issue in a timely manner, as specified above, either MMCAP Infuse or Vendor may escalate the resolution of the issue to a higher level of management. When escalated a teleconference will be scheduled between MMCAP Infuse and the Vendor to review the dispute and develop a proposed resolution and plan of action.
  - C. **Performance while Dispute is Pending.** Notwithstanding the existence of a dispute, the Vendor must continue without delay to carry out all of their responsibilities under the Agreement that are not affected by the dispute. If the Vendor fails to continue without delay to perform its responsibilities under the Agreement, in the accomplishment of all undisputed work, any additional costs incurred by MMCAP Infuse and/or Members as a result of such failure to proceed shall be borne by the Vendor.
  - D. **No Waiver.** This clause shall in no way limit or waive either party's right to seek available legal or equitable remedies.

## **ARTICLE V** **MEMBERSHIP**

- 5.1 **Onboard, Transition, and Implementation.** If the Vendor requires additional paperwork for Members to acquire the Products, Vendor will work with MMCAP Infuse and Members to determine the appropriate steps and schedule for an onboard and transition. Vendor's documents and/or procedure for implementing and transitioning Members to this Agreement is set forth on **Attachment C**.
- 5.2 **Membership Listing.** MMCAP Infuse will provide Vendor a complete listing of the Membership. MMCAP Infuse reserves the right to add and remove Members during the Contract Term.
- A. **New Members.** The Vendor must allow new Members to access to the Agreement the Onboarding Date. As new Members are added, MMCAP Infuse will provide Vendor with monthly e-mail notices announcing a new Membership list has been posted.
  - B. **Removing Members.** Vendor must provide MMCAP Infuse written notification at least thirty (30) days prior to removing any Member. If MMCAP Infuse does not receive notification that a Member has been removed from Contract Pricing, Vendor will honor Contract Pricing for the Member for thirty (30) days after MMCAP Infuse receives the written notice.
- 5.3 **Membership Eligibility.** Upon request, Vendor will send an electronic eligibility list identifying which Members are eligible for contract pricing to: MMCAP\_Infuse.Contracts@state.mn.us.
- A. If the Vendor has eligibility requirements, Vendor must provide MMCAP Infuse access to Vendor's online contract and eligibility management system in addition to providing MMCAP Infuse the algorithm it uses to categorize a Member's into a class of trade.
- 5.4 **Non-Solicitation.** During the term of this Agreement, Vendor will not solicit any Members or prospective Members to enter into or negotiate a separate contract or agreement for the same or substantially equivalent products and services offered in this Agreement without MMCAP Infuse's prior written consent. Vendor is not prohibited from responding to a request for proposals issued by a Member that may include Products and services covered by this Agreement.

- 5.5 **DEA License/HIN.** Unless the Member purchases a controlled substance, the Vendor may not require that a Member have a Drug Enforcement Administration number assigned to it in order to be eligible for contracted prices. The Vendor may require a Health Industry Number from Member.
- 5.6 **Product Use.** All items acquired by Members under this Agreement are purchased for consumption in traditional governmental functions and not for the purpose of competing against private enterprise.

## **ARTICLE VI AGREEMENT MANAGEMENT**

- 6.1 **Primary Account Representative.** Vendor will assign a Primary Account Representative to MMCAP Infuse for this Agreement and must provide a minimum of seventy-two (72) hours advanced notice to MMCAP Infuse if that person is reassigned. In the event that the Primary Account Representative is unresponsive or does not meet MMCAP's Infuse needs, the Vendor will assign another Primary Account Representative upon MMCAP Infuse's request. The Primary Account Representative will be responsible for:
- A. Proper maintenance and management of the Agreement, including timely execution of all amendments.
  - B. Timely response to all MMCAP Infuse inquiries
  - C. Performance of the business review as described in *Paragraph 6.2*.
  - D. Personnel Changes. Vendor will provide MMCAP Infuse with written advance notice of changes to the Primary Account Representative. In the event that an employee is removed pursuant to a written request from MMCAP Infuse, the Vendor will have ten (10) business days in which to fill the role with an acceptable employee.
- 6.2 **Business Reviews.** Vendor will perform at least one business review with MMCAP Infuse annually. The review will be at a time and location that is mutually agreeable to Vendor and MMCAP Infuse and at a minimum address: a review of sales to members, pricing and contract terms, administrative fees and reporting, supply issues, customer issues, and any other necessary information.

## **ARTICLE VII WARRANTS, COVENANTS, AND DUTIES OF VENDOR**

- 7.1 **Covenant of Laws.** Vendor shall comply with all state and federal laws, as applicable to each Member, in the performance of this Agreement.
- 7.2 **Required Licenses, Permits, and Registration.** Vendor shall have in place prior to the start of the Agreement, and must maintain for the life of the Agreement, all current licenses, permits and registrations required by state and federal agencies. Vendor must make such documentation available upon request by MMCAP Infuse.
- 7.3 **FDA-Certified Drug Application.** The Vendor acknowledges that each Product has, if required by law, an FDA-certified New Drug Application, an Abbreviated New Drug Application, or a Biologics License Application on file and accepts the liability with which such application confers. The Vendor guarantees to furnish Products that have not been adulterated or misbranded within the meaning of the Federal Food, Drug and Cosmetic Act, or any regulation of the Federal Food and Drug Administration, or as required by each member state's Board of Pharmacy.
- 7.4 **cGMP** Vendor certifies that it is in compliance with the Food and Drug Administration's current "Good Manufacturing Practices" (cGMP) (as codified in 21 C.F.R. § 201-211) and the current United States Food, Drug, and Cosmetic Act. If the Vendor receives a 483 or similar type warning letter for any Product, it must be provided to MMCAP Infuse within ten (10) days of receipt by Vendor.
- 7.5 **Debarment.** Vendor warrants and certifies that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from programs operated by the State of Minnesota, the United States federal government, or any Member; and has not been convicted of a criminal offense related to the subject of this Agreement. Vendor further warrants that it will provide immediate written notice to the MMCAP Infuse if at any time it learns that this certification was erroneous when submitted or becomes erroneous by reason of changed circumstances.
- A. Certification regarding debarment, suspension, ineligibility, and voluntary exclusion: Federal money will be used or may potentially be used to pay for all or part of the work under the Agreement, therefore Vendor certifies that it is in compliance with federal requirements on debarment, suspension, ineligibility and voluntary exclusion specified in the solicitation document implementing Executive Order 12549.
- 7.6 **Indemnification.** Pursuant to the Minnesota Constitution Article XI Section 1, MMCAP Infuse cannot indemnify the Vendor. Except for causes due to MMCAP Infuse's or Members' sole negligence, Vendor will defend and hold harmless MMCAP Infuse, including MMCAP Infuse's, Members, agents, directors, employees, attorneys, and other representatives during and after this Agreement from and against all actual and potential claims relating to loss, liability, damage, costs and expenses (including attorneys' fees and legal costs), causes of action, regulatory proceedings, suits, demands, or judgements relating to Vendor's:
- A. Intentional, willful, or negligent acts or omissions;

- B. Fraud and or deceit;
  - C. Actions that give rise to strict liability;
  - D. Breach of contract;
  - E. Breach of warranty;
  - F. Violations of federal, state, or local laws, orders, and/or policies;
  - G. Employees or subcontractors' criminal and civil claims; and/or
  - H. Failure to pay fees, charges, expenses, taxes, or other debts to third parties.
- 7.7 **Antitrust.** The Vendor hereby assigns to the State of Minnesota any and all claims for overcharges as to services provided in connection with this Agreement resulting from antitrust violations that arise under the antitrust laws of the United States and the antitrust laws of the State of Minnesota, and/or the antitrust laws of any Member unless otherwise assigned directly to that Member by Vendor with MMCAP Infuse's approval.

### **ARTICLE VIII ADMINISTRATIVE FEE**

8.1 **Administrative Fee.** In consideration for the administrative support and other services provided by MMCAP Infuse in connection to this Agreement, the Vendor agrees to pay an Administrative Fee on all contract purchases (minus any credits and exclusive of excise tax) made through the MMCAP Infuse Authorized Wholesalers or directly with the Vendor. The Vendor will submit a check payable to "Financial Management & Reporting – MMCAP Infuse" for an amount equal to 1.5% of MMCAP Infuse Members' purchases for all Products.

- A. Vendor must provide Administrative Fee data to MMCAP Infuse within ten (10) business days, but not later than thirty (30) days, after the end of each calendar month. The administrative fee must be paid as soon as is reasonable after the end of each quarter, but no later than forty-five (45) calendar days after the end of the quarter. The Vendor will submit a check payable to:

Financial Management & Reporting – MMCAP Infuse  
50 Sherburne Avenue, Suite 309  
St. Paul, MN 55155

- B. Vendor shall not be required to pay the Administrative Fees on tax amounts, returns, or other shipments for which Vendor did not collect payment.

8.2 **Reporting.** The Vendor must submit a monthly Administrative Fee Data Report that includes both direct (sales made direct from Vendor to Member) and indirect purchases (sales made through an Authorized Wholesaler). The Administrative Fee Data Report must contain the fields detailed below. All Administrative Fee Data Reports must be sent to: [mmcap.infuse@state.mn.us](mailto:mmcap.infuse@state.mn.us) within ten (10) business days at the end of each month, but no later than thirty (30) days after the end of the month. The required items for the reports are found on **Attachment D**.

- A. Administrative Fee Data Report fields:
  - i. MMCAP Infuse Assigned Authorized Wholesaler Number (Cardinal=0301, AmerisourceBergen=0401, Morris & Dickson=0701)
  - ii. MMCAP Infuse Assigned Manufacturer Number
  - iii. Direct or Indirect Purchase Indicator (I=Indirect, D=Direct)
  - iv. Invoice Date (Point of Sale Date)
  - v. Invoice Number
  - vi. MMCAP Infuse Participating Facility Name
  - vii. Vendor's Account Number for the MMCAP Infuse Facility
  - viii. MMCAP Infuse Participating Facility DEA Number, if applicable
  - ix. MMCAP Infuse Participating Facility HIN Number, if applicable
  - x. MMCAP Infuse Participating Facility Address
  - xi. MMCAP Infuse Participating Facility City
  - xii. MMCAP Infuse Participating Facility State
  - xiii. Product's NDC (Use all 11 digits (00076888888))
  - xiv. Product Name (e.g. Acetaminophen with Codeine, Acticin Cream 5%)
  - xv. Credit Indicator (C = credit)
  - xvi. Contracted Units (The number of units purchased on contract.)
  - xvii. MMCAP Infuse Contracted Unit Price
  - xviii. Administrative Fee Decimal Percentage (The contracted administrative fee percentage for the NDC number. Report as a decimal (e.g. 0.030))
  - xix. Vendor Contracted Sales (Contracted Units \* Contracted Unit Price. Report in dollars)  
Administrative Fee Payment Amount (Administrative Fee Decimal Percentage \* Vendor Contracted Sales. Report in dollars)

## **ARTICLE IX INTELLECTUAL PROPERTY**

- 9.1 **MMCAP Infuse Ownership.** MMCAP Infuse owns all rights, title, and interest in MMCAP Infuse customer data, sales transaction data, DEA/HIN information (subject to third-party rights), contract pricing, EDI transaction data, reverse distribution data, and payment data, including copyrights and trade secrets contained therein. MMCAP Infuse grants to Vendor an affiliate, non-revocable, nontransferable, fully paid license, for the term of this Agreement, to: (A) release state specific data to a Member's primary contact; (B) release any of the above data to product manufacturers, when necessary for the performance of this Agreement or as required by Vendor's agreements with such product manufacturers; (C) to release any of the above data to other MMCAP Infuse approved third parties, when necessary for the performance of this Agreement; (D) to provide Member purchase data to aggregators, including IQVIA and NDC Health, subject to Vendor's reasonable efforts to require such data aggregators to protect any identifiable data from discovery by another third party; and (E) to provide Member purchase data to other group purchasing organizations of which the Member is also a member, provided such data will not include MMCAP Infuse-identifiable data. Any MMCAP Infuse identifiable data provided hereunder to a third party must identify the data as MMCAP Infuse data and subject to Minnesota Statutes, Chapter 13. To the extent permitted by law, Vendor hereby agrees that in the event that MMCAP Infuse or a Member requests in writing that its purchase data be kept confidential, such data will not be provided to third party aggregators.
- 9.2 **Vendor Ownership.** Vendor owns all rights, title, and interest to any aggregated data not identifiable as arising from this Agreement and any other intellectual property created for or presented to MMCAP Infuse. Vendor grants to MMCAP Infuse an unlimited, non-revocable, non-transferable, fully paid, perpetual license, to use all intellectual property created for or presented to MMCAP Infuse under this Agreement.
- 9.3 **Pre-Existing Intellectual Property.** MMCAP Infuse and Vendor will each retain ownership of, and all right and, title and interest in and to, their respective pre-existing intellectual property. The Vendor grants Minnesota a perpetual, irrevocable, non-exclusive, royalty free license for Vendor's pre-existing intellectual property that are incorporated in the products, materials, equipment, deliverables, or services that are purchased through the Agreement. The aforementioned license is solely for use by Members, and their agents related to an internal business or governmental purposes.
- 9.4 **Intellectual Property Indemnification.** The Vendor will indemnify; defend, to the extent permitted by the Attorney General; and hold harmless MMCAP Infuse, at the Vendor's expense, from any action or claim brought against MMCAP Infuse to the extent that it is based on a claim of an infringement upon the intellectual property rights of others. The Vendor will be responsible for payment of any and all such claims, demands, obligations, liabilities, costs, and damages, including but not limited to, attorney fees. If such a claim or action arises, or in the Vendor's or MMCAP Infuse's opinion is likely to arise, the Vendor must, at the MMCAP Infuse's discretion, either procure for the MMCAP Infuse the right or license to use the intellectual property rights at issue or replace or modify the allegedly infringing works or documents as necessary and appropriate to obviate the infringement claim. This remedy of the MMCAP Infuse will be in addition to and not exclusive of other remedies provided by law.
- 9.5 **Publicity and Endorsement.** Any publicity regarding the subject matter of this Agreement must identify MMCAP Infuse as a sponsoring or endorsing agency and must not be released without prior written approval from MMCAP Infuse. For purposes of this provision, publicity includes notices, informational pamphlets, press releases, research, reports, signs, and similar public notices prepared by or for the Vendor individually or jointly with others, or any subcontractors, with respect to the program, publications, or services provided resulting from this Agreement.
- A. **Marketing.** Any direct advertising, marketing, or direct offers with Members must be approved by MMCAP Infuse. Violation of this may be cause for immediate cancellation of this Agreement and/or MMCAP Infuse may reject any proposal submitted by the Vendor in any subsequent solicitations for awards.
- B. **Endorsement.** The Vendor must not claim that MMCAP Infuse, the State of Minnesota, or any Member State endorses its products or services.

## **ARTICLE X INSURANCE**

- 10.1 **Notice.** The Vendor is required to submit Certificates of Insurance acceptable to MMCAP Infuse as evidence of insurance coverage requirements prior to commencing work under the Agreement. Vendor will not commence work under the Agreement until they have obtained all the insurance described below and MMCAP Infuse has approved such insurance. Vendor shall maintain such insurance in force and effect throughout the term of the Agreement. The failure of MMCAP Infuse to obtain a Certificate of Insurance, for the policies required under this Agreement or renewals thereof, or failure of the insurance company to notify MMCAP Infuse of the cancellation of policies required under this Agreement shall not constitute a waiver by MMCAP Infuse to the Vendor to provide such insurance. MMCAP Infuse reserves the right to immediately terminate the Agreement if the Vendor is not in compliance with

the insurance requirements and retains all rights to pursue any legal remedies against the Vendor. All insurance policies must be open to inspection by MMCAP Infuse and copies of policies must be submitted to MMCAP Infuse. The Vendor's insurance company(ies) waives its right to assert the immunity of the State as a defense to any claims made under said insurance.

10.2 **Additional Insurance Conditions.**

- A. Vendor's policy(ies) shall be primary insurance to any other valid and collectible insurance available to MMCAP Infuse with respect to any claim arising out of Vendor's performance under this Agreement;
- B. If Vendor receives a cancellation notice from an insurance carrier affording coverage herein, Vendor agrees to notify MMCAP Infuse within five (5) business days with a copy of the cancellation notice, unless Vendor's policy(ies) contain a provision that coverage afforded under the policy(ies) will not be cancelled without at least thirty (30) days advance written notice to MMCAP Infuse;
- C. Vendor is responsible for payment of Agreement related insurance premiums and deductibles;
- D. If Vendor is self-insured, a Certificate of Self-Insurance must be attached;
- E. Vendor's policy(ies) shall include legal defense fees in addition to its liability policy limits;
- F. Vendor's insurance companies must either (1) have an AM Best rating of A- (minus) and a Financial Size Category of VII or better, and be authorized to do business in the State of Minnesota or (2) be domiciled in the State of Minnesota and have a Certificate of Authority/Compliance from the Minnesota Department of Commerce if they are not rated by AM Best; and
- G. An Umbrella or Excess Liability insurance policy may be used to supplement the Vendor's policy limits to satisfy the full policy limits required by the Agreement.

10.3 **Coverage.** Vendor is required to maintain and furnish satisfactory evidence of the following insurance policies:

- A. Workers' Compensation Insurance: Except as provided below, Vendor must provide Workers' Compensation insurance for all its employees and, in case any work is subcontracted, Vendor will require the subcontractor to provide Workers' Compensation insurance in accordance with the statutory requirements of the State of Minnesota, including Coverage B, Employer's Liability. Insurance minimum limits are as follows:
  - i. \$100,000 – Bodily Injury by Disease per employee
  - ii. \$500,000 – Bodily Injury by Disease aggregate
  - iii. \$100,000 – Bodily Injury by Accident

If Minnesota Statute 176.041 exempts Vendor from Workers' Compensation insurance or if the Vendor has no employees in the State of Minnesota, Vendor must provide a written statement, signed by an authorized representative, indicating the qualifying exemption that excludes Vendor from the Minnesota Workers' Compensation requirements. If during the course of the Agreement the Vendor becomes eligible for Workers' Compensation, the Vendor must comply with the Workers' Compensation Insurance requirements herein and provide MMCAP Infuse with a certificate of insurance.

- B. Commercial General Liability Insurance: Vendor is required to maintain insurance protecting it from claims for damages for bodily injury, including sickness or disease, death, and for care and loss of services as well as from claims for property damage, including loss of use which may arise from operations under the Agreement whether the operations are by the Vendor or by a subcontractor or by anyone directly or indirectly employed by the Vendor under the Agreement. Insurance minimum limits are as follows:
  - i. \$5,000,000 – per occurrence
  - ii. \$5,000,000 – annual aggregate
  - iii. \$5,000,000 – annual aggregate – Products/Completed Operations
  - iv. The following coverages shall be included:
    - a. Premises and Operations Bodily Injury and Property Damage
    - b. Personal and Advertising Injury
    - c. Blanket Contractual Liability
    - d. Products and Completed Operations Liability
    - e. MMCAP Infuse named as an Additional Insured, to the extent permitted by law
- C. Network Security and Privacy Liability Insurance, Including Ransomware (or equivalent): Vendor will maintain insurance to cover claims which may arise from failure of Vendor's security resulting in, but not limited to, computer attacks, unauthorized access, disclosure of not public data including but not limited to confidential or private information, transmission of a computer virus or denial of service. Insurance minimum limits are as follows:
  - i. \$2,000,000 – per occurrence
  - ii. \$2,000,000 – annual aggregate
- D. Professional/ Technical, Errors and Omissions, and or Miscellaneous Liability Insurance: This policy will provide coverage for all claims the Vendor may become legally obligated to pay resulting from any actual or alleged negligent act, error, or omission related to the Vendor's services required under the Agreement. Insurance minimum limits are as follows:
  - i. \$2,000,000 – per occurrence
  - ii. \$2,000,000 – annual aggregate

**ARTICLE XI**  
**GENERAL TERMS**

- 11.1 **Notices.** If one party is required to provide legal notice or notice under the terms of the Agreement to the other, such notice will be in writing and will be effective upon dispatch. Delivery shall be by certified United States mail, or by email or facsimile transmission provided the receipt of the transmission is confirmed by the receiving party. Either party must notify the other of a change in address for notification purposes.
- 11.2 **Audits.** Under Minn. Stat. § 16C.05, subd. 5, the Vendor's books, records, documents, and accounting procedures and practices relevant to this Agreement are subject to examination by the Minnesota, MMCAP Infuse, and/or the Minnesota Auditor or Legislative Auditor, as appropriate, for a minimum of six (6) years from the end of this Agreement. This clause extends to the Membership as it relates to business conducted with and sales a Member.
- A. Invoice and Pricing Audit. MMCAP Infuse and Members served by this Agreement may periodically audit validity of invoice pricing. Such audits may be conducted only during ordinary business hours and upon reasonable notice.
- B. Costs. Vendor, MMCAP Infuse, and Members shall each be responsible for its own costs associated with any audit, including costs related to the production of records and/or other documents requested by the other party.
- 11.3 **Assignment.** The Vendor may neither assign nor transfer any rights or obligations under this Agreement without the prior consent of MMCAP Infuse and a fully executed assignment agreement.
- 11.4 **Amendments.** Any amendment to this Agreement must be in writing and will not be effective until it has been executed and approved by the same parties who executed and approved this Agreement, or their successors in office.
- 11.5 **Order of Precedence.** Vendor agrees that applicable federal and state law will supersede this Agreement, however this Agreement will take precedence over all other the terms, covenants, conditions, commitments, stipulations, order forms, website use of terms, Offer Letters, and other legal documents MMCAP Infuse, Vendor, and/or Member may use in the performance of this Agreement. If the provisions of this Agreement are inconsistent, or are modified, diminished, or derogated with any of the terms and provisions of the aforementioned legal documents in this section, this Agreement will supersede and govern. MMCAP Infuse does not agree to or bound by any additional terms and conditions between the Vendor and Member.
- 11.6 **Counterparts and Electronic Signature.** The Agreement cannot be executed in counterparts and will not be enforceable until MMCAP Infuse has obtained all required signatures. If requested by MMCAP Infuse and Vendor expressly agree to conduct transactions under the Agreement by electronic means (including, without limitation, with respect to execution, delivery, storage, and transfer of this Agreement by electronic means and to the enforceability of this electronic agreement). MMCAP Infuse will be deemed to have control of the authoritative copy for the electronic transferable record, in each case regardless of whether applicable law recognizes electronic transferable records or control of electronic transferable records and regardless of whether this Agreement is an electronic record or transferable record.
- 11.7 **Severability.** If any provision of the Agreement, including items incorporated by reference, is found to be illegal, unenforceable, or void, then both MMCAP Infuse and the Vendor will be relieved of all obligations arising under such provisions. If the remainder of the Agreement is capable of performance, it will not be affected by such declaration or finding, and will be fully performed.
- 11.8 **Waiver.** If either party fails to enforce any provision of this Agreement, that failure does not waive the provision or its right to enforce it.
- 11.9 **Governing Law, Jurisdiction, and Venue.** Minnesota law, without regard to its choice-of-law provisions, governs this Agreement. Venue for all legal proceedings out of this Agreement, or its breach, must be in the appropriate state or federal court with competent jurisdiction in Ramsey County, Minnesota.

**[END OF AGREEMENT, SIGNATURE PAGE FOLLOWS]**

**VENDOR: Sanofi Pasteur, Inc**

The Vendor certified that the appropriate person(s) have executed this Agreement on behalf of the Vendor as required and by applicable articles, bylaws, resolutions, or ordinances.

Name: Mackenzie Fetterman  
Signature: *Mackenzie Fetterman*  
Title: Deputy Director, Government Accounts  
Date: 6/19/2020

**STATE OF MINNESOTA FOR MMCA  
INFUSE**

In accordance with Minn. Stat. § 16C.03, subd. 3

Name: DocuSigned by: James Babbitt  
Signature: *James Babbitt*  
Date: DDE5B1490A484FC 6/19/2020

**COMMISSIONER OF ADMINISTRATION**

In accordance with Minn. Stat. § 16C.05, subd. 2

Sara Turnbow

Name: DocuSigned by:  
Signature: *Sara Turnbow*  
Date: 694A8F1D2CF54DE... 6/19/2020

[Signature Page]

**ATTACHMENT B**  
**VaxValue Program**

**VAXVALUE AGREEMENT**

Member Name:	<Enter Member Name>
Address:	
Primary Contact & Title:	
Email of Primary Contact:	
Agreement Number:	
Term (3 years):	Month 1, 2020 – Month XX, 2023
Measurement Periods:	Year 1- XXX-XXX Year 2- XXX-XXX Year 3- XXX-XXX
Group Purchasing Organization:	<b>MMCAP Infuse</b>
Wholesaler/Distributor:	
Wholesaler/Distributor Address:	

**VaxValue Agreement for <Enter Member Name>**

1. **<Enter Member Name>** is defined to include any office locations (“Practice Locations”) through which **<Enter Member Name>** carries out professional services. Practice Locations are listed in Exhibit A, and references to **<Enter Member Name>** shall include its Practice Locations. **<Enter Member Name>** and its Practice Locations are part of the same legal entity, and constitute a single "buyer," for purposes of the federal health care program anti-kickback law discount exception, 42 U.S.C. § 1320a-7b(b)(3)(A), and safe harbor, 42 C.F.R. § 1001.952(h).
2. According to its immunization protocol, **<Enter Member Name>**, a Member of **MMCAP Infuse** (for itself and, as applicable, its participating Practice Locations) selects (the “Products”) and commits to the Product Category Offer as set forth in Table 1 and based upon the terms and conditions set forth herein:

**Product Category Offer - Table 1**

<b>Qualifying Product Categories and Product Sales Measurement</b>		
	<b>TIER 1</b>	<b>TIER 2</b>
	Must Meet or Exceed 3 of 3 Qualifying Product Categories	Must Meet or Exceed 2 of 3 Qualifying Product Categories
<b>Pediatric:</b> Pentacel, *Pentacel® formulated with Vero cell-derived IPV, Daptacel, Quadracel, ActHIB	80% Category Product Sales	80% Category Product Sales
<b>Boosters:</b> Adacel, Tenivac	80% Category Product Sales	80% Category Product Sales
<b>MenACWY:</b> Menactra, *MenQuadf	80% Category Product Sales	80% Category Product Sales

\* These two products are currently licensed. Available shipping and pricing information will follow in a subsequent update. Addendum AA will be attached to your agreement upon product availability. The format will be consistent with your current pricing addendum. Addendum AA will include Pentacel® formulated with Vero cell-derived IPV and MenQuadfi.

Pricing for current contract year will correspond to meeting or exceeding 80% of Category Product Sales for each Qualifying Product Category for the previous 12 months in Table 1. The pricing for each consecutive year will be based on meeting or exceeding the prior year's Category Product Sales for each Qualifying Product Category.

3. Category Sales are defined as follows:
  - Total Sanofi Pasteur Inc. product purchases (net of any returns, excluding Influenza) of a given Product Category and all competitive vaccines as described in Exhibit B
  - Category Sales are projected based on current membership roster for a twelve (12) month period and will be recalculated each year of this Agreement.
  - Category Sales will be validated by <Enter Member Name> and Sanofi Pasteur within 30 days of execution of this Agreement.
  - In the case of a shortage in a particular Product Category such situations will be reviewed and once mutually agreed upon between Sanofi Pasteur, Inc. and the Member then the Member will be considered to have met the requirements for that Category.

Sanofi Pasteur Inc. may utilize third party sales data to determine Category Sales as identified above and in Exhibit B. Upon availability, Sanofi Pasteur Inc. will utilize Category Sales data as supplied by IQVIA to determine compliance to Product Sales Measurement as identified in this Agreement.

4. Sanofi Pasteur Inc. offers two pricing Tiers. Tiered pricing will be determined for each year based upon the previous twelve (12) months' Category Sales performance in each Qualifying Product Category. Tier evaluation will be based on the following:
  - a. **Tier 1:** Pricing listed in Exhibit C will be earned by meeting or exceeding the qualifying product sales measurement for three (3) out of three (3) Qualifying Product Categories.
  - b. **Tier 2:** Pricing listed in Exhibit C will be earned by meeting or exceeding the qualifying product sales measurement for two (2) out of three (3) Qualifying Product Categories.
5. Initial Tier status determination and evaluation periods:

<Enter Member Name> will initially be placed in the Tier that corresponds to similar current contract level which should be equivalent to meeting or exceeding 80% of Qualifying Product Category Sales for the previous 12 months.

- a. Achievement of Qualifying Product Category Sales will be evaluated on a semi-annual basis. Once the initial Tier is defined, the first review of Qualifying Product Category performance will occur six (6) months after the commencement of this Agreement and every six (6) months thereafter. This will provide an opportunity for both <Enter Member Name> and Sanofi Pasteur Inc. to clearly assess the trends toward meeting or exceeding the agreed upon number of Qualifying Product Categories.
- b. Achievement and determination of Qualifying Product Categories and establishing the agreed upon Tier for the second and third years of the Agreement will be assessed on an annual basis and will occur twelve (12) months and twenty-four (24) months after the commencement of this Agreement. An Amendment defining the Tier level for each of the second and third years of this Agreement will be issued to <Enter Member Name> at the commencement of the second and third years of this Agreement, respectively.
- c. For customers where a Qualifying Product Category Sale is zero, <Enter Member Name> will be placed in a Tier based on the one or more Qualifying Product Category or Categories being met.

<Enter Member Name> will indicate Tier level and Product Category commitment on Page 6 below signature line.

6. Sanofi Pasteur Inc. will review variances from Product Sales Measurements based on market conditions.
7. <Enter Member Name> shall, in connection with this Agreement, comply with all applicable federal and state laws, rules, and regulations. As part of the cost reporting process or otherwise, <Enter Member Name> may be obligated to report and provide information concerning any discounts provided under this Agreement pursuant to 42 U.S.C. § 1320a-7b(b)(3)(A) and/or 42 C.F.R. § 1001.952(h)(1), other federal or state laws, or agreements with third party.
8. Product pricing is stated in Exhibit C which is inclusive of Tier 1 and Tier 2. These prices are subject to change with thirty (30) days written notice during the term of this Agreement based upon market conditions and/or changes to catalog prices. Provided that <Enter

**Member Name**> meets or exceeds the Qualifying Products and Product Sales Measurement set forth in Table 1 above, Sanofi Pasteur agrees that any price increase on any of the Qualifying Products listed in Addendum A excluding Influenza vaccine, will not exceed a total of four percent (4%) within any calendar year (January-December) of this Agreement.

9. Payment terms are 2% 90, net 91 days.

## ADDITIONAL TERMS

10. The term of this Agreement may be renewed for an additional thirty six (36) month period as mutually agreed upon by both parties.
11. Practice Locations: **<Enter Member Name>** shall (1) provide Sanofi Pasteur Inc. with a complete list of Practice Locations participating in this Agreement, and (2) promptly advise Sanofi Pasteur Inc. of any changes, additions or deletions to the list as they occur. All such information must be submitted in an electronic format provided by Sanofi Pasteur Inc. (Exhibit A) via email. The document must contain the required fields as outlined in Exhibit A. Sanofi Pasteur Inc. will process any changes, additions and deletions relating to Exhibit A within forty-five (45) days of receipt. Sanofi Pasteur Inc. reserves the right to exclude certain proposed Practice Locations from coverage under this Agreement upon notice to **<Enter Member Name>**. Sanofi Pasteur Inc. further reserves the right to cancel or amend this Agreement should **<Enter Member Name>** not meet Sanofi Pasteur Inc.'s requirements as outlined in this section. In such event, Sanofi Pasteur Inc. agrees to provide thirty (30) days' written notice to **<Enter Member Name>** and work with **<Enter Member Name>** during said period to resolve outstanding issues.
12. Either **<Enter Member Name>** or Sanofi Pasteur Inc. shall have the right to cancel this Agreement upon thirty (30) days written notice. Any benefit earned through the date of cancellation will be issued as specified by the Agreement.
13. Sanofi Pasteur Inc. reserves the right to limit orders (by NDC) for **<Enter Member Name>**, within any given month, to no more than one hundred and fifty percent (150%) of a Practice Location's average monthly purchases and also one hundred and fifty percent (150%) of **<Enter Member Name>**'s Agreement in its entirety, calculated over the previous six months.
14. **<Enter Member Name>** will provide written notice to Sanofi Pasteur Inc. should the price of any contract product become noncompetitive as a result of an alternative competitive offer, and Sanofi Pasteur Inc. will be offered the right to match the competing price within thirty (30) days of such notice.
15. **<Enter Member Name>** shall promptly advise Sanofi Pasteur Inc. of any discrepancies in pricing. Sanofi Pasteur Inc. will process credit adjustment requests due to an error in pricing, excluding requests based on Practice Location affiliation, upon such notification. Credit adjustments due to Practice Location affiliation will be considered upon written notice to Sanofi Pasteur Inc., and will be limited to the two (2) month period prior to receipt of the written notification. Sanofi Pasteur Inc. reserves the right to deny credit adjustments based upon incomplete and/or inaccurate documentation.
16. Sanofi Pasteur Inc. shall pay an Administrative Fee to **MMCAP Infuse** based on **<Enter Member Name>**'s achievement of the Product Sales Measurements of Products as outlined herein, pursuant to the Contract between MMAP and Sanofi Pasteur Inc.
17. **<Enter Member Name>** certifies to Sanofi Pasteur Inc. that (1) Products sold to **<Enter Member Name>** under this Agreement shall be dispensed to patients, physicians and/or employees of **<Enter Member Name>** and (2) **<Enter Member Name>** is operating in each instance, both on the effective date of this Agreement and on the date said Product is dispensed, either as:
- (i) the exclusive provider of said product to patients, physicians or employees; or
  - (ii) a nonprofit institution, eligible for all purposes under the Nonprofit Institutions Act, 15 U.S.C. § 13c, for which purchases of said product are made for said **<Enter Member Name>**'s "own use"; or
  - (iii) a for-profit organization, for which purchases of said product are made for **<Enter Member Name>**'s "own use" as defined in De Modena, et al. v. Kaiser Foundation Health Plan, Inc., et al., 743 F. 2d 13888 (9 Cir. 1984), applying the holding of the U.S. Supreme Court in Abbott Laboratories, et al. v. Portland Retail Druggist Association, Inc., 425 U.S. 1 (1976).

18. **<Enter Member Name>** shall purchase all Products hereunder from Sanofi Pasteur Inc. on a direct purchase basis; provided, however, that **<Enter Member Name>** may make such purchases on a non-direct basis through a wholesaler and/or distributor that is able to communicate contract sales information to Sanofi Pasteur Inc. in a form acceptable to and approved by Sanofi Pasteur Inc. Should **<Enter Member Name>** choose to purchase on a non-direct basis, **<Enter Member Name>** will supply the names/addresses of its wholesalers and/or distributors to Sanofi Pasteur Inc. Contract Products purchased through a wholesaler and/or distributor may be subject to a mark-up. This mark-up is negotiated solely between **<Enter Member Name>** and its designated wholesaler and/or distributor.
19. Following the execution of this Agreement, **<Enter Member Name>** shall promptly notify all Practice Locations of the implementation of this Agreement, including the following:
- a. Practice Locations will be responsible for inspection of all Products upon its receipt, immediately notifying Sanofi Pasteur Inc. of any Product that is damaged or unusable. Such Product shall be returned to Sanofi Pasteur Inc. in accordance with Sanofi Pasteur Inc.'s General Terms and Conditions of Sale. All Products must be stored and handled as described in each product's approved labeling.
  - b. Permit Sanofi Pasteur Inc. or its authorized representatives to examine or replace inventory as mutually agreed upon and shall permit Sanofi Pasteur Inc. or its authorized representative's access to **<Enter Member Name>**'s Practice Locations in order to provide information or service materials.
  - c. **<Enter Member Name>** agrees to meet with representatives from Sanofi Pasteur Inc. at a minimum of every six (6) months to review current and trending contract compliance and performance.
  - d. At or about the conclusion of the Agreement term, Sanofi Pasteur Inc. shall propose Product pricing for the renewal term of this Agreement and review it with responsible **<Enter Member Name>** representatives.
  - e. **<Enter Member Name>** and Sanofi Pasteur Inc. agree that the terms of this Agreement may not be shared or reproduced in a manner inconsistent with the terms of this Agreement, such obligation shall survive the termination or expiration of this Agreement.
20. With respect to any promotional programs or offers, Sanofi Pasteur Inc. shall have the sole right and responsibility for establishing and modifying the terms and conditions with respect to the sale of the Products, including any terms and conditions relating to or affecting the price at which the Products will be sold, any discounts attributable to payments on receivables, distribution of the Products, credit to be granted or refused, and the like.
21. All sales of Product hereunder are subject to the Terms and Conditions established in the Contract between MMCAP and Sanofi Pasteur Inc. in effect at the time of shipment. More information can be found at [www.vaccineshoppe.com](http://www.vaccineshoppe.com) and [www.mmcap.org](http://www.mmcap.org). In the event of any conflict between those Terms and Conditions and the terms set forth herein, the terms of this Agreement shall control.
22. Neither party may assign or transfer its rights nor obligations under this Agreement without the prior written consent of the other party hereto, provided that, Sanofi Pasteur Inc. may assign this Agreement to any affiliate or to a third party which purchases all, or substantially all, of the assets of the business to which this Agreement relates.
23. Sanofi Pasteur Inc. shall indemnify, defend, and hold harmless **<Enter Member Name>**, against and in respect of any and all claims, losses, costs, expenses, liabilities and damages, (including reasonable attorneys' fees) in connection with, arising out of or based upon any claim of an alleged defect in any of the products supplied hereunder (collectively, the "Claims"), except to the extent that any such Claim is caused by **<Enter Member Name>**'s negligence, recklessness or willful misconduct, or from breach of any of **<Enter Member Name>**'s representations, warranties or certifications.

***As a condition to Sanofi Pasteur Inc.'s indemnification, <Enter Member Name> shall give Sanofi Pasteur Inc. notice of any Claims (including a copy of any such Claim served upon <Enter Member Name>), promptly after such Claim was served and shall cooperate with Sanofi Pasteur Inc. and provide all such information to Sanofi Pasteur Inc. as shall be reasonably necessary for the defense (or settlement) of such Claims. <Enter Member Name> agrees to cooperate with Sanofi Pasteur Inc. in all respects with the conduct of the defense of the Claims, and shall not compromise or otherwise settle any such Claim without Sanofi Pasteur Inc.'s prior written consent.***

24. The terms and conditions of the **MMCAP Infuse** agreement shall apply to this Agreement. In the event of any conflict between this Agreement and the **MMCAP Infuse** agreement, the terms of this Agreement shall control.
25. Unless otherwise notified in writing to the contrary, any notice or written disclosure required or permitted by the terms hereof to be given any party hereto shall be effectively delivered for all purposes if delivered personally, electronically (either via e-mail or facsimile), or if mailed, upon deposit in the United States mail, postage prepaid, and if directed to **<Enter Member Name>** or any of its Practice Locations, properly addressed to **<Enter Member Name>** at the address listed in this document on page 1 and the signature page. If directed to Sanofi Pasteur, properly addressed to: Sanofi Pasteur Inc., Discovery Drive, Swiftwater, PA 18370, ATTN: Director, Contract Development and Analytics. EMAIL: [contract.administration@sanofipasteur.com](mailto:contract.administration@sanofipasteur.com).

**This Agreement, its Exhibits and Addendum constitute the final written expression of all terms and conditions of the Agreement relating to the transactions described herein. This Agreement, its Exhibits and Addendum supersede all previous communications, representations, and agreements, promises, or statements, either written or verbally communicated, with respect to such transactions. No addition to or modification of any provision of this Agreement, its Exhibits and Addendum will be binding unless made in writing and signed by the parties to the agreement or their authorized representatives.**

This document is issued by Sanofi Pasteur Inc. located at Discovery Drive, Swiftwater, Pennsylvania 18370-0187 and is binding only upon endorsement by its Head of Sales.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date and year so indicated below, with full authorization to do so.

**<Enter Member Name>**

**SANOFI PASTEUR INC.**

By:

\_\_\_\_\_

By:

\_\_\_\_\_

Printed Name:

\_\_\_\_\_

Printed Name:

\_\_\_\_\_

Title:

\_\_\_\_\_

Title:

\_\_\_\_\_

Date:

\_\_\_\_\_

Date:

\_\_\_\_\_

**<Enter Member Name>**'s initials below indicate Tier level and Product Category commitment:

	Tier 1	Tier 2
Pediatric		

Boosters		
MenACWY		

**EXAMPLE**

**Exhibit A**

**List of Practice Locations**

Provide a list of Practice Locations as requested by **Sanofi Pasteur Inc.** and updates in an electronic format (Excel) acceptable to **Sanofi Pasteur Inc.** The Excel file may be sent via e-mail.

**Required**

HIN, DEA, and GLN

Customer Segment (pediatric, FP, IM, etc.)

**Optional**

Sanofi Pasteur Inc. Customer Number

Name

Address

City

State

Zip

Phone

Start Date

End Date (if known)

Contact Person

Add, Delete, Change

**EXAMPLE**

**Exhibit B**

**Sanofi Pasteur Product Category Definitions**

<b>Therapeutic Class</b>	<b>Product Category</b>	<b>Sanofi Pasteur Qualifying Products</b>	<b>Competitor Measured Products used to determine Category Sales</b>	<b>Category Sales Measurement</b>
Pediatric Acellular Pertussis and HIB containing Vaccines	Pediatric	Pentacel, Pentacel® formulated with Vero cell-derived IPV, Daptacel, Quadracel, ActHIB	All forms of Pediarix, Infanrix, Kinrix, PedvaxHIB, and Hiberix	80% Category Sales
Tdap and Td Vaccines	Boosters	Adacel, Tenivac	Boostrix and MassBiologics Td	80% Category Sales
Meningococcal MenACWY Vaccines	MenACWY	Menactra, MenQuadfi	Menveo	80% Category Sales

**EXAMPLE**

**Addendum A to Exhibit C**

**Products and Pricing**

*Based on Tier level selected, Addendum A will be attached to the fully executed agreement*

**ATTACHMENT D**  
**Reporting Requirements**

**Table 1: Required Data Field for Sales Data Report**

Excel Column	Required Data Field Full Name for Sales Data Report
A	MMCAP Infuse -assigned facility ID
B	MMCAP Infuse Member Name
C	Vendor Distribution Center Code
D	Vendor-assigned Account number for MMCAP Infuse Member (this should be the ship-to account number)
E	Invoice Number
F	Invoice Line Number
G	Purchase Order Number
H	Invoice date (MMDDYYYY)
I	Buyer name or equivalent of buyer ID for person submitting the invoices (if available)
J	Vendor's (distributor) SKU item number
K	NDC of purchased Product as stored in First DataBank, Inc. (Required for pharmaceutical Products)
L	LabelName/Product Description
M	Unit Dose (Required for pharmaceutical Products)
N	Pack Size
O	Unit
P	Case Size
Q	Dose (Required for pharmaceutical Products).
R	Strength (Required for pharmaceutical Products).
S	Route (Required for pharmaceutical Products).
T	Unit Price (99999.9999)
U	Quantity Ordered (not Vendor repackaged or re-bundled quantity)(99999.9999)
V	Quantity Shipped (not Vendor repackaged or re-bundled quantity)(99999.9999)
W	Extension (unit price multiplied by the quantity shipped) EXTENDED PRICE (99999.9999)
X	Type of transaction (MMCAP Infuse contract purchase, other contract purchase (340B, PHS), not on contract purchase) 1=contract item, 2=other contract, 3=not on contract
Y	Bill to Address 1
Z	Bill to City
AA	Bill to State (2 alpha postal code)
AB	Bill to Zip (standard 5-4 format, no dash necessary)
AC	Ship to Address 1
AD	Ship to City
AE	Ship to State (2 alpha postal code)
AF	Ship to Zip (standard 5-4 format, no dash necessary)
AG	Service Fee (99999.9999)
AH	MMCAP Infuse Contract Number (MMS2000294)
AI	Admin Fee
AJ	Credit Indicator (C for credit)
AK	MMCAP Infuse -Assigned Wholesaler Code ( <b>Codes will be assigned to PPV's during implementation period of the contract</b> )
AL	Manufacturer Name (MFG Name)
AM	Class of Trade

AN	340b Purchase
AO	Category
AP	Manufacturer Part Number
AQ	List Price
AR	UNSPSC Code (XXXXXXXX)
AS	UNSPSC Description
AT	GLN
AU	GTIN

**ATTACHMENT E**  
**Minnesota Statutory Procurement Language**

1. **Government Data Practices.** Parties to this Agreement must comply with the Minnesota Government Data Practices Act, Minnesota Statutes Chapter 13 (Data Practices Act), as it applies to all data created, collected, received, stored, used, maintained, or disseminated by the Vendor under this Agreement. The civil remedies of Minn. Stat. § 13.08 apply to the release of the data governed by the Minnesota Government Practices Act, Minn. Stat. Ch. 13, by either the Vendor or MMCAP Infuse.
  - A. Notification. If the Vendor receives a request to release the data referred to in statute, the Vendor must immediately notify and consult with MMCAP Infuse as to how the Vendor should respond to the request.
  - B. Indemnification. Vendor agrees to indemnify, save, and hold Minnesota, its agent and employees, harmless from all claims arising out of, resulting from, or in any manner attributable to any violation of any provision of the Data Practices Act, including legal fees and disbursements paid or incurred to enforce this provision of the Agreement.
  - C. Release of MMCAP Infuse Data. Except as may be required by Data Practices Act, Vendor will not release to any third party any MMCAP Infuse customer data, sales transaction data, DEA/HIN information, contract pricing, EDI transaction data, reverse distribution data, or payment data.
2. **Data Disclosure.** Under Minn. Stat. § 270C.65, subd. 3 and other applicable law, the Vendor consents to disclosure of its, federal employer tax identification number to federal and state agencies, and state personnel involved in the payment of State of Minnesota and Member obligations. These identification numbers may be used in the enforcement of federal and State of Minnesota laws which could result in action requiring the Vendor to file state tax returns, pay delinquent state tax liabilities, if any, or pay other state liabilities.
3. **Non-discrimination.** The Vendor will comply with the provisions of Minn. Stat. § 181.59.
4. **Affirmative Action Requirements.**
  - A. Covered contracts and vendors. If the Agreement exceeds \$100,000 and the Vendor employed more than forty (40) full-time employees on a single working day during the previous twelve (12) months in Minnesota or in the state where it has its principal place of business, then the Vendor must comply with the requirements of Minn. Stat. § 363A.36 and Minn. R. 5000.3400-5000.3600. A contractor covered by Minn. Stat. § 363A.36 because it employed more than forty (40) full-time employees in another state and does not have a certificate of compliance, must certify that it is in compliance with federal affirmative action requirements.
  - B. Minn. Stat. § 363A.36. Minn. Stat. § 363A.36 requires the Vendor to have an affirmative action plan for the employment of minority persons, women, and qualified disabled individuals approved by the Minnesota Commissioner of Human Rights (**Commissioner**) as indicated by a certificate of compliance. The law addresses suspension or revocation of a certificate of compliance and contract consequences in that event. A contract awarded without a certificate of compliance may be voided.
  - C. Minn. R. 5000.3400-5000.3600.
    - i. General. Minn. R. 5000.3400-5000.3600 implements Minn. Stat. § 363A.36. These rules include, but are not limited to, criteria for contents, approval, and implementation of affirmative action plans; procedures for issuing certificates of compliance and criteria for determining a Vendor's compliance status; procedures for addressing deficiencies, sanctions, and notice and hearing; annual compliance reports; procedures for compliance review; and contract consequences for non-compliance. The specific criteria for approval or rejection of an affirmative action plan are contained in various provisions of Minn. R. 5000.3400-5000.3600 including, but not limited to, Minn. R. 5000.3420-5000.3500 and 5000.3552-5000.3559.
    - ii. Disabled Workers. The Vendor must comply with the following affirmative action requirements for disabled workers.
      - a. The Vendor must not discriminate against any employee or applicant for employment because of physical or mental disability in regard to any position for which the employee or applicant for employment is qualified. The Vendor agrees to take affirmative action to employ, advance in employment, and otherwise treat qualified disabled persons without discrimination based upon their physical or mental disability in all employment practices such as the following: employment, upgrading, demotion or transfer, recruitment, advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship.
      - b. The Vendor agrees to comply with the rules and relevant orders of the Minnesota Department of Human Rights issued pursuant to the Minnesota Human Rights Act.
      - c. In the event of the Vendor's noncompliance with the requirements of this clause, actions for noncompliance may be taken in accordance with Minn. Stat. § 363A.36, and the rules and relevant orders of the Minnesota Department of Human Rights issued pursuant to the Minnesota Human Rights Act.

- d. The Vendor agrees to post in conspicuous places, available to employees and applicants for employment, notices in a form to be prescribed by the Commissioner. Such notices must state the Vendor's obligation under the law to take affirmative action to employ and advance in employment qualified disabled employees and applicants for employment, and the rights of applicants and employees.
      - e. The Vendor must notify each labor union or representative of workers with which it has a collective bargaining agreement or other contract understanding, that the Vendor is bound by the terms of Minn. Stat. § 363A.36, of the Minnesota Human Rights Act and is committed to take affirmative action to employ and advance in employment physically and mentally disabled persons.
    - iii. Consequences. The consequences for the Vendor's failure to implement its affirmative action plan or make a good faith effort to do so include, but are not limited to, suspension or revocation of a certificate of compliance by the Commissioner, refusal by the Commissioner to approve subsequent plans, and termination of all or part of this Agreement by the Commissioner or Minnesota.
    - iv. Certification. The Vendor hereby certifies that it is in compliance with the requirements of Minn. Stat. § 363A.36 and Minn. R. 5000.3400-5000.3600 and is aware of the consequences for noncompliance.
5. **E-Verify certification (In accordance with Minn. Stat. § 16C.075)**. For services valued in excess of \$50,000, Vendor certifies that as of the date of services performed on behalf of Minnesota, Vendor and all its subcontractors will have implemented or be in the process of implementing the federal E-Verify Program for all newly hired employees in the United States who will perform work on behalf of Minnesota. Vendor is responsible for collecting all subcontractor certifications and may do so utilizing the E-Verify Subcontractor Certification Form available at <http://www.mmd.admin.state.mn.us/doc/EverifySubCertForm.doc>. All subcontractor certifications must be kept on file with Vendor and made available to Minnesota upon request.
6. **Certification of Nondiscrimination (In accordance with Minn. Stat. § 16C.053)**. The following term applies to any contract for which the value, including all extensions, is \$50,000 or more: Vendor certifies it does not engage in and has no present plans to engage in discrimination against Israel, or against persons or entities doing business in Israel, when making decisions related to the operation of the Vendor's business. For purposes of this section, "discrimination" includes but is not limited to engaging in refusals to deal, terminating business activities, or other actions that are intended to limit commercial relations with Israel, or persons or entities doing business in Israel, when such actions are taken in a manner that in any way discriminates on the basis of nationality or national origin and is not based on a valid business reason.
7. **Contingency Fees Prohibited**. Pursuant to Minn. Statute § 10A.06, no person may act as or employ a lobbyist for compensation that is dependent upon the result or outcome of any legislation or administrative action.
8. **Diverse Spend Reporting**. If the total value of this Agreement may exceed \$500,000 in Minnesota, including all extension options, the Vendor must track and report, on a quarterly basis, the amount paid to diverse businesses both: (A) directly to subcontractors performing under the Agreement, and (B) indirectly to diverse businesses that provide supplies/services to your company (in proportion to the revenue from this Agreement compared to your company's overall revenue). When this applies, you will be set up in a free portal to help report the Tier 2 diverse spend, and the requirement continues as long as the Agreement is in effect.
9. **Retainage for Minnesota Government Units**. Under Minn. Stat. § 16C.08, subd. 2 (10), no more than ninety percent (90%) of the amount due under this Agreement may be paid until the final product of this Agreement has been reviewed by a Minnesota agency head. The balance due will be paid when the Minnesota agency head determines that the Vendor has satisfactorily fulfilled all the terms of this Agreement.





## STAFF REPORT

**Report To:** Board of Supervisors

**Meeting Date:** July 7, 2022

**Staff Contact:** Carol Akers, Purchasing & Contracts Administrator and Nicki Aaker, Health & Human Services Director

**Agenda Title:** For Possible Action: Discussion and possible action regarding authorization to purchase vaccines utilizing the Minnesota Multistate Contract Alliance for Pharmacy (“MMCAP”) joinder contract with GlaxoSmithKline (“GSK”) for a not exceed amount of \$99,284 through June 30, 2023. (Carol Akers, cakers@carson.org and Nicki Aaker, naaker@carson.org)

Staff Summary: The Carson City Department of Health and Human Services utilizes MMCAP Contract No. MMS2000177 to purchase vaccinations and immunization supplies from GSK for vaccination through Clinical Services and Public Health Preparedness Community vaccination efforts. This will be funded from the Health and Human Services Private Vaccine and Community Vaccine & Outreach revenue accounts through June 30, 2023.

**Agenda Action:** Formal Action / Motion

**Time Requested:** Consent

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### **Proposed Motion**

I move to approve the purchase authority as requested.

### **Board's Strategic Goal**

Efficient Government

### **Previous Action**

N/A

### **Background/Issues & Analysis**

This is an annual request. The purchase amount exceeds \$50,000 and therefore requires Board of Supervisors' approval pursuant to City policy.

Contract being utilized: (Joinder) MMCAP Contract # MMS2000177 (expires June 30, 2024).

### **Applicable Statute, Code, Policy, Rule or Regulation**

NRS 332.115 and 332.195

### **Financial Information**

**Is there a fiscal impact?** Yes

**If yes, account name/number:** Grant Fund - Operating Supplies 2756800-501225 / Private Vaccine – G680020004 and Community Vaccine & Outreach – G680020027

**Is it currently budgeted? Yes**

**Explanation of Fiscal Impact:** Funding is provided by the Private Vaccine and Community Vaccine & Outreach program income accounts and restricted prior year funding from vaccine and clinic accounts. If approved, the accounts will be reduced by up to \$99,284. The available budget for FY 2023, after projected restricted roll-forward amounts, is \$774,599. See Vaccines Funding Worksheet attached.

**Alternatives**

Do not approve the purchase authority and/or provide alternative direction to staff.

**Attachments:**

[FY23 BOS Vaccines Funding Worksheet.pdf](#)

[GSK MMCAP Contract No. MMS2000177\\_Expires 6.30.24.pdf](#)

**Board Action Taken:**

Motion: \_\_\_\_\_

1) \_\_\_\_\_

2) \_\_\_\_\_

Aye/Nay

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
(Vote Recorded By)





**MMCAP Infuse**  
Minnesota Department of Administration  
50 Sherburne Avenue, Suite 112 Administration Building, St. Paul, MN 55155

**Attention Confidentiality Protections in this Contract:**

Re: GlaxoSmithKline, LLC MMS2000177

The following contract contains language that protects the terms and pricing found in this contract.  
Please review Article 11.3 to ensure your compliance.

If you have any questions, please contact MMCAP at 651-201-2420.



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Minnesota Department of Administration  
Office of State Procurement  
50 Sherburne Avenue, Suite 112 Administration Building, St. Paul, MN 55155  
Phone: 651.201.2420

GlaxoSmithKline LLC  
Agreement Number: MMS2000177

Prepared on June 12, 2020

**PREFIX A**  
**Definitions and Acronyms**  
Are attached and incorporated into the Agreement

**Definitions**

1. **Administrative Fee:** Means one and a half percent (1.5%) of Contract Pricing for Products or as listed on **Attachments A & B-1**, which will supersede Prefix A.
2. **Agreement:** Means the resulting agreement that is reached between MMCAP Infuse and the Vendor.
3. **Authorized Wholesaler(s):** AmerisourceBergen Drug Corporation, ASD Specialty Healthcare, LLC, Cardinal Health, FFF Enterprises, Inc., McKesson Medical-Surgical Government Solutions, LLC, Morris & Dickson Co., LLC.
4. **Class of Trade:** All Eligible Members (as defined below) are eligible for Contract Pricing.
5. **Contract Pricing:** Means the price that the Vendor has agreed to provide the Products to MMCAP Infuse and its Membership as set forth on **Attachments A & B-1** and any subsequent amendment to this Agreement.
  - A. **Fixed Pricing:** Means Vendor cannot increase the Contract Pricing for the Products identified on **Attachments A & B-1** or any subsequent amendment to this Agreement during the Contract Term.
  - B. **Non-Fixed Pricing:** Means all Products identified as such on **Attachments A & B-1** or any subsequent amendment to this Agreement.
  - C. **Wholesale Acquisition Cost (WAC) Minus** - a percentage or dollar amount off WAC that changes by providing MMCAP Infuse written notice of the price change along with the new WAC and contract price.
6. **Days:** (Not required to be capitalized) Unless otherwise specified in this Agreement, all references to days will be calendar days.
7. **Failure to Supply (FTS):** Deleted in its entirety.
8. **Government Unit:** Any entity as defined by Minnesota Statute 471.59.
9. **Member:** Means an approved MMCAP Infuse State or other Government Unit that has executed a membership application and Member agreement with MMCAP Infuse
  - A. **Eligible Member:** Member that has been approved by Vendor to be eligible for Contract Pricing Under this Agreement.
  - B. **Participating Member:** An Eligible Member who is participating in CCS Plus.
10. **Membership:** Means the joint power cooperative comprised of the MMCAP Infuse authorized States, Members, and other Government Units.
11. **Onboarding Date:** Means the Vendor must allow new Eligible Members to access to the Agreement within fifteen to thirty (15 to 30) days from the date MMCAP Infuse notifies Vendor and/or Member completion of the required paperwork on **Attachment C** in accordance with **Article V**.
12. **Onboarding Forms:** GSK GROUP PURCHASING ORGANIZATION MEMBERSHIP DECLARATION w/ SURVEY.
13. **Primary Account Representatives:** Mike King, National Account Director, Mike.X.King@gsk.com – 803-361-9514; Babatunde Adedeji, Contract Development Manager, Babatunde.a.adedeji@gsk.com, 215-751-6786.
14. **Products:** Means all products offered by the Vendor in this Agreement, which are identified in **Attachment A**.
15. **State:** Means one of the recognized fifty (50) states of the United States of America.

## **AGREEMENT FOR MMCAP INFUSE NO. MMS2000177**

THIS Agreement is entered into as of the Effective Date by and between the State of Minnesota acting through its Commissioner of Administration (“**Minnesota**”) on behalf of MMCAP Infuse (“**MMCAP Infuse**”) and GlaxoSmithKline LLC, a limited liability company with an address of 5 Crescent Drive, Philadelphia PA 19112 and Five Moore Drive, Research Triangle Park, NC 27709 (“**GSK**” or “**Vendor**”).

WHEREAS, GSK is in the business of researching, developing, manufacturing and marketing prescription pharmaceutical products in the United States;

WHEREAS, MMCAP Infuse is a group purchasing organization in the business of negotiating and maintaining contracts with manufacturers of various products (including but not limited to pharmaceutical products) for the purpose of making such products available to its members at negotiated prices; and

WHEREAS, the predominant purpose of this Agreement is to delineate the terms and conditions by which Eligible Members will be permitted to purchase GSK Products at Contract Prices (as defined below).

NOW, THEREFORE, for and in consideration of the mutual promises and obligations contained in this Agreement, the parties, intending to be legally bound, agree as follows:

### **Contract Term:**

1. **Effective Date:** July 1, 2020, or the date MMCAP Infuse obtains all required signatures as required under Minnesota Statute, whichever is later.
2. **Expiration Date:** June 30, 2024, unless earlier terminated pursuant to the Termination Section.
3. The Contract Term may be extended upon mutual agreement of MMCAP Infuse and Vendor.

## **AGREEMENT COMPONENTS**

The following components are the Agreement; all referenced Prefix and Attachments, are attached and incorporated into this Agreement.

1. **Prefix A:** Definitions
2. **Attachment A:** Products and Pricing  
*Vaccines, HIV and other pharmaceuticals*
3. **Attachment B:** CCS Plus Program  
**Attachment B-1:** CCS Plus Program Pricing
4. **Attachment C:** GSK Declaration Form
5. **Attachment D:** Required Reporting
6. **Attachment E:** MN Statutory Language

## **ARTICLE I** **PRICING AND CHANGES**

- 1.1 **Notices.** All notices under this Article must be sent to: MMCAP\_Infuse.Contracts@state.mn.us. If to GSK, all notices will be sent to:

### **GlaxoSmithKline LLC**

5 Crescent Drive  
NY0300  
Philadelphia, PA 19112  
Attention: Babatunde Adedeji  
Contract Development Manager  
babatunde.a.adedeji@gsk.com

**With a copy to:**  
GSK Legal Counsel  
GlaxoSmithKline LLC  
42 Moore Drive  
Research Triangle Park, NC 27709

- 1.2 **Pricing Structure:** Pricing for Products are listed on **Attachments A & B-1**.
- a. **General.** Except as provided in subsections B and C of this Section 1.2, the Contract Prices to be offered to MMCAP Infuse Eligible Members will be current Wholesale Acquisition Cost (**WAC**) at the time of purchase less the discount stated on **Attachment A**. In the event of a change by GSK in such Product's WAC, the Product's Contract Price shall immediately, automatically, and without notice, be changed to equal such Product's new WAC price. Vendor will make commercially reasonable efforts to send notices of WAC increases to: MMCAP\_Infuse.Contracts@state.mn.us. Vendor will provide written notice to MMCAP Infuse prior to the removal of any Products from **Attachments A & B**. If Products are being removed from the market, Vendor will honor Contract Pricing until MMCAP Infuse-Authorized Wholesalers' and Vendor's inventories are depleted.
  - b. **HIV Products.** For Products indicated for the treatment of HIV offered under this Agreement on behalf of ViiV Healthcare, an affiliate of Vendor (**ViiV**), the Contract Prices to be offered to MMCAP Infuse Eligible Members will be equal to such Product's WAC at the time of purchase, notwithstanding anything to the contrary in the Agreement. **Attachment A** lists the current ViiV Products offered herein.
  - c. **Vaccines.** For GSK Products that are vaccines, the Contract Prices to be offered to MMCAP Infuse Eligible Members will be those set forth on **Attachment A** and **Attachment B-1**. Attachment A reflects the pricing under Vendor's MMCAP Infuse CCS Agreement (MMCAP Infuse CCS). This program does not require performance and such prices shall remain fixed, except that GSK may adjust such prices once within each calendar year. Notice of any change in Contract Price for any GSK Product will be sent to MMCAP Infuse thirty (30) days prior to the effective date of the price change. **Attachment B-1** reflects the pricing under Vendor's CCS Plus Portfolio Program. The Product and Pricing exhibit on this **Attachment B** sets forth the eligibility, contract prices and performance requirements for Eligible Members with respect to its purchases of GSK Vaccines under this program as of the Effective Date, as defined on **Attachment B**.
- 1.3 **Fixed Pricing.** Reserved.
- 1.4 **Non-Fixed Pricing.** Reserved.
- 1.5 **Wholesale Acquisition Cost (WAC) Minus Percentage or Dollar Pricing.** If specifically noted on **Attachment A** that the prices are a percentage or price off WAC, the price may be changed at any time without providing MMCAP Infuse prior written notice of the price change along with the new WAC and pricing. Written notice will be provided to MMCAP Infuse after the WAC increase has taken place. Notices of WAC increases must be sent to MMCAP Infuse.
- 1.6 **Notice to MMCAP Infuse:** In the event Vendor does not notify MMCAP Infuse of a price increase, Vendor must honor wholesalers' chargebacks for the most recent previous Contract Price until MMCAP Infuse and Vendor amend the price increase into the Agreement.
- 1.7 **Notice to Authorized Wholesalers.** The Vendor must notify any and all Authorized Wholesalers of price changes. Vendor must confirm with MMCAP Infuse that price changes have been sent to the Authorized Wholesalers.
- 1.8 **Competitive Pricing.** Deleted in its entirety.
- 1.9 **Vendor's Right of First Refusal on Equivalent Products.** Deleted in its entirety.
- 1.10 **Value-Added Programs.** Deleted in its entirety.
- 1.11 **Product Dating.** All Vaccines Products supplied directly by GSK to Members must have an expiration date of at least six (6) months later than the delivery date unless the unique stability characteristics of the vaccine product(s) requires a shorter dating period. However, all other Products supplied (including ViiV Products) must still be usable on the date received by the MMCAP Infuse Member.
- 1.12 **Annual Bid Cycle.** Deleted in its entirety.

1.13 **Changes or Deletions.** Any changes to this Agreement involving product additions/deletions, including but not limited to price changes, NDC changes, changes to terms and conditions, etc., must be made in writing as an amendment and must be fully executed. With the exception of changes to Contract Pricing which are subject to *Paragraph 1.2*, Vendor must send confirmation of amendment changes, including but not limited to additions/deletions, NDC changes, Product removals, etc., to the Authorized Wholesalers within two (2) business days of the time that documentation of the change is received by the Vendor from MMCAP Infuse. If MMCAP Infuse's Authorized Wholesalers do not receive the notification(s), Vendor agrees to honor all chargebacks at the Contract Pricing from the effective date indicated on the amendment. Vendor-generated Product offers and notifications may be used as amendments to **Attachments A and B** by submitting to MMCAP Infuse a letter on Vendor's letterhead with the following elements (**Offer Letter**):

- d. Offer Date
- e. MMCAP Infuse Contract Number
- f. Action (e.g., addition, deletion, price change, NDC conversion)
- g. NDC Number
- h. Product Description
- i. Packaging
- j. Most recent previous Contract Price
- k. New Contract Price
- l. Pricing Type
- m. Effective Date
- n. Signature of an individual authorized to bind Vendor's change to contract.

Upon written acceptance by MMCAP Infuse, Offer Letter will automatically amend **Attachment A & B** of this Agreement. If MMCAP Infuse indicates that aspects of the Offer Letter conflict with Agreement at that time, *Paragraph 11.10* will apply to any subsequent conflicts and/or issues that may arise subsequently. If MMCAP Infuse executes the Offer Letter and provides counters, the Vendor has fifteen (15) days to object to MMCAP Infuse's counters before they are deemed as accepted by Vendor. In the event the Vendor is unwilling or unable to provide offers in this format, MMCAP Infuse will draft all amendments. Vendor must countersign the amendments drafted by MMCAP Infuse to be incorporated into the Agreement. Amendments must be countersigned by the Vendor by the earlier of the following (A): fifteen (15) days; or (B) the Expiration Date.

## **ARTICLE II SUPPLYING AND AVAILABILITY**

2.1 **Authorized Wholesaler Requirements.** Vendor will notify the Authorized Wholesalers of the initial Products and Contract Pricing and any subsequent changes.

- A. All sales of Products (with the exception of GSK Vaccines) to Members must be through the Authorized Wholesalers unless previously authorized in writing by MMCAP Infuse. Notwithstanding anything to the contrary in this Agreement, MMCAP Infuse hereby agrees that MMCAP Infuse Members may place orders for any of the Vendor vaccines listed on **Attachments A & B** either through MMCAP Infuse Authorized Wholesalers or directly from Vendor through [www.gskvaccinesdirect.com](http://www.gskvaccinesdirect.com) (the "**GSK Direct Website**") and that Vendor shall be permitted to fulfill any orders placed directly with Vendor through the GSK Direct Website. MMCAP Infuse Members purchasing vaccines directly from the Vendor will sign-up, accept, and abide with terms and conditions of the GSK Direct Website. Direct sales to Members are described in *Article III Payment, Direct Orders, and Delivery*.
- B. Vendor must establish and maintain chargeback agreement(s) with the Authorized Wholesalers.
- C. Vendor must notify MMCAP Infuse immediately of any issues (e.g., failure to negotiate terms, etc.) with Authorized Wholesalers that could affect the Products' availability. Notices must be sent to: MMCAP\_Infuse.Contracts@state.mn.us.

- 2.2 **Dual Award.** MMCAP Infuse reserves the right to award or dual award Products based on the following: family awards, product formulations, (e.g., alcohol free/sugar free, flavor, product, size), packaging type based on facility need (e.g., non-metal tubes for correctional facilities, etc.), drugs not carried by Authorized Wholesalers, drugs not eligible for reimbursement by Medicaid, look-alike/sound-alike products, products with tall-man lettering, products with unit-of-use barcoding, specific products requested by Members, recall situations, product availability and shortages, quality concerns, failure to supply situations, and in situations that are in the best interest of the MMCAP Infuse and its Members.
- 2.3 **First DataBank, Inc.** All prescription Products must have an 11-digit NDC code that is registered with First DataBank, Inc., unless such designation is expressly waived by MMCAP Infuse.
- A. If NDC codes are not applicable (e.g., OTC products), Vendor must use the product's UPC number to create an 11-digit number by adding a zero to the sixth position (e.g., 5-5 [99999-99999] becomes 5-4-2 [99999-0999-99]). If the Product does not have an NDC number or a UPC code, Vendor must use its product number with leading zeroes (e.g., product #90024 = 00000-0900-24).
- B. Vendor must report Products to Authorized Wholesalers using only these approved formats.
- 2.4 **Product Discontinuation.** With the exception of a recall, if the Vendor assigns, discontinues, or deletes a Product during the Agreement, Vendor must provide written notice to MMCAP Infuse and Authorized Wholesaler and where possible the Vendor should give at least thirty (30) days' notice. If the Vendor removes a Product, Vendor will honor Contract Pricing until the Authorized Wholesalers' inventories are depleted or a mutually agreed upon removal date.
- 2.5 **Price Audits and Corrections.** In the event of a Contract Pricing error that is attributable to the Vendor, Vendor agrees to accept credit/rebills for the past twelve (12) calendar months. When MMCAP Infuse discovers an error in pricing, it will notify Vendor.
- 2.6 **Product Recalls.** Vendor will supply a copy of its returned goods/credit policy to MMCAP Infuse and/or Authorized Wholesalers upon request.
- 2.7 **Returned Goods/Credits.** The Vendor will supply a copy of its returned goods/credit policy to MMCAP Infuse and/or Authorized Wholesalers upon request.
- 2.8 **Backorders.** Vendor will post supply updates for vaccine Products on the Vendor's <https://www.gskdirect.com/gsk/en/USD/> website.
- 2.9 **Failure to Supply (FTS).** Deleted in its entirety.

### **ARTICLE III**

#### **PAYMENT, DIRECT ORDERS, AND DELIVERY**

- 3.1 **Payment Method.** Vendor will accept Electronic Funds Transfer (EFT) as a payment method and Member will initiate this process with its financial institution.
- 3.2 **Federal Funds.** Payments under this Agreement may be made from federal funds. The Vendor is responsible for compliance with all federal requirements imposed on these funds and accepts full financial responsibility for any requirements imposed by the Vendor's failure to comply with federal requirements.
- 3.3 **Orders.** As a condition for purchasing under this Agreement, purchasers must be Eligible Members in good standing with MMCAP Infuse. Eligible Member shall maintain an adequate financial condition satisfactory to GSK and substantiate such a condition with audited financial statements or as otherwise requested by GSK. If, in GSK's judgment, at any time before shipment, financial condition becomes impaired or unsatisfactory to GSK, GSK may delay, deny and/or require cash payment or appropriate security before shipment. Vendor may use their own Order Forms. To the extent that the terms of any Order Form(s) conflict with the terms of this Agreement, the terms of this Agreement supersede. Each Member will be responsible for payment for Products to the Vendor and MMCAP Infuse will not be liable for any unpaid invoice of any Member. Vendor agrees to invoice the Members as established in this Agreement.
- A. The use of obtaining a Product from the Order Form constitutes a binding contract. All Products furnished will be subject to inspection and acceptance by the ordering entity after delivery. No substitutions or cancellations are permitted without written approval of the Member. Back orders, failure to meet delivery requirements, or failures to meet specifications in the Order Form and/or the Agreement authorizes the ordering entity to cancel the order, or any portion of

it, purchase elsewhere, and charge the full increase in cost and administrative handling to the Vendor.

- B. The Order Minimum in effect as of the Effective Date of this Agreement is the following: GSK may assess handling fee of \$25 on order of less than \$600 (excluding taxes). GSK reserves the right to adjust the handling fee without notice.

3.4 **Termination of Individual Orders.** Members may terminate, immediately or as identified by Member, individual Order Forms, in whole or in part, upon written notice to Vendor upon the occurrence of any of the following events:

- A. The Member fails to receive funding, or appropriations, limitations or other expenditure authority at levels sufficient to pay for Products to be purchased under the Order Form;
- B. Federal or state laws, regulations, or guidelines are modified or interpreted in such a way that either the purchase of the Products under the Order Form are prohibited, or the Member is prohibited from paying for the Products from the planned funding source; or
- C. Vendor commits any material breach of this Agreement or Order Form.

Upon receipt of written notice of termination, Vendor will stop performance under the Order Form as directed by the Member. If a standing Order Form is terminated, the Member must pay Vendor in accordance with the terms of this Agreement for goods delivered and accepted by the Member.

3.5 **Jurisdiction and Venue of Orders.** Upon completion of the Dispute Resolution process outlined in this Agreement, and solely with the prior written consent of MMCAP Infuse and the State of Minnesota Attorney General's Office, the Member may bring a claim, action, suit, or proceeding against Vendor. The Member's request to MMCAP Infuse to bring the claim, action, suit, or proceeding must identify the desired jurisdiction, venue, and governing law. As it applies to purchases made by a Member, nothing in the Agreement will be construed to deprive the Member of its sovereign immunity, or of any legal requirements, prohibitions, protections, exclusions, or limitations of liability applying to this Agreement or afforded by the Member's law.

3.6 **Shipment for Products.** Vendor must distribute and deliver the Product covered under this Agreement to all Eligible Members, including the states of Alaska and Hawaii. If the Eligible Member account is in good standing, the Vendor will at no time, refuse to deliver to any Eligible Member without the prior written approval by the Eligible Member and MMCAP Infuse. Delivery for Products under this Agreement shall be FOB Destination, freight prepaid is allowed, unless otherwise agreed to by Vendor and Eligible Member. GSK shall prepay all carrier charges and insurance against the MMCAP Infuse Member's risk of loss or damage to GSK products during carriage. GSK reserves the right to change this policy. Vendor will not add any fuel surcharges to the purchase under this Agreement. Notwithstanding the foregoing, emergency orders, rush orders, orders for products not regularly stocked by Vendor's local servicing distribution center, products dropped shipped from Vendor's contracted supplier, and orders not regularly scheduled are subject to an added shipping and handling charge determined by Vendor and disclosed to Eligible Member before a purchase is made.

- A. Delivery Schedule: Vendor will ship the product ordered to the address specified at the time of order in accordance with and subject to the terms and conditions of the GSK Direct Website. Upon request from Eligible Member, Vendor will work with Eligible Member to establish a routine delivery schedule. Delivery for stock items will occur within three (3) business days, from the date the Product is ordered. It is understood that deliveries to Alaska or Hawaii may take longer. All expedited deliveries will be made next day, or on the next scheduled delivery day (excluding Alaska and Hawaii), unless communicated otherwise.
- B. Hazardous Materials: Vendor will only ship hazardous materials as allowed by the appropriate government regulations.
- C. Damaged Products: All damaged Products will be reported to Vendor's customer service department and applicable credits will be issued within ten (10) days from date of notification of the damaged item. If product arrives in broken or damaged condition, the MMCAP Infuse Eligible Member shall insist upon carrier's agent noting the damage or breakage on the delivery receipt.

- D. Lost Products: All lost Products will be reported to Vendor's customer service department. Vendor will issue credit within ten (10) days of notification of lost Product; alternatively re-shipment of missing Product will occur immediately after notification. The MMCAP Infuse Participating Facility shall immediately report to Vendor any in-transit loss or shortage of Vendor products. The MMCAP Infuse Eligible Member shall report all claims within fourteen (14) days of the receiving date. Proper documentation must accompany all claims. If appropriate, Vendor will issue credit to the MMCAP Infuse Eligible Members for the claim. Vendor reserves the right to change this policy.
- E. Special Conditions for Products: If applicable to the Products offered under this Agreement, Vendor will maintain appropriate temperatures and environmental conditions in accordance with manufacturer requirements for delivery of the Products to the Members. All refrigerated Products will be shipped in returnable coolers or disposable coolers with appropriate packaging to maintain the required temperature range. Products requiring refrigeration will be clearly marked as such. Temperature monitors will be used if they are required by the manufacturer. If Member refuses Products that have been inadequately packaged, the Member will notify Vendor's customer service department to log the complaint. Any costs associated with the return of Product due to improper packaging or transport, will be at the expense of the Vendor.

3.7 **Delivery for Services.** Deleted in its entirety.

3.8 **Invoicing.** Vendor will submit an invoice with each order.

- A. Invoice Fields: At a minimum, Vendor's invoice will contain the following fields:
  - i. Member name and Vendor-assigned account number for the Member;
  - ii. Invoice line number and Member's order number (Member must provide an order number at the time of order for this to appear on Vendor's invoice);
  - iii. Bill to and ship to address;
  - iv. Invoice date;
  - v. Vendor's SKU item number, Product name/description and packaging as associated with NDC number(if applicable to this Agreement);
  - vi. Unit price, quantity ordered, quantity shipped, extension (unit price multiplied by the quantity shipped), and total invoice price; and
  - vii. Applicable omit codes (e.g., manufacturer backorder, manufacturer discontinued, etc.).
- B. Invoice Rounding: Vendor agrees to round down if the third digit after the decimal is four (4) or less. Vendor agrees that any rounding will occur at the Member invoice unit price.
- C. Invoice Disputes: Member will notify Vendor of any known dispute with an invoice within fifteen (15) days from receipt of the invoice. If all, or a portion of the disputed invoice is found to be in error, Vendor shall issue a credit and/or adjust the original invoice to the Member appropriately and provide a corrected invoice. Where the above is prohibited by a Member state's applicable law(s), the Vendor shall comply with requirements of that state's law(s) related to disputed invoices. Vendor will make a good faith effort to resolve known disputes related to Agreement pricing within thirty (30) days of notice of the dispute. This clause will in no way be deemed a limitation on the parties, as it relates to the future auditing and/or correction of invoices.
  - i. In the event that applicable state law mandates set-off by a Member, such set-off rights shall be exercised only to the extent expressly set forth in the applicable statute.

3.9 **Payment Terms.** MMCAP Infuse Members shall pay for all regular orders, with payment to be received by Vendor no later than thirty (30) days for cash payments or EFT payments from the date of the invoice. Unauthorized deductions are not permitted and are in violation of this offer and may result in delayed shipments. MMCAP Infuse Members shall pay for purchases of GSK Products by check made payable to Vendor or by electronic fund transfer (EFT). Payment must be sent to the following address:

GlaxoSmithKline Financial, Inc.  
 P.O. Box 740415  
 Atlanta, GA 30374-0415

If GSK does not receive payment within thirty (30) days from the date of invoice, GSK may elect to withhold shipment of GSK products. For further information on EFT, contact GSK Customer Financial Services at 866-334-7111.

- 3.10 **Credits and Rebills.** Vendor will process credits and rebills as notifications are received from a Member. In the case of an invoice dispute, Vendor will promptly issue credits/rebills, after the Dispute Resolution process set forth in this Agreement.
- A. Vendor credits are valid until they are refunded or the account has used payment.
  - B. In the event of a facility closure, or other extreme event where the Member will not be making another purchase through Vendor, the Member may cash out its credit(s).
  - C. If directed by a Member, a credit can be transferred from one account to another account.
  - D. The Vendor will take all commercially reasonable steps to ensure that credits that become available close to the end of the Member's fiscal year, are activated for use by the Member no later than five (5) days before the end of the fiscal year.
  - E. Vendor's credit memo will contain, but is not limited to the following information:
    - i. original order number and invoice number;
    - ii. itemized listing of the Products affected;
    - iii. any new invoices associated with the credit; and
    - iv. Net credit amount available to the Member.

#### **ARTICLE IV** **TERMINATION, CANCELLATION, AND REMEDIES**

- 4.1 **Cancellation.** Either party may cancel this Agreement any time, without cause, upon thirty (30) days' written notice to the other Vendor.
- 4.2 **Termination for Cause.** Either party may terminate this Agreement at any time on the basis the other party breached this Agreement. The moving party must provide written notice to the other party, which upon the receiving party has thirty (30) days to cure the defects. Upon thirty days (30), the breaching party has not cured the defects, the moving party may terminate this Agreement after ten (10) subsequent days.
- 4.3 **Termination for Insufficient Funding.** MMCAP Infuse may immediately terminate this Agreement if it does not obtain funding from the Minnesota Legislature, or other funding source; or if funding cannot be continued at a level sufficient to allow for the payment of the Products covered here. Termination must be by written or electronic mail notice to the Vendor. MMCAP Infuse is not obligated to pay for any Products that are provided after notice and effective date of termination. However, the vendor will be entitled to payment, determined on a pro rata basis, for Products satisfactorily performed to the extent that funds are available. Minnesota will not be assessed any costs, fees, or other charges if the Agreement is terminated because of the decision of the Minnesota Legislature, or other funding source, not to appropriate funds. MMCAP Infuse must provide the Vendor notice of the lack of funding within a reasonable time of MMCAP Infuse receiving that notice. Notwithstanding the foregoing, all Members under this Agreement will do their best to make sure that there are funds appropriated to pay for any Products to be purchased before the purchase order is issued for such purchase.
- A. For orders made by a Member, Vendor agrees to the applicable statutory terms of the applicable Member if the Member fails to receive funding, or appropriations, limitations or other expenditure authority at levels enough to pay for the Products.
- 4.4 **Force Majeure.** Parties will not be considered in default in the performance of its obligations in the Agreement to the extent that performance of any such obligations is prevented or delayed by acts of God, war, acts of terrorism, or civil commotion, novel regulations or laws of any government after the Effective Date, product or materials shortage, destruction of product facilities and materials, fire, earthquake or storm, failure of public utilities or common carrier, failure or fluctuations of air conditioning, heat, power or communications equipment or lines, computer program or software failure, and any other causes beyond the reasonable control of the parties (each a "**Force Majeure Event**") or other catastrophes beyond the reasonable control of the party. Force majeure will not apply to the

extent that the act or occurrence could have been reasonably foreseen and reasonable action could have been taken to prevent the delay or failure to perform. A party claiming excuse of performance under this provision must provide the other party prompt written notice of the failure to perform, take commercially reasonable efforts to mitigate the damages caused to all parties, and take all necessary steps to bring about performance as soon as practicable. In the event that any Force Majeure Event delays a party's performance for more than thirty (30) days following notice by such party pursuant to this Agreement, the other party may terminate this agreement immediately upon written notice to such party.

- 4.5 **Breach.** In the event of a breach of this Agreement, MMCAP Infuse and Members reserve the right to pursue any other remedy available by law. Vendors may be removed from the Vendor's list; suspended; or debarred from receiving a contract for failure to comply with terms and conditions of the Agreement.
- 4.6 **Failure to Perform.** Deleted it its entirety.
- 4.7 **Dispute Resolution.** Vendor and MMCAP Infuse will handle dispute resolution for unresolved issues using the following procedure.
- A. **Notification.** Parties shall promptly notify each other of any known dispute and work in good faith to resolve such dispute within thirty (30) days.
  - B. **Escalation.** If parties are unable to resolve the issue in a timely manner, as specified above, either MMCAP Infuse or Vendor may escalate the resolution of the issue to a higher level of management. When escalated a teleconference will be scheduled between MMCAP Infuse and the Vendor to review the dispute and develop a proposed resolution and plan of action.
  - C. **Performance while Dispute is Pending.** Notwithstanding the existence of a dispute, the Vendor must continue without delay to carry out all of their responsibilities under the Agreement that are not affected by the dispute. If the Vendor fails to continue without delay to perform its responsibilities under the Agreement, in the accomplishment of all undisputed work, any additional costs incurred by MMCAP Infuse and/or Members as a result of such failure to proceed shall be borne by the Vendor.
  - D. **Termination Rights.** In the event that either party cannot resolve the dispute with either party may cancel this Agreement upon sixty (60) days' written notice to the other party.
  - E. **No Waiver.** This clause shall in no way limit or waive either party's right to seek available legal or equitable remedies.

## **ARTICLE V** **MEMBERSHIP**

- 5.1 **Onboard, Transition, and Implementation.** If the Vendor requires additional paperwork for Members to acquire the Products, Vendor will work with MMCAP Infuse and Members to determine the appropriate steps and schedule for an onboard and transition. Vendor's documents and/or procedure for implementing and transitioning Members to this Agreement is set forth on **Attachment C**.
- 5.2 **Membership Listing.** MMCAP Infuse will provide Vendor a complete listing of the Membership. MMCAP Infuse reserves the right to add and remove Members during the Contract Term.
- A. **New Members.** The Vendor must allow new Eligible Members to access to the Agreement by the Onboarding Date. As new Eligible Members are added, MMCAP Infuse will provide Vendor with monthly e-mail notices announcing a new Membership list has been posted.
  - B. **Removing Members.** MMCAP Infuse can access Vendor's E-Commerce Solutions website at any time to track membership removals. In addition, MMCAP Infuse can subscribe to notifications on the same website for visibility when there are contract changes which includes but is not limited to removal of members from their contracts.
- 5.3 **Membership Eligibility.** Upon request, Vendor will send an electronic eligibility list identifying which Members are eligible for Contract Pricing to: MMCAP\_Infuse.Contracts@state.mn.us.
- A. For MMCAP Infuse CCS Agreement, Eligible Members shall include City/County/State health care facilities that are in good standing with GSK currently identifying MMCAP Infuse as their primary group affiliation (**Participating Members**). Participating Members may not have multiple group affiliations with GSK unless specifically approved by GSK. The Eligible Members of City/County/State include (subject to GSK's discretion):

- City/County/State hospitals;
- City/County/State clinics;
- City/County/State non-health related offices;
- City jails, detention centers, fire Departments;
- County or State correctional facilities; and
- City/County/State residential schools, colleges and universities without a hospital and other city, county, state and municipal owned or run public agencies and entities, non-profit organizations with statutory authority to purchase from state contracts

In addition to the requirement stated above, Eligible Members participating on the CCS Plus Portfolio Program must also meet the following conditions (i) do not prevent their wholesalers and distributors from reporting purchasing data to the GSK third party data source; (ii) permit GSK sales force access to their clinics for the promotion of GSK products where permissible; (iii) have entered into an agreement with MMCAP Infuse pursuant to which such physician office or clinic has authorized MMCAP Infuse to act as its agent for negotiating vaccine pricing; (iv) have been determined by GSK to be eligible for the pricing available under this Agreement. Participating Members will be limited to immunizing sites only.

- B. If the Vendor has eligibility requirements, Vendor must provide MMCAP Infuse access to Vendor's online contract and eligibility management system in addition to providing MMCAP Infuse the algorithm it uses to categorize a Member's into a class of trade.
- C. GSK will determine the eligibility of the Member utilizing the following requirements. GSK may declare that a Member shall no longer be eligible as a Member under this Agreement if any of the following requirements for eligibility are no longer met.
  - i. Must have an in-house/in-patient pharmacy or dispensary, which dispenses to Member's patients only;
  - ii. Must employ a staff pharmacist, which may include physician dispensing unit;
  - iii. Must have dispensations limited to prescriptions by:
    - a. physicians employed by or on the professional staff of the Member or
    - b. Member's staff with prescribing privileges
  - iv. Must report all discounts received pursuant to this Agreement as may be required under 42 CFR § 1001.952 (h); and
- D. Members certify on MMCAP Infuse and/or GSK's MMCAP Infuse Declaration Form (See Declaration Form **Attachment C**) or a form acceptable to GSK, that any GSK Product purchased under this Agreement are offered solely for such member's "own use" and shall not be acquired for the purpose of competing against private enterprise. For purposes of this section, the term "own use" shall be as defined by the United States Supreme Court in its opinions reported at Abbott Laboratories et al. v. Portland Retail Druggist Association, Inc., 425 U.S. 1 (1976), and Jefferson County Pharmaceutical Association, Inc. v. Abbott Laboratories, et al., 103 S. Ct. 1011 (1983).
- E. Participating Membership Changes. GSK shall determine which of MMCAP Infuse's current Members identified on MMCAP's Membership Roster are eligible for Contract Pricing and terms of Agreement and into which class of trade each belongs. New Eligible MMCAP Infuse Members will only become eligible for the Contract Prices under this Agreement as determined by GSK. In order to be added to this Agreement, Eligible Members shall complete a GSK Declaration Form, which notice shall include the institution name, DEA/HIN or other acceptable identification numbers, name of department contact, telephone number of department contact, email address of department contact, address of the institution, Type of Business designation, and Own Use certification. Eligible Members will be added to Contract Pricing and terms of agreement upon verification by GSK, and eligibility will be effective based solely upon the eligibility effective date in GSK's contract system, not to exceed thirty (30) days from the date of Declaration Form submission for paper-based submissions and not to exceed fifteen (15) days from the of the Declaration Form submission for electronic submissions via the GSK Direct website. MMCAP Infuse will notify GSK in writing if they wish to remove any Eligible Members and GSK will, upon verification, notify MMCAP Infuse of the removed Eligible Member along

with the effective date(s). GSK may rely upon the conclusion of a third-party data source as to the membership group to which a proposed member belongs. Vendor will notify the Authorized Wholesalers, MMCAP Infuse, and the MMCAP Infuse Member whether it agrees to extend the terms of this Agreement to such proposed Eligible Members and the effective date of such addition.

F. Membership Declaration Form. Vendor's Group Purchasing Organization Membership Declaration Form is attached and incorporated as **Attachment C**.

5.4 **Non-Solicitation**. During the term of this Agreement, Vendor will not solicit any Members or prospective Members to enter into or negotiate a separate contract or agreement for the same or substantially equivalent products and services offered in this Agreement without MMCAP Infuse's prior written consent. Vendor is not prohibited from responding to a request for proposals issued by a Member that may include Products and services covered by this Agreement.

5.5 **DEA License/HIN**. Unless the Member purchases a controlled substance, the Vendor may not require that a Member have a Drug Enforcement Administration number assigned to it in order to be eligible for contracted prices. The Vendor may require a Health Industry Number from Member.

## **ARTICLE VI AGREEMENT MANAGEMENT**

6.1 **Primary Account Representative**. Vendor will assign a Primary Account Representative to MMCAP Infuse for this Agreement and must provide a minimum of seventy-two (72) hours advanced notice to MMCAP Infuse if that person is reassigned. In the event that the Primary Account Representative is unresponsive or does not meet MMCAP's Infuse needs, the Vendor will assign another Primary Account Representative upon MMCAP Infuse's request. The Primary Account Representative will be responsible for:

- A. Proper maintenance and management of the Agreement, including timely execution of all amendments.
- B. Timely response to all MMCAP Infuse inquiries
- C. Performance of the business review as described in Paragraph 6.2.
- D. Personnel Changes. Vendor will provide MMCAP Infuse with notice of changes to the Primary Account Representative. In the event that an employee is removed pursuant to a written request from MMCAP Infuse, the Vendor will have ten (10) business days in which to fill the role with an acceptable employee.

6.2 **Business Reviews**. Vendor will perform at least one business review with MMCAP Infuse annually. The review will be at a time and location that is mutually agreeable to Vendor and MMCAP Infuse and at a minimum address: a review of sales to members, pricing and contract terms, administrative fees and reporting, supply issues, customer issues, and any other necessary information.

## **ARTICLE VII WARRANTS, COVENANTS, AND DUTIES OF VENDOR**

7.1 **Covenant of Laws**. Vendor shall comply with all state and federal laws, as applicable to each Member, in the performance of this Agreement.

7.2 **Required Licenses, Permits, and Registration**. Vendor shall have in place prior to the start of the Agreement, and must maintain for the life of the Agreement, all current licenses, permits and registrations required by state and federal agencies. Vendor must make such documentation available upon request by MMCAP Infuse.

7.3 **FDA-Certified Drug Application**. The Vendor acknowledges that each Product has, if required by law, an FDA-certified New Drug Application, an Abbreviated New Drug Application, or a Biologics License Application on file and accepts the liability with which such application confers. The Vendor guarantees to furnish Products that have not been adulterated or misbranded within the meaning of the Federal Food, Drug and Cosmetic Act, or any regulation of the Federal Food and Drug Administration, or as required by each member state's Board of Pharmacy.

- 7.4 **cGMP** Vendor certifies that it is in compliance with the Food and Drug Administration's current "Good Manufacturing Practices" (cGMP) (as codified in 21 C.F.R. § 201-211) and the current United States Food, Drug, and Cosmetic Act. If the Vendor receives a 483 or similar type warning letter for any Product, it must be provided to MMCAP Infuse within ten (10) days of receipt by Vendor.
- 7.5 **Debarment.** Vendor warrants and certifies that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from programs operated by the State of Minnesota, the United States federal government, or any Member; and has not been convicted of a criminal offense related to the subject of this Agreement. Vendor further warrants that it will provide immediate written notice to the MMCAP if at any time it learns that this certification was erroneous when submitted or becomes erroneous by reason of changed circumstances.
- A. Certification regarding debarment, suspension, ineligibility, and voluntary exclusion: Federal money will be used or may potentially be used to pay for all or part of the work under the Agreement, therefore Vendor certifies that it is in compliance with federal requirements on debarment, suspension, ineligibility and voluntary exclusion specified in the solicitation document implementing Executive Order 12549.
- 7.6 **Indemnification.** Pursuant to the Minnesota Constitution Article XI Section 1, MMCAP Infuse cannot indemnify the Vendor. Except for causes due to MMCAP Infuse's or Members' sole negligence, Vendor will defend and hold harmless MMCAP Infuse, including MMCAP Infuse's, Members, agents, directors, employees, attorneys, and other representatives during and after this Agreement from and against all actual and potential claims relating to loss, liability, damage, costs and expenses (including attorneys' fees and legal costs), causes of action, regulatory proceedings, suits, demands, or judgements relating to Vendor's:
- A. Intentional, willful, or negligent acts or omissions;  
B. Fraud and or deceit;  
C. Actions that give rise to strict liability;  
D. Breach of contract;  
E. Breach of warranty;  
F. Violations of federal, state, or local laws, orders, and/or policies;  
G. Employees or subcontractors' criminal and civil claims; and/or  
H. Failure to pay fees, charges, expenses, taxes, or other debts to third parties.
- 7.7 **Failure to Manufacture in Compliance with GMP.** Vendor hereby agrees to indemnify and hold MMCAP Infuse and Members (**Purchaser**) harmless from and against any claim, loss, liability, damage, , or expense , including reasonable attorneys' fees (hereinafter, "**Loss**"), arising directly from any claim regarding Vendor's failure to manufacture such products in compliance with FDA Good Manufacturing Practices (**GMP**), provided that Purchaser provides notice and cooperation as set forth below. This indemnity does not extend to any portion of the loss due to Purchaser's own conduct, such that the Loss, or any part thereof, would not have occurred but for Purchaser's conduct. This indemnity does not extend to anyone other than Purchaser, and no third party, including any person or entity having an ownership, affiliate, agency, or employment relationship with Purchaser shall have any rights under this provision.
- 7.8 **Infringement.** Vendor agrees that it shall indemnify and hold Purchaser harmless from and against any claim, loss, liability, damage, cost, expense, including reasonable attorneys' fees, by or to a third party arising directly from any claim that the Products furnished under this Agreement, infringe any existing patent, trademark, copyright, or other proprietary right of any third party, provided that Purchaser provides notice and cooperates as set forth below. This indemnity does not extend to any portion of the loss due to Purchaser's own conduct, such that the Loss, or any part thereof, would not have occurred but for Purchaser's conduct. This indemnity does not extend to anyone other than Purchaser and no third party, including any person or entity having an ownership, affiliate, agency, or employment relationship with Purchaser, shall have any rights under this provision.
- 7.9 **Notice, Cooperation and Conduct of Litigation.** MMCAP Infuse shall promptly notify Vendor of any claim asserted against it for which indemnification is sought, and shall promptly deliver to GSK a true copy of any such claim including but not limited to, a true copy of any summons or other process, pleading or notice issued in any lawsuit or other proceeding to assert or enforce such claim. Where acceptance of the obligation to indemnify is deemed proper by GSK, GSK reserves the right to control

the investigation, trial and defense of such lawsuit or action (including all settlements and negotiations to effect settlement) and any appeal arising therefrom and to employ or engage attorneys of its own choice. Purchaser may, at its own cost, participate in the investigation, trial and defense of such lawsuit or action and any appeal arising therefrom. Purchaser, its employees, agents, servants and representatives shall provide full cooperation to GSK at all times during the pendency of the claim or lawsuit, including, without limitation, providing GSK with all available information concerning the claim.

7.10 **Limitation of Damages.** To the extent allowable by statute, in no event shall GSK be liable for loss of profit or use, incidental or consequential damages in any claim asserted by MMCAP Infuse Members under this Agreement.

7.11 **Antitrust.** The Vendor hereby assigns to the State of Minnesota any and all claims for overcharges as to services provided in connection with this Agreement resulting from antitrust violations that arise under the antitrust laws of the United States and the antitrust laws of the State of Minnesota, and/or the antitrust laws of any Member unless otherwise assigned directly to that Member by Vendor with MMCAP Infuse's approval.

7.12 **Anti-Bribery and Corruption.** GSK is committed to the highest ethical standards and requires that all GSK employees and third parties acting for or on behalf of GSK conduct their activities in compliance with all anti-corruption laws and regulations. MMCAP Infuse and GSK agree that MMCAP Infuse is not a third party acting for or on behalf of GSK. Notwithstanding the foregoing, MMCAP Infuse agrees that nothing in this Agreement requires that MMCAP Infuse make improper payments or other transfer of value to any private or government official or entity for the purpose of influencing or as a reward for any act, omission or decision to secure an improper advantage or to improperly assist GSK in obtaining or retaining business.

7.13 **Regulatory Reporting Requirements.**

- A. Compliance with Anti-Kickback Provisions. To the extent applicable, MMCAP Infuse and Eligible Members will comply with applicable provisions of 42 U.S.C. 1320a-7b prohibiting illegal remuneration (including any kickback, bribe, or a prohibited cost incentive or discount) and the applicable provisions of any similar state law, rule or regulation prohibiting the payment of such illegal remuneration. MMCAP Infuse or such Eligible Members will comply with the applicable requirements set forth at 42 C.F.R. 1001.952(h) by, among other things, appropriately reporting the discounts described in this Agreement in the costs claimed to or charges made under the Medicare, Medicaid, TRICARE/CHAMPUS, or any other Federal health care program or state funded health care program, and providing information and documentation regarding any discount and/or rebate that may be provided under this Agreement, upon request, to the Secretary of the Department of Health and Human Services and/or a State agency.
- B. GPO Safe Harbor. To the extent applicable and required on the Effective Date, MMCAP Infuse represents, warrants, and covenants that it satisfies and will continue to satisfy the requirements of 42 U.S.C. §1320a-7b(b)(3)(C) and 42 C.F.R. §1001.952(j), including that (i) it is acting as a "group purchasing organization" as defined in 42 C.F.R. §1001.952(j); (ii) it maintains and will continue to maintain written agreements with each of its members that state that participating vendors will pay an administrative service fee (**ASF**) of three percent (3%) or less of the purchase price of the goods provided by such vendors; and (iii) it will disclose in writing at least annually to its members, and to the Secretary of Health and Human Services upon request, the amount received from such vendors with respect to sales made to Members. MMCAP's eligibility for an ASF as specified in this Agreement, and any attached Exhibits, shall be contingent upon MMCAP Infuse's compliance with its representation, warranty and covenant as specified in this paragraph.
- C. Other Reporting Requirements. Vendor and MMCAP Infuse agree that Vendor, pursuant to 42 C.F.R. section 1001.952 (h) and (j), has informed MMCAP Infuse and Members of their federal statutory and regulatory reporting obligations.
- D. Compliance with State Laws. MMCAP Infuse and its Members shall comply with applicable reporting requirements to any health care corporation, health care insurer, other third party reimbursing, or any patient imposed pursuant to the following law Minn. Stat. § 62J.23

**ARTICLE VIII**  
**ADMINISTRATIVE FEE**

8.1 **Administrative Fee.** In consideration for the administrative support and other services provided by MMCAP Infuse in connection to this Agreement, the Vendor will pay an Administrative Fee on all contract purchases (minus any credits) made through the MMCAP Infuse Authorized Wholesalers or directly with the Vendor. The Vendor will submit a check payable to “Financial Management & Reporting – MMCAP Infuse” for an amount equal to 1.5% of MMCAP Infuse Members’ purchases for all Products, minus any credits. The Administrative Fee must be paid no later than forty-five (45) after the end of the quarter. Notwithstanding anything within the agreement to the contrary, no ASF shall be paid by GSK to MMCAP Infuse for sales of all products in the HIV therapeutic class that are marketed by ViiV now or in the future, unless such products are otherwise expressly specified in a separate ASF pricing exhibit for the provision of the GPO obligations by MMCAP Infuse.

A. Vendor must provide Administrative Fee data to MMCAP Infuse within forty-five (45) business days after the end of each calendar quarter. The Administrative Fee must be paid as soon as is reasonable after the end of each calendar quarter, but no later than forty-five (45) calendar days after the end of the calendar quarter. The Vendor will submit a check payable to:

Financial Management & Reporting – MMCAP Infuse  
50 Sherburne Avenue, Suite 309  
St. Paul, MN 55155

B. Vendor shall not be required to pay the Administrative Fees on tax amounts, returns, or other shipments for which Vendor did not collect payment.

8.2 **Reporting.** The Vendor must submit a quarterly Administrative Fee Data Report that includes both direct (sales made direct from Vendor to Member) and indirect purchases (sales made through an Authorized Wholesaler). The quarterly Administrative Fee Data Report must contain the fields detailed below. Vendor agrees that for indirect sales, chargeback or sales data received from Authorized Wholesalers will be utilized to create the Administration Fee Data Report and if additional reports are needed to support creation of the Administration Fee Data Report, Vendor agrees to bear the cost of any special reporting that may be required by the Vendor in its relationship with the Authorized Wholesalers. All Administrative Fee Data Reports must be sent to: [mmcap.infuse@state.mn.us](mailto:mmcap.infuse@state.mn.us) at the end of each quarter , but no later than forty-five (45) days after the end of the quarter. The required items for the reports are found on **Attachment D**.

A. Administrative Fee Data Report fields:

- i. MMCAP Infuse Assigned Authorized Wholesaler Number (Cardinal=0301, AmerisourceBergen=0401, Morris & Dickson=0701)
- ii. MMCAP Infuse Assigned Manufacturer Number
- iii. Direct or Indirect Purchase Indicator (I=Indirect, D=Direct)
- iv. Invoice Date (Point of Sale Date)
- v. Invoice Number
- vi. MMCAP Infuse Participating Facility Name
- vii. Vendor’s Account Number for the MMCAP Infuse Facility
- viii. MMCAP Infuse Participating Facility DEA Number, if applicable
- ix. MMCAP Infuse Participating Facility HIN Number, if applicable
- x. MMCAP Infuse Participating Facility Address
- xi. MMCAP Infuse Participating Facility City
- xii. MMCAP Infuse Participating Facility State
- xiii. Product’s NDC (Use all 11 digits (00076888888))
- xiv. Product Name (e.g. Acetaminophen with Codeine, Acticin Cream 5%)
- xv. Credit Indicator (C = credit)
- xvi. Contracted Units (The number of units purchased on contract.)
- xvii. MMCAP Infuse Contracted Unit Price
- xviii. Administrative Fee Decimal Percentage (The contracted administrative fee percentage for the NDC number. Report as a decimal (e.g. 0.030))

- xix. Vendor Contracted Sales (Contracted Units \* Contracted Unit Price. Report in dollars)  
Administrative Fee Payment Amount (Administrative Fee Decimal Percentage \* Vendor Contracted Sales. Report in dollars)

## **ARTICLE IX INTELLECTUAL PROPERTY**

- 9.1 **MMCAP Infuse Ownership.** MMCAP Infuse owns all rights, title, and interest in MMCAP Infuse customer data, sales transaction data, DEA/HIN information (subject to third-party rights), contract pricing, EDI transaction data, reverse distribution data, and payment data, including copyrights and trade secrets contained therein. MMCAP Infuse grants to Vendor an unlimited, non-revocable, nontransferable, fully paid license, for the term of this Agreement, to: (A) release state specific data to a Member's primary contact; (B) release any of the above data to product manufacturers, when necessary for the performance of this Agreement or as required by Vendor's agreements with such product manufacturers; (C) to release any of the above data to other MMCAP Infuse approved third parties, when necessary for the performance of this Agreement; (D) to provide Member purchase data to aggregators, including IQVIA and NDC Health, subject to Vendor's reasonable efforts to require such data aggregators to protect any identifiable data from discovery by another third party; and (E) to provide Member purchase data to other group purchasing organizations of which the Member is also a member, provided such data will not include MMCAP Infuse-identifiable data. Any MMCAP Infuse identifiable data provided hereunder to a third party must identify the data as MMCAP Infuse data and subject to Minnesota Statutes, Chapter 13. To the extent permitted by law, Vendor hereby agrees that in the event that MMCAP Infuse or a Member requests in writing that its purchase data be kept confidential, such data will not be provided to third party aggregators.
- 9.2 **Vendor Ownership.** Vendor owns all rights, title, and interest to any aggregated data not identifiable as arising from this Agreement and any other intellectual property created for or presented to MMCAP Infuse. Vendor grants to MMCAP Infuse an unlimited, non-revocable, non-transferable, fully paid, perpetual license, to use all intellectual property created for or presented to MMCAP Infuse under this Agreement.
- 9.3 **Pre-Existing Intellectual Property.** MMCAP Infuse and Vendor will each retain ownership of, and all right and, title and interest in and to, their respective pre-existing intellectual property. The Vendor grants Minnesota a perpetual, irrevocable, non-exclusive, royalty free license for Vendor's pre-existing intellectual property that are incorporated in the products, materials, equipment, deliverables, or services that are purchased through the Agreement. The aforementioned license is solely for use by Members, and their agents related to an internal business or governmental purposes.
- 9.4 **Vendor Obligations.** The Vendor must perform all acts, and take all steps necessary to ensure that all intellectual property rights created for MMCAP Infuse or Member are the sole property of the MMCAP Infuse or Member, and that neither Vendor nor its employees, agents, or subcontractors retain any interest in and to the works and documents. The Vendor represents and warrants that the works and documents do not and will not infringe upon any intellectual property rights of other persons or entities.
- 9.5 **Intellectual Property Indemnification.** The Vendor will indemnify; defend, to the extent permitted by the Attorney General; and hold harmless MMCAP Infuse, at the Vendor's expense, from any action or claim brought against MMCAP infuse to the extent that it is based on a claim of an infringement upon the intellectual property rights of others. The Vendor will be responsible for payment of any and all such claims, demands, obligations, liabilities, costs, and damages, including but not limited to, attorney fees. If such a claim or action arises, or in the Vendor's or MMCAP Infuse's opinion is likely to arise, the Vendor must, at the MMCAP Infuse's discretion, either procure for the MMCAP Infuse the right or license to use the intellectual property rights at issue or replace or modify the allegedly infringing works or documents as necessary and appropriate to obviate the infringement claim. This remedy of the MMCAP Infuse will be in addition to and not exclusive of other remedies provided by law.
- 9.6 **Publicity and Endorsement.** Any publicity regarding the subject matter of this Agreement must identify MMCAP Infuse as a sponsoring or endorsing agency and must not be released without prior written approval from MMCAP Infuse. For purposes of this provision, publicity includes notices, informational pamphlets, press releases, research, reports, signs, and similar public notices prepared by or for the

Vendor individually or jointly with others, or any subcontractors, with respect to the program, publications, or services provided resulting from this Agreement. Notwithstanding the aforementioned, each party agrees that it will not use for its own commercial purposes any trademark, service mark, or corporate name of the other party hereto without the prior written consent of the other party. GSK and MMCAP Infuse may use or indicate the Agreement status in selected promotional activities directed to Member including, but not limited to written communication, presentation items, and academic and physician detailing. In addition, MMCAP Infuse will work with GSK to notify Member physicians of the formulary status of GSK Products and to develop and implement pull-through programs and patient compliance programs.

- A. Marketing. Any direct advertising, marketing, or direct offers with Members must be approved by MMCAP Infuse. Violation of this may be cause for immediate cancellation of this Agreement and/or MMCAP Infuse may reject any proposal submitted by the Vendor in any subsequent solicitations for awards.
- B. Endorsement. The Vendor must not claim that MMCAP Infuse, the State of Minnesota, or any Member State endorses its products or services.

## **ARTICLE X INSURANCE**

10.1 **Notice.** The Vendor is required to submit Certificates of Insurance acceptable to MMCAP Infuse as evidence of insurance coverage requirements prior to commencing work under the Agreement. Vendor will not commence work under the Agreement until they have obtained all the insurance described below and MMCAP Infuse has approved such insurance. Vendor shall maintain such insurance in force and effect throughout the term of the Agreement. The failure of MMCAP Infuse to obtain a Certificate of Insurance, for the policies required under this Agreement or renewals thereof, or failure of the insurance company to notify MMCAP Infuse of the cancellation of policies required under this Agreement shall not constitute a waiver by MMCAP Infuse to the Vendor to provide such insurance. MMCAP Infuse reserves the right to immediately terminate the Agreement if the Vendor is not in compliance with the insurance requirements and retains all rights to pursue any legal remedies against the Vendor. All insurance policies must be open to inspection by MMCAP Infuse and copies of policies must be submitted to MMCAP Infuse. The Vendor's insurance company(ies) waives its right to assert the immunity of the State as a defense to any claims made under said insurance.

10.2 **Additional Insurance Conditions.**

- A. Vendor's policy(ies) shall be primary insurance to any other valid and collectible insurance available to MMCAP Infuse with respect to any claim arising out of Vendor's performance under this Agreement;
- B. If Vendor receives a cancellation notice from an insurance carrier affording coverage herein, Vendor agrees to notify MMCAP Infuse within five (5) business days with a copy of the cancellation notice, unless Vendor's policy(ies) contain a provision that coverage afforded under the policy(ies) will not be cancelled without at least thirty (30) days advance written notice to MMCAP Infuse;
- C. Vendor is responsible for payment of Agreement related insurance premiums and deductibles;
- D. If Vendor is self-insured, a Certificate of Self-Insurance must be attached;
- E. Vendor's policy(ies) shall include legal defense fees in addition to its liability policy limits;
- F. Vendor's insurance companies must either (1) have an AM Best rating of A- (minus) and a Financial Size Category of VII or better, and be authorized to do business in the State of Minnesota or (2) be domiciled in the State of Minnesota and have a Certificate of Authority/Compliance from the Minnesota Department of Commerce if they are not rated by AM Best; and
- G. An Umbrella or Excess Liability insurance policy may be used to supplement the Vendor's policy limits to satisfy the full policy limits required by the Agreement.

10.3 **Coverage.** Vendor is required to maintain and furnish satisfactory evidence of the following insurance policies:

- A. Workers' Compensation Insurance: Except as provided below, Vendor must provide Workers' Compensation insurance for all its employees and, in case any work is subcontracted, Vendor will require the subcontractor to provide Workers' Compensation insurance in accordance with the statutory requirements of the State of Minnesota, including Coverage B, Employer's Liability. Insurance minimum limits are as follows:
- i. \$100,000 – Bodily Injury by Disease per employee
  - ii. \$500,000 – Bodily Injury by Disease aggregate
  - iii. \$100,000 – Bodily Injury by Accident
- If Minnesota Statute 176.041 exempts Vendor from Workers' Compensation insurance or if the Vendor has no employees in the State of Minnesota, Vendor must provide a written statement, signed by an authorized representative, indicating the qualifying exemption that excludes Vendor from the Minnesota Workers' Compensation requirements. If during the course of the Agreement the Vendor becomes eligible for Workers' Compensation, the Vendor must comply with the Workers' Compensation Insurance requirements herein and provide MMCAP Infuse with a certificate of insurance.
- B. Commercial General Liability Insurance: Vendor is required to maintain insurance protecting it from claims for damages for bodily injury, including sickness or disease, death, and for care and loss of services as well as from claims for property damage, including loss of use which may arise from operations under the Agreement whether the operations are by the Vendor or by a subcontractor or by anyone directly or indirectly employed by the Vendor under the Agreement. Insurance minimum limits are as follows:
- i. \$5,000,000 – per occurrence
  - ii. \$5,000,000 – annual aggregate
  - iii. \$5,000,000 – annual aggregate – Products/Completed Operations
  - iv. The following coverages shall be included:
    - a. Premises and Operations Bodily Injury and Property Damage
    - b. Personal and Advertising Injury
    - c. Blanket Contractual Liability
    - d. Products and Completed Operations Liability
    - e. MMCAP Infuse named as an Additional Insured, to the extent permitted by law
- C. Network Security and Privacy Liability Insurance, Including Ransomware (or equivalent): Vendor will maintain insurance to cover claims which may arise from failure of Vendor's security resulting in, but not limited to, computer attacks, unauthorized access, disclosure of not public data including but not limited to confidential or private information, transmission of a computer virus or denial of service. Insurance minimum limits are as follows:
- i. \$2,000,000 – per occurrence
  - ii. \$2,000,000 – annual aggregate
- D. Professional/ Technical, Errors and Omissions, and or Miscellaneous Liability Insurance: This policy will provide coverage for all claims the Vendor may become legally obligated to pay resulting from any actual or alleged negligent act, error, or omission related to the Vendor's services required under the Agreement. Insurance minimum limits are as follows:
- i. \$2,000,000 – per occurrence
  - ii. \$2,000,000 – annual aggregate

**ARTICLE XI  
GENERAL TERMS**

- 11.1 **Notices.** If one party is required to provide legal notice or notice under the terms of the Agreement to the other, such notice will be in writing and will be effective upon dispatch. Delivery shall be by certified United States mail, or by email or facsimile transmission provided the receipt of the transmission is confirmed by the receiving party. Either party must notify the other of a change in address for notification purposes.
- 11.2 **Audits**
- A. MMCAP Infuse Audits Rights. Under Minn. Stat. § 16C.05, subd. 5, the Vendor's books, records, documents, and accounting procedures and practices relevant to this Agreement are subject to examination by the Minnesota, MMCAP Infuse, and/or the Minnesota Auditor or Legislative Auditor, as appropriate, for a minimum of six (6) years from the end of this Agreement. This clause extends to the Membership as it relates to business conducted with and sales a Member.
- i. Invoice and Pricing Audit. MMCAP Infuse and Members served by this Agreement may periodically audit validity of invoice pricing. Such audits may be conducted only during ordinary business hours and upon reasonable notice.
- ii. Costs. Vendor, MMCAP Infuse, and Members shall each be responsible for its own costs associated with any audit, including costs related to the production of records and/or other documents requested by the other party.
- B. GSK Audit/Records Rights. During the Term of this Agreement and for two (2) years thereafter, GSK shall have the right to or the right to engage an independent firm to audit MMCAP Infuse and its Members to verify their performance and compliance with their obligations under the Agreement. GSK or such independent auditing firm will be authorized to access to information including all systems and processes reasonably necessary to perform procedures pursuant to this section of the Agreement, including the right upon reasonable prior written notice to MMCAP Infuse, to audit, or to engage an independent firm to audit, documentation at MMCAP Infuse business locations during normal working hours. MMCAP Infuse and its Members shall have the right to specify certain confidential or proprietary information that should not be disclosed to GSK; provided, however, that information shall be made available on an unrestricted basis to the auditing firm, as necessary, for such firm to perform procedures requested by GSK pursuant to this section of the Agreement unless statute prevents MMCAP Infuse or Member from sharing with the auditor or GSK.. Any and all information required will be requested by GSK and/or the independent auditing firm from MMCAP Infuse and its Members, and MMCAP Infuse and its Members will make all reasonable efforts to ensure the requested information is made available to the independent auditing firm within a specified period of time as agreed to by GSK and MMCAP Infuse and its Members.
- C. MMCAP Infuse Record Retention. Unless mandated by Minnesota's retention record, MMCAP Infuse shall for the Term of this Agreement plus two (2) years, keep and maintain accurate records with respect to its Members, all information relating to the purchase of Products by Members and all such other information that is necessary to verify MMCAP Infuse and the Members' performance and compliance with their obligations under the Agreement. MMCAP Infuse shall upon written request allow GSK to inspect, at reasonable times, all such information and shall furnish such information to GSK consistent with the forgoing paragraph, provided, however, that under no circumstances shall MMCAP Infuse be required to disclose information contrary to applicable law or in violation of patient confidentiality.
- 11.3 **Confidential Information.** During the term of this Agreement and for a period of three (3) years following the date of expiration or termination of this Agreement, MMCAP Infuse agrees to make best effort to keep the terms of this Agreement non-public. If the situation arises where disclosure is requested, notification of a request to release would be sent immediately to the Vendor's Authorized Representative. Vendor will acknowledge receipt of the notification within five business days or MMCAP Infuse will be free to release the information. Upon notification to MMCAP Infuse, Vendor, at its own expense, may pursue an action to enjoin the disclosure of information considered by the Vendor to be "confidential information." Without prior notice, MMCAP Infuse may release the following information:

- A. Contract release and contract documents to MMCAP Infuse Members;
- B. Contract Pricing to MMCAP Infuse's Authorized Wholesalers for use in the Authorized Wholesaler's ordering, invoicing, and reporting systems;
- C. Contract Pricing to other third parties under non-disclosure agreement or contract with MMCAP Infuse to perform specific tasks such as auditing and data analysis; and
- D. Member State Attorneys General or auditors requiring contract or pricing data to perform their duties.

- 11.4 **Assignment.** The rights and/or obligations of each party under this Agreement may not be assigned, delegated, transferred, conveyed or sold, by operation of law or otherwise, without the prior written consent of the other party, except that GSK may assign, delegate, transfer, convey or sell its rights and/or obligations to (A) a parent, subsidiary, or affiliate or to an entity into which GSK is consolidated or merged with, (B) another party as part of a corporate reorganization, (C) a purchaser of all or substantially all of its assets, or (D) any party that purchases from GSK the right to manufacture, market or distribute a Product, or that acquires, or succeeds to the interests of GSK. In a change of control, GSK will use reasonable efforts to ensure MMCAP Infuse executes an assignment agreement or amendment with the assignee within thirty (30) days of the change of control. MMCAP Infuse may assign to another agency or branch of government within the state of Minnesota.
- 11.5 **Amendments.** Any amendment to this Agreement must be in writing and will not be effective until it has been executed and approved by the same parties who executed and approved this Agreement, or their successors in office.
- 11.6 **Own Use.** MMCAP Infuse represents and warrants that its Eligible Participating Members are not in the business of and do not engage in the wholesale or retail resale of pharmaceutical products, and that each of its Eligible Participating Members is purchasing each GSK Product at the Contract Price made available under this Agreement solely for dispensing to and solely for use by each such Eligible Participating Member's patients incidental to the healthcare services provided by the Eligible Participating Member in connection with its designated business entity type as set forth in the Declaration Form(s). MMCAP Infuse further represents and warrants that it shall inform each Eligible Participating Member that such Eligible Participating Member may not engage in retail sales of GSK Products purchased under this Agreement, and that all GSK Products purchased under this Agreement are exclusively for the Own Use of such Eligible Participating Member in connection with its designated business entity type as set forth in the Declaration Form(s). If an Eligible Participating Member fails to observe the terms of this Section, GSK may, at its option, immediately terminate the eligibility of such MMCAP Infuse member to participate in this Agreement.
- 11.7 **Storage and Handling Requirements.** GSK expects that Eligible Members will take such precautions as are necessary to prevent the GSK Products Eligible Members receive from falling into the hands of those who may not lawfully possess or handle them, and shall fully comply with local, state and federal laws applicable to the storage, and shipment of pharmaceutical products and/or vaccines.
- A. Eligible Members shall maintain all federal, state and local licensure or registration necessary for the lawful handling and use of all vaccines and shall immediately notify GSK of any denial, revocation or suspension of any such licensure or registration or any changes in the Vaccines which Eligible Members are authorized to handle and use.
  - B. Eligible Members shall handle and store GSK Products in a clean and orderly location and in a manner that will assure that the proper rotation and quality of such products are maintained. Eligible Members shall comply with GSK criteria on storing and shipping GSK products that require special handling. Eligible Members shall allow physical inspection of storage facility at any time GSK requests.
- 11.8 **Best Price.** If Vendor determines in good faith (e.g., if there is any change in any GSK Product's WAC or change in legislation) or GSK receives any notice, opinion, determination, or ruling from the Centers for Medicare and Medicaid Services ("CMS" f/k/a the Health Care Financing Administration) that the discounts and rebates provided under this Agreement may establish a lowered federal "Best Price," or increased "Unit Rebate Amount" pursuant to Section 1927 (c) of the Social Security Act (Public Law 74-271, 42 U.S.C. Section 1396r-8(c)), (collectively, "a **Best Price Impact**") then GSK reserves the right to immediately make any and all adjustments to the GSK Product discount and/or rebate, so as to avoid establishment of a Best Price Impact and to eliminate and correct such effect. Upon discovery, GSK will provide timely written notice to MMCAP Infuse and the affected Members if this occurs. In the event

of such a Best Price Impact, Vendor reserves the right to immediately make any and all adjustments to a Product's or Products' discounts, so as to avoid establishment of the Best Price Impact and to eliminate and correct such effect, upon prior notice to MMCAP Infuse. This includes Vendor's right to offset current or future ASF that may be due to MMCAP Infuse, and/or the responsibility for repayment of such ASF by MMCAP Infuse.

- 11.9 **HIPAA.** GSK and MMCAP Infuse acknowledge that the United States Department of Health and Human Services published final medical records privacy regulations under 45 C.F.R. Part 164 (**HIPAA Rules**). The parties further acknowledge that MMCAP Infuse and/or the Eligible Members may be a "Covered Entity" under the HIPAA Rules and as such may have access to "Protected Health Information" within the meaning of the HIPAA Rule. MMCAP Infuse shall comply, and shall require all Eligible Members to comply, with the HIPAA Rules. It is the parties' intent that neither MMCAP Infuse, nor any third party, will provide to GSK any data that contain any Protected Health Information or any other information that would allow GSK to identify an individual patient.
- 11.10 **Order of Precedence.** Vendor agrees that applicable federal and state law will supersede this Agreement, however this Agreement will take precedence over all other the terms, covenants, conditions, commitments, stipulations, order forms, website use of terms, Offer Letters, and other legal documents MMCAP Infuse, Vendor, and/or Member may use in the performance of this Agreement. If the provisions of this Agreement are inconsistent, or are modified, diminished, or derogated with any of the terms and provisions of the aforementioned legal documents in this section, this Agreement will supersede and govern. MMCAP Infuse does not agree to or bound by any additional terms and conditions between the Vendor and Member. For the MMCAP Infuse Members purchasing vaccines directly from the GSKDirect website, such purchases are governed by the Terms of Sale and Term of Use of the website unless in direct conflict with this Agreement.
- 11.11 **Counterparts and Electronic Signature.** The Agreement cannot be executed in counterparts and will not be enforceable until MMCAP Infuse has obtained all required signatures. If requested by MMCAP Infuse and Vendor expressly agree to conduct transactions under the Agreement by electronic means (including, without limitation, with respect to execution, delivery, storage, and transfer of this Agreement by electronic means and to the enforceability of this electronic agreement). MMCAP Infuse will be deemed to have control of the authoritative copy for the electronic transferable record, in each case regardless of whether applicable law recognizes electronic transferable records or control of electronic transferable records and regardless of whether this Agreement is an electronic record or transferable record.
- 11.12 **Severability.** If any provision of the Agreement, including items incorporated by reference, is found to be illegal, unenforceable, or void, then both MMCAP Infuse and the Vendor will be relieved of all obligations arising under such provisions. If the remainder of the Agreement is capable of performance, it will not be affected by such declaration or finding and will be fully performed.
- 11.13 **Waiver.** If either party fails to enforce any provision of this Agreement, that failure does not waive the provision or its right to enforce it.
- 11.14 **Governing Law, Jurisdiction, and Venue.** Minnesota law, without regard to its choice-of-law provisions, governs this Agreement. Venue for all legal proceedings out of this Agreement, or its breach, must be in the appropriate state or federal court with competent jurisdiction in Ramsey County, Minnesota.

**[End of Agreement, Signature Page follows]**

**VENDOR: GlaxoSmithKline LLC**

The Vendor certified that the appropriate person(s) have executed this Agreement on behalf of the Vendor as required and by applicable articles, bylaws, resolutions, or ordinances.

Jennifer Costello

Name: \_\_\_\_\_

Signature: DocuSigned by: Jennifer Costello  
 \_\_\_\_\_

Title: VP, PURCHASER ACCOUNTS  
 \_\_\_\_\_

Date: 6/17/2020  
 \_\_\_\_\_

**STATE OF MINNESOTA FOR MMCAP INFUSE**

In accordance with Minn. Stat. § 16C.03, subd. 3

Name: \_\_\_\_\_

Signature: DocuSigned by: Jennifer Vanderplaats  
 \_\_\_\_\_

Date: 6/17/2020  
 \_\_\_\_\_

**COMMISSIONER OF ADMINISTRATION**

In accordance with Minn. Stat. § 16C.05, subd. 2

Sara Turnbow

Name: \_\_\_\_\_

Signature: DocuSigned by: Sara Turnbow  
 \_\_\_\_\_

Date: 6/17/2020  
 \_\_\_\_\_

## ATTACHMENT B

### MMCAP Infuse CCS PLUS PORTFOLIO PROGRAM

#### I. Program Overview and Eligibility

- A. CCS Plus Portfolio Program.** MMCAP Infuse has the ability to create a CCS Plus Portfolio Program for their Members who would like to be evaluated for discounts as a group in the aggregate. Members may only participate in either the existing MMCAP Infuse CCS or the CCS Plus Portfolio Program; a Participating Member may not participate in both programs. The CCS Plus Portfolio Program includes both financial and other benefits as follows:
1. **Financial Benefit.** The CCS Plus Portfolio Program provides for discounted Contract Pricing.
  2. **Price Commitment.** Vaccine price increases shall be limited to one price increase per NDC per calendar year.
  3. **Price Predictability.** Price increases for Pediarix, Infanrix, Kinrix, Boostrix, Rotarix, and Menveo shall not exceed 4% per NDC per year.
- B. Eligibility for Program and Discounts.** Participating Members shall be consistent with the terms of Article V of the Agreement.
1. **Member Eligibility.** In order to be eligible for participation under a CCS Plus Portfolio Program, GSK must be able to validate that GSK's third party data vendor is able to provide market share information for each potential Participating Member.
    - i. GSK at its option may elect to add Eligible Members to this CCS Plus Portfolio Program prior to verification of third party market share information. In the event GSK is unable to verify third party market share information for Participating Member that has been previously added to the CCS Plus Portfolio Program, GSK shall have the right to remove such unmatched Participating Member from the CCS Plus Portfolio Program.
  2. **Data Requirements.** GSK must be able to confirm to its satisfaction third party sales data alignment for a minimum of fifty-five percent (55%) of a CCS Plus Portfolio Group's Participating Members' total sales (the "Minimum Third Party Sales Data Alignment Rate").
    - i. If GSK is unable to confirm to its satisfaction the third party sales data alignment consistent with the Minimum Third Party Sales Data Alignment Rate, then GSK shall have the right, in its discretion, to delete Participating Members for whom GSK is unable to confirm third party sales data alignment in order to achieve the Minimum Third Party Sales Data Alignment Rate, or to terminate the respective CCS Plus Portfolio Program with thirty (30) days' notice.
- C. Member Listing.** Participating Members will be limited to immunizing sites only.
1. **Sign Up Process.** GSK approved new Participating Members will be added to the CCS Plus Portfolio Program after receipt and acceptance by GSK of a MMCAP Infuse CCS Plus Portfolio Program Membership List from MMCAP Infuse, regardless of verification of third party market share information, provided that GSK shall have up to thirty (30) days to add new Participating Members. MMCAP Infuse can also request the removal of Participating Member(s) from the group contract no later than fifteen (15) days prior to the beginning of a contract performance Evaluation Period in order for the Participating Member's purchases to not be considered as part of the current Evaluation Period.
  2. **Termination from Program.** Upon expiry or termination of the CCS Plus Portfolio Program, or if the Participating Member is removed from the CCS Plus Portfolio Program at the request of MMCAP Infuse, the Participating Member will be automatically enrolled in MMCAP Infuse CCS with GSK without any action required by MMCAP Infuse or the Eligible Member. The Participating Member may discontinue participation in the MMCAP Infuse CCS or change to another GSK contract (subject to GSK approval) at any time.

**II. Program Details**

A. The CCS Plus Portfolio Program has one offering.

- i. The group of MMCAP Infuse Participating Members (“the Group”) must achieve the required Aggregate Market Share Performance Level in the three GSK Performance Categories as outlined in II.B Performance Criteria below to be entitled to CCS Plus Portfolio Program Contract Pricing (see Section III).
- ii. The Group’s Participating Members are eligible for discounts on all GSK Vaccines listed in Section III. CCS Plus Portfolio Program Contract Pricing.
- iii. Upon termination of the CCS Plus Portfolio Program, Participating Members of MMCAP Infuse will be enrolled automatically in the existing MMCAP Infuse CCS without any action required by MMCAP Infuse or the Participating Member. The Participating Member may discontinue participation in the MMCAP Infuse CCS or change to another Vendor contract (subject to Vendor approval) at any time.

**B. Performance Criteria**

The Group’s performance will be evaluated in accordance with the Performance Criteria set forth below.

**Performance Criteria Table**

PERFORMANCE CATEGORY	GSK PRODUCT	AGGREGATE MARKET SHARE PERFORMANCE LEVEL	THERAPEUTIC CLASS
<b>Pediatric</b>	PEDIARIX INFANRIX KINRIX HAVRIX PEDIATRIC* ROTARIX* HIBERIX* (PGC – 756)	≥ 80%	Pediatric Acellular Pertussis Vaccines and Combination HIB vaccine  (PGC 666)
PERFORMANCE CATEGORY	GSK PRODUCT	AGGREGATE MARKET SHARE PERFORMANCE LEVEL	THERAPEUTIC CLASS
<b>Adult</b>	BOOSTRIX ENGERIX-B ADULT* HAVRIX ADULT TWINRIX RABAVERT* (PGC – 770)	≥ 80%	Adult Hepatitis and Tdap Vaccines and Rabies Vaccine (PGC 771)
PERFORMANCE CATEGORY	GSK PRODUCT	AGGREGATE MARKET SHARE PERFORMANCE LEVEL	THERAPEUTIC CLASS
<b>Adolescent</b>	MENVEO BEXSERO (PGC – 744)	≥ 70%	Meningococcal Vaccines Class (PGC – 745)

\* Sales of Engerix B Adult, Havrix Pediatric, Rotarix, Hiberix, and Rabavert are included in the performance calculations within their respective categories. Competitive purchases will not be measured for these brands.

### C. Evaluation Periods

- a. A Group's performance will be evaluated on a semi-annual basis with each period being considered an Evaluation Period.
  - i. Each Evaluation Period will be a six (6) month period, with the exception of the Initial Evaluation Period.
- b. **Initial Evaluation Period and Ramp-up.**
  - i. New Participating Members in the CCS Plus Portfolio program will be given a "Ramp-up" Period before being evaluated.
    - a. The Initial Evaluation Period will be the Ramp-up Period.
- c. **Contract Extensions**
  - i. Evaluation Periods will cross contract extensions.
    1. As an example, if the contract is extended past 06/30/24, the Evaluation Period of 01/01/24 through 06/30/24 will determine the pricing for the Pricing Period 10/01/24 through 03/31/25 and the Evaluation Period of 07/01/24 through 12/31/24 will determine the pricing for the Pricing Period beginning on 04/01/25.
- d. **Aggregate Market Share Performance Level**
  - i. The Group's performance during an Evaluation Period shall be based on the Aggregate Market Share Level for a given Performance Category. Aggregate Market Share Performance Level will be calculated by dividing the aggregate sales (in WAC dollars) of GSK Vaccines purchased by the Group's Participating Members in a given GSK Product Category, by the aggregate sales (in WAC dollars) of all vaccines purchased by the Group's Participating Members within the corresponding Therapeutic Class.
  - ii. In the event that GSK is unable to supply any of the GSK Vaccines identified in the Performance Categories above for thirty (30) consecutive calendar days or longer during the Evaluation Period, then GSK may, in its sole discretion adjust the Aggregate Market Share Performance Level for such Therapeutic Class for such Evaluation Period.
  - iii. Calculations will be based on GSK sales data and sales data provided by a third party data vendor of GSK's election. GSK reserves the right to change third party data vendors at any time at its own discretion.

### D. Pricing Periods

- a. The Group's Participating Member's will be entitled to CCS Plus Portfolio Program Contract Pricing for the Pricing Period based on the performance during the corresponding Evaluation Period.
  - i. Each Pricing Period will be a six (6) month period, with the exception of the Initial Pricing Period and the Final Pricing Period.
  - ii. After the Initial Pricing Period, each Pricing Period will begin three (3) months after the end of each corresponding Evaluation Period, as long as the performance criteria for that Evaluation Period are met.
- b. **Initial Pricing Period**
  - i. The Initial Pricing Period which started on 07/01/2019 will be fifteen (15) months ending on 9/30/2020
  - ii. There will be no performance criteria for the CCS Plus Portfolio Program Eligible Participating Members to receive program discounts for the Initial Pricing Period.

- E. Example of Evaluation Period and Pricing Period Table.** By way of example, the table below shows the Evaluation Periods and corresponding Pricing Periods for a CCS Plus Portfolio Program with an effective date of July 1, 2019:

**EVALUATION AND DISCOUNT PERIOD EXAMPLE TABLE**

<b>Evaluation Period</b>	<b>Pricing Period</b>
N/A	07/01/19 through 09/30/20
07/01/19 through 06/30/20 (“Ramp-up Period”)	10/01/20 through 03/31/21
07/01/20 through 12/31/20	04/01/21 through 09/30/21
01/01/21 through 06/30/21	10/01/21 through 03/31/22
07/01/21 through 12/31/21	04/01/22 through 09/30/22
01/01/22 through 06/30/22	10/01/22 through 03/31/23
07/01/22 through 12/31/22	04/01/23 through 09/30/23
01/01/23 through 06/30/23	10/01/23 through 03/31/24
07/01/23 through 12/31/23	04/01/24 through 09/30/24
01/01/24 through 06/30/24	10/01/24 through 03/31/25
07/01/24 through 12/31/24	04/01/25 through 09/30/25
01/01/25 through 06/30/25	10/01/25 through 03/31/26

**F.Failure to Perform**

1. **Evaluation Period.** A Group must fail two consecutive Evaluation Periods following the Ramp-up Period to have the program terminated.
  - i. If the Group does not achieve the required Aggregate Market Share Performance Level for any two consecutive Evaluation Periods following the Ramp-up Period, the Group will be terminated and Participating Members will no longer be eligible to receive the Contract Pricing under the CCS Plus Portfolio Program.
  - ii. Upon termination of the CCS Plus Portfolio Program, Participating Members of the MMCAP Infuse Program will be enrolled automatically in the MMCAP Infuse CCS Agreement with GSK without any action required by MMCAP Infuse or the Participating Member. The Participating Member may discontinue participation in the MMCAP Infuse CCS or change to another GSK contract (subject to GSK approval) at any time.
2. **Re-acceptance into the Program.** A Group may be re-accepted into a CCS Plus Portfolio Program at GSK’s discretion pending GSK’s receipt and approval of the signed MMCAP Infuse CCS Plus Portfolio Program from MMCAP Infuse (“Initial List”). Subject to change at GSK’s discretion, there will be no Ramp-up Period and the Evaluation Period to determine discounts will begin at the start of the next calendar quarter after the receipt and approval of a completed MMCAP Infuse CCS Plus Portfolio Membership List from MMCAP Infuse.

#### IV. GSK Market Definitions

Therapeutic Class	GlaxoSmithKline Measured Products	Market Definition Competitor Measured Products*
Pediatric Acellular Pertussis Vaccines, Hib Vaccine and Combination Hib vaccine	GSK acellular pertussis or combination vaccine product containing acellular pertussis marketed during the term of this Agreement, GSK Hib vaccine and GSK combination Hib vaccine, GSK Pediatric Hepatitis A and Rotavirus vaccine product marketed during the term of this Agreement. (Currently Pediatric Havrix, Rotarix, Pediarix, Infanrix, Kinrix, and Hiberix) (PGC-756)	All forms of Pentacel, Daptacel and Quadracel, and any other vaccine or combination vaccine containing acellular pertussis marketed in the US during the term of this Agreement (PGC-666)
Adult Hepatitis and Tdap Vaccines and Rabies Vaccine	All forms of GSK tetanus toxoids, reduced diphtheria toxoids and acellular pertussis vaccine and any GSK Adult Hepatitis A or B or combination vaccine and GSK Rabies vaccine product marketed during the term of this Agreement. (Currently Boostrix, Adult Havrix, Adult Engerix-B, Twinrix, and RabAvert) (PGC-770)	All forms of Adult Vaqta, Adacel, and any other tetanus toxoids, reduced diphtheria toxoids and acellular pertussis vaccine and any other Adult Hepatitis A vaccine product marketed in the U.S. during the term of this Agreement.  (PGC-771)
Meningococcal Vaccines	GSK meningococcal vaccine product marketed during the term of this Agreement (Menveo and Bexsero) (PGC - 744)	All forms of Menactra and Trumenba vaccine product marketed in the U.S. during the term of this Agreement.  (PGC-745)

**\*Note:**

**PGC= Product Group Code**

- a) In all Therapeutic Classes, only prescription forms of the products listed are included.
- b) Unless otherwise specified, all dosage forms, strengths, and brand name variations of the products for the therapeutic purpose are included.
- c) All original manufacturer products listed by brand name, as defined above, are included in the relevant Therapeutic Class.
- d) Therapeutic Class percentages are figured in sales dollars using Wholesaler Acquisition Cost prices for GSK and competitive products.

**GROUP PURCHASING ORGANIZATION MEMBERSHIP DECLARATION w/ SURVEY**

In order to take advantage of prices and/or rebates under a Group Purchasing Organization (GPO) or Alliance with GSK contracts, GSK requires an eligible facility to designate only ONE GPO whose contract(s) said facility will access to purchase GSK products. **The GPO designation listed below, if different from current files, will remove facility from their current GPO (or other segment) within 30 days of notification.**

Multiple GPO designations, even for different product groups, will not be honored. Designations may be changed but will require thirty (30) days advance written notice to GSK. GSK reserves the right to refuse to extend a contract price to a facility that has failed to designate a GPO/Alliance, seeks to purchase under agreements with multiple alliances, or does not meet contract eligibility requirements. Facility will be added to the designated GPO's contract(s) within thirty (30) days, if GSK determines that all contract eligibility requirements are met. Declaration forms must be submitted for each location.

**PLEASE COMPLETE ALL REQUESTED INFORMATION (PLEASE PRINT) INCOMPLETE FORMS WILL NOT BE PROCESSED**

FACILITY NAME \_\_\_\_\_

DEA or HIN # (must be current) \_\_\_\_\_ STATE LICENSE # \_\_\_\_\_ STATE LICENSE # EXPIRATIONDATE \_\_\_\_\_

FACILITY STATE LICENSE NAME OR AUTHORIZED Health Care Provider STATE LICENSE NAME \_\_\_\_\_

PHYSICAL ADDRESS \_\_\_\_\_ SUITE # \_\_\_\_\_

CITY \_\_\_\_\_ STATE \_\_\_\_\_ ZIP \_\_\_\_\_

TELEPHONE \_\_\_\_\_ FAX # \_\_\_\_\_

**MUST DESIGNATE SOLE GROUP PURCHASING ORGANIZATION:** \_\_\_\_\_

PRIMARY WHOLESALER (NAME, CITY, STATE) \_\_\_\_\_

**TYPE OF BUSINESS:**

- On-site hospital clinic
- Off-site satellite clinic (affiliated with \_\_\_\_\_ Hospital)
- City County or State (CCS) funded health clinic
- Surgery Center
- HMO/Managed health care
- Intermediate Care Facilities for Mentally Retarded
- Outpatient Clinic in a Hospital
- Hospice Inpatient
- Inpatient Psychiatric Facility
- Outpatient Mental Health Clinic
- Public Health Department
- Hospital owned and funded by government
- Correctional Facility
- Other (please describe: \_\_\_\_\_)

Is this facility owned, leased, or managed by a hospital or hospital system? YES NO

If so, name and location of hospital or hospital system \_\_\_\_\_

Is a pharmacy or physician-dispensing unit physically located within this facility? YES NO

Is this pharmacy or physician dispensing unit a closed-door pharmacy? (i.e. only serves patients and employees of the facility?) YES NO

Is this facility for profit? YES NO

**CERTIFICATION: By signing below, Facility certifies, under penalty of perjury, that all of the above information is true and correct. Further, Facility certifies and agrees that (1) any GSK product purchased under any agreement shall be for its "Own Use," as defined by the United States Supreme Court in its opinions report at Abbott Laboratories et al. v. Portland Retail Druggist Association, Inc., 425 U.S. 1 (1976), and Jefferson County Pharmaceutical Association, Inc., v. Abbott Laboratories, et al., 103 S. Ct. 1011 (1983), and (2) GSK may, in its sole discretion, contact Facility's staff, and/or visit Facility's locations to verify that the above information is correct, and Facility agrees to provide such information to GSK as is reasonably necessary for GSK to make such a determination.**

Printed Name (Required) \_\_\_\_\_ Title (Required) \_\_\_\_\_ Signature (Required) \_\_\_\_\_ Date (Required) \_\_\_\_\_

PLEASE FAX FORM BACK TO 215-933-3947 OR EMAIL TO: iqg86213@gsk.com

**ATTACHMENT D**  
**Reporting Requirements**

**Table 1: Required Data Field for Sales Data Report**

Excel Column	Required Data Field Full Name for Sales Data Report
A	MMCAP Infuse-assigned facility ID
B	MMCAP Infuse Member Name
C	Vendor Distribution Center Code
D	Vendor-assigned Account number for MMCAP Infuse Member (this should be the ship-to account number)
E	Invoice Number
F	Invoice Line Number
G	Purchase Order Number
H	Invoice date (MMDDYYYY)
I	Buyer name or equivalent of buyer ID for person submitting the invoices (if available)
J	Vendor's (distributor) SKU item number
K	NDC of purchased Product as stored in First DataBank, Inc. (Required for pharmaceutical Products)
L	LabelName/Product Description
M	Unit Dose (Required for pharmaceutical Products)
N	Pack Size
O	Unit
P	Case Size
Q	Dose (Required for pharmaceutical Products).
R	Strength (Required for pharmaceutical Products).
S	Route (Required for pharmaceutical Products).
T	Unit Price (99999.9999)
U	Quantity Ordered (not Vendor repackaged or re-bundled quantity)(99999.9999)
V	Quantity Shipped (not Vendor repackaged or re-bundled quantity)(99999.9999)
W	Extension (unit price multiplied by the quantity shipped) EXTENDED PRICE (99999.9999)
X	Type of transaction (MMCAP Infuse contract purchase, other contract purchase (340B, PHS), not on contract purchase) 1=contract item, 2=other contract, 3=not on contract
Y	Bill to Address 1
Z	Bill to City
AA	Bill to State (2 alpha postal code)
AB	Bill to Zip (standard 5-4 format, no dash necessary)
AC	Ship to Address 1
AD	Ship to City
AE	Ship to State (2 alpha postal code)
AF	Ship to Zip (standard 5-4 format, no dash necessary)
AG	Service Fee (99999.9999)
AH	MMCAP Infuse Contract Number ( <b>MMS2000177</b> )
AI	Admin Fee
AJ	Credit Indicator (C for credit)

AK	MMCAP Assigned Wholesaler Code ( <b><i>Codes will be assigned to PPV's during implementation period of the contract</i></b> )
AL	Manufacturer Name (MFG Name)
AM	Class of Trade
AN	340b Purchase
AO	Category
AP	Manufacturer Part Number
AQ	List Price
AR	UNSPSC Code (XXXXXXXX)
AS	UNSPSC Description
AT	GLN
AU	GTIN

**ATTACHMENT E**  
**Minnesota Statutory Procurement Language**

1. **Government Data Practices.** Parties to this Agreement must comply with the Minnesota Government Data Practices Act, Minnesota Statutes Chapter 13 (Data Practices Act), as it applies to all data created, collected, received, stored, used, maintained, or disseminated by the Vendor under this Agreement. The civil remedies of Minn. Stat. § 13.08 apply to the release of the data governed by the Minnesota Government Practices Act, Minn. Stat. Ch. 13, by either the Vendor or MMCAP Infuse.
  - A. Notification. If the Vendor receives a request to release the data referred to in statute, the Vendor must immediately notify and consult with MMCAP Infuse as to how the Vendor should respond to the request.
  - B. Indemnification. Vendor agrees to indemnify, save, and hold Minnesota, its agent and employees, harmless from all claims arising out of, resulting from, or in any manner attributable to any violation of any provision of the Data Practices Act, including legal fees and disbursements paid or incurred to enforce this provision of the Agreement.
  - C. Release of MMCAP Infuse Data. Except as may be required by Data Practices Act, Vendor will not release to any third party any MMCAP Infuse customer data, sales transaction data, DEA/HIN information, contract pricing, EDI transaction data, reverse distribution data, or payment data.
2. **Data Disclosure.** Under Minn. Stat. § 270C.65, subd. 3 and other applicable law, the Vendor consents to disclosure of its social security number, federal employer tax identification number, and Minnesota tax identification number, already provided to the MMCAP Infuse, to federal and state agencies, and state personnel involved in the payment of state obligations. These identification numbers may be used in the enforcement of federal and state laws which could result in action requiring the Vendor to file state tax returns, pay delinquent state tax liabilities, if any, or pay other state liabilities.
3. **Non-discrimination.** The Vendor will comply with the provisions of Minn. Stat. § 181.59.
4. **Affirmative Action Requirements.**
  - A. Covered contracts and vendors. If the Agreement exceeds \$100,000 and the Vendor employed more than forty (40) full-time employees on a single working day during the previous twelve (12) months in Minnesota or in the state where it has its principal place of business, then the Vendor must comply with the requirements of Minn. Stat. § 363A.36 and Minn. R. 5000.3400-5000.3600. A contractor covered by Minn. Stat. § 363A.36 because it employed more than forty (40) full-time employees in another state and does not have a certificate of compliance, must certify that it is in compliance with federal affirmative action requirements.
  - B. Minn. Stat. § 363A.36. Minn. Stat. § 363A.36 requires the Vendor to have an affirmative action plan for the employment of minority persons, women, and qualified disabled individuals approved by the Minnesota Commissioner of Human Rights (**Commissioner**) as indicated by a certificate of compliance. The law addresses suspension or revocation of a certificate of compliance and contract consequences in that event. A contract awarded without a certificate of compliance may be voided.
  - C. Minn. R. 5000.3400-5000.3600.
    - i. General. Minn. R. 5000.3400-5000.3600 implements Minn. Stat. § 363A.36. These rules include, but are not limited to, criteria for contents, approval, and implementation of affirmative action plans; procedures for issuing certificates of compliance and criteria for determining a Vendor's compliance status; procedures for addressing deficiencies, sanctions, and notice and hearing; annual compliance reports; procedures for compliance review; and contract consequences for non-compliance. The specific criteria for approval or rejection of an affirmative action plan are contained in various provisions of Minn. R. 5000.3400-5000.3600 including, but not limited to, Minn. R. 5000.3420-5000.3500 and 5000.3552-5000.3559.

- ii. Disabled Workers. The Vendor must comply with the following affirmative action requirements for disabled workers.
    - a. The Vendor must not discriminate against any employee or applicant for employment because of physical or mental disability in regard to any position for which the employee or applicant for employment is qualified. The Vendor agrees to take affirmative action to employ, advance in employment, and otherwise treat qualified disabled persons without discrimination based upon their physical or mental disability in all employment practices such as the following: employment, upgrading, demotion or transfer, recruitment, advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship.
    - b. The Vendor agrees to comply with the rules and relevant orders of the Minnesota Department of Human Rights issued pursuant to the Minnesota Human Rights Act.
    - c. In the event of the Vendor's noncompliance with the requirements of this clause, actions for noncompliance may be taken in accordance with Minn. Stat. § 363A.36, and the rules and relevant orders of the Minnesota Department of Human Rights issued pursuant to the Minnesota Human Rights Act.
    - d. The Vendor agrees to post in conspicuous places, available to employees and applicants for employment, notices in a form to be prescribed by the Commissioner. Such notices must state the Vendor's obligation under the law to take affirmative action to employ and advance in employment qualified disabled employees and applicants for employment, and the rights of applicants and employees.
    - e. The Vendor must notify each labor union or representative of workers with which it has a collective bargaining agreement or other contract understanding, that the Vendor is bound by the terms of Minn. Stat. § 363A.36, of the Minnesota Human Rights Act and is committed to take affirmative action to employ and advance in employment physically and mentally disabled persons.
  - iii. Consequences. The consequences for the Vendor's failure to implement its affirmative action plan or make a good faith effort to do so include, but are not limited to, suspension or revocation of a certificate of compliance by the Commissioner, refusal by the Commissioner to approve subsequent plans, and termination of all or part of this Agreement by the Commissioner or Minnesota.
  - iv. Certification. The Vendor hereby certifies that it is in compliance with the requirements of Minn. Stat. § 363A.36 and Minn. R. 5000.3400-5000.3600 and is aware of the consequences for noncompliance.
5. **E-Verify certification (In accordance with Minn. Stat. § 16C.075).** For services valued in excess of \$50,000, Vendor certifies that as of the date of services performed on behalf of Minnesota, Vendor and all its subcontractors will have implemented or be in the process of implementing the federal E-Verify Program for all newly hired employees in the United States who will perform work on behalf of Minnesota. Vendor is responsible for collecting all subcontractor certifications and may do so utilizing the E-Verify Subcontractor Certification Form available at <http://www.mmd.admin.state.mn.us/doc/EVERifySubCertForm.doc>. All subcontractor certifications must be kept on file with Vendor and made available to Minnesota upon request.
6. **Certification of Nondiscrimination (In accordance with Minn. Stat. § 16C.053).** The following term applies to any contract for which the value, including all extensions, is \$50,000 or more: Vendor certifies it does not engage in and has no present plans to engage in discrimination against Israel, or against persons or entities doing business in Israel, when making decisions related to the operation of the Vendor's business. For purposes of this section, "discrimination" includes but is not limited to engaging in refusals to deal, terminating business activities, or other actions that are intended to limit commercial relations with Israel, or persons or entities doing business in Israel, when such

actions are taken in a manner that in any way discriminates on the basis of nationality or national origin and is not based on a valid business reason.

7. **Contingency Fees Prohibited.** Pursuant to Minn. Statute § 10A.06, no person may act as or employ a lobbyist for compensation that is dependent upon the result or outcome of any legislation or administrative action.
8. **Diverse Spend Reporting.** If the total value of this Agreement may exceed \$500,000 in Minnesota, including all extension options, the Vendor must track and report, on a quarterly basis, the amount paid to diverse businesses both: (A) directly to subcontractors performing under the Agreement, and (B) indirectly to diverse businesses that provide supplies/services to your company (in proportion to the revenue from this Agreement compared to your company's overall revenue). When this applies, you will be set up in a free portal to help report the Tier 2 diverse spend, and the requirement continues as long as the Agreement is in effect.
9. **Retainage for Minnesota Government Units.** Under Minn. Stat. § 16C.08, subd. 2 (10), no more than ninety percent (90%) of the amount due under this Agreement may be paid until the final product of this Agreement has been reviewed by a Minnesota agency head. The balance due will be paid when the Minnesota agency head determines that the Vendor has satisfactorily fulfilled all the terms of this Agreement.
10. **Payment to Subcontractors.** To the extent applicable, pursuant to Minn. Stat. § 16A.1245, the Vendor must pay all subcontractors, less any retainage, within ten (10) calendar days of the Vendor's receipt of payment from a Member for undisputed services provided by the subcontractor(s) and must pay interest at the rate of one and one-half percent (1.5%) per month or any part of a month to the subcontractor(s) on any undisputed amount not paid on time to the subcontractor(s).



## STAFF REPORT

**Report To:** Board of Supervisors **Meeting Date:** July 7, 2022

**Staff Contact:** Carol Akers, Purchasing & Contracts Administrator and Nicki Aaker, Health & Human Services Director

**Agenda Title:** For Possible Action: Discussion and possible action regarding authorization to purchase medications for persons detained in the Carson City Jail, utilizing the Minnesota Multistate Contract Alliance for Pharmacy ("MMCAP") joinder contract with Diamond Pharmacy for a not to exceed amount of \$70,000 through October 31, 2022. (Carol Akers, cakers@carson.org and Nicki Aaker, naaker@carson.org)

Staff Summary: Pursuant to NRS 211.140, Carson City is responsible for providing prescription medication to persons who are detained in the Carson City Jail. The Carson City Department of Health and Human Services and Sheriff Ken Furlong are requesting the use of MMCAP Contract No. MMS17017 to purchase prescription medications from Diamond Pharmacy.

**Agenda Action:** Formal Action / Motion **Time Requested:** Consent

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### Proposed Motion

I move to approve the purchase authority as requested.

### Board's Strategic Goal

Efficient Government

### Previous Action

None

### Background/Issues & Analysis

This is an annual request. The purchase amount exceeds \$50,000 and therefore requires Board of Supervisors' approval pursuant to City policy.

Contract being utilized: (Joinder)

MMCAP Contract No. MMS17017 (Expires October 31, 2022). MMCAP is currently in the process of awarding a new contract to purchase medications for persons detained.

### Applicable Statute, Code, Policy, Rule or Regulation

NRS 332.115 and 332.195

### Financial Information

Is there a fiscal impact? Yes

If yes, account name/number: General Fund - General Assistance/Inmate Medical Care - 1016574-501025

**Is it currently budgeted?** Yes

**Explanation of Fiscal Impact:** Account 1016574-501025: available Fiscal Year 2023 budget is \$126,377, and Account 2802020-501025: available Fiscal Year 2023 budget is \$50,000.

**Alternatives**

Do not approve the purchase and/or provide alternative direction to staff.

**Attachments:**

[Diamond\\_Drugs\\_-unlocked.pdf](#)

**Board Action Taken:**

Motion: _____	1) _____	Aye/Nay
	2) _____	_____
		_____
		_____
		_____

\_\_\_\_\_  
(Vote Recorded By)

**STATE OF MINNESOTA  
DEPARTMENT OF ADMINISTRATION  
MINNESOTA MULTISTATE CONTRACTING ALLIANCE FOR PHARMACY**

This Contract is between the State of Minnesota, acting through its Commissioner of Administration, on behalf of Minnesota Multistate Contracting Alliance for Pharmacy (“MMCAP”) and **Diamond Drugs, Inc., dba Diamond Pharmacy Services**, 645 Kolter Drive, Indiana, PA 15701 (“Vendor”).

Under Minnesota Statutes Section 16C.03, the Commissioner of Administration may enter into this Contract on behalf of MMCAP for the benefit of its members.

MMCAP is a group purchasing organization as defined in 42 U.S.C. § 1320a-7b(b)(3)(c) and maintains that it is structured to comply with the requirements of the Safe Harbor regulations regarding payments to group purchasing organizations set forth in 42 C.F.R. § 1001.952(j). MMCAP consists of government-run facilities, and contracts for pharmaceuticals and certain health care products for its members’ use. Participation in MMCAP is limited to government authorized facilities such as state agencies, counties, cities, townships, and school districts.

The Vendor wishes to contract with MMCAP to provide Prescription Filling and Pharmacy Benefits Administration Services to MMCAP Correctional and Institutional Members.

**1 Term of Contract**

- 1.1 **Effective date:** April 1, 2018, or the date MMCAP obtains all required signatures under Minnesota Statutes Section 16C.05, subdivision 2, whichever is later.
- 1.2 **Expiration date:** October 31, 2019, or as cancelled pursuant to Article 24. This Contract may be extended up to three additional one-year periods upon mutual agreement of both parties.
- 1.3 **Survival of Terms.** The following sections survive the expiration or cancellation of this Contract: 10. Liability; 11. State Audits; 12. Government Data Practices and Intellectual Property; 13. Publicity and Endorsement; 14. Governing Law, Jurisdiction, and Venue; and 20. Data Disclosure.

**2 Contracted Services**

**2.1 Services Provided**

Vendor will dispense prescriptions and distribute stock medications written by authorized medical staff at MMCAP Member Facilities. Vendor will provide professional comprehensive pharmaceutical services for all prescription, non-prescription, and intravenous (IV) solutions, as ordered by all prescribers, as well as clinical management and technology solutions, as offered by Vendor, that meet facilities’ requirements and are documented in Attachment A.

Vendor will establish and/or maintain a medication kit for emergency, urgent, and common first-dose needs of the Facility, where permitted in accordance with Board of Pharmacy regulations and state statutes.

By using this contract, Member agrees that no other prescription filling service is to be utilized concurrently.

**2.2 Service Area**

The Vendor retains the sole right to determine the class of trade and eligibility for services. While all Facilities accessing this contract need to be MMCAP Members, Vendor may recognize a parent-child relationship with Facilities and their administrative offices for purposes of accessing this Contract. Members and Facilities are terms used synonymously in this document. A listing of Facilities accessing this contract, as well as certain facility-specific negotiated elected services and billing rates, will be maintained jointly by MMCAP and Vendor as Attachment A, which is attached and incorporated herein.

***Correctional Facilities***

Vendor will provide pharmacy services to correctional facilities in all 50 states where FedEx, UPS, or the U.S. Postal Service provide delivery services. Correctional facilities include large and small state departments of corrections, county jails, privately owned correctional facilities, city jails, juvenile facilities, female facilities, intake centers, forensic treatment centers, and alcohol and drug detox centers.

***Institutional (Long-term Care) Facilities***

Vendor also will provide services to long-term care, assisted living, developmental disability and other healthcare facilities in Pennsylvania, Maryland, Ohio, New Jersey, New York, Delaware, Indiana, and Kentucky, based on their locations and service level needs.

**2.2.1 *Initiating service***

To initiate service, MMCAP correctional Members must complete Attachment B, which is attached and incorporated, and submit to Courtney Adams at [cadams@diamondpharmacy.com](mailto:cadams@diamondpharmacy.com) or fax to 724-599-3666. Institutional facilities must complete a new facility information sheet that has additional questions relating to institutional facilities. Interested facilities should contact Courtney Adams for a copy of the form. Within 14 days, Vendor must notify MMCAP of new MMCAP Members accessing this Contract by sending an updated Attachment A.

**2.2.2 *Orientation.***

When Vendor begins servicing a new Facility, it will implement a competency-based training schedule and orientation program for Vendor's Pharmacists as well as any other Vendor personnel that will be involved with Facility contract management. Prior to implementation, Vendor will have internal staff meetings to fully review Facility requirements and how they best apply to the Facility's specific needs.

Vendor's startup manual has detailed explanations of all medication management procedures and Vendor's electronic programs are supported by program specific user manuals that are reviewed during the initial training. If an on-site orientation is required, those will be provided according to terms agreed upon in Attachment A.

**2.2.3 *Transition of Services.***

Vendor will work with the Member to design and implement a smooth transition from the Member's current pharmacy provider to the Vendor's services. Vendor will provide a 30-45 day transition plan (including orientation) and 60-day follow-up period for questions that may arise and troubleshooting.

**2.3 *Hours of Operation.***

Vendor will receive orders 24 hours a day, 7 days a week. Official business hours for the purposes of administrative concerns, financial concerns, and routine filling of medication orders are 8am to 6pm Eastern Time Monday through Friday, 8am to 4pm Eastern Time on Saturday, and on-call coverage for Sunday and holidays. Administrative and financial matters as well as routine filling of medication orders may not be available during certain holidays observed by the Vendor (New Year's Day, Memorial Day, Fourth of July, Labor Day, Thanksgiving, and Christmas). One week's prior notice will be given to Members of upcoming modified holiday hours.

A pharmacist can be reached 24 hours per day by calling 1-800-882-6337 or faxing 1-866-307-9748. This pharmacist is able to provide clinical and operational consultation on medication orders and assist in after-hours filling of medication orders.

Licensed pharmacists will be available by toll free phone 24 hours a day, 7 days a week, and 365 days a year (24/7/365) to provide routine and emergency consultations regarding all phases of a Facility's pharmacy operation and to prescribing physicians and nurses regarding pharmaceutical therapy and cost recommendations. Pharmacists are experienced in correctional medicine, long-term care, assisted living, and mental health management, and understand the complexities associated with these settings.

Vendor will provide access to a clinical consulting department that will be staffed with personnel such as Doctors of Pharmacy, registered pharmacists, AAHIVP HIV Pharmacists™, a certified diabetes educator, a registered nurse practitioner, and a certified anticoagulation specialist.

For each Facility, Vendor will provide a lead pharmacist account manager who will serve as an active member of (and chair, upon request) a Facility's pharmacy and therapeutics (P&T), pharmacy, quality assurance (QA), continuous quality improvement (CQI), medical leadership, and other committees, as required and when requested. Consulting will be provided free of charge if via video- or teleconference or billable at \$75.00 per hour plus travel expenses, if on-site and not coordinated with a planned inspection visit. Any on-site consultations for facilities in Alaska or Hawaii will be billable at \$75.00 per hour plus travel expenses.

Vendor will have videoconferencing available for facilities with those capabilities for face-to-face meetings with Vendor staff any time.

## 2.4 **Orders and Shipping.**

Orders may be placed by phone, fax, or electronically 24 hours a day, 7 days a week, and 365 days a year (24/7/365). Physician's orders may be faxed directly by designated cut off time for shipment without transcribing as long as they are complete and legible. Correctional Facilities may order electronically using Sapphire eMAR, a web-based medication management system. Vendor will work with MMCAP member facilities that are long-term care or assisted living providers to encourage the electronic ordering software systems currently in place at those locations to interface with Vendor's Pharmacy Information System software. Vendor will assign one primary and one backup technician to process a Facility's orders which enables Facilities to talk to the same people every day as a main point of contact.

Part of the medication label will be a thermal barcode label with a peel-off refill tab, printed in clear, large type. The tabbed refill labels will be supplied on every labeled medication order. Each refill tab will contain the patient's name and number, medication name, quantity, number of refills, prescriber, prescription number, unique card identification, and date the next refill is due. The form can then be faxed to Vendor or scanned into the Sapphire eMAR system (for correctional member facilities) for electronic refill submission.

### 2.4.1 **Order Cut-off times.**

New medications ordered by the 2:00 pm facility-local cutoff time Monday through Friday are delivered by Overnight Carrier and received the next business day (unless in close proximity to Vendor where same day delivery may be offered by Vendor). This includes a Saturday delivery if the facility receives weekend deliveries. All orders received by member facility's specific cutoff time on Saturday (between noon and 2:00 p.m. eastern time) are received on Monday. Orders submitted after the cutoff time may still be able to be included in the next day's shipment by calling Vendor directly by 6:00 pm Eastern Time Monday through Friday. Any Facility-specific alternative cut-off times will be documented in Attachment A. Cutoff times for institutional facilities, as well as correctional facilities in Alaska or Hawaii are based on the specific needs of each facility and will be negotiated, between Member and Vendor, and documented in Attachment A.

Refills are preferred to be ordered with 2 business days’ notice to the Vendor or orders may not arrive at the Facility in time for use. Refills needed more urgently can be placed by contacting the Vendor directly prior to the daily Facility order cutoff time.

Same-day delivery times for correctional facilities depend on the flexibility of the member facility—in terms of their preferred delivery time for same-day medications and the facility’s distance from Vendor—as processing, packaging, and distance are important factors that need to be considered. A facility located a few miles from Vendor will obviously be afforded a later cut-off time for same-day delivery than will a facility located one hundred miles from Vendor.

Vendor will provide emergency medications that cannot be received through the normal delivery process from a Vendor-contracted local emergency back-up pharmacy. Emergency prescriptions also can be delivered directly to the facility using the local pharmacy’s delivery service or a taxi or courier service that has been pre-arranged by Vendor, at the facility’s request.

The backup pharmacy will invoice Vendor and Vendor will invoice the Member Facility. The amount of the charge is a discounted rate that is negotiated with the local provider of services. These charges are simply passed through at the negotiated rate, without any additional margin or markup. Charges may include, but are not limited to, the cost of the local pharmacy’s prescription as a pass-through cost, plus any delivery, on-call, taxi, or courier charges.

**2.4.2 Shipping / Delivery**

Orders transmitted by the cutoff time will be delivered via Overnight Carrier (or same-day for facilities in close proximity to the Vendor) and received at the Facility the following business day (or Saturday, if applicable) according to the table below for facilities in the contiguous 48 United States. Facilities in Alaska or Hawaii will have cut off times negotiated and documented in Attachment A.

Standard Orders submitted by: (“local time” is local to facility)	2:00pm local time Monday	2:00pm local time Tuesday	2:00pm local time Wednesday	2:00pm local time Thursday	2:00pm local time Friday	Between 12pm (noon) and 2:00 p.m. ET Saturday (facility specific)
Rush Orders submitted by:	6:00pm ET Monday	6:00pm ET Tuesday	6:00pm ET Wednesday	6:00pm ET Thursday	6:00pm ET Friday	2pm ET Saturday
Delivered by*:	Tuesday 10:30am Local Time	Wednesday 10:30am Local Time	Thursday 10:30am Local Time	Friday 10:30am Local Time	Saturday 12pm (noon) Local Time	Monday 10:30am Local Time

\*Delivery times are subject to the Overnight Carrier’s restrictions and may vary in rural locations (4:30 p.m. local time) or in Alaska or Hawaii.

Vendor will be responsible for the shipping costs for provided medications as part of the dispensing fee for correctional facilities in the contiguous 48 states with an average daily population of more than 250 inmates/juveniles. For correctional facilities in Alaska and Hawaii and those facilities with an average daily population of less than 250 inmates/juveniles, shipping will be billed as a pass-through cost. Institutional facilities will have shipping and/or delivery costs documented in attachment A.

Most prescriptions will be dispensed from Vendor’s corporate pharmacy and will be delivered by commercial package delivery services. Facilities within driving distance (approximately 2.5 hour one-way drive) of Vendor’s pharmacies in Indiana, Pennsylvania will have the option to receive deliveries by

Vendor's courier service. Any such agreement between Vendor, Facility, and MMCAP will be documented in Attachment A.

Delivery and cutoff times for institutional facilities are highly variable and depend on the needs of each Facility. Vendor will negotiate the times in good faith following the best trades and practices of the industry while exceeding the needs of member facilities. Vendor's couriers deliver to institutional facilities at least once daily.

Vendor's shipping containers are prepared so medication will not be damaged during shipment. Vendor's shipment packaging maintains medications at the manufacturers' recommended specifications. All medications that require refrigeration will be shipped in either insulated expander packs or Styrofoam® coolers with a cold pack to ensure proper temperatures. Outer boxes containing refrigerated items are labeled with a fluorescent orange sticker that states, "Refrigerated Items Enclosed." Refrigerated items will not be shipped for weekend delivery unless requested.

Every medication shipment will contain a detailed computerized delivery manifest containing Vendor's name, patient name and identification number, prescription number, medication name and strength, manufacturer, quantity dispensed, date dispensed, Facility name, and price. If a Facility needs additional information on the delivery manifest, Vendor will make every effort to accommodate the request. Controlled substance medications will be packaged in a separate bag containing its own delivery manifest. In addition to a paper delivery manifest, correctional facilities that want to electronically reconcile their orders can review pending deliveries before they arrive on-site. Delivery reports will be sorted per Facility request by patient name, patient identification number, patient location, or medication. Institutional facilities will receive a paper delivery manifest.

If an ordered item is not part of the current shipment, the item and the reason for its absence (i.e., ordered too soon to fill, ordered past cut date, non-formulary medication, etc.) will be clearly indicated on the exception report section of the delivery sheets. For correctional facilities reconciling their orders electronically, this information will be automatically included in Vendor's reconciliation program and can be reviewed daily. Items that need action by a nurse or medical provider prior to shipment can be reviewed before the order ships from Vendor, allowing facilities to be proactive and prevent medication delays. Any shortages will be corrected within 24 hours.

#### 2.4.3 *Emergency Service*

Emergency orders will be submitted directly to Vendor's toll-free stat fax line or electronically for correctional facilities through Sapphire, which connects to a dedicated server that is staffed 24/7/365. Emergency orders will be handled on a priority basis and, depending on account-specific policies and procedures, will be delivered directly by courier and will be billed from the Vendor to the Facility as a pass-through charge.

**STAT & Emergency Medications**—Emergency prescriptions for STAT orders will be provided through the emergency kit/starter packs or by a pre-arranged, subcontracted local backup pharmacy of the Facility's preference.

Emergency medications not found in either the emergency medication kit or the starter packs and unavailable from Vendor in sufficient time will be provided to the Facility when available in a minimum quantity by a local backup pharmacy in the immediate area.

**Local Backup Pharmacies**—When Facility needs an emergency prescription, the Facility staff faxes or electronically transmits the prescription using Vendor's STAT fax line, which is staffed and available

24/7/365. Upon order receipt, Vendor contacts the backup pharmacy and arranges for the emergency prescription.

Emergency prescriptions also can be delivered directly to the Facility using the local pharmacy's delivery service or a taxi or courier service that has been pre-arranged by Vendor, at the Facility's request.

If phoning Vendor with emergency orders, the Facility will be immediately transferred to a dedicated customer service technician or a pharmacist who can expedite the emergency/STAT need. If called in after hours, Vendor's answering service will patch the call through to an on-site pharmacist at the Vendor's pharmacy, on duty 24 hours a day, 365 days per year.

The backup pharmacy will invoice Vendor, and Vendor will invoice Facility. The amount of the charge will include the local pharmacy's Vendor-contracted rate plus any additional charges from the local pharmacy. These additional charges will be passed through at Vendor's cost, without any margin or mark-up. Charges may include, but are not limited to, the cost of the local pharmacy's prescription, if above Vendor's local pharmacy contract price, plus any delivery or on-call charges; taxi or courier charges; etc. Detailed reports of all emergency prescriptions will be provided with Vendor's invoice each month.

**Emergency Kits**—Vendor will provide lockable emergency medication kits that contain injectable medications used for immediate administration to alleviate pain, treat infections, modify dangerous behavior, and preserve life if permitted by licensing and state regulations.

Medications and stock quantities will be determined in conjunction with the facilities' medical director. All contents will be listed on the sealed, lockable kit.

Accountability sheets in each kit or cabinet will be used to document inventory, administered doses, and destruction.

Medications utilized will be replenished by the Vendor and billed to the Facility.

**Stock Cards for STAT/Emergency Administrations (correctional facilities only)**

Prior to Facility initiation, Vendor will establish a sufficient stock inventory based on the Facility's current products and the amounts used if permitted by licensing and state regulations.

Appropriate stock quantities will be maintained using the following process:

Vendor will develop a customized order form that lists all stock items used by the Facility. Each form will contain a list of the items with complete descriptions and package sizes. To order, the Facility will indicate the quantity needed next to each item on the form and submit the order to Vendor.

Access to medications must be limited to authorized personnel, and medications must be kept secure at all times.

Vendor will provide stock cards for medications that are needed for immediate administration. Stock-card doses are packaged in tamper-proof blister packs. Over the counter and legend items will be packaged in blue blister cards, and controlled substance medications dispensed as stock will be packaged in red blister cards to differentiate the drugs and prevent diversion.

Inventory flow sheets will be provided to record and document each dose administered from the stock card to reconcile all doses. When stock is depleted, completed accountability sheets must be faxed to Vendor to reconcile doses. Medication can be reordered as needed by submitting by fax or electronically the peel-off

reorder label to Vendor or by using stock order forms. Vendor's system of accountability complies with all National Commission on Correctional Health Care (NCCHC) and American Correctional Association (ACA) guidelines.

To help minimize diversion, Vendor will require the prescriber and a member of the nursing department to sign order forms for controlled substance stock items before they are dispensed.

#### 2.4.4 **Receiving Shipments**

All orders will be tracked to ensure the timeliness and accuracy of deliveries. Vendor's shipping software will track packages at every destination point. The software will provide estimates and confirmations of scheduled and actual delivery times as well as the names and signatures of delivery recipients.

Upon request, Vendor will automatically email the facilities the FedEx or UPS tracking information, including the tracking number and a link to the shipping company's website. Vendor can establish a special FedEx account for facilities, enabling staff to view the delivery status of all packages scheduled for the Facility. In addition, upon request, Vendor can provide reference numbers with Facility codes and dates, enabling the Facility to track packages over the telephone rather than online.

If an order is not delivered by its guaranteed delivery time, Vendor's shipping department will begin the process of tracking the shipment. If Vendor determines the package is lost in shipment, Vendor will immediately contact the Facility and provide a copy of the missing delivery manifest, so each item can be reviewed, and it can be determined if Vendor needs to supply the medication(s) using local backup sources. Those medication orders will immediately be sent to the backup by Vendor customer service technicians. The balance of the order will then be shipped for next-day delivery from Vendor to the Facility.

Vendor's reconciliation and inventory-management software, for correctional facilities, will allow a Facility's staff to quickly reconcile medication order shipments using barcode technologies, request/track refills, and managing returns online. Vendor's system will export order information in various file formats such as Excel, Word, or PDF.

Once scanning is completed, the software automatically notifies Facility staff of any missing items.

Facilities will be able to review shipments as they build each day. Regarding items that could not be shipped, Vendor's system will provide the Facility with information such as refills sent past the cut date, medications need a non-formulary approval, refills ordered too early, medications need a controlled substance hard copy, etc.

#### 2.5 **Pharmaceutical Products**

Solid, orally administered medications will be provided in true unit-dose blister cards, in which medications eligible for credit will have each individual bubble of the blister card labeled with the medication's name and strength, lot number, NDC, manufacturer's name, and expiration date. Prescription labels are customizable with Facility-specific information and are barcoded to allow for inventory management as well as quality assurance during med pass. Each prescription label will contain a two-part peel-off tab to allow easy refill processing.

Maintenance medications will be dispensed in a 30-day supply unless otherwise requested. Oral solid patient specific medications and legend oral-solid stock will be dispensed in 30-count blister cards with one unit per bubble. Vendor will dispense acute medications in quantities requested by the Member depending on the frequency of the dosing and the needs of the Member. OTCs can be ordered by the Member directly from their MMCAP wholesaler or from the Vendor. If packaging other than blister cards is required, a new rate will be negotiated and documented in Attachment A.

Patient medication information monographs are available for correctional Member Facilities 24/7/365 and can be printed at Facility level from Vendor's web-based Sapphire eMAR Program or via their free web-based Online Reporting Program (ORP). Institutional facilities may be granted access to the ORP upon request.

Vendor provides non-oral solids and products such as ear drops, liquids, creams, or ointments in the original manufacturer container or shall repackage in alternate containers if requested, with no packaging fee.

Vendor's blister cards will be true unit-dose packaging for medications eligible for reclamation from, and credit to correctional facilities. While the label itself contains detailed information, the back of each pill bubble in the blister card is labeled with the medication name and strength, lot number, expiration date, and manufacturer ID. Only true unit-dose packaging allows for credit on returned medications that are being reclaimed. This will apply to medications eligible for the Credit Returns Policy, described in Article 2.6.

#### 2.5.1 ***Stock Pieces and Starter Medication***

Vendor will work with Facility to establish and maintain a stock / starter medication system and will promote the use of Stock Medication Flow Sheets with Facility's staff.

Vendor will maintain an emergency drug box located at the Facility, when permitted. Items in each drug box will be determined in consultation with Member's Health Services Administrator and the Medical Director.

#### 2.5.2 ***Infusion Therapy***

IV mixtures will be dispensed compounded, labeled, and ready to administer or will be dispensed in Mini-Bag Plus packaging for easy self-mixing on site, upon request by the Facility.

#### 2.5.3 ***Controlled Substances***

Prescriptions for CII (C2) controlled substances must be written on a hard copy prescription blank and forwarded to Vendor within 72 hours of being written. Some states permit Vendor to fill the prescription using a faxed image of the prescription, and upon verification, the Facility will mail the original. Other states require the prescription to be "in hand" prior to Vendor's dispensing medication. Vendor follows guidance established by each appropriate state and the U.S. Drug Enforcement Administration (DEA).

Prescriptions for CIII-IV (C3-5) controlled substances can be filled using a faxed image of the prescription as long as the order faxed to Vendor has a quantity, clear directions, and prescriber's signature. If an electronic order is submitted for a controlled substance, that image must be printed to hard copy, signed by the provider, and then faxed to Vendor in compliance with DEA rules and regulations.

Vendor and Facility will strictly adhere to rules and guidance established by the DEA regarding prescription requirements to ensure that a Facility and Vendor remain in full compliance. DEA restrictions apply to the electronic transmission of controlled substance orders, and Vendor follows all DEA rules and regulations on this subject.

Controlled substances, which are packaged in red blister cards for easy identification, will be marked with a large red letter "C" if in Schedules III-V (C3-5) and with two red letter "C"s if Schedule II (C-2) to allow Facility staff to differentiate the schedules.

#### 2.5.4 ***Generic Medications***

Vendor will dispense all medications as generics unless there is no approved generic substitute, or the prescriber has requested "no substitute" in accordance with applicable state laws. All generic medications will be A or AB rated by the Food and Drug Administration (FDA), when available. Vendor will report to the Member any generic substitution opportunities and offer alternatives to the prescriber on a monthly basis.

### 2.5.5 **Discharge Medications**

Discharge medications will be dispensed to the Facility in the quantity requested. Even if the discharge quantity exceeds a 30-day supply on those medications dispensed from Diamond, a single dispensing fee will be invoiced. All discharge medications will be dispensed in childproof containers, unless otherwise requested. These medications will be labeled appropriately with all directions and auxiliary warning labels, in compliance with applicable regulations.

### 2.5.6 **Customizable Barcodes**

Each correctional Facility's label's barcode will be recognizable by Vendor's ePrescribing and Sapphire eMAR software or by any in-house computer software that meets Vendor's label specifications. The barcode also can be accommodated, as space permits, to include specific prescription-related information requested by facilities.

### 2.5.7 **Source of Medications**

Vendor will fully comply with all requirements of the Drug Quality and Security Act (DQSA) Title II, also known as the DSCSA (Drug Supply Chain Security Act) and make electronic pedigrees (also referred to as transaction history records) available to Facilities. Pedigrees can be viewed by logging in to a secure password-protected site using Vendor's web-based software from any internet connected computer. Paper copies can be provided upon request.

Legal and regulatory requirements dictate that medications dispensed as stock must be distributed by a licensed drug wholesaler. Vendor is a Licensed Wholesaler in Pennsylvania and in all states in which it operates and distributes medications. Vendor will fully comply with all wholesale and repackaging requirements.

Vendor's wholly owned subsidiary, RemedyRepack is an FDA Registered Repackager, which permits it to legally distribute stock medications in 30-count blister packs as opposed to bulk bottles.

Vendor will maintain Verified-Accredited Wholesale Distributor (VAWD) designation. Vendor only uses wholesalers who are DQSA Compliant.

Vendor currently provides 340B services to correctional facilities and will work with Facility to discuss if a 340B program is a viable option for the member Facility. 340B dispensing and service fees will be negotiated on a case by case basis between Vendor and the Covered Entity. MMCAP will be informed of all final pricing.

### 2.5.8 **Commissary**

Vendor will dispense/distribute over-the-counter (OTC) commissary items in original manufacturer packaging. Each package is labeled with medication directions, side effects, ingredients, and all required information that are to be contained on OTC packaging.

## 2.6 **Returns**

### 2.6.1 **Product Recalls and Backorders.**

Vendor will have dedicated staff pharmacists to address manufacturer recalls, shortages, and medication backorders. When Vendor is notified of recalls, the team will immediately review Vendor's current inventory and remove items identified in the recall. Vendor's software will provide reports to Member Facilities that list patients who received recalled medications. Vendor will notify all relevant prescribers and other personnel according to pre-established protocols and procedures. Vendor will notify all relevant facilities that may have received the particular lot by fax or email.

All notifications of a medication on national backorder or out-of-stock will be communicated to the Facility on the delivery manifest, or if using electronic reconciliation, will be provided online *prior* to the shipment being delivered.

**2.6.2 Reverse Distribution and Waste Disposal.**

Vendor will refer Members to MMCAP's contracted vendor(s) to provide Reverse Distribution and Pharmaceutical Waste Disposal services. Unused medication must conform to Vendor's credit policy or the item will be properly discarded by Vendor without credit. Recalled product will be addressed on a case by case basis and Vendor will follow the guidelines provided by the manufacturer for the return of product as well as provision of credit in accordance with the manufacturer guidelines. In the event Facility needs reverse distributor or pharmaceutical waste management services, the Facility will be responsible for those charges.

**2.6.3 Returns for Credit (Correctional Facilities Only)**

Vendor provides credit on unused oral solid medications, where permitted by law or regulation. Vendor will provide credit on both full and partial blister cards of medications.

Credit is offered on full and partial cards at 100% of the actual medication acquisition cost amount billed to a Facility less a \$1.00 processing fee per card, but not to exceed the current market value of the medication eligible for return. Non-creditable medications or medications that inmates brought into the Facility must be disposed of through a third-party vendor at Member Facility's expense.

When and where permitted by the State Board of Pharmacy and the U.S. Food and Drug Administration (FDA), Vendor offers credit to correctional member facilities on oral solid medications in full and partial blister cards returned to Vendor, provided the medications:

- Remain in their original sealed blister packs
- Have been stored under proper conditions
- Are not defaced and have not been adulterated
- Are not within 3 months of expiration
- Are packaged with one full unit per bubble
- Have not been released to the inmate population or labeled/dispensed as "keep on person"
- Are not controlled substances
- Have not been billed to a private insurance, Medicaid, U.S. Marshals Service (USMS), U.S. Immigration and Customs Enforcement (ICE), or other third party; or purchased through the 340B program

Vendor is responsible for once monthly shipping costs for all returned medications and provides the facility with prepaid preaddressed FedEx Package Returns Program (PRP) or UPS Authorized Return Service (ARS) labels. These labels are simply affixed to the return box, which is handed to express delivery personnel during their normal pickup/delivery to the facility.

Controlled substance medications and opened partial stock medications cannot be credited in accordance with federal regulations. Credit is issued on medications based upon the professional judgment of a Vendor pharmacist. Credit will not exceed the current market value per dose of medication eligible for return. Liquids, injectables, topicals, medications dispensed in vials or strip packaging, and inhalers will not be eligible for credit. Oral solid medications returned in a sealed manufacturer's bottles will be eligible for credit in accordance with the aforementioned policy. Blister cards that are dispensed with half tablets or with more than one single unit per individual bubble of the blister card are not eligible for return. Oral solid medications dispensed as "Brand Medically Necessary" or "Dispense as Written" will be credited at the Vendor's acquisition cost of the generic equivalent. Returns received by Vendor during the term of the contract by the 15th day of each calendar month will be credited on the next invoice for that calendar month. Credit memos will be deducted from payment of the oldest outstanding invoices. Medications ineligible for credit will not be returned to the Member Facility. Credits do not expire, but Vendor encourages Member Facilities to apply those credits on the next invoice.

**2.6.4 Returns for Credit (institutional facilities)**

Most states prohibit institutional facilities from returning unused medication for credit, except in limited circumstances when the jurisdiction's return requirements are strictly complied with. Vendor will credit non-controlled medication returned from an institutional facility so long as the facility's jurisdiction permits such practice, the medication was originally dispensed by Vendor, and the manner in which the medication is returned complies with state and federal law, current agency interpretation of law, and Vendor's internal policies and procedures.

**2.7 Compliance**

Vendor must possess all necessary legal and regulatory qualifications, certifications, permits, and licenses when providing the services described in this Contract. Vendor must comply at all times with all applicable laws and applicable agency, regulatory and certification requirements, including but not limited to HIPAA and state privacy laws which govern the Vendor's operations. Vendor must notify Member immediately if it is in receipt of notice of noncompliance with any such requirements, conditions, and standards, or if Vendor has notice or reason to believe that its status as to the foregoing will change or has changed in any respect. Member will make a good faith effort to participate in meeting Vendor's control substance ratios according to the DEA Controlled Substance Act for all dispenses. This review will take place quarterly to assess stock versus patient specific ratios.

**2.7.1 State Boards of Pharmacy Licensure**

Vendor must be licensed in good standing with all applicable State Boards of Pharmacy and in accordance with the standards of the Commonwealth of Pennsylvania and as a non-resident pharmacy in the states where MMCAP Facilities are located.

**2.7.2 DEA Registration**

During the term of this Contract, Vendor must maintain its registration with the U.S. Drug Enforcement Administration to dispense controlled substances in Schedules II-V.

**2.7.3 Licensed Wholesaler/FDA Approved Repackager**

During the term of this Contract, Vendor must maintain its status as a licensed wholesaler in the Commonwealth of Pennsylvania and states where the participating Facilities are located and will provide repackaged stock medications in accordance with its status as an FDA Registered Repackager.

**2.7.4 Joint Commission**

Vendor will remain accredited by The Joint Commission, for pharmacy for the term of this agreement.

**2.7.5 VAWD**

Vendor will remain accredited as a Verified-Accredited Wholesale Distributor (VAWD) by the National Association of Boards of Pharmacy (NABP) for the term of this agreement.

**2.7.6 Pharmacists with Specialized Credentials**

Vendor currently has on staff and available to facilities two expert pharmacists who have earned the designation of American Academy of HIV Medicine (AAHIVM) HIV Pharmacist™ (AAHIVP). These experts are available to answer questions related to the treatment of human immunodeficiency virus (HIV), Hepatitis B virus (HBV), Hepatitis C virus (HCV), and HIV/HBV/HCV co-infected patients as well as questions relating to drug-drug and drug-disease state interactions. Vendor will employ and make available an AAHIVP certified Pharmacist for the term of this agreement.

**2.7.7 FDA Risk Evaluation Mitigation Strategies**

Vendor will follow all appropriate regulations, guidelines, and procedures established by federal and state laws including those of the U.S. Food and Drug Administration (FDA) for operating in compliance with FDA-approved Risk Evaluation and Mitigation Strategies (REMS).

**2.7.8 HIPAA**

Vendor will comply with current Health Insurance Portability and Accountability Act (HIPAA) and all applicable regulations promulgated thereunder. In accordance with HIPAA, Vendor will keep secure and private all information that may be considered Individually Identifiable Health Information (IIHI).

**2.8 Invoicing**

Vendor will invoice a minimum of once a month or more frequently upon request. Each invoice will detail all charges for the current month, any unpaid balances, and any credits issued in the current month. Payment terms will be net 30 days.

Invoices will be provided in Excel, in the format of Facility choice including FTP-site download, hard copy, or CD-ROM. Invoices will include the contract number and/or purchase order number. Each line item will contain a prescription number, patient name and identification number, medication name and strength, quantity dispensed, price, NDC number, date the prescription was dispensed, prescriber name, and credits.

Invoices will be individually printed and billed directly for each patient or other jurisdiction such as for federal government agencies including U.S. Bureau of Prisons (BOP), U.S. Immigration and Customs Enforcement (ICE), U.S. Marshals Service (USMS), and for counties other than the one in which the inmate is housed. Vendor will bill worker's compensation orders for employees (where permitted), medical assistance (where permitted), health insurance, AIDS drug assistance programs (ADAP), or other payment sources if the patient is eligible, if permitted to bill, and if Vendor receives billing information at the time of dispensing. Medications invoiced to other payers will be billed at the Pennsylvania Medicaid rate. If these invoices are not paid within 60 days, the contracted Facility will be responsible for all charges at the agreed upon Facility's rate, and Vendor will cease billing the alternate payers. Invoices for residents of institutional facilities will be billed in the same itemized manner.

Credits (for correctional accounts) will be individually listed, showing the amount of credit for each item. Vendor will provide a printout of all issued credits, alphabetized by patient name and including prescription number, date, medication name, the quantity returned, and amount of credit issued.

Vendor will invoice facilities for any backup and delivery charges in an itemized format.

Customized invoice reports will be available. Data in the invoices will be sorted according to the Facility's such as by inmate/patient name, medication name, medication category (psychotropic, HIV, etc.), dispense date, physician, or cost.

Invoice discrepancies should be noted by the Facility within 30 days of billing

A late fee of 1.25% per month will be applied to all past due balances, where permitted. Payment may be made to Vendor via EFT, check, or credit card/purchasing card. Payments by credit card or purchasing card will be assessed a 3% merchant fee.

### 2.8.1 **Third Party Billing**

Vendor will offer to provide third party billing services for federal inmates housed in MMCAP member Facilities (U.S. Immigration and Customs Enforcement, U.S. Marshals Service, Bureau of Prisons), Medicare, and Medicaid recipients (where permitted), and holders of private insurance where eligible and when the information is made available from the Facility to the Vendor at the time of order transmission.

Vendor will directly invoice medical assistance (where permitted), private health insurances, AIDS Drug Assistance Programs (ADAPs), the federal government, U.S. Immigrations and Customs Enforcement (ICE), the U.S. Marshals Service (USMS), and other sources of payment whenever the patient is eligible and when the billing information is provided to the Vendor by the Facility with the medication order at the time of dispensing and when permitted.

Medications invoiced to other payers will be billed at the Pennsylvania Medicaid rate. If these invoices are not paid within 60 days, the Facility will be responsible for all charges at the agreed upon Facility's rate, and Vendor will cease billing the alternate payers.

Invoices for residents of institutional facilities are billed in the same itemized manner. Vendor will bill Medicaid and third-party insurance providers in Delaware, Maryland, New York, New Jersey, Ohio, Indiana, Kentucky, Pennsylvania, and other states when permitted to bill and when patient is eligible.

U.S. Marshals Service - Vendor is a Heritage Health Solutions participating pharmacy. Prescriptions submitted by these sites for U.S. Marshals Service (USMS) inmates are noted as such by the site, and Vendor routes these appropriately for online adjudication and reimbursement. Vendor's third-party billing department will monitor these claims daily for any rejections or outstanding non-formulary medications; and will handle these claims directly with the Heritage Health Solutions customer service department.

Medicaid—Vendor is a Medicaid provider in most states that permit out of state billing and where patients can be billed. Vendor will use local backup pharmacies where available to fill and bill orders if patients are eligible for Medicaid benefits and when Vendor does not have a Medicaid provider number for the state.

### 2.9 **Facility Reporting**

Vendor will provide correctional Members access to its proprietary web-based program that will act as a nerve center where quantitative and qualitative information is readily available online, accessible 24 hours a day 7 days a week. Users will have various reporting options as well as multiple ways to view, sort, and print the dispensed data based on specified parameters. Vendor's statistical reports are a modular combination of Excel charts, graphs, figures, and reports that help illustrate monthly expenditures and usage, as well as prescribing habits and trends. The system currently contains over 300 available reports and charts, as well as over 400 yearly trending figures. Vendor customizes and creates reports to meet the needs of each Facility.

All Facilities may request Ad Hoc reporting at no charge.

### 2.10 **Reports to MMCAP and Contract Auditing**

Vendor will send to MMCAP a single monthly Excel file listing all sales transactions for the contracted Facilities in the prior calendar month. This report will contain all credits issued, all orders dispensed, and all services for which Facilities were billed.

#### **Requirements:**

- 1) A single monthly file of sales information
- 2) All sales transactions for the prior calendar month as well as credits issued, and other products and services provided.

- 3) Supplemental transactions from earlier months must be called out in the accompanying e-mail as either additional transactions, or a complete restatement of the sales in the month in question. "Edits" to previously reported individual transactions cannot be processed.
- 4) Patient-identifiable data is not to be sent to MMCAP.

Reports should follow the formatting in Appendix 1. Reports may be returned for correction and resubmission for improper file formatting as well as missing/invalid required information (especially Member IDs and NDC codes).

MMCAP may request a resubmission of prior reports at any time.

MMCAP reserves the right to audit reports and may ask for copies of invoices to substantiate charges. Vendor will supply to MMCAP the requested documents within one business week of the request.

## 2.11 Professional Services

Vendor will perform a drug utilization review when dispensing each patient specific prescription, as well as periodically upon request by Member using computer-generated information evaluating the following:

- a) Use of non-formulary medication;
- b) Antibiotic use;
- c) Psychotropic use;
- d) Drug Utilization by class;
- e) Specialized reporting as requested.

Patient profiles will be available upon request on a patient-specific or housing unit basis.

### 2.11.1 Formulary Development / Maintenance

Formulary development and enforcement, at no charge to the Facility, will be available to provide cost control and to ensure that the most appropriate medications are safely prescribed in accordance with manufacturer's recommendations and as written by the Facility's medical staff. If requested, and with appropriated access to the patient's full medical/medication chart, Alternative Treatment Recommendation (ATRs) will be provided for Member Facility at a negotiable rate not to exceed \$250 per month per Facility.

### 2.11.2 Facility Inspections

Vendor will provide a pharmacist for up to quarterly onsite inspections where required by law or accreditation, at correctional facilities with an ADP of greater than 250 inmates/juveniles, if requested. Inspections that are required more often than quarterly or inspections for facilities with an ADP of 250 or less or for facilities located in Alaska or Hawaii will be billed as a pass-through cost at \$75.00 per hour plus travel expenses.

For institutional Facilities, Vendor will provide monthly on-site quality assurance inspections and reviews. The frequency of inspections will be determined by accreditation requirements, department of health regulations, and state law. Inspections will be billed at a rate of \$25.00 per hour spent in the facility and be completed by a Licensed Practical Nurse (LPN) or pharmacy technician.

Vendor will participate in Pharmacy and Therapeutics Committee meetings through teleconference or webinar unless coordinated with an on-site scheduled inspection. Committee meetings required on site that are not coordinated with a scheduled inspection visit or for member facilities in Alaska or Hawaii will be billed as a pass-through cost at \$75.00 per hour plus travel expenses.

Inspection shall include, but not be limited to, the expiration dates, security, storage and a periodic review of medication records. The Facilities will be responsible for returning unused or discontinued medication to the medication return box monthly for pickup by Vendor and disposed of in accordance with State regulations.

Inspections will be based on NCCHC, ACA, and Joint Commission standards along with Vendor's experience in the institutional pharmacy industry. Vendor abides by all recommendations set forth by these organizations and will aid Members in meeting these standards as well.

### 2.11.3 *Collaboration with Facility Staff and Meetings*

Vendor will assist the Facilities in developing pharmacy policies, procedures and protocols, and will cooperate with Member's Clinical Pharmacy personnel to promote rational, cost effective pharmacy services. In addition, Vendor agrees to:

- a) Perform a quarterly review of the formulary. The review of the formulary will include Vendor representatives and Member representatives as designated by each party. Recommendations will be made, and final action approved within three (3) days of receipt of recommended formulary changes; and
- b) Perform a monthly review of non-formulary medications with written recommendations to the staff physicians regarding formulary alternatives.

The Policies and Procedures Manual will be continually updated as notifications of policy changes are received; in addition, each Facility will receive a complete update annually.

Reference materials will be offered to each Facility. Any reference material that Vendor is required to purchase will be billed to the Facility as a pass-through cost.

Vendor will designate an individual to serve as the Director of Clinical Pharmacy who will be responsible for overseeing and extending clinical pharmacy services provided by the Vendor. The Director will be responsible for establishing the research criteria and coordinating clinical consultations from various teaching institutions and research materials. This will include more analysis of medications usage within specific therapeutic drug categories and specific diagnoses. This will extend to the specific patient and prescriber. The information will be forwarded to the specific prescriber. The clinical reviews will be coordinated through the Facility Medical Director and the Pharmacy and Therapeutics Committee.

Vendor agrees to review the Member/Facilities Policies, Procedures and Formulary Document and Facilities Policies and Procedures prior to entering an Agreement. Without limiting or modifying Vendor's obligations under this Section, Vendor specifically agrees to observe, comply with, and participate in Member's Quality Programs, and utilization review and management programs or negotiate terms and conditions mutually agreed upon by both parties. Vendor acknowledges that Vendor's failure to maintain program compliance may result in removal of the Facility from this Contract and/or a delay or denial of compensation. Member and/or the Facilities may conduct an audit of the pharmacy services being provided by Vendor to assess the compliance of Vendor's services with all applicable laws and Member's Quality Assurance standards. Member and Facilities' staff shall provide a written report of such audit to Vendor and shall meet with the Vendor's personnel to review said audit. Vendor will be given a 45 day period to review any violations to provide a cure or resolution prior to any fines or contract terminations being enacted by Facility.

### 2.11.4 *Reference Materials*

Vendor will also provide basic manufacturer supplied reference materials/video library, in-service training when requested for a fee, commissary medical products supplies when requested for a fee, and an

information exchange from other facilities serviced by the Vendor. Reference books and publications, such as Physicians' Desk Reference (PDR), Nursing Drug Handbooks, etc., can be purchased through the Vendor at Vendor's actual acquisition cost plus dispensing fee plus shipping.

Quarterly company newsletters, written by Vendor pharmacists and guest industry experts, include articles and reviews on new medications, current disease strategies and therapies, operational procedures, formulary management, disease state reviews, and Vendor company news will be provided.

Vendor's Quarterly Drug Information Center Newsletter is written by a Vendor Certified AAHIVM Pharmacist and other Experts. This newsletter provides a wealth of knowledge and information specific to HIV and Hepatitis therapy and other issues impacting correctional and long-term care pharmacy services.

## 2.12 **Equipment**

Vendor will offer to loan to the facilities medication carts necessary for medication pass and a fax machine to each Facility throughout the duration of this contract. Fax machine replacement toner/cartridges can be purchased through Vendor at Vendor's actual acquisition cost plus dispensing fee. Number of carts supplied on loan will be based on the average number of blister cards utilized and cart capacity. If a new med cart or repairs are needed prior to end of contract, Vendor will replace the existing cart with a functional cart on loan.

Vendor will provide one barcode scanner on loan to correctional facilities for the purpose of medication reconciliation and return processing. Scanner will be compatible with Vendor's systems and updates are the responsibility of the Vendor.

### 2.12.1 **Electronic Medication Administration Record (eMAR)**

Vendor will offer only correctional facilities Sapphire eMAR—a proprietary web-based electronic ordering, reconciliation, inventory and eMAR software. Vendor will provide the electronic order entry and eMAR portion of the software free-of-charge, on the condition that the member Facility uses it to order its medications primarily (e.g. 90+%) from Vendor. Vendor will also provide correctional facilities access to a free electronic reconciliation system. Vendor will also provide correctional facilities with access to a web-based Online Reporting Program (ORP) that is accessible 24/7/365 that allows staff at member facilities the ability to access patient data and to generate standard and custom reports. Vendor will also work with other vendors to establish an interface with providers of other electronic health records and comprehensive medication management programs for correctional and institutional facility clients.

If correctional Facility is seeking a comprehensive electronic health record (EHR) / electronic medical record (EMR) solution, Vendor offers an EMR/EHR at a negotiable price to be documented in Attachment A.

For any pharmacy interfaces, including those for prescription transmission, with other EMRs/EHRs or third-party vendors, Vendor will be responsible only for interface charges and programming required on Vendor's end of the interface.

Any transmission fees, submission fees, or other fees and charges which are charged by an EHR/EMR, or switch company, or Jail Management System (JMS), or any other company not specific to the above will be billed as a pass-through charge to Facility.

### 2.12.2 **Fax Machine**

Vendor will offer to provide each Facility with a plain paper fax machine, on loan for the duration of the contract period, for the transmission and receipt of information between the Facility and Vendor. Fax

machine replacement toner/cartridges may be purchased through Vendor at Vendor's actual acquisition cost plus dispensing fee or procured by the Facility at Facility's cost.

### 3 Pricing

Pricing offered in this contract is dependent on the Facility's Class of Trade (Corrections or Institutional) and facility type (Non-Department of Correction or Department of Correction Correctional Facility) as determined by the Vendor. The following articles in Section 3 provide definitions and additional information, but Appendices 2, 3, and 4 contain actual rates to each class of trade and facility type. In the event of a conflict, the prices listed in the Appendices shall govern.

#### 3.1 Medication Orders

##### 3.1.1 AAC-Based Dispensing Fee (correctional facilities)

Medications will be invoiced at Vendor's Actual Acquisition Cost (AAC) at the time of dispensing plus the Dispensing Fee per prescription and stock piece as determined by the Member's ADP and the year of the contracting cycle.

Dispensing fee for patient-specific prescriptions is calculated on a per-order basis without regard to number of doses in the order. Average Daily Population (ADP) is also a factor and is calculated as the sum of ADPs from all Facilities in the Member's system.

For clarity: a 30-day, patient-specific prescription of 90 tablets will be dispensed in 3x30-count blister cards and charged a single dispensing fee for the prescription (there will not be 3 dispensing fees).

Stock pieces for those same 3x30ct blister cards would be assessed 3 dispensing fees as each card must be provided by a licensed wholesaler, a FDA Registered Repackager, and each must be accompanied with DQSA required transaction history documents (formerly known as pedigrees) in order for the Vendor to be in compliance with federal laws, rules, and regulations in addition to state specific wholesaling and repackaging laws, rules, and regulations.

Please refer to Appendices 2 and 3 for concise details of pricing and services offered respectively for Departments of Corrections and Non-Department of Corrections institutions.

Any costs for M/W/DBE (minority/women/disadvantaged business entity) program management are not covered under this agreement, but can be separately negotiated, if necessary, and documented in Attachment A.

Dispensing through automated dispensing units/cabinets are not covered under this agreement, but can be negotiated separately, and documented in Attachment A.

Member Facility is responsible for all applicable sales, use, lease, ad valorem, and any other tax that may be levied or assessed by reason of this transaction, unless the facility provides a tax exemption certificate (blanket or transaction specific) to Vendor in a timely manner.

Vendor's proposed dispensing fees will remain fixed and firm for an initial three-year term from the Facility's start date and will be increased, upon amendment, as determined by the percentage increase in CPI for healthcare services, or three percent (3%), whichever is greater, every three years thereafter upon the anniversary date of the facility accessing this Contract.

Services and programs outside the specifications of this document, based on the unique needs of a Member Facility, will have any additional costs, management fees, or dispensing fees, negotiated in good faith

between the Member Facility, MMCAP, and Vendor for the provision of those unique services that are not listed herein.

Vendor may, at its discretion, negotiate with potential Members to establish a dispensing fee lower than the not to exceed rates in Appendices 2 and 3. Any such negotiated rates will be documented in Attachment A. If the member facility requires fewer days in the routine supply of maintenance medications, or if they require packaging other than blister cards, after an agreement has been signed, a new rate will be negotiated.

### 3.1.2 **WAC-based Dispensing Fee (correctional facilities)**

Participating Facilities using MMCAP's previous contract with Vendor (MMS14004) that were billed using the WAC-minus-based pricing will be able to retain their pricing agreement from the previous contract with documentation on Attachment A. No new facilities will be permitted to access this pricing model through this new Contract (MMS17017).

### 3.1.3 **Dispensing Fee (institutional facilities)**

Please refer to Appendix 4 for concise details of pricing and services offered for Institutional (Long Term Care or Assisted Living) Facilities.

Any costs for M/W/DBE (minority/women/disadvantaged business entity) program management are not covered under this agreement, but can be separately negotiated, if necessary, and documented in Attachment A.

Dispensing through automated dispensing units/cabinets are not covered under this agreement, but can be negotiated separately, and documented in Attachment A.

Member Facility is responsible for all applicable sales, use, lease, ad valorem, and any other tax that may be levied or assessed by reason of this transaction, unless the Facility provides a tax exemption certificate (blanket or transaction specific) to Vendor in a timely manner.

Vendor's proposed dispensing fees will remain fixed and firm for an initial three-year term from the Facility's start date and will be increased, upon amendment, as determined by the percentage increase in CPI for healthcare services, or three percent (3%), whichever is greater, every three years thereafter upon the anniversary date of the Facility accessing this Contract.

Services and programs outside the specifications of this document, based on the unique needs of a Member Facility, will have any additional costs, management fees, or dispensing fees, negotiated in good faith between the Member Facility, MMCAP, and Vendor for the provision of those unique services that are not listed herein.

## 3.2 **Site Visits**

Vendor will provide a pharmacist for up to quarterly onsite inspections where required by law or accreditation, at facilities with an ADP of greater than 250 inmates/juveniles, if requested. Inspections that are required more often than quarterly or inspections for facilities with an ADP of 250 or less or for facilities located in Alaska or Hawaii or in the U.S. Territories will be billed as a pass-through cost at \$75.00 per hour plus travel expenses.

The dispensing fee also covers pharmacist participation in Pharmacy and Therapeutics and other committee meetings through teleconference or webinar unless coordinated with an on-site scheduled inspection. Committee meetings required on site that are not coordinated with a scheduled inspection visit or for member facilities in Alaska or Hawaii or in the U.S. Territories will be billed as a pass-through cost at \$75.00 per hour plus travel expenses.

### 3.3 Section Reserved

### 3.4 Shipping Charges

Delivery and/or shipping costs are billed as a pass-through charge for member facilities in Alaska or Hawaii or U.S. Territories. Vendor will work with Members to minimize these charges through timing of shipments and efficient use of stock medications. Vendor utilizes a preferred shipping partner. If a common carrier other than Vendor's preferred shipping partner is requested, those costs for shipping will be billed as a pass-through charge to Facility.

If same-day delivery is requested and feasible, an additional cost for same-day delivery will be negotiated between the Member Facility, MMCAP, and the Vendor prior to the initiation of any services, and documented in Attachment A.

Shipping costs are included as part of the dispensing fee for Member Facilities in the contiguous United States. Shipping costs are included as part of the dispensing fee for facilities with an ADP of greater than 250 beds. All other facilities will have shipping billed as a pass-through cost. If medications need to be shipped to an outside facility address, the shipping cost will be billed as a pass-through charge.

### 3.5 Specialty Pharmacy

Specialty pharmaceutical items (items that are not available through primary wholesalers that must be ordered through specialty channels, that must be drop-shipped, and/or that require pharmacist or other intervention to procure—such as but not limited to plasma products, factor products, specialty vaccines, medications with REMS requirements, limited distribution medications, and chemotherapy agents) are invoiced at the price charged to Vendor from the specialty pharmacy plus a not to exceed dispensing fee of one hundred and twenty five dollars (\$125).

IV Medications are billed at the average wholesale price (AWP) per ingredient as published by Medi-Span, plus a not-to-exceed rate of ten dollars per piece (\$10).

Total Parenteral Nutrition (TPN) products will be billed at the AAC per ingredient plus a not to exceed dispensing fee of seventy-five dollars (\$75) per bag.

Non-sterile compounded medications will be billed at Vendor's actual acquisition cost per ingredient plus compounding labor plus a not to exceed dispensing fee of twenty-five dollars (\$25) per piece.

Medications dispensed under a 340B program will be billed under a separate negotiated rate (to be Determined, and documented in Attachment A) if Vendor is able to successfully operate a program with Facility and a covered entity.

### 3.6 Electronic Data Systems

Vendor will provide access to Sapphire eMAR and Computerized Physician Order Entry (CPOE) free of charge to eligible correctional Facilities purchasing all non-emergency prescription medications from the Vendor and using the system to transmit all orders to Vendor. Vendor will take full responsibility of deploying the product and its support. There are no additional charges for routine Sapphire software updates, initial training for member facilities in the contiguous United States, initial jail management system (JMS) interfacing, and 24/7 IT support. Member facility will be responsible for charges related to internet access, any ongoing JMS fees (if they are assessed by the JMS company), laptop(s), and scanner(s).

### 3.7 Medical and Surgical Supplies

Medical/Surgical Supplies are available at Vendor's correctional pricing and prices can be quoted, when requested. As MMCAP also holds contracts for many of these same items through its Healthcare products

and Services (HPS) program, Vendor agrees to not restrict Members' purchasing options on medical and surgical supplies.

### 3.8 **Rush Orders**

Rush Orders (which are defined as orders placed after the cutoff time, but prior to daily shipment), that would be shipped from the Vendor will be provided at no additional charge to Member.

### 3.9 **Backup Pharmacy**

Backup pharmacy services will be billed as a pass-through charge at the contracted backup pharmacy's rate—as billed through a pharmacy benefit management (PBM) company—plus the backup pharmacy's delivery charge or on-call charge, or the taxi or courier charge, if applicable.

### 3.10 **Emergency Kit Exchanges**

Emergency Kit Exchanges will be provided at no additional charges to Member; however, the cost of medications that are replenished will be billed at actual acquisition cost (AAC) plus dispensing fee for correctional Facilities.

### 3.11 **Optional Clinical Service Enhancements**

#### 3.11.1 ***Non-formulary Management***

With appropriate access to a patient's full medication chart, Alternative Treatment Recommendations (ATRs) are provided by Vendor's clinical pharmacists for non-formulary medication orders. If requested, Vendor will provide unlimited monthly routine ATRs for the member facility at a not-to-exceed rate of two hundred and fifty dollars (\$250) per month per Vendor's facility code.

#### 3.11.2 ***Individualized Patient Care Plans***

With appropriate access to a patient's full medical/medication chart, Vendor will work to help manage high-risk and high-cost patients on a case-by-case basis with the development of individualized care plans, if requested. If a member facility is seeking individualized development of patient care plans, Vendor offers this service at a not-to-exceed price of one hundred and fifty dollars (\$150) per patient care plan.

#### 3.11.3 ***Tele-pharmacy Consultations***

Vendor will provide targeted tele-pharmacy clinical consultations through videoconferencing for complex and high-acuity patients when requested, including direct adherence counseling for patients. These consults are billed per request at a not-to-exceed price of seventy-five dollars (\$75) per hour with a one-hour minimum.

#### 3.11.4 ***On-site Clinical Pharmacist(s)***

If law, accreditation, contract requirement, or high cost-avoidance potential determines that an on-site clinical pharmacist is required, the costs for providing on-site pharmacist(s) will be negotiated based upon the specific member facility's needs and the number of pharmacists needed within their system. Pricing will be negotiated on a case-by-case basis if coordinated through Vendor. Negotiated rates will be documented in Attachment A.

#### 3.11.5 ***340B program***

Medications dispensed under a 340B program will be billed under a separate negotiated rate (to be determined and documented in Attachment A) if Vendor is able to successfully operate a program with Facility and a covered entity.

## 4 **Ordering and Purchase Orders**

As a condition for purchasing under this Contract, purchasers must be MMCAP Members in good standing with MMCAP, as defined in Article 7. Members may purchase pharmaceuticals outside this Contract if it is in their best interest to do so or if it is required to obtain a product.

### 4.1 **Purchase Orders.**

MMCAP Members may use their own forms for Purchase Orders. To the extent that the terms of any form conflict with the terms of this Contract, the terms of this Contract supersede. Each MMCAP Member will be responsible for payment of goods and services provided by Vendor; and the MMCAP Office will have

no liability for any unpaid invoice of any MMCAP Facility. Vendor agrees to invoice the MMCAP Member for all products shipped or services provided. Vendor will accept Electronic Funds Transfer (EFT) for payment. At time of new account set up, the MMCAP Member will initiate this process with its bank.

4.1.1 ***Funds available and authorized/non-appropriation.***

By submitting a Purchase Order, the MMCAP Member represents it has sufficient funds currently available and authorized for expenditure to finance the costs of the Purchase Order.

4.1.2 ***Termination of Individual Purchase Orders.***

MMCAP Members may terminate individual Purchase Orders, in whole or in part, immediately upon notice to Vendor, or at such later date as the MMCAP Member may establish in such notice, upon the occurrence of any of the following events:

- (i) The MMCAP Member fails to receive funding, or appropriations, limitations or other expenditure authority at levels sufficient to pay for the goods to be purchased under the Purchase Order;
- (ii) Federal or state laws, regulations or guidelines are modified or interpreted in such a way that either the purchase of goods under the Purchase Order is prohibited or the MMCAP Member is prohibited from paying for such goods from the planned funding source; or
- (iii) Vendor commits any material breach of this Contract or a Purchase Order.

Upon receipt of written notice of termination, Vendor will stop performance under the Purchase Order as directed by the MMCAP Member.

Termination of a standing Purchase Order does not extinguish or prejudice the MMCAP Member's right to enforce such Purchase Order with respect to Vendor's breach of any warranty or any defect in or default of Vendor's performance under such Purchase Order that has not been cured, including any right of the MMCAP Member to indemnification by Vendor or enforcement of a warranty. If a standing Purchase Order is terminated, the MMCAP Member must pay Vendor in accordance with the terms of this Contract for goods delivered and accepted by the MMCAP Member.

**Terminations for convenience are not permitted within 12 months of Members accessing this contract.** Within 12 months of initially accessing this MMCAP contract, purchase orders and contracts entered into by a member Facility with Vendor for prescription filling and pharmacy benefit administration cannot be terminated to move services to another MMCAP Vendor for prescription filling and pharmacy benefit administration services unless mutually agreed upon in writing between MMCAP Facility and MMCAP Vendor that is currently providing the prescription filling and pharmacy benefit administration services.

4.1.3 ***Jurisdiction and Venue of Purchase Orders.***

Upon completion of the Dispute Resolution process outlined in this Contract, and solely with the prior written consent of MMCAP and the State of Minnesota Attorney General's Office, the MMCAP Member may bring a claim, action, suit or proceeding against Vendor. The MMCAP Member's request to MMCAP to bring the claim, action, suit, or proceeding must state the initiating party's desired jurisdiction, venue and governing law. Upon completion of the Dispute Resolution process outlined in this Contract, the Vendor may bring a claim, action, suit or proceeding against MMCAP Member, in Vendor's sole discretion.

As it applies to purchases made by a MMCAP Member, nothing in the Contract will be construed to deprive the MMCAP Member of its sovereignty, or of any legal requirements, prohibitions, protections, exclusions or limitations of liability applying to this Contract or afforded by the MMCAP Member's law.

## 5 Customer Service

### 5.1 Primary Account Representative.

Vendor will assign a Primary Account Representative to MMCAP for this Contract and must provide a minimum of 72 hours' advanced notice to MMCAP if that person is reassigned. The Primary Account Representative will be responsible for:

- Proper maintenance and management of the MMCAP Contract, including timely execution of all amendments
- Timely response to all MMCAP inquiries
- Performance of the business review

In the event that the Primary Account Representative is unresponsive and does not meet MMCAP's needs, the Vendor will assign another Primary Account Representative upon MMCAP's request.

### 5.2 Business Reviews.

Vendor will perform a bi-annual business review with MMCAP staff per contract year. The review will be at a time that is mutually agreeable to Vendor and MMCAP and at a minimum address: a review of sales to members, pricing and contract terms, administrative fees, supply issues, customer issues, and any other necessary information.

### 5.3 Dispute Resolution

Vendor and MMCAP will handle dispute resolution for unresolved contract issues using the following procedure:

#### 5.3.1 Notification.

The parties must promptly notify each other of any known dispute and work in good faith to resolve such dispute within a reasonable period of time. And if necessary, MMCAP and the Vendor will jointly develop a short briefing document that describes the issue(s), relevant impact, and positions of both parties.

#### 5.3.2 Escalation.

If parties are unable to resolve the issue in a timely manner, as specified above, either MMCAP or Vendor may escalate the resolution of the issue to a higher level of management. A meeting will be scheduled with MMCAP and the Vendor's MMCAP Primary Account Representative to review the briefing document and develop a proposed resolution and plan of action. The Vendor will have up to 45 calendar days to cure the issue.

#### 5.3.3 Performance while Dispute is Pending.

Notwithstanding the existence of a dispute, the Vendor must continue without delay to carry out all of its responsibilities under the Contract that are not affected by the dispute. If the Vendor fails to continue without delay to perform its responsibilities under the contract, in the accomplishment of all undisputed work, any additional costs incurred by MMCAP and/or MMCAP Members as a result of such failure to proceed will be borne by the Vendor.

#### 5.3.4 No Waiver.

This clause will in no way limit or waive either party's right to seek available legal or equitable remedies.

## 6 MMCAP Members

### 6.1 Membership Listing.

MMCAP will provide Vendor a complete listing of all MMCAP members, which is password protected and published at [www.mmcap.org](http://www.mmcap.org). MMCAP reserves the right to add and remove MMCAP Members during the term of this Contract.

## 6.2 New Members.

The Vendor must allow new MMCAP Members that join MMCAP to access contract prices throughout the term of this Contract. MMCAP will provide Vendor with monthly e-mail notices announcing that a new MMCAP Membership List has been posted online.

The goal of this Contract is to extend offerings to Members within the MMCAP program that have undergone a state-approved procurement process. This Contract cannot be used as a procurement vehicle by which the Vendor and Member enter into their own stand-alone agreement.

## 6.3 Member-Required Participating Addenda

In order to access this Contract some members require jurisdiction-specific additional paperwork or contract language. Vendor must not sign any member documents without prior MMCAP review and approval. If needed, MMCAP will issue a Member-requested Participation Agreement (MPA) that will be amended into to this Contract. No other mechanism of modifying or “attaching to” MMCAP contracts is authorized. The MPA, which will only apply to the requesting Member and must be signed in the following order: Member, Vendor, then MMCAP. Vendor is not required to agree to any additional terms; however, by not agreeing to the MPA Vendor may be precluded from doing business with that Member. In the event a Member requires a fee be added to the Contract price (e.g., member levied procurement fee or system use fee), that fee must be added on top of the MMCAP-contracted pricing. Vendor may not absorb the fee. Vendor must not pay a member levied fee without first collecting the fee through increased product costs. The fees will be set aside and paid to the member as would be detailed in an MPA.

## 6.4 Removing Members from Contract Pricing.

Vendor must notify MMCAP at least 30 days prior to removing any MMCAP Members from contract pricing. Notices must be sent to: [MMCAP.Contracts@state.mn.us](mailto:MMCAP.Contracts@state.mn.us). If MMCAP does not receive notification that an MMCAP Member has been removed from contract pricing, Vendor will honor pricing until 30 days after such notice is provided to MMCAP.

## 6.5 Verification of Authorized Purchasers.

Upon request of MMCAP, Vendor must verify that it provides goods and/or services and pricing under this Contract only to MMCAP Members.

## 7 Administrative Fee

In consideration for the reports and services provided by MMCAP, the Vendor will pay an administrative fee that is calculated based on the total dispensing fees of dispensed/distributed products from Vendor to the MMCAP Member Facility, excluding Durable Medical Equipment (DME), medical supplies, and 340B dispensing fees. The Vendor will submit a check payable to “State of Minnesota, MMCAP Program” for an amount equal to 3% of all dispensing fees on orders placed by Facilities and dispensed by the Vendor excluding DME, medical supplies, and 340B dispensing fees. Billed clinical services and any monthly management fees for deployment of Sapphire EHR to correctional facilities will have an administrative fee rate of 1% of the monthly Software Licensing and Support Fee. The administrative fee must be paid as soon as is reasonable after the end of each month, but no later than 30 calendar days after the end of the month. Payments must be sent to Financial Management and Reporting - MMCAP, 50 Sherburne Avenue, Suite 309, St. Paul, MN 55155. The Vendor must submit a monthly Administrative Fee Data Report. The monthly Administrative Fee Data Report must contain the fields detailed in Appendix 1. All Administrative Fee Data Reports must be sent to: [MN.MMCAP@state.mn.us](mailto:MN.MMCAP@state.mn.us) at the end of each month, but no later than 30 days after the end of the month. Failure to comply with this provision may constitute breach of this Contract. MMCAP reserves the right to collect interest on payments 30 days past due at a rate consistent with Minnesota Statutes Section 16D.13.

Administrative Fee Data Report fields are detailed in Appendix 1 and submission rules governed by Section 2.10

In the event the Vendor is delinquent in any undisputed administrative fees, MMCAP reserves the right to cancel this Contract and reject any proposal submitted by the Vendor in any subsequent solicitation. In the event this Contract is cancelled by either party prior to the Contract's expiration date, the administrative fee payment will be due no more than 30 days from the cancellation date.

## **8 Authorized Agent.**

MMCAP's Authorized Representative is the MMCAP Managing Director, Department of Administration, 50 Sherburne Avenue, St. Paul, MN 55155.

The Vendor's Authorized Agent is Mark Zilner

## **9 Assignment, Amendments, Waiver, and Contract Complete**

9.1 *Assignment.* Neither the Vendor nor MMCAP may assign or transfer any rights or obligations under this Contract without the prior consent of the parties and a fully executed Assignment Agreement.

9.2 *Amendments.* **Any amendment to this Contract must be in writing and will not be effective until it has been fully executed by the parties.**

9.3 *Waiver.* If either party fails to enforce any provision of this Contract, that failure does not waive the provision or its right to enforce it.

9.4 *Contract Complete.* This Contract contains all negotiations and agreements between MMCAP and the Vendor. No other understanding regarding this Contract, whether written or oral, may be used to bind either party.

## **10 Liability**

The Vendor must indemnify, save, and hold MMCAP, MMCAP Participating Facilities, including their agents, and employees harmless from any and all claims or causes of action, including attorneys' fees incurred by MMCAP, arising out of the performance of this Contract by Vendor. Nothing herein, whether express or implied, may be deemed to create an obligation on the part of the State of Minnesota or MMCAP to indemnify, defend, hold harmless or release the Vendor, Vendor's subcontractors, or Vendor's agents. Pursuant to the Minnesota Constitution Article XI Section 1, MMCAP is not permitted to indemnify the Vendor.

## **11 State Audits**

Under Minnesota Statutes Section 16C.05, subdivision 5, books, records, documents, and accounting procedures and practices of the Vendor relevant to this Contract are subject to examination by the State of Minnesota, including its MMCAP program, and/or the Minnesota State Auditor or Minnesota Legislative Auditor, as appropriate, for a minimum of six years for the end of this Contract. This clause extends to MMCAP Members as it relates to business conducted with and sales to that MMCAP Member. The State of Minnesota reserves the right to authorize delegate(s) to audit this Contract and transactions.

## **12 Government Data Practices and Intellectual Property**

12.1 **Government Data Practices.** The Vendor and MMCAP must comply with the Minnesota Government Data Practices Act, Minnesota Statutes Chapter 13, as it applies to all data provided by MMCAP under this Contract, and as it applies to all data created, collected, received, stored, used, maintained, or disseminated by the Vendor under this Contract. The civil remedies of Minnesota Statutes Section 13.08 apply to the release of the data governed by the Minnesota Government Practices Act, Minnesota Statutes Chapter 13, by either the Vendor or MMCAP.

If the Vendor receives a request to release the data referred to in this article, the Vendor must immediately notify MMCAP, and consult with MMCAP as to how the Vendor should respond to the request. The Vendor's response to the request will comply with applicable law.

The Vendor agrees to indemnify, save, and hold the State of Minnesota, its agent and employees, harmless from all claims arising out of, resulting from, or in any manner attributable to any violation of any provision of the Minnesota Government Data Practices Act, including legal fees and disbursements paid or incurred to enforce this provision of the Contract by Vendor, including resulting from Vendor's failure to properly secure data. In the event that the Vendor subcontracts any of the work to be performed under the Contract, the Vendor shall retain responsibility under the terms of this paragraph for such work.

- 12.2 **Intellectual Property.** The Vendor warrants that any materials or products provided or produced by the Vendor or utilized in the performance of this Contract will not infringe or violate any patent, copyright, trade secret, or any other proprietary right of any third party. In the event of any such claim by any third party against MMCAP, MMCAP will promptly notify the Vendor.

If such a claim of infringement has occurred, or in the Vendor's opinion is likely to occur, the Vendor must either procure for MMCAP the right to continue using the material or product or replace or modify materials or products. If an option satisfactory to MMCAP is not reasonably available, MMCAP will return the materials or products to the Vendor, upon written request of the Vendor, and at the Vendor's expense.

MMCAP and Member Facility agrees that Vendor and its affiliated company SapphireHealth, LLC retains all rights, title, interest in and ownership, and reserves the right to use and control the use of its intellectual property rights in its assets including, but not limited to, its software, reporting packages and user documentation; operations, procedures and strategies; formulary and clinical services; manufacturer, wholesaler, group purchase, vendor contracts and resultant data and information; patient, prescription claim and drug utilization submission; trademarks and service marks. This Contract creates no express or implied license for MMCAP or Facility to use such intellectual property for any purpose other than carrying out its responsibilities under this Contract.

## 13 Publicity and Endorsement

### 13.1 Publicity

Any publicity regarding the subject matter of this Contract must not be released without prior written approval from the Authorized Representatives. For purposes of this provision, publicity includes notices, informational pamphlets, press releases, research, reports, signs, and similar public notices prepared by or for the Vendor individually or jointly with others, or any subcontractors, with respect to the program, publications, or services provided resulting from this Contract.

### 13.2 Marketing

Any direct advertising, marketing, or direct offers with MMCAP Member must be approved by MMCAP. Materials should be sent to: [MMCAP.Contracts@state.mn.us](mailto:MMCAP.Contracts@state.mn.us). Violation of this Article may be cause for immediate cancellation of this Contract and/or MMCAP may reject any proposal submitted by the Vendor in any subsequent solicitations for pharmaceutical and related products.

### 13.3 Endorsement

The Vendor must not claim that MMCAP endorses its products or services.

**14 Governing Law, Jurisdiction, and Venue**

Minnesota law, without regard to its choice-of-law provisions, governs this Contract. Venue for all legal proceedings out of this Contract, or its breach, must be in the appropriate state or federal court with competent jurisdiction in Ramsey County, Minnesota. Except to the extent that the provisions of this Contract are clearly inconsistent therewith, this Contract will be governed by the Uniform Commercial Code (UCC) as adopted by the State of Minnesota. To the extent this Contract entails delivery or performance of services, such services will be deemed “goods” within the meaning of the UCC except when to do so is unreasonable.

**15 Antitrust**

The Vendor hereby assigns to the State of Minnesota any and all claims for overcharges as to goods and/or services provided in connection with this Contract resulting from antitrust violations that arise under the antitrust laws of the United States and the antitrust laws of the State of Minnesota.

**16 Force Majeure**

Neither party to this Contract will be held responsible for delay or default caused by fire, riot, war, or acts of God.

**17 Severability**

If any provision of this Contract, including items incorporated by reference, is found to be illegal, unenforceable or void, then both MMCAP and the Vendor will be relieved of all obligations arising under such provisions; if the remainder of this Contract is capable of performance it will not be affected by such declaration or finding and must be fully performed.

**18 Default and Remedies**

Either of the following constitutes cause to declare the Contract or any order under this Contract in default:

- (a) Nonperformance of contractual requirements, or
- (b) A material breach of any term or condition of this Contract.

Written notice of default, and a reasonable opportunity to cure, must be issued by the party claiming default. Time allowed for cure will not diminish or eliminate any liability for liquidated or other damages.

If the default remains after the opportunity for cure, the non-defaulting party may:

- (a) Exercise any remedy provided by law or equity; or
- (b) Terminate the Contract or any portion thereof, including any orders issued against the Contract.

**19 Certifications**

- 19.1 **Debarment and Suspension Certification** Vendor warrants and certifies that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from programs operated by the State of Minnesota, the United States federal government, or any MMCAP Member Facility; and has not been convicted of a criminal offense related to the subject of this Contract. Vendor further warrants that it will provide immediate written notice to the MMCAP Authorized Representative if this certification changes at any time.
- 19.2 **Compliance with Law** Any and all services, articles or equipment offered and furnished shall comply fully with all state and federal laws and regulations, including Minnesota Statutes Section 181.59 and Minnesota Statutes Chapter 363A prohibiting discrimination and business registration requirements of the Minnesota Secretary of State’s Office.

19.3 **DSCSA** Vendor is in compliance with all currently applicable sections of the Drug Quality and Security Act (DQSA) Title II.

19.4 **Certification of Nondiscrimination (In accordance with Minn. Stat. § 16C.053).** The following term applies to any contract for which the value, including all amendments, is \$50,000 or more: Vendor certifies it does not engage in and has no present plans to engage in discrimination against Israel, or against persons or entities doing business in Israel, when making decisions related to the operation of the vendor's business. For purposes of this section, "discrimination" includes but is not limited to engaging in refusals to deal, terminating business activities, or other actions that are intended to limit commercial relations with Israel, or persons or entities doing business in Israel, when such actions are taken in a manner that in any way discriminates on the basis of nationality or national origin and is not based on a valid business reason.

## 20 Data Disclosure

In the event MMCAP obtains the Vendor's Federal Tax Identification Number, the Vendor consents to disclosure of its federal employer tax identification number to federal and State of Minnesota agencies and personnel involved in the payment of State of Minnesota and other MMCAP Participating Facility obligations. These identification numbers may be used in the enforcement of federal and State of Minnesota laws that could result in action requiring the Vendor to file state tax returns, pay delinquent state tax liabilities, if any, or pay other state liabilities.

## 21 Insurance Requirements

21.1 Vendor must maintain the following insurance (or a comparable program of self-insurance) in force and effect throughout the term of the Contract.

21.2 Vendor is required to maintain and furnish satisfactory evidence of the following insurance (or of their program of self-insurance):

**Commercial General Liability Insurance:** Vendor will maintain insurance protecting it from claims for damages for bodily injury, including sickness or disease, death, and for care and loss of services as well as from claims for property damage, including loss of use which may arise from operations under the Contract whether the operations are by the Vendor or by a subcontractor or by anyone directly or indirectly employed by the Vendor under the Contract.

Insurance **minimum** limits are as follows:

\$5,000,000 – per occurrence

\$5,000,000 – annual aggregate

\$5,000,000 – annual aggregate – Products/Completed Operations

**Workers' Compensation Insurance:** Vendor will provide Workers' Compensation insurance at statutory minimums for all its employees, in case any work is subcontracted, Vendor will require the subcontractor to provide Workers' Compensation insurance in accordance with the same:

Insurance **minimum** limits are as follows:

\$500,000 – Bodily Injury by Disease per employee

\$500,000 – Bodily Injury by Disease aggregate

\$500,000 – Bodily Injury by Accident

**Commercial Automobile Liability Insurance:** Auto Liability insurance is not necessary unless the Vendor, Vendor's employees, or subcontractors will be driving on state property or on the property of MMCAP Members or will be using, owned, hired, or non-owned vehicles to conduct business on behalf of MMCAP.

Vendor will maintain insurance protecting it from claims for damages for bodily injury as well as from claims for property damage resulting from the ownership, operation, maintenance or use of all owned, hired, and non-owned autos which may arise from operations under this Contract, and in case any work is subcontracted the Vendor will require the subcontractor to maintain Commercial Automobile Liability insurance.

Insurance **minimum** limits are as follows:

\$2,000,000 – per occurrence Combined Single limit for Bodily Injury and Property Damage

In addition, the following coverages should be included:

Owned, Hired, and Non-Owned Automobile

The following coverages must be included:

Premises and Operations Bodily Injury and Property Damage

Personal and Advertising Injury

Blanket Contractual Liability

Products and Completed Operations Liability

MMCAP named as an Additional Insured

### 21.3 **Additional Insurance Conditions:**

- Vendor's policy(ies) must be primary insurance to any other valid and collectible insurance available to MMCAP with respect to any claim arising out of Vendor's performance under this Contract;
- If Vendor receives a cancellation notice from an insurance carrier affording coverage herein, Vendor will notify MMCAP within 5 business days with a copy of the cancellation notice, unless Vendor's policy(ies) contain a provision that coverage afforded under the policy(ies) will not be cancelled without at least 30 days' advance written notice to MMCAP;
- Vendor is responsible for payment of Contract related insurance premiums and deductibles;
- If Vendor is self-insured, a Certificate of Self-Insurance must be attached;
- Vendor's policy(ies) will include legal defense fees in addition to its liability policy limits;
- Vendor will obtain insurance policy(ies) from insurance company(ies) having an "AM BEST" rating of A- (minus); Financial Size Category (FSC) VII or better, and authorized to do business in the State of Minnesota; and
- An Umbrella or Excess Liability insurance policy may be used to supplement the Vendor's policy limits to satisfy the full policy limits required by the Contract.

21.4 MMCAP reserves the right to immediately terminate the Contract if the Vendor is not in compliance with the insurance requirements and retains all rights to pursue any legal remedies against the Vendor. All insurance policies must be open to inspection by MMCAP, and copies of policies must be submitted to MMCAP's authorized representative upon written request.

**22 Affirmative action requirements for contracts in excess of \$100,000 and if Vendor has more than 40 full-time employees in Minnesota or its principal place of business.** The State of Minnesota intends to carry out its responsibility for requiring affirmative action by its vendors.

22.1 **Covered contracts and Vendors.** If the Contract exceeds \$100,000 and Vendor employed more than 40 full-time employees on a single working day during the previous 12 months in Minnesota or in the state where it has its principal place of business, then Vendor must comply with the requirements of Minnesota Statutes Section 363A.36 and Minnesota Rules 5000.3400-5000.3600. If Vendor is covered by Minnesota Statutes Section 363A.36 because it employed more than 40 full-time employees in another state and does not have a certificate of compliance, it must certify that it is in compliance with federal affirmative action requirements.

- 22.2 **Minnesota Statutes Section 363A.36.** Minnesota Statutes Section 363A.36 requires Vendor to have an affirmative action plan for the employment of minority persons, women, and qualified disabled individuals approved by the Minnesota Commissioner of Human Rights (“Commissioner”) as indicated by a certificate of compliance. The law addresses suspension or revocation of a certificate of compliance and contract consequences in that event. A contract awarded without a certificate of compliance may be voided.
- 22.3 **Minnesota Rules 5000.3400-5000.3600.**
- (a) *General.* Minnesota Rules 5000.3400-5000.3600 implements Minnesota Statutes Section 363A.36. These rules include, but are not limited to, criteria for contents, approval, and implementation of affirmative action plans; procedures for issuing certificates of compliance and criteria for determining Vendor’s compliance status; procedures for addressing deficiencies, sanctions, and notice and hearing; annual compliance reports; procedures for compliance review; and contract consequences for non-compliance. The specific criteria for approval or rejection of an affirmative action plan are contained in various provisions of Minnesota Rules 5000.3400-5000.3600 including, but not limited to, Minnesota Rules 5000.3420-5000.3500 and 5000.3552-5000.3559.
- (b) *Disabled Workers.* Vendor must comply with the following affirmative action requirements for disabled workers.
- (1) Vendor must not discriminate against any employee or applicant for employment because of physical or mental disability in regard to any position for which the employee or applicant for employment is qualified. Vendor agrees to take affirmative action to employ, advance in employment, and otherwise treat qualified disabled persons without discrimination based upon their physical or mental disability in all employment practices such as the following: employment, upgrading, demotion or transfer, recruitment, advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship.
  - (2) Vendor agrees to comply with the rules and relevant orders of the Minnesota Department of Human Rights issued pursuant to the Minnesota Human Rights Act.
  - (3) In the event of Vendor's noncompliance with the requirements of this article, actions for noncompliance may be taken in accordance with Minnesota Statutes Section 363A.36, and the rules and relevant orders of the Minnesota Department of Human Rights issued pursuant to the Minnesota Human Rights Act.
  - (4) Vendor agrees to post in conspicuous places, available to employees and applicants for employment, notices in a form to be prescribed by the Commissioner. Such notices must state Vendor's obligation under the law to take affirmative action to employ and advance in employment qualified disabled employees and applicants for employment, and the rights of applicants and employees.
  - (5) Vendor must notify each labor union or representative of workers with which it has a collective bargaining agreement or other contract understanding, that Vendor is bound by the terms of Minnesota Statutes Section 363A.36, of the Minnesota Human Rights Act and is committed to take affirmative action to employ and advance in employment physically and mentally disabled persons.
- (c) *Consequences.* The consequences for Vendor’s failure to implement its affirmative action plan or make a good faith effort to do so include, but are not limited to, suspension or revocation of a certificate of compliance by the Commissioner, refusal by the Commissioner to approve subsequent plans, and termination of all or part of this Contract by the Commissioner or the State of Minnesota.
- (d) *Certification.* Vendor hereby certifies that it is in compliance with the requirements of Minnesota Statute Section 363A.36 and Minnesota Rules 5000.3400-5000.3600 and is aware of the consequences for noncompliance.

**23 E-Verify Certification (In accordance with Minn. Stat. §16C.075)**

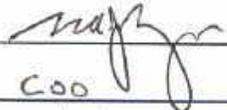
Vendor certifies that it and all its subcontractors have implemented the federal E-Verify program, as described in 48 CFR 52.222-54, for all newly hired employees in the United States who will perform work under this Contract. All subcontractor certifications must be kept on file with Vendor and made available to MMCAP upon request.

**24 Cancellation.**

- 24.1 *For Cause.* MMCAP or Vendor may cancel this Contract at any time, with cause, upon 60 days' written notice to the other party first and an opportunity to cure. The non-breaching party may terminate this Contract if the alleged breach has not been remedied within the 60-day period to cure.
- 24.2 *For Convenience.* MMCAP or Commissioner of Administration may cancel this Contract at any time, without cause, upon 60 days' written notice to the Contractor. Upon termination, the Contractor will be entitled to payment, determined on a pro rata basis, for services performed or Products supplied through the Contract cancellation date.

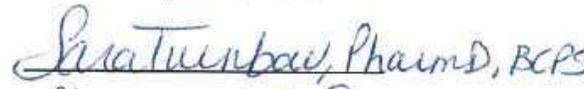
**1. Diamond Drugs, Inc., dba Diamond Pharmacy Services**

The Vendor certifies that the appropriate person(s) have executed this Agreement on behalf of the Vendor as required by applicable articles, bylaws, resolutions, or ordinances.

By:   
 Title: COO  
 Date: 3/16/18

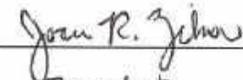
**2. STATE OF MINNESOTA FOR MMCAP**

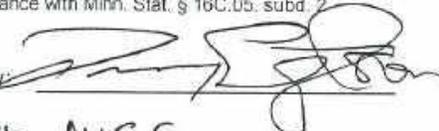
In accordance with Minn. Stat. § 16C.03, subd. 3

By:  PharmD, BCPS  
 Title: Pharmacist Sr.  
 Date: 3-16-18

**3. COMMISSIONER OF ADMINISTRATION**

In accordance with Minn. Stat. § 16C.05, subd. 2

By:  Joan R. Johnson  
 Title: President  
 Date: 3/16/18

By:   
 Title: AMS Sr  
 Date: 3/16/18

Attachments:

Appendix 1: MMCAP Monthly Data Report fields

Appendix 2: Pricing Sheet for Departments of Corrections (DOC) Facilities

Appendix 3: Pricing Sheet for Non-DOC Correctional Facilities

Appendix 4: Pricing Sheet for Long Term Care and Assisted Living (Institutional) Facilities

Attachment A: Listing of facilities using contract and negotiated prices. Vendor and MMCAP will update monthly.

Attachment B: Facility information form to initiate service. Member submits to Vendor for Facility set-up.

Attachment C: (C-1, C-2, etc.) for MPA's (Member-requested Participating Agreements).

**Appendix 2 – Pricing Sheet for Department of Corrections (DOC) Facilities****Each prescription and stock piece will be billed as follows:****Actual Acquisition Cost (AAC) plus a not-to-exceed (ceiling) dispensing fee:**

<b>If ADP is between:</b>	<b>Each prescription and stock piece will have a not-to-exceed dispensing fee of:</b>
1 and 2,500	\$3.30
2,501 and 5,000	\$3.20
5,001 and 14,000	\$3.10
14,001 and 25,000	\$3.00
25,001 and higher	\$2.90

- ◆ Actual Acquisition Cost (AAC) is defined as Diamond's direct upfront wholesaler medication cost at the time of dispensing.
- ◆ The average daily population (ADP) is defined as the aggregate number of individuals housed by an MMCAP Member DOC at any given time. ADP is calculated by calculating the sum of each day's actual inmate census over a calendar month, and then dividing the sum by the number of calendar days in the respective calendar month. For the purpose of this agreement, ADP will be calculated on a monthly, per DOC, basis.
- ◆ The dispensing fees quoted are the not-to-exceed dispensing fee per prescription and stock piece. As all Member DOC requirements are specific to their unique needs, Diamond reserves the right and may be willing to negotiate rates below those presented in the table above to offer MMCAP DOC Members the best rate available based on the needed services and program management.
- ◆ The dispensing fee includes:
  - A pharmacist for up to quarterly onsite inspections where required by law or accreditation, at Member DOCs, if requested. Inspections that are required more often than quarterly or inspections for Member DOCs located in Alaska or Hawaii will be billed as a pass-through cost at \$75.00 per hour plus travel expenses.
  - Pharmacist participation in P&T and other committee meetings via teleconference or webinar unless coordinated with an on-site scheduled inspection. Committee meetings required on site that are not coordinated with a scheduled inspection visit or for Member DOCs in Alaska or Hawaii will be billed as a pass-through cost at \$75.00 per hour plus travel expenses.
  - No additional software charges for electronic ordering and electronic medication administration records (eMARs) if you choose Diamond's Sapphire computerized physician order entry (CPOE) and eMAR solution when Diamond is the sole prescription filling service provider and all orders are transmitted via Sapphire.
- ◆ Shipping costs are included as part of the dispensing fee for Member DOCs in the contiguous United States. If medications need to be shipped to an outside facility address, such as a farm-out location or county jails housing DOC inmates, the shipping cost will be billed as a pass-through. For Member DOCs in Alaska or Hawaii, shipping costs will be a pass-through charge.
- ◆ Durable medical equipment (DME) and medical supplies are billed at Diamond's correctional pricing, and prices will be quoted on a case-by-case basis, when requested.
- ◆ Startup in-service training, orientation, and ongoing training for Facilities in the contiguous United States is included in the quoted rates. Any on-site training for Facilities in Alaska or Hawaii are billed as a pass-through cost to Facility.

**Appendix 3 – Pricing Sheet for Non-Department of Corrections (Non-DOC) Corrections Facilities**

**Including State Jails and Other Detention Facilities Not Part of a Statewide DOC System**

**Each prescription and stock piece will be billed as follows:**

**Actual Acquisition Cost (AAC) plus a not-to-exceed (ceiling) dispensing fee:**

If ADP is between:	Each prescription and stock piece will have a not-to-exceed dispensing fee of:
1 and 200	\$5.75
201 and 300	\$4.75
301 and 400	\$3.75
401 and 500	\$3.55
501 and 750	\$3.35
751 and 1,000	\$3.25
1,001 and 2,500	\$3.15
2,501 and 5,000	\$3.05
5,001 and 10,000	\$2.95
10,001 and 20,000	\$2.85
20,001 and higher	\$2.75

- ◆ Actual Acquisition Cost (AAC) is defined as Diamond's direct upfront wholesaler medication cost at the time of dispensing.
- ◆ The average daily population (ADP) is defined as the aggregate number of individuals housed by an MMCAP member facility at any given time. ADP is calculated by calculating the sum of each day's actual inmate census over a calendar month, and then dividing the sum by the number of calendar days in the respective calendar month. For the purpose of this agreement, ADP will be calculated on a monthly basis per facility.
- ◆ The dispensing fees quoted are the not-to-exceed dispensing fee per prescription and stock piece. As all member facility requirements are specific to their unique needs, Diamond reserves the right and may be willing to negotiate rates below those presented in chart above to offer MMCAP member facilities the best rate available based on the needed services and program management.
- ◆ The dispensing fee includes:
  - A pharmacist for up to quarterly onsite inspections where required by law or accreditation, at facilities with an ADP of greater than 250 inmates/juveniles, if requested—Inspections that are required more often than quarterly or inspections for facilities with an ADP of 250 or less or for facilities located in Alaska or Hawaii will be billed as a pass-through cost at \$75.00 per hour plus travel expenses.
  - Pharmacist participation in P&T and other committee meetings via teleconference or webinar unless coordinated with an on-site scheduled inspection. Committee meetings required on site that are not coordinated with a scheduled inspection visit or for Member DOCs in Alaska or Hawaii will be billed as a pass-through cost at \$75.00 per hour plus travel expenses.
  - No additional software charges for electronic ordering and electronic medication administration records (eMARs) if you choose Diamond's Sapphire computerized physician order entry (CPOE) and eMAR solution when Diamond is the sole prescription filling service provider and all orders are transmitted via Sapphire
- ◆ Shipping costs are included as part of the dispensing fee for member facilities in the contiguous United States. Shipping costs are included as part of the dispensing fee for facilities with an ADP of greater than 250 beds. All other facilities will have shipping billed as a pass-through cost. If medications need to be shipped to an outside

facility address, the shipping cost will be billed as a pass-through charge. For member facilities in Alaska or Hawaii, shipping costs will be a pass-through cost.

- ◆ Durable medical equipment (DME) and medical supplies are billed at Diamond's correctional pricing, and prices will be quoted on a case-by-case basis, when requested.
- ◆ Startup in-service training, orientation, and ongoing training for Facilities in the contiguous United States is included in the quoted rates. Any on-site training for Facilities in Alaska or Hawaii are billed as a pass-through cost to Facility.

**Appendix 4 – Pricing Sheet for Long Term Care and Assisted Living (Institutional) Facilities**

**The pricing quoted below is the not-to-exceed price for long-term care and assisted living (Institutional) member facilities. As all member facility requirements are specific to their unique needs, Diamond reserves the right and may be willing to negotiate rates below those presented and detailed below to offer MMCAP long-term care and assisted living (Institutional) member facilities the best rate available based on the needed services and program management.**

Prices include any costs associated with the dispensing and delivery of medication to the Institutional facility by Diamond Courier. For those facilities not within reasonable driving distance from Diamond, delivery fees, if any will be negotiated in good faith.

### Diamond's Not-to-Exceed (Ceiling) Price for Non-Third Party Dispensed Prescriptions

- ◆ Cost of Brand Name and Single-Source Medications (Non-IV Infusion) not-to-exceed Wholesale Acquisition Cost (WAC) plus 5% plus \$3.50
- ◆ Cost of Generic Multi-Source Medications (Non-IV Infusion) not-to-exceed Average Wholesale price (AWP) minus 50% plus \$3.50
- ◆ Stock and Resident-Specific Over-the-Counter (OTC) Medications not-to-exceed Actual Acquisition Cost (AAC) plus 10%
- ◆ Non-Sterile Compounds will be billed at a not-to-exceed rate of AWP plus compounding labor plus \$15.00 per piece with a minimum charge of \$25.00
- ◆ There will be a \$2.50 minimum price on all prescriptions
- ◆ If the discount to WAC or AWP falls below Diamond's AAC, then the prescription will be billed at AAC plus a not-to-exceed dispensing fee of \$4.45 per prescription
- ◆ Pricing will not be billed below the state Medicaid rate.
- ◆ Actual Acquisition Cost (AAC) is defined as Diamond's direct upfront wholesaler medication cost at the time of dispensing
- ◆ WAC is defined as the Wholesale Acquisition Cost as updated by Medi-Span at the time of dispensing
- ◆ AWP is defined as Average Wholesale Price as updated by Medi-Span at the time of dispensing.

### Medical Supplies /Respiratory services (if applicable)

- ◆ Oxygen Concentrators will be billed at a not-to-exceed rate of \$50.00 per month
- ◆ E-Tanks will be billed at a not-to-exceed rate of \$10.00 per refill
- ◆ Medical Supplies will be quoted on a case-by-case basis upon request of the member facility

### IV Therapy Pricing and Services

- ◆ Diamond will prepare and provide parenteral products and supplies necessary for IV medication therapy; provide an IV policy and procedure manual; furnish emergency hydration, antibiotic, and IV administration supplies via an e-kit onsite at the member facility.
- ◆ Therapy Price includes all supplies at a not-to-exceed price of WAC plus 25%
- ◆ Sterile Compounded IV Preparations (including antibiotics and custom electrolyte preparations)

- ◆ Brand name preparations will be billed at a not-to-exceed price of WAC plus 15% plus \$5.00
- ◆ Generic preparations will be billed at a not-to-exceed price of AWP minus 15% plus \$5.00
- ◆ Hydrations are billed at a not-to-exceed price of WAC plus 10% plus \$3.00
- ◆ Pain Management medications are billed at a not-to-exceed price of:
  - ◆ Brand name preparation at a not-to-exceed price of WAC plus 10% plus \$5.00
  - ◆ Generic preparations at a not-to-exceed price of AWP minus 15% plus \$5.00
- ◆ Pump Rentals at billed at a not-to-exceed rate of \$15.00 per day while in use
- ◆ TPNs are billed at a not-to-exceed rate of \$120/day for standard base formulations, additives, lipids and supplies
- ◆ Non-Standard Additives are billed at a not-to-exceed price of
  - ◆ Brand preparations will be billed at a not-to-exceed price of WAC plus 15%
  - ◆ Generic preparations will be billed at a not-to-exceed price of AWP minus 15%

#### IV Access Fees, Peripheral, Midline, and PICC Lines

- ◆ Insertions will be billed at a rate not-to-exceed the cost invoiced to Diamond by the IV insertion company plus 10% (provided by contracted service)
- ◆ Clinical Support will be billed at a rate not-to-exceed the cost invoiced to Diamond by the IV insertion company plus 10% (provided by contracted service)

#### Clinical Services Pricing

- ◆ IV Certifications, if requested, will be billed at a not-to-exceed rate of \$100.00 per student with an 8-hour class commitment and a 7-student minimum/10-student maximum
- ◆ Diamond will provide monthly quality assurance inspections for each facility, if requested, covering but not limited to medication room audits, storage and temperature inspections, medication cart audits and medication expiration date checks, preparatory pre- and mock surveys including med-pass observation of facility designated staff, medication cart and medication room/storage areas at a not-to-exceed rate of \$25.00 per hour for licensed practical nurse/pharmacy technician (time in facility only). Hourly fee will be subject to an annual increase equal to the most recently published Consumer Price Index percentage increase or 2.5%, whichever is greater.
- ◆ Monthly Pharmacist Consulting, if requested or where required by law will be billed at a not-to-exceed rate of \$100.00 per hour. Service includes monthly Medication Regimen Reviews (MRRs) for each resident at the current census, interim consults, and any additional meetings requested (quality assurance meeting, psychotropic meeting, etc.). Hourly fee will be subject to an annual increase equal to the most recently published Consumer Price Index percentage increase or 2.5%, whichever is greater.
- ◆ Medical Records/Paper (if applicable) will be billed at a not-to-exceed rate of \$2.50 per resident per month cumulative charge for all forms utilized on a monthly basis (MAR, POs, DCs, TARs, Psychotropic drug monitoring sheets, etc.)
- ◆ eMAR/EHR pricing is dependent on specific software and interface configurations and will be quoted on a case-by-case basis.
- ◆ For any medication or IV that is billable to the facility, Medicare A, or HMO, Diamond and the facility can establish a benchmark maximum cost. If this is initiated, any medication in excess of the agreed-upon

maximum cost per fill will be communicated to facility's designated person prior to the medication being dispensed.

- ◆ A therapeutic interchange protocol may be established in collaboration with the facility and the facility's medical director.
- ◆ Diamond will provide Medicare Part D plan evaluation for any existing resident or any new admission as requested. There is no charge to the facility for this service.
- ◆ Durable medical equipment (DME) and medical supplies are billed at Diamond's correctional pricing, and prices will be quoted on a case-by-case basis, when requested.
- ◆ Startup in-service training, orientation, and ongoing training for Facilities in the contiguous United States is included in the quoted rates. Any on-site training for Facilities in Alaska or Hawaii are billed as a pass-through cost to Facility.



### Facility Information Form

We are looking forward to the opportunity to service your facility and we will strive to provide you the best service possible. In order to adequately prepare to begin services with your facility, we need some additional information. Please complete this form for each unique facility as soon as possible and email to Courtney Adams at [cadams@diamondpharmacy.com](mailto:cadams@diamondpharmacy.com) or fax to 724.599.3666. If you require assistance completing this form, contact Courtney at 1.800.882.6337 x 1036. Rev.10/27/11

#### FACILITY INFORMATION

Requested Start Date: \_\_\_\_\_

Facility Full Name: \_\_\_\_\_

Fed Ex/UPS Shipping Address (No PO Boxes): \_\_\_\_\_  
\_\_\_\_\_

Medical Phone: (\_\_\_\_) \_\_\_\_\_ ext. \_\_\_\_\_ Medical Fax: (\_\_\_\_) \_\_\_\_\_

Contact Person: \_\_\_\_\_ Title: \_\_\_\_\_

E-mail: \_\_\_\_\_

Estimated Average Daily Population: \_\_\_\_\_ Facility Capacity: \_\_\_\_\_

Are you accredited by any of the following agencies?  NCCHC  ACA  STATE  
Other \_\_\_\_\_

Who is your current pharmacy provider? Name: \_\_\_\_\_

Address: \_\_\_\_\_

Phone: (\_\_\_\_) \_\_\_\_\_ Fax: (\_\_\_\_) \_\_\_\_\_

#### Packaging

How are your medications currently packaged?

Blister/Bingo Cards  Stock Bottles  Stock Blister Cards  Pill Vials/Bottles

Would you prefer different packaging than you are currently receiving?  YES  NO

If so, describe \_\_\_\_\_

Would you like controls packaged differently?  YES  NO

If yes, describe packaging \_\_\_\_\_

Are you permitted to receive metal ointment tubes?  YES  NO

Are you permitted to receive glass for items such as eye and ear drops?  YES  NO

**Medication Orders**

<http://www.mmd.admin.state.mn.us/MMCAP/Contracts/Default.aspx>

Does your facility utilize unique inmate numbers as identifiers or can the same identifier refer to multiple inmates (such as a date of birth)?      \_\_\_ Unique      \_\_\_ Not unique  
Please indicate \_\_\_\_\_

Please indicate how your facility prefers Diamond to label and dispense your orders:

**Refills with Discontinue Date** – Prescriptions will be dispensed based upon quantity written by the prescriber and will be considered invalid once that anticipated therapy is depleted. e.g. Routine medications ordered for a month with two refills will be viable for dispensing for 90 days from the date written so long as there is quantity remain on the prescription. Label will contain the number of refills and the discontinue date.

**Discontinue Date Enforced** - Prescriptions will be sent in a month supply or a lesser quantity not to exceed the discontinue date. This could result in prescriptions being sent in quantities less than a 30 day supply for the last prescription fill. This method is utilized for institutions who want the amount of drug dispensed to the end date the prescriber has indicated. The label will just contain the discontinue date but not the number of refills.

**Discontinue Date Not Enforced** - Prescriptions will be sent in a month supply for standing therapies, regardless of physician indicated cut date. This method is utilized for institutions who want to insure that patient therapy is not interrupted; therefore, full quantities of standing therapies are dispensed. Short term orders and controlled medications are dispensed in quantities not to exceed what a prescriber has indicated. The label will just contain the discontinue date but not the number of refills.

Would you like us to restrict sending refills which are ordered too soon?       YES       NO

If so, please list in the spaces below how many days of medication you want sent at a time and how much time must pass for the medication to be refilled (Diamond will always send medication early upon special request of the medical staff so as not to endanger a patient).

Unless contract specified, routine medications are always sent as a 30 day. Please indicate if you have an exception to this rule. \_\_\_\_\_

Number of days that must pass before a medication is permitted to be refilled. \_\_\_\_\_

Are there any specific medications or classes you do not want dispensed under any circumstances? (Items prohibited or contract obligations with another party) If so, please list: \_\_\_\_\_  
\_\_\_\_\_

Are there specific medications or classes that you require to be dispensed only as stock and never patient-specific? If so, please list: \_\_\_\_\_

Is your institution utilizing an EMR/EHR program that contains a prescription number that needs to be cross referenced on your prescription labels?       YES       NO

**Equipment**

Do you have a fax machine in your medical area?       YES       NO

Do you need us to provide a fax machine?       YES       NO

If so, provide the access code you must first dial to get an outside line. \_\_\_\_\_

Accurate as of April 26, 2021  
The most current version  
**Facility Information Form Continued**

List all fax number(s) throughout your facility you will utilize to transmit orders? <http://www.mmd.admin.state.ny.us/MMCAP/Contracts/Default.aspx>

( ) \_\_\_\_\_ ( ) \_\_\_\_\_ ( ) \_\_\_\_\_  
( ) \_\_\_\_\_

Do you require us to provide medication carts?  YES  NO If so, how many? \_\_\_\_\_

Which size(s) are needed?

3 wide (450 Card Capacity) Qty \_\_\_\_\_

4 wide (600 Card Capacity) Qty \_\_\_\_\_

5 wide (750 card capacity) Qty \_\_\_\_\_

Our medication cart technicians will call you to discuss such items as:

1. How many sets of keys are required? \_\_\_\_\_
2. Will your cart(s) be:  stationary, at a pill line  mobile, rolled to the cell blocks
3. If rolled, do carts roll over(check all that apply):  smooth floor  high thresholds  
 elevator  carpet
4. Current average number of blister cards per cart \_\_\_\_\_
5. Current average number of patients serviced by each cart \_\_\_\_\_
6. Number of Units/Pods/Stations at your facility \_\_\_\_\_
7. Number of different people passing medications at the same time \_\_\_\_\_
8. Number of floors where medications are passed \_\_\_\_\_
9. Which drawer would you like the narcotic compartment?  Top  Middle  Bottom
10. Which accessories would you like included? \_\_\_\_\_
11. Does your facility have a loading dock for deliveries?  YES  NO
12. Who may we contact with cart questions? \_\_\_\_\_

**Formulary**

Does your facility currently utilize a drug formulary?  YES  NO

Do you want to utilize Diamond's formulary?  YES  NO

(If not, send us a copy of the formulary you wish to utilize)

Will you require completion of a non-formulary (NF) form prior to receiving NF medications?

YES  NO

If yes, do you want NF medications sent prior to completing the NF form?  YES  NO

If yes, how many days supply should be sent prior to approval? \_\_\_\_\_

**Medical Administration Records**

Diamond provides its Sapphire eMAR, a fully HIPAA-compliant electronic application, free to its pharmacy customers.

Are you interested in our free Sapphire eMAR program?  YES  NO

If so, please provide contact information below, and a member of the Sapphire team will be in touch.

Name:

Title:

Facility:

Phone:

Email:

If not, would you like monthly **printed** Medical Administration Records (MARs)?  YES  NO

If so, which day of the month would you like to receive them? \_\_\_\_\_

Please list your normal specific medication Hours of Administration (HOAs) you would like us to print on your MARs (List all specific administration times for **all four (4)** administration frequencies, if applicable)

Accurate as of April 26, 2021  
**Facility Information Form Continued**

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<http://www.mmd.admin.state.mn.us/MMCAP/Contracts/Default.aspx>

QD \_\_\_\_\_ BID \_\_\_\_\_ - \_\_\_\_\_ TID \_\_\_\_\_ - \_\_\_\_\_ - \_\_\_\_\_ QID \_\_\_\_\_ - \_\_\_\_\_ - \_\_\_\_\_

- Which time format would you like printed?  Standard  Military  
What order do you prefer your MAR's to be printed in?  Alphabetically by inmate name  
 Alpha-numerically by inmate number  Cell block then alphabetically by inmate name  
 Cell block then alpha-numerically by inmate number

**Reports**

- Would like to utilize on our Online Reporting Program (ORP)?  Yes  No  
Would you like to receive printed monthly Formulary Management Reports?  Yes  No  
In what format would you like to receive them?  Electronic  Paper  
If electronic, please provide your first and last name and the email address(es) to send them to:

\_\_\_\_\_  
\_\_\_\_\_

This reporting option is a password protected website in which you may sort from various usage reports and real-time order data. This system will not replace your invoice or formulary management reports.

For the most accurate reports, we will need your monthly inmate census provided to your billing representative each month. Who at your facility will be sending this?

Name and Title: \_\_\_\_\_  
Phone Number: \_\_\_\_\_  
Email Address: \_\_\_\_\_

**Electronic Pedigree Paper**

The FDA requires us to send pedigree papers with certain stock prescription medications which must remain on file. We will provide these via electronic access through a website to eliminate filing unless your facility does not have internet service. Please provide the following information:

Pedigree Contact Name: \_\_\_\_\_  
Email: \_\_\_\_\_  
If internet access is not available at your site, provide appropriate fax number: \_\_\_\_\_.

**Emergency Services**

Which local backup pharmacy do you wish to utilize for emergency prescriptions?

Primary Pharmacy Backup Name: \_\_\_\_\_  
Address: \_\_\_\_\_  
Contact Name: \_\_\_\_\_ Email: \_\_\_\_\_  
Phone Number: (\_\_\_\_) \_\_\_\_\_ Fax Number: (\_\_\_\_) \_\_\_\_\_

- Does this pharmacy have delivery services available to your facility?  YES  NO  
If not, does your facility prefer to pick up?  YES  NO  
If not, would you need us to arrange taxi services and bill to your facility?  YES  NO  
Is the above pharmacy your current provider?  YES  NO

If yes, please let us know a date when it is acceptable to contact them about providing backup services, after they are notified by your facility that they will no longer be the primary pharmacy provider. \_\_\_\_\_

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**Facility Information Form Continued**  
The most current version

Specific patients such as ICE or patients with third party insurance (Medicaid, US Marshall, or other) where prescriptions are covered by another party need to be provided to the backup pharmacy with proper billing information prior to filling the order. Your facility is responsible to provide all insurance information to the backup pharmacy with the orders. Otherwise the transaction cannot be billed. If any charges are incurred or cannot be billed or are not paid, they will be passed through to Diamond, and the facility will be responsible for reimbursing Diamond.

**Delivery**

We will utilize FedEx for shipping Monday-Saturday where available. Does your facility have any special weekend or holiday delivery requirements i.e., deliver to the front door, no deliveries accepted on weekends (even at front door), etc? If so, please list: Please note: we will not ship refrigerated items unless it will be delivered with staff available on the next day.

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Is there staff available on weekends or holidays to receive shipment of medications.?  YES  NO

Would you like set up on our Online Reconciliation Program? (Barcode Medication Check-in Program)  YES  NO

We have the ability to send order confirmations the evening your order has been placed. These may be delivered via email or fax. The purpose of this confirmation is to inform you of exactly what will be on your delivery the following day. These items will also be listed on your delivery sheet accompanying your delivery.

Please Initial appropriate space:

I would like to receive daily confirmations sent to me via email. \_\_\_\_\_  
(Email address to send confirmations: \_\_\_\_\_@\_\_\_\_\_)

I would like to receive daily confirmations sent to me via fax. \_\_\_\_\_  
(Fax number to send confirmations: \_\_\_\_\_ - \_\_\_\_\_ - \_\_\_\_\_)

I do not wish to receive daily confirmations. \_\_\_\_\_

**Invoicing**

Is your facility exempt from state and/or local sales tax?  YES  NO

If yes, please provide all applicable tax exemption certificates.

Monthly invoices can be sorted in a variety of different formats, which would you prefer?

Alphabetical by Inmate Name     By Date     Alphabetical by Medication, Then by Inmate  
 Drug Class by Inmate     Drug Class by Date

Billing Contact Person: \_\_\_\_\_

Bill To Address: \_\_\_\_\_

Phone: ( ) \_\_\_\_\_ Fax: ( ) \_\_\_\_\_ Email: \_\_\_\_\_

May we send your bills electronically via a secure FTP site instead of hard copy?  YES  NO

If hardcopy, how many copies are needed? \_\_\_\_\_

Do you require a purchase order to process payment?  YES  NO

**Facility Information Form Continued**

Accurate as of April 26, 2021

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Which type of additional inmate populations do you house.  U.S. Marshal  ICE/INS  BOP  
US Marshal Number \_\_\_\_\_  DOC  Other Counties

ICE Number \_\_\_\_\_  
Would you prefer us to bill these other entities directly?  YES  NO  
If yes, please list appropriate agencies with billing addresses:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Do you house inmates with health insurance that covers prescriptions such as Medicaid or Medicare?  YES  NO

How would you prefer to make your payments?  
 EFT (electronic funds transfer-direct deposit)  Check

**Prescriber Information**

Prior to filling prescriptions, we are required to have each of your prescriber's state medical licenses and DEA numbers on file. You can either provide us the numbers or copy(ies) of their license(s). **Please do not hold up this form if you do not have this information available yet. Please email or fax them ASAP with your facility's name written on each license.** We will also need a physician's signature log showing the physician's printed name and signature to help us identify signatures on the orders.

List all prescribers' names here with their NPI # \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_

**Medical Supplies**

Will you be ordering medical equipment and supply items from us?  YES  NO

Contact: first, last name and email: \_\_\_\_\_

List any certain procedures required, such as issuing a purchase order or special authorization.

\_\_\_\_\_

Medical Supplies are normally sent for ground delivery. Is it acceptable to send some lighter medical supplies with your medication order?  YES  NO

May we send Medical Supply invoices separate of the pharmacy invoices?  YES  NO

**Fax Confirmation**

We offer an additional confirmation receipt for faxed orders which sends a fax or an email notification confirming we actually received your fax, which is in addition to your local fax machine's confirmation sheet. This receipt will state the actual fax receipt time and the number of pages received. If interested, please complete the box below for **each** fax machine that may transmit orders. Use additional sheets if necessary.

Primary Fax Number: ( ) _____	Fax Machine Location: <input type="checkbox"/> Med Room <input type="checkbox"/> Infirmary <input type="checkbox"/> Office <input type="checkbox"/> Administration <input type="checkbox"/> Other _____
Additional Fax Number: ( ) _____	Additional Fax Location: <input type="checkbox"/> Med Room <input type="checkbox"/> Infirmary <input type="checkbox"/> Office <input type="checkbox"/> Administration <input type="checkbox"/> Other _____

Please notify of fax confirmations via:  Email  Fax  Do not notify

Accurate as of April 26, 2021  
**Facility Information Form Continued**  
The most current version

<http://www.mmd.admin.state.mn.us/MMCAP/Contracts/Default.aspx>

**Facility Notifications**

Would you like to receive STAT notifications from Diamond, such as delivery delays, drug recalls, holiday schedules, new procedures, etc.?

If yes, how would you like notifications to be sent?

- Contact name \_\_\_\_\_  
 Email \_\_\_\_\_  Fax (\_\_\_\_) \_\_\_\_\_ - \_\_\_\_\_  Both

**Stock Medications**

We are required by Federal Law to maintain the proper licensing records in order to provide any **stock** (non-patient specific prescription) medications to your facility. In order for us to provide this service, **one** of the following two sections must be completed:

1.) If your **facility** currently has a state pharmacy license and/or DEA license, please complete the following information.

Facility Name \_\_\_\_\_  
Pharmacy State License # \_\_\_\_\_ Expiration Date: \_\_\_\_\_  
Pharmacy DEA # \_\_\_\_\_ Expiration Date: \_\_\_\_\_

**A copy of each license must be provided.**

2.) If your **facility** does not have a state pharmacy license and/or a DEA license, one of your prescribers must take responsibility for oversight of all stock medications for your facility, specifically for purchasing and dispensing. The prescriber must complete the following information listed below. In addition, the physician **MUST** log onto the DEA website and change his/her **BUSINESS ADDRESS** to the address of the facility. The mailing address on the website can be set to their office or home. Failure to have their DEA business address changed will prohibit Diamond from sending stock prescriptions to your facility. If a single prescriber is taking responsibility for multiple sites, the physician must have multiple DEA licenses for each site reflecting the address of each individual facility.

Facility Name \_\_\_\_\_  
Physician State License # \_\_\_\_\_ Expiration Date: \_\_\_\_\_

Prescriber Federal DEA # \_\_\_\_\_ Expiration Date: \_\_\_\_\_

**A copy of each license must be provided.**

I, \_\_\_\_\_ (prescriber's name printed) take full responsibility of all **stock**, non-patient specific medications ordered and received by the facility listed above. In addition, I hereby permit Diamond Pharmacy Services to ship all stock medications to the address listed below.

Facility Name and Address \_\_\_\_\_  
Prescriber Signature \_\_\_\_\_ Date \_\_\_\_\_

If you have any procedural changes that we may accommodate in the future, please contact us for assistance.

**THIS AMENDMENT** is by and between the State of Minnesota acting through its commissioner of Administration ("State") on behalf of the Minnesota Multistate Contracting Alliance for Pharmacy ("MMCAP") and Diamond Drugs, Inc., 645 Kolter Drive, Indiana, PA 15701 ("Vendor").

MMCAP has a contract with the Vendor identified as Contract No. MMS17017 (Contract). MMCAP and the Vendor are willing to amend the Contract as stated below.

**Contract Amendment**

In accordance with the Contract, MMS17017, both MMCAP and Vendor agree to the following action:

**Action 1:** With the exception of the facilities listed below, Vendor will move all facilities that had been accessing MMCAP Contract MMS14004 as of July 31, 2018 to MMCAP Contract MMS17017 with a start date of August 1, 2018. The date of initial use of the Contract shall remain the date of first use of MMS14004.

The facilities and systems that are NOT transitioning until further agreements can be reached with the facility/system are:

Diamond Facility Code	Facility / System Name
Multiple	Oklahoma Department of Corrections
ORMI	MULTNOMAH INVERNESS JAIL
ORMJ	MULTNOMAH JUV JUSTICE CENTER
ORMU	MULTNOMAH CO JUSTICE CENTER
AK	ARLINGTON COUNTY, VIRGINIA
Multiple	Virginia Department of Corrections
UM	Salt Lake County A. D. C.

**Except as herein amended**, the provisions of the Contract between the parties hereto are expressly reaffirmed and remain in full force and effect.

**1. DIAMOND DRUGS, INC.**

The Vendor certifies that the appropriate person(s) have executed this Amendment on behalf of the Vendor as required by applicable articles, bylaws, resolutions, or ordinances.

By: [Signature]  
Title: Chief Operating Officer  
Date: 7/25/2018

**2. STATE OF MINNESOTA FOR MMCAP**

In accordance with Minn. Stat. § 16C.03, subd. 3

By: Sara Tuohimäki, PharmD, BCPS  
Title: Pharmacist Sr.  
Date: 8-7-18

**3. COMMISSIONER OF ADMINISTRATION**

In accordance with Minn. Stat. § 16C.05, subd. 2

By: [Signature]  
Title: AMS Sr.  
Date: 8/10/18

**AMENDMENT NO. 2 TO MMCAP CONTRACT NO. MMS17017**  
<http://www.mmd.admin.state.mn.us/MMCAP/Contracts/Default.aspx>

**THIS AMENDMENT** is by and between the State of Minnesota acting through its commissioner of Administration ("State") on behalf of the Minnesota Multistate Contracting Alliance for Pharmacy ("MMCAP") and Diamond Drugs, Inc., 645 Kolter Drive, Indiana, PA 15701 ("Vendor").

MMCAP has a contract with the Vendor identified as Contract No. MMS17017 (Contract). MMCAP and the Vendor are willing to amend the Contract as stated below.

**Contract Amendment**

In accordance with the Contract, MMS17017, both MMCAP and Vendor agree to the following actions:

~~**Action 1:** The Pennsylvania Department of Corrections (PA-DOC) Member-requested Participating Agreement (MPA) is attached and incorporated as Attachment C-1 complete with Exhibits 1-4 of Attachment C-1. The commencement date shall be October 1, 2018.~~ *at 9-28-18*

~~**Action 2:** As referenced in Attachment C-1, the Administrative Fee payable to MMGAP is modified for the dispensing activities covered in the Attachment. All other fee schedules shall remain unchanged.~~ *at 9-28-18*

**Action 3:** The State of Michigan's Member-requested Participating Agreement (MPA) is attached and incorporated as Attachment C-5. The commencement date shall be October 1, 2018.

**Action 4:** The State of Utah's Member-requested Participating Agreement (MPA) is attached and incorporated as Attachment C-6. The commencement date shall be October 1, 2018.

**Except as herein amended**, the provisions of the Contract between the parties hereto are expressly reaffirmed and remain in full force and effect.

**1. DIAMOND DRUGS, INC.**

The Vendor certifies that the appropriate person(s) have executed this Amendment on behalf of the Vendor as required by applicable articles, bylaws, resolutions, or ordinances.

By: [Signature]  
Title: Chief Operating Officer  
Date: 9/26/2018

**2. STATE OF MINNESOTA FOR MMCAP**

In accordance with Minn. Stat. § 16C.03, subd. 3

By: [Signature], PharmD, BCPS  
Title: Pharmacist Sr.  
Date: 9-28-18

**3. COMMISSIONER OF ADMINISTRATION**

In accordance with Minn. Stat. § 16C.05, subd. 2

By: [Signature]  
Title: SPA-C  
Date: 10/1/2018

**THIS AMENDMENT** is by and between the State of Minnesota acting through its commissioner of Administration ("State") on behalf of the Minnesota Multistate Contracting Alliance for Pharmacy ("MMCAP") and Diamond Drugs, Inc., 645 Kolter Drive, Indiana, PA 15701 ("Vendor").

MMCAP has a contract with the Vendor identified as Contract No. MMS17017 (Contract). MMCAP and the Vendor are willing to amend the Contract as stated below.

### Contract Amendment

In accordance with the Contract, MMS17017, both MMCAP and Vendor agree to the following actions:

**Action 1:** Vendor will move the below-referenced facilities that had been accessing MMCAP Contract MMS14004 as of September 30, 2018 to MMCAP Contract MMS17017 with a start date of October 1, 2018. The date of initial use of the Contract shall remain the date of first use of MMS14004.

Diamond Facility Code	Facility / System Name
Multiple	Oklahoma Department of Corrections
ORMI	MULTNOMAH INVERNESS JAIL
ORMJ	MULTNOMAH JUV JUSTICE CENTER
ORMU	MULTNOMAH CO JUSTICE CENTER
AK	ARLINGTON COUNTY, VIRGINIA
Multiple	Virginia Department of Corrections
UM	Salt Lake County A. D. C.

**Action 2:** Vendor and MMCAP agree that the below-listed MMCAP Participating Facilities may continue to use the Member-Requested Participation Agreements (MPAs) entered into under MMS14004, attached hereto for reference, and that all references within those MPAs to MMS14004 shall be considered deleted and replaced with MMS17017, until such time as each individual Participating Facility has negotiated a new MPA with Vendor, at which time the newly executed MPA shall replace the prior MPA.

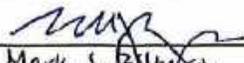
Diamond Facility Code	Facility / System Name	MPA Attachment Number
Multiple	Oklahoma Department of Corrections	C-7
ORMI	MULTNOMAH INVERNESS JAIL	C-3
ORMJ	MULTNOMAH JUV JUSTICE CENTER	C-3
ORMU	MULTNOMAH CO JUSTICE CENTER	C-3
AK	ARLINGTON COUNTY, VIRGINIA	C-4
Multiple	Virginia Department of Corrections	C-2

Except as herein amended, the provisions of the Contract between the parties hereto are expressly reaffirmed and remain in full force and effect.

[Signature page follows]

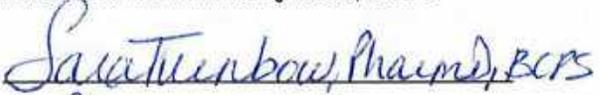
**1. DIAMOND DRUGS, INC.**

The Vendor certifies that the appropriate person(s) have executed this Amendment on behalf of the Vendor as required by applicable articles, bylaws, resolutions, or ordinances.

By:   
Title: Mark S. Blaney Chief Operating Officer  
Date: 9/28/2018

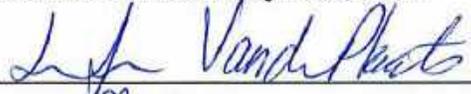
**2. STATE OF MINNESOTA FOR MMCAP**

In accordance with Minn. Stat. § 16C.03, subd. 3

By:   
Title: Pharmacist Sr.  
Date: 9-28-18

**3. COMMISSIONER OF ADMINISTRATION**

In accordance with Minn. Stat. § 16C.05, subd. 2

By:   
Title: SFA-C  
Date: 10/1/2018

*At 1-24-19*

*No. 4* AMENDMENT NO. 4 TO MMCAP CONTRACT NO. MMS17017

THIS AMENDMENT ~~NO. 5~~ ("Amendment 4") is entered into as of January 14, 2019 or the date MMCAP obtains all required signatures within this document, whichever is later ("Effective Date") by and between the State of Minnesota acting through its Commissioner of Administration ("Minnesota") on behalf of the Minnesota Multistate Contracting Alliance for Pharmacy ("MMCAP") and Diamond Drugs, Inc., a corporation with an address of 645 Kolter Drive, Indiana, PA 15701 ("Vendor").

RECITALS

WHEREAS, MMCAP and Vendor entered into a Contract MMS17017 on March 16, 2018 ("Original Contract");

WHEREAS, MMCAP and Vendor amended certain terms and conditions of the Original Contract by the way of Amendments number 1, 2, and 3;

WHEREAS, MMCAP and Vendor have agreed to allow the states of Virginia and Pennsylvania certain additions to the terms and conditions of the Original Contract;

WHEREAS, besides the terms and conditions of the Original Contract amended in this Amendment, the Agreement remains in full force and effect; and

NOW, THEREFORE, the parties acknowledge and hereby agree that the Original Contract shall be amended as follows:

**Capitalized Terms; Definitions; Conditions.** The Original Contract and Amendment shall be read together as one document. Any capitalized terms used in Amendment which are defined in the Original Contract will have the same meaning(s) when used herein, unless the context clearly requires otherwise. To the extent there shall exist a conflict between the Original Contract and this Amendment, the terms of this Amendment shall control. Unless otherwise clearly altered, modified, deleted or amended otherwise, the terms of the Original Contract shall continue in their entirety and govern the contractual relationship between Vendor and MMCAP.

**Action 1:** Virginia's member-requested participating agreement (MPA) is attached and incorporated as Attachment C-2.

**Action 2:** Pennsylvania's member-requested participating agreement (MPA) is attached and incorporated as Attachment C-1. The date at which services shall commence under these terms is February 1<sup>st</sup>, 2019. MMCAP accepts the modification of Administrative Fee calculations for dispensing activities performed under the terms of this MPA.

Except as herein amended, the provisions of the Original Contract/amendment between the parties are hereby expressly reaffirmed and remain in full force and effect.

**VENDOR: Diamond Drugs, Inc.**

The Vendor certifies that the appropriate person(s) have executed this Original Contract on behalf of the Vendor as required and by applicable articles, bylaws, resolutions, or ordinances.

Name: Mark J. Zilner  
Signature: [Signature]  
Title: Chief Operating Officer  
Date: 1/16/2019

**STATE OF MINNESOTA FOR MMCAP**

In accordance with Minn. State. 16C.03, Subd. 3

Name: Sara Turnbow  
Signature: Sara Turnbow, PharmD, BCPS  
Date: 1-22-19

**COMMISSIONER OF ADMINISTRATION**

In accordance with Minn. Stat. 16C, Subd. 2

Name: [Signature]  
Signature: Jennifer VanderPlacks  
Date: 1/24/2019

**AMENDMENT NO. 5 TO MMCAP INFUSE CONTRACT NO. 17017**

THIS AMENDMENT NO. 5 ("**Amendment**") is entered into on the date all required signatures are obtained for this document by and between the State of Minnesota acting through its Commissioner of Administration ("**Minnesota**") on behalf of the MMCAP Infuse ("**MMCAP Infuse**") and Diamond Drugs, Inc., a corporation with an address of 645 Kolter Drive, Indiana, PA 15701 ("**Vendor**").

**RECITALS**

WHEREAS, MMCAP Infuse and Vendor entered into MMS17017 on April 1, 2018 ("**Original Contract**");

WHEREAS, MMCAP Infuse and Vendor amended certain terms and conditions of the Original Contract by the way of MMS17017 Amendment 1 on August 10, 2018; and Amendment 3 on October 1, 2018; together, Original Contract and Amendments 1 and 3 will be referred to as "**Agreement**";

WHEREAS, MMCAP Infuse and Vendor have agreed to certain changes in the terms and conditions set forth in the Agreement and have agreed to amend the Agreement to reflect said changes;

WHEREAS, besides the terms and conditions of the Agreement amended in this Amendment, the Agreement remains in full force and effect; and

NOW, THEREFORE, the parties acknowledge and hereby agree that the Agreement shall be amended as follows:

**Capitalized Terms; Definitions; Conditions.** The Agreement and Amendment shall be read together as one document. Any capitalized terms used in Amendment that are defined in the Agreement will have the same meaning(s) when used herein, unless the context clearly requires otherwise. To the extent there shall exist a conflict between the Agreement and this Amendment, the terms of this Amendment will control. Unless otherwise clearly altered, modified, deleted, or amended otherwise, the terms of the Agreement will continue in their entirety and govern the contractual relationship between Vendor and MMCAP Infuse.

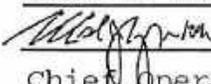
**Revision 1:** Effective when signed, Section 1.2 of the Original Contract will be revised to the following:

**1.2 Expiration date:** October 31, 2019 2021, or as cancelled pursuant to Article 24. This Contract may be extended up to ~~three~~ one additional ~~one-year~~ periods upon mutual agreement of both parties.

Except as herein amended, the provisions of the Agreement between the parties are hereby expressly reaffirmed and remain in full force and effect.

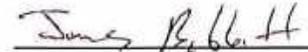
**VENDOR: Diamond Drugs, Inc.**

The Vendor certified that the appropriate person(s) have executed this Amendment on behalf of the Vendor as required and by applicable articles, bylaws, resolutions, or ordinances.

Name: Mark J. Zilner  
Signature:   
Title: Chief Operating Officer  
Date: 7/8/2019

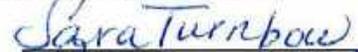
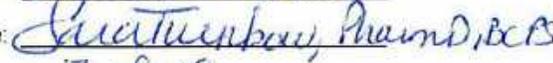
**STATE OF MINNESOTA FOR MMCAP INFUSE**

In accordance with Minn. Stat. 16C.03, Subd.3

Name:   
Signature:   
Date: July 8, 2019

**COMMISSIONER OF ADMINISTRATION**

In accordance with Minn. Stat. 16C, Subd. 2

Name:   
Signature:   
Date: 7-8-19

<http://www.mmd.admin.state.mn.us/MMCAP/Contracts/Default.aspx>  
**AMENDMENT NO. 6 TO MMCAP INFUSE CONTRACT NO. MMS17017**

THIS AMENDMENT NO. 6 ("**Amendment**") is entered into on the date all required signatures are obtained for this document by and between the State of Minnesota acting through its Commissioner of Administration ("**Minnesota**") on behalf of the MMCAP Infuse ("**MMCAP Infuse**") and Diamond Drugs, Inc., a corporation with an address of 645 Kolter Drive, Indiana, PA 15701 ("**Vendor**").

**RECITALS**

WHEREAS, MMCAP Infuse and Vendor entered into MMS17017 on April 1, 2018 ("**Original Contract**");

WHEREAS, MMCAP Infuse and Vendor amended certain terms and conditions of the Original Contract by the way of Amendments 1-5; together, Original Contract and Amendments 1-5 will be referred to as "**Agreement**";

WHEREAS, MMCAP Infuse and Vendor have agreed to certain changes in the terms and conditions set forth in the Agreement and have agreed to amend the Agreement to reflect said changes;

WHEREAS, besides the terms and conditions of the Agreement amended in this Amendment, the Agreement remains in full force and effect; and

NOW, THEREFORE, the parties acknowledge and hereby agree that the Agreement shall be amended as follows:

**Capitalized Terms; Definitions; Conditions.** The Agreement and Amendment shall be read together as one document. Any capitalized terms used in Amendment that are defined in the Agreement will have the same meaning(s) when used herein, unless the context clearly requires otherwise. To the extent there shall exist a conflict between the Agreement and this Amendment, the terms of this Amendment will control. Unless otherwise clearly altered, modified, deleted, or amended otherwise, the terms of the Agreement will continue in their entirety and govern the contractual relationship between Vendor and MMCAP Infuse.

In this Amendment, changes to pre-existing Agreement language will use ~~strike through~~ for deletions and underlining for insertions.

**Modifications:**

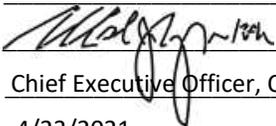
**Revision 1:** Article 1.2 of the Agreement will be revised to the following:

**1.2 Expiration date:** October 31, ~~2024~~ 2022 or as cancelled pursuant to Article 24. This Contract may be extended ~~one additional year~~ upon mutual agreement of both parties.

Except as herein amended, the provisions of the Agreement between the parties are hereby expressly reaffirmed and remain in full force and effect.

**VENDOR: Diamond Drugs, Inc.**

The Vendor certified that the appropriate person(s) have executed this Amendment on behalf of the Vendor as required and by applicable articles, bylaws, resolutions, or ordinances.

Name: Mark J. Zilner  
Signature:   
Title: Chief Executive Officer, Owner  
Date: 4/23/2021

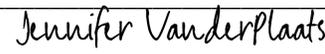
**STATE OF MINNESOTA FOR MMCAP INFUSE**

In accordance with Minn. Stat. 16C.03, Subd.3

Name: Michelle Korpela  
Signature:   
Date: 4/23/2021

**COMMISSIONER OF ADMINISTRATION**

In accordance with Minn. Stat. 16C, Subd. 2

Name: Jennifer Vanderplaats  
Signature:   
Date: 4/23/2021



**Explanation of Fiscal Impact:** A total of \$81,072 is included in the FY 2023 Professional Services Account in the Sheriff's Office budget, and \$10,000 is available in the FY 2023 Public Safety Recruitment budget.

**Alternatives**

Do not approve the contract and/or provide alternative direction to staff.

**Attachments:**

[23300139 Draft Contract.pdf](#)

**Board Action Taken:**

Motion: \_\_\_\_\_

- 1) \_\_\_\_\_
- 2) \_\_\_\_\_

Aye/Nay

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
(Vote Recorded By)

**INDEPENDENT CONTRACTOR AGREEMENT**  
**Contract No. 23300139**  
**Title: Mental Health Consultant for Sheriff's Office**

THIS CONTRACT is made and entered into this 7<sup>th</sup> day of July, 2022, by and between Carson City, a consolidated municipality, a political subdivision of the State of Nevada, hereinafter referred to as "CITY", and Sierra Psychological Associates, LLC, hereinafter referred to as "CONTRACTOR".

**WITNESSETH:**

**WHEREAS**, the Purchasing and Contracts Administrator for **CITY** is authorized pursuant to Nevada Revised Statutes (hereinafter referred to as "NRS") 332 and Carson City Purchasing Resolution #1990-R71, to approve and accept this Contract as set forth in and by the following provisions; and

**WHEREAS, CONTRACTOR'S** compensation under this agreement (does     ) (does not  X ) utilize in whole or in part money derived from one or more federal grant funding source(s); and

**WHEREAS**, it is deemed necessary that the services of **CONTRACTOR** for **CONTRACT No. 23300139** (hereinafter referred to as "Contract") are both necessary and in the best interest of **CITY**; and

**NOW, THEREFORE**, in consideration of the aforesaid premises, and the following terms, conditions and other valuable consideration, the parties mutually agree as follows:

**1. REQUIRED APPROVAL:**

This Contract shall not become effective until and unless approved by the Carson City Board of Supervisors.

**2. SCOPE OF WORK (Incorporated Contract Documents):**

2.1 **CONTRACTOR** shall provide and perform the following services set forth in **Exhibit A**, which shall all be attached hereto and incorporated herein by reference for and on behalf of **CITY** and hereinafter referred to as the "SERVICES".

2.2 **CONTRACTOR** represents that it is duly licensed by **CITY** for the purposes of performing the SERVICES.

2.3 **CONTRACTOR** represents that it is duly qualified and licensed in the State of Nevada for the purposes of performing the SERVICES.

2.4 **CONTRACTOR** represents that it and/or the persons it may employ possess all skills and training necessary to perform the SERVICES described herein and required hereunder. **CONTRACTOR** shall perform the SERVICES faithfully, diligently, in a timely and professional manner, to the best of its ability, and in such a manner as is customarily performed by a person who is in the business of providing such services in similar circumstances. **CONTRACTOR** shall be responsible for the professional quality and technical accuracy of all SERVICES furnished by **CONTRACTOR** to **CITY**.

For P&C Use Only	
CCBL expires	_____
NVCL expires	_____
GL expires	_____
AL expires	_____
WC expires	_____

**INDEPENDENT CONTRACTOR AGREEMENT**  
**Contract No. 23300139**  
**Title: Mental Health Consultant for Sheriff's Office**

2.5 **CONTRACTOR** represents that neither the execution of this Contract nor the rendering of services by **CONTRACTOR** hereunder will violate the provisions of or constitute a default under any other contract or agreement to which **CONTRACTOR** is a party or by which **CONTRACTOR** is bound, or which would preclude **CONTRACTOR** from performing the SERVICES required of **CONTRACTOR** hereunder, or which would impose any liability or obligation upon **CITY** for accepting such SERVICES.

2.6 Before commencing with the performance of any SERVICES under this Contract, **CONTRACTOR** shall obtain all necessary permits and licenses as may be necessary. Before and during the progress of work under this Contract, **CONTRACTOR** shall give all notice and comply with all the laws, ordinances, rules and regulations of every kind and nature now or hereafter in effect promulgated by any Federal, State, County, or other Governmental Authority, relating to the performance of work under this Contract. If **CONTRACTOR** performs any work that is contrary to any such law, ordinance, rule or regulation, it shall bear all the costs arising therefrom.

2.7 It is expressly understood and agreed that all SERVICES done by **CONTRACTOR** shall be subject to inspection and acceptance by **CITY** and approval of SERVICES shall not forfeit the right of **CITY** to require correction, and nothing contained herein shall relieve **CONTRACTOR** of the responsibility of the SERVICES required under the terms of this Contract until all SERVICES have been completed and accepted by **CITY**.

**3. CONTRACT TERM:**

3.1 This Contract shall be effective from July 1, 2022, subject to Carson City Board of Supervisors' approval (anticipated to be July 7, 2022) to June 30, 2023, unless sooner terminated by either party as specified in **Section 7** (CONTRACT TERMINATION).

**4. NOTICE:**

4.1 Except any applicable bid and award process where notices may be limited to postings by **CITY** on its Bid Opportunities website ([www.carson.org](http://www.carson.org)), all notices or other communications required or permitted to be given under this Contract shall be in writing and shall be deemed to have been duly given if delivered personally in hand, by e-mail, by regular mail, by telephonic facsimile with simultaneous regular mail, or by certified mail, return receipt requested, postage prepaid on the date posted, and addressed to the other party at the address specified below.

4.2 Notice to **CONTRACTOR** shall be addressed to:

Sierra Psychological Associates, LLC  
Joseph E. McEllistrem, Ph.D  
329 West Fifth Street  
Carson City, NV 89703  
775-883-6694  
[jemcellistrem@yahoo.com](mailto:jemcellistrem@yahoo.com)

**INDEPENDENT CONTRACTOR AGREEMENT**  
**Contract No. 23300139**  
**Title: Mental Health Consultant for Sheriff's Office**

4.3 Notice to **CITY** shall be addressed to:

Carson City Purchasing and Contracts Department  
Carol Akers, Purchasing & Contracts Administrator  
201 North Carson Street, Suite 2  
Carson City, NV 89701  
775-283-7362 / FAX 775-887-2286  
[CAkers@carson.org](mailto:CAkers@carson.org)

**5. COMPENSATION:**

5.1 The parties agree that **CONTRACTOR** will provide the SERVICES specified in **Section 2** (SCOPE OF WORK) and **CITY** agrees to pay **CONTRACTOR** the Contract's compensation based upon Time and Materials and the Scope of Work Fee Schedule for a not to exceed amount of Eighty Four Thousand Two Hundred Seventy Two Dollars and 00/100 (\$84,272.00), and hereinafter referred to as "Contract Sum".

5.2 Contract Sum represents full and adequate compensation for the completed SERVICES, and includes the furnishing of all materials; all labor, equipment, tools, and appliances; and all expenses, direct or indirect, connected with the proper execution of the SERVICES.

5.3 **CITY** does not agree to reimburse **CONTRACTOR** for expenses unless otherwise specified.

**6. TIMELINESS OF BILLING SUBMISSION:**

6.1 The parties agree that timeliness of billing is of the essence to this Contract and recognize that **CITY** is on a fiscal year which is defined as the period beginning July 1 and ending June 30 of the following year. All billings for dates of service prior to July 1 must be submitted to **CITY** no later than the first Friday in August of the same year. A billing submitted after the first Friday in August will subject **CONTRACTOR** to an administrative fee not to exceed \$100.00. The parties hereby agree this is a reasonable estimate of the additional costs to **CITY** of processing the billing as a stale claim and that this amount will be deducted from the stale claim payment due to **CONTRACTOR**.

**7. CONTRACT TERMINATION:**

7.1 Termination Without Cause:

7.1.1 Any discretionary or vested right of renewal notwithstanding, this Contract may be terminated upon written notice by mutual consent of both parties or unilaterally by either party without cause.

7.1.2 **CITY** reserves the right to terminate this Contract for convenience whenever it considers termination, in its sole and unfettered discretion, to be in the public interest. In the event that the Contract is terminated in this manner, payment will be made for SERVICES actually completed. If termination occurs under this provision, in no event shall **CONTRACTOR** be entitled to anticipated profits on items of SERVICES not performed as of the effective date of the termination or compensation for any other item, including but not limited to, unabsorbed overhead. **CONTRACTOR** shall require that all subcontracts which it enters related to this Contract likewise contain a termination for convenience clause which precludes the ability of any subcontractor to make claims against **CONTRACTOR** for damages due to breach of contract, lost profit on items

**INDEPENDENT CONTRACTOR AGREEMENT**  
**Contract No. 23300139**  
**Title: Mental Health Consultant for Sheriff's Office**

of SERVICES not performed, or unabsorbed overhead, in the event of a convenience termination.

7.2 Termination for Nonappropriation:

7.2.1 All payments and SERVICES provided under this Contract are contingent upon the availability of the necessary public funding, which may include various internal and external sources. In the event that Carson City does not acquire and appropriate the funding necessary to perform in accordance with the terms of the Contract, the Contract shall automatically terminate upon **CITY'S** notice to **CONTRACTOR** of such nonappropriation, and no claim or cause of action may be based upon any such nonappropriation.

7.3 Cause Termination for Default or Breach:

7.3.1 A default or breach may be declared with or without termination.

7.3.2 This Contract may be terminated by either party upon written notice of default or breach to the other party as follows:

7.3.2.1 If **CONTRACTOR** fails to provide or satisfactorily perform any of the conditions, work, deliverables, goods, or any SERVICES called for by this Contract within the time requirements specified in this Contract or within any granted extension of those time requirements; or

7.3.2.2 If any state, county, city or federal license, authorization, waiver, permit, qualification or certification required by statute, ordinance, law, or regulation to be held by **CONTRACTOR** to provide the goods or SERVICES or any services required by this Contract is for any reason denied, revoked, debarred, excluded, terminated, suspended, lapsed, or not renewed; or

7.3.2.3 If **CONTRACTOR** becomes insolvent, subject to receivership, or becomes voluntarily or involuntarily subject to the jurisdiction of the bankruptcy court; or

7.3.2.4 If **CITY** materially breaches any material duty under this Contract and any such breach impairs **CONTRACTOR'S** ability to perform; or

7.3.2.5 If it is found by **CITY** that any quid pro quo or gratuities in the form of money, services, entertainment, gifts, or otherwise were offered or given by **CONTRACTOR**, or any agent or representative of **CONTRACTOR**, to any officer or employee of **CITY** with a view toward securing a contract or securing favorable treatment with respect to awarding, extending, amending, or making any determination with respect to the performing of such contract; or

7.3.2.6 If it is found by **CITY** that **CONTRACTOR** has failed to disclose any material conflict of interest relative to the performance of this Contract.

7.4 Time to Correct (Declared Default or Breach):

7.4.1 Termination upon a declared default or breach may be exercised only after providing seven (7) calendar days written notice of default or breach, and the subsequent failure of the defaulting or breaching party, within five (5) calendar days of providing that default or breach notice, to provide evidence satisfactory to the aggrieved party demonstrating that the declared default or breach has been corrected. Time to correct shall run concurrently with any notice of default or breach and such time to correct is not subject to any stay with respect to the

**INDEPENDENT CONTRACTOR AGREEMENT**  
**Contract No. 23300139**  
**Title: Mental Health Consultant for Sheriff's Office**

nonexistence of any Notice of Termination. Untimely correction shall not void the right to termination otherwise properly noticed unless waiver of the noticed default or breach is expressly provided in writing by the aggrieved party. There shall be no time to correct with respect to any notice of termination without cause or termination for nonappropriation.

7.5 Winding Up Affairs Upon Termination:

7.5.1 In the event of termination of this Contract for any reason, the parties agree that the provisions of this **Subsection 7.5** survive termination:

7.5.1.1 The parties shall account for and properly present to each other all claims for fees and expenses and pay those which are undisputed and otherwise not subject to set off under this Contract. Neither party may withhold performance of winding up provisions solely based on nonpayment of fees or expenses accrued up to the time of termination; and

7.5.1.2 **CONTRACTOR** shall satisfactorily complete SERVICES in progress at the agreed rate (or a pro rata basis if necessary) if so requested by **CITY**; and

7.5.1.3 **CONTRACTOR** shall execute any documents and take any actions necessary to effectuate an assignment of this Contract if so requested by **CITY**; and

7.5.1.4 **CONTRACTOR** shall preserve, protect, and promptly deliver into **CITY** possession all proprietary information in accordance with "**Section 19**".

7.6 Notice of Termination:

7.6.1 Unless otherwise specified in this Contract, termination shall not be effective until seven (7) calendar days after a party has provided written notice of default or breach, or notice of without cause termination. Notice of Termination may be given at the time of notice of default or breach, or notice of without cause termination. Notice of Termination may be provided separately at any time after the running of the 7-day notice period, and such termination shall be effective on the date the Notice of Termination is provided to the party unless a specific effective date is otherwise set forth therein. Any delay in providing a Notice of Termination after the 7-day notice period has run without a timely correction by the defaulting or breaching party shall not constitute any waiver of the right to terminate under the existing notice(s).

**8. REMEDIES:**

Except as otherwise provided for by law or this Contract, the rights and remedies of the parties shall not be exclusive and are in addition to any other rights and remedies provided by law or equity, including, without limitation, actual damages, and to a prevailing party reasonable attorney's fees and costs. The parties agree that, in the event a lawsuit is filed and a party is awarded attorney's fees by the court, for any reason, the amount of recoverable attorney's fees shall not exceed the rate of \$125 per hour. **CITY** may set off consideration against any unpaid obligation of **CONTRACTOR** to **CITY**.

**9. LIMITED LIABILITY:**

**CITY** will not waive and intends to assert available NRS Chapter 41 liability limitations in all cases. Contract liability of both parties shall not be subject to punitive damages. Liquidated damages shall not apply unless otherwise expressly provided for elsewhere in this Contract. Damages for any **CITY** breach shall never exceed the amount of funds appropriated for payment under this Contract, but not yet paid to **CONTRACTOR**, for the fiscal year budget in existence at the time of the breach. **CONTRACTOR'S** tort liability shall not be limited.

**INDEPENDENT CONTRACTOR AGREEMENT**  
**Contract No. 23300139**  
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**10. FORCE MAJEURE:**

Neither party shall be deemed to be in violation of this Contract if it is prevented from performing any of its obligations hereunder due to strikes, failure of public transportation, civil or military authority, act of public enemy, accidents, fires, explosions, or acts of God, including, without limitation, earthquakes, floods, winds, or storms. In such an event the intervening cause must not be through the fault of the party asserting such an excuse, and the excused party is obligated to promptly perform in accordance with the terms of this Contract after the intervening cause ceases.

**11. INDEMNIFICATION:**

11.1 To the extent permitted by law, including, but not limited to, the provisions of NRS Chapter 41, each party shall indemnify, hold harmless and defend, not excluding the other's right to participate, the other party from and against all liability, claims, actions, damages, losses, and expenses, including but not limited to reasonable attorney's fees and costs, arising out of any alleged negligent or willful acts or omissions of the indemnifying party, its officers, employees and agents. Such obligation shall not be construed to negate, abridge, or otherwise reduce any other right or obligation of the indemnity which would otherwise exist as to any party or person described in this Section.

11.2 Except as otherwise provided in **Subsection 11.4** below, the indemnifying party shall not be obligated to provide a legal defense to the indemnified party, nor reimburse the indemnified party for the same, for any period occurring before the indemnified party provides written notice of the pending claim(s) or cause(s) of action to the indemnifying party, along with:

11.2.1 a written request for a legal defense for such pending claim(s) or cause(s) of action; and

11.2.2 a detailed explanation of the basis upon which the indemnified party believes that the claim or cause of action asserted against the indemnified party implicates the culpable conduct of the indemnifying party, its officers, employees, and/or agents.

11.3 After the indemnifying party has begun to provide a legal defense for the indemnified party, the indemnifying party shall not be obligated to fund or reimburse any fees or costs provided by any additional counsel for the indemnified party, including counsel through which the indemnified party might voluntarily choose to participate in its defense of the same matter.

11.4 After the indemnifying party has begun to provide a legal defense for the indemnified party, the indemnifying party shall be obligated to reimburse the reasonable attorney's fees and costs incurred by the indemnified party during the initial thirty (30) day period of the claim or cause of action, if any, incurred by separate counsel.

**12. INDEPENDENT CONTRACTOR:**

12.1 **CONTRACTOR**, as an independent contractor, is a natural person, firm or corporation who agrees to perform SERVICES for a fixed price according to his or its own methods and without subjection to the supervision or control of the **CITY**, except as to the results of the SERVICES, and not as to the means by which the SERVICES are accomplished.

12.2 It is mutually agreed that **CONTRACTOR** is associated with **CITY** only for the purposes and to the extent specified in this Contract, and in respect to performance of the contracted SERVICES pursuant to this Contract. **CONTRACTOR** is and shall be an independent contractor and, subject only to the terms of this Contract, shall have the sole right to supervise, manage, operate, control, and direct performance of the details incident to its duties under this Contract.

12.3 Nothing contained in this Contract shall be deemed or construed to create a partnership or joint venture, to create relationships of an employer-employee or principal-agent, or to otherwise create any liability for **CITY** whatsoever with respect to the indebtedness, liabilities, and obligations of **CONTRACTOR** or any other party.

**INDEPENDENT CONTRACTOR AGREEMENT**  
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12.4 **CONTRACTOR**, in addition to **Section 11** (INDEMNIFICATION), shall indemnify and hold **CITY** harmless from, and defend **CITY** against, any and all losses, damages, claims, costs, penalties, liabilities, expenses arising out of or incurred in any way because of, but not limited to, **CONTRACTOR'S** obligations or legal duties regarding any taxes, fees, assessments, benefits, entitlements, notice of benefits, employee's eligibility to work, to any third party, subcontractor, employee, state, local or federal governmental entity.

12.5 Neither **CONTRACTOR** nor its employees, agents, or representatives shall be considered employees, agents, or representatives of **CITY**.

**13. INSURANCE REQUIREMENTS (GENERAL):**

**13.1 NOTICE: The following general insurance requirements shall apply unless these general requirements are altered by any specific requirements set forth in CITY'S solicitation for bid document, the adopted bid or other document incorporated into this Contract by the parties.**

13.2 **CONTRACTOR**, as an independent contractor and not an employee of **CITY**, must carry policies of insurance in amounts specified and pay all taxes and fees incident hereunto. **CITY** shall have no liability except as specifically provided in this Contract.

13.3 **CONTRACTOR** shall not commence work before: (1) **CONTRACTOR** has provided the required evidence of insurance to **CITY** Purchasing and Contracts, and (2) **CITY** has approved the insurance policies provided by **CONTRACTOR**.

13.4 Prior approval of the insurance policies by **CITY** shall be a condition precedent to any payment of consideration under this Contract and **CITY'S** approval of any changes to insurance coverage during the course of performance shall constitute an ongoing condition subsequent this Contract. Any failure of **CITY** to timely approve shall not constitute a waiver of the condition.

13.5 *Insurance Coverage (13.6 through 13.23):*

13.6 **CONTRACTOR** shall, at **CONTRACTOR'S** sole expense, procure, maintain and keep in force for the duration of this Contract the following insurance conforming to the minimum requirements specified below. Unless specifically specified herein or otherwise agreed to by **CITY**, the required insurance shall be in effect prior to the commencement of work by **CONTRACTOR** and shall continue in force as appropriate until the later of:

13.6.1 Final acceptance by **CITY** of the completion of this Contract; or

13.6.2 Such time as the insurance is no longer required by **CITY** under the terms of this Contract.

13.6.3 Any insurance or self-insurance available to **CITY** under its coverage(s) shall be in excess of and non-contributing with any insurance required from **CONTRACTOR**. **CONTRACTOR'S** insurance policies shall apply on a primary basis. Until such time as the insurance is no longer required by **CITY**, **CONTRACTOR** shall provide **CITY** with renewal or replacement evidence of insurance no less than thirty (30) calendar days before the expiration or replacement of the required insurance. If at any time during the period when insurance is required by this Contract, an insurer or surety shall fail to comply with the requirements of this Contract, as soon as **CONTRACTOR** has knowledge of any such failure, **CONTRACTOR** shall immediately notify **CITY** and immediately replace such insurance or bond with an insurer meeting the requirements.

13.7 *General Insurance Requirements (13.8 through 13.23):*

13.8 **Certificate Holder:** Each certificate shall list Carson City c/o Carson City Purchasing and Contracts, 201 N. Carson Street, Suite 2, Carson City, NV 89701 as a certificate holder.

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13.9 **Additional Insured:** By endorsement to the general liability insurance policy evidenced by **CONTRACTOR**, The City and County of Carson City, Nevada, its officers, employees and immune contractors shall be named as additional insureds for all liability arising from this Contract.

13.10 **Waiver of Subrogation:** Each liability insurance policy, except for professional liability, shall provide for a waiver of subrogation in favor of City.

13.11 **Cross-Liability:** All required liability policies shall provide cross-liability coverage as would be achieved under the standard ISO separation of insureds clause.

13.12 **Deductibles and Self-Insured Retentions:** Insurance maintained by **CONTRACTOR** shall apply on a first dollar basis without application of a deductible or self-insured retention unless otherwise specifically agreed to by **CITY**. Such approval shall not relieve **CONTRACTOR** from the obligation to pay any deductible or self-insured retention. Any deductible or self-insured retention shall not exceed \$5,000.00 per occurrence, unless otherwise approved by **CITY**.

13.13 **Policy Cancellation:** Except for ten (10) calendar days' notice for non-payment of premium, premium, **CONTRACTOR** or its insurers must provide thirty (30) calendar days prior written notice to Carson City Purchasing and Contracts if any policy will be canceled, non-renewed or if required coverage and /or limits reduced or materially altered, and shall provide that notices required by this paragraph shall be sent by mail to Carson City Purchasing and Contracts, 201 N. Carson Street, Suite 2, Carson City, NV 89701. When available, each insurance policy shall be endorsed to provide thirty (30) days' notice of cancellation, except for ten (10) days' notice for non-payment of premium, to City.

13.14 **Approved Insurer:** Each insurance policy shall be issued by insurance companies authorized to do business in the State of Nevada or eligible surplus lines insurers under federal and Nevada law and having agents in Nevada upon whom service of process may be made, and currently rated by A.M. Best as "A-VII" or better.

13.15 **Evidence of Insurance:** Prior to commencement of work, **CONTRACTOR** must provide the following documents to Carson City Purchasing and Contracts, 201 North Carson Street, Suite 3, Carson City, NV 89701:

13.16 **Certificate of Insurance:** **CONTRACTOR** shall furnish City with a certificate(s) of insurance, executed by a duly authorized representative of each insurer, showing compliance with the insurance requirements set forth herein. The Acord 25 Certificate of Insurance form or a form substantially similar must be submitted to Carson City Purchasing and Contracts to evidence the insurance policies and coverages required of **CONTRACTOR**.

13.17 **Additional Insured Endorsement:** An Additional Insured Endorsement (CG20 10 or C20 26), signed by an authorized insurance company representative, must be submitted to Carson City Purchasing and Contracts to evidence the endorsement of **CITY** as an additional insured per **Subsection 13.9** (Additional Insured).

13.18 **Schedule of Underlying Insurance Policies:** If Umbrella or Excess policy is evidenced to comply with minimum limits, a copy of the Underlying Schedule from the Umbrella or Excess insurance policy may be required.

13.19 **Review and Approval:** Documents specified above must be submitted for review and approval by **CITY** Purchasing and Contracts prior to the commencement of work by **CONTRACTOR**. Neither approval by **CITY** nor failure to disapprove the insurance furnished by **CONTRACTOR** shall relieve **CONTRACTOR** of **CONTRACTOR'S** full responsibility to provide the insurance required by this Contract. Compliance with the insurance requirements of this Contract shall not limit the liability of **CONTRACTOR** or its sub-contractors, employees or agents to **CITY** or others, and shall be in addition to and not in lieu of any other remedy available to **CITY** under this Contract or otherwise. **CITY** reserves the right to request and review a copy of any required insurance policy or endorsement to assure compliance with these requirements.

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**13.20 COMMERCIAL GENERAL LIABILITY INSURANCE:**

**CONTRACTOR** shall maintain commercial general liability (CGL) and, if necessary, commercial umbrella insurance with a limit of not less than \$1,000,000 each occurrence.

13.20.1 *Minimum Limits required:*

13.20.2 Two Million Dollars (\$2,000,000.00) - General Aggregate.

13.20.3 Two Million Dollars (\$2,000,000.00) - Products & Completed Operations Aggregate.

13.20.4 One Million Dollars (\$1,000,000.00) - Each Occurrence.

13.20.5 CGL insurance shall be written on ISO occurrence form CG 00 01 04 13 (or a substitute form providing equivalent coverage) and shall cover liability arising from premises, operations, products-completed operations, personal and advertising injury, and liability assumed under an insured contract [(including the tort liability of another assumed in a business contract)].

13.20.6 City and County of Carson City, Nevada, its officers, employees and immune contractors shall be included as an insured under the CGL, using ISO additional insured endorsement CG 20 10 or CG 20 26, or a substitute providing equivalent coverage, and under the commercial umbrella, if any.

13.20.7 This insurance shall apply as primary insurance with respect to any other insurance or self-insurance programs afforded to City There shall be no endorsement or modification of the CGL to make it excess over other available insurance; alternatively, if the CGL states that it is excess or pro rata, the policy shall be endorsed to be primary with respect to the additional insured.

13.20.8 There shall be no endorsement or modification of the CGL limiting the scope of coverage for liability assumed under a contract.

13.20.9 Contractor waives all rights against City and its agents, officers, directors and employees for recovery of damages to the extent these damages are covered by the commercial general liability or commercial umbrella liability insurance maintained pursuant to this Contract. Insurer shall endorse CGL policy as required to waive subrogation against City with respect to any loss paid under the policy.

**13.21 BUSINESS AUTOMOBILE LIABILITY INSURANCE:**

13.21.1 *Minimum Limit required:*

13.21.2 Contractor shall maintain automobile liability and, if necessary, commercial umbrella liability insurance with a limit of not less than \$1,000,000 each accident for bodily injury and property damage.

13.21.3 Such insurance shall cover liability arising out of owned, hired, and non-owned autos (as applicable). Coverage as required above shall be written on ISO form CA 00 01, CA 00 05, CA 00 25, or a substitute form providing equivalent liability coverage.

13.21.4 Contractor waives all rights against City and its agents, officers, directors and employees for recovery of damages to the extent these damages are covered by

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the automobile liability or other liability insurance obtained by **CONTRACTOR** pursuant this Contract.

**13.22 PROFESSIONAL LIABILITY INSURANCE**

13.22.1 *Minimum Limit required:*

13.22.2 **CONTRACTOR** shall maintain professional liability insurance applying to all activities performed under this Contract with limits not less than One Million Dollars (\$1,000,000.00) and Two Million Dollars (\$2,000,000) in the aggregate.

13.22.3 Retroactive date: Prior to commencement of the performance of this Contract.

13.22.4 **CONTRACTOR** will maintain professional liability insurance during the term of this Contract and for a period of three (3) years after termination of this Contract unless waived by the City. In the event of non-renewal or other lapse in coverage during the term of this Contract or the three (3) year period described above, **CONTRACTOR** shall purchase Extended Reporting Period coverage for claims arising out of **CONTRACTOR's** negligence acts, errors and omissions committed during the term of the Professional Liability Policy. The Extended Reporting Period shall continue through a minimum of three (3) years after termination date of this Contract.

13.22.5 A certified copy of this policy may be required.

**13.23 WORKERS' COMPENSATION AND EMPLOYER'S LIABILITY INSURANCE:**

13.23.1 **CONTRACTOR** shall provide workers' compensation insurance as required by NRS Chapters 616A through 616D inclusive and Employer's Liability insurance with a minimum limit not less than \$1,000,000 each accident for bodily injury by accident or \$1,000,000 each employee for bodily injury by disease.

13.23.2 **CONTRACTOR** may, in lieu of furnishing a certificate of an insurer, provide an affidavit indicating that **CONTRACTOR** is a sole proprietor; that **CONTRACTOR** will not use the services of any employees in the performance of this Contract; that **CONTRACTOR** has elected to not be included in the terms, conditions, and provisions of NRS Chapters 616A-616D, inclusive; and that **CONTRACTOR** is otherwise in compliance with the terms, conditions, and provisions of NRS Chapters 616A-616D, inclusive.

13.23.3 **CONTRACTOR** waives all rights against City and its agents, officers, directors, and employees for recovery of damages to the extent these damages are covered by the workers' compensation and employer's liability or commercial umbrella liability insurance obtained by Contractor pursuant to this Contract. Contractor shall obtain an endorsement equivalent to WC 00 03 13 to affect this waiver.

**14. BUSINESS LICENSE:**

14.1 **CONTRACTOR** shall not commence work before **CONTRACTOR** has provided a copy of his Carson City business license to Carson City Purchasing and Contracts.

14.2 The Carson City business license shall continue in force until the later of: (1) final acceptance by **CITY** of the completion of this Contract; or (2) such time as the Carson City business license is no longer required by **CITY** under the terms of this Contract.

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**15. COMPLIANCE WITH LEGAL OBLIGATIONS:**

**CONTRACTOR** shall procure and maintain for the duration of this Contract any state, county, city, or federal license, authorization, waiver, permit, qualification or certification required by statute, ordinance, law, or regulation to be held by **CONTRACTOR** to provide the goods or SERVICES or any services of this Contract.

**CONTRACTOR** will be responsible to pay all government obligations, including, but not limited to, all taxes, assessments, fees, fines, judgments, premiums, permits, and licenses required or imposed by law or a court. Real property and personal property taxes are the responsibility of **CONTRACTOR** in accordance with NRS Chapter 361 generally and NRS 361.157 and 361.159, specifically regarding for profit activity. **CONTRACTOR** agrees to be responsible for payment of any such government obligations not paid by its subcontractors during performance of this Contract. **CITY** may set-off against consideration due any delinquent government obligation.

If the **CITY** was required by NRS 332.039(1) to advertise or request a proposal for this Agreement, by signing this Agreement, the **CONTRACTOR** provides a written certification that the **CONTRACTOR** is not currently engaged in, and during the Term shall not engage in, a Boycott of Israel. The term "Boycott of Israel" has the meaning ascribed to that term in Section 3 of Nevada Senate Bill 26 (2017). The **CONTRACTOR** shall be responsible for fines, penalties, and payment of any State of Nevada or federal funds that may arise (including those that the **CITY** pays, becomes liable to pay, or becomes liable to repay) as a direct result of the **CONTRACTOR's** non-compliance with this Section.

**16. WAIVER OF BREACH:**

Failure to declare a breach or the actual waiver of any particular breach of this Contract or its material or nonmaterial terms by either party shall not operate as a waiver by such party of any of its rights or remedies as to any other breach.

**17. SEVERABILITY:**

If any provision contained in this Contract is held to be unenforceable by a court of law or equity, this Contract shall be construed as if such provision did not exist and the nonenforceability of such provision shall not be held to render any other provision or provisions of this Contract unenforceable.

**18. ASSIGNMENT / DELEGATION:**

To the extent that any assignment of any right under this Contract changes the duty of either party, increases the burden or risk involved, impairs the chances of obtaining the performance of this Contract, attempts to operate as a novation, or includes a waiver or abrogation of any defense to payment by **CITY**, such offending portion of the assignment shall be void, and shall be a breach of this Contract. **CONTRACTOR** shall neither assign, transfer nor delegate any rights, obligations or duties under this Contract without the prior written approval of **CITY**. The parties do not intend to benefit any third party beneficiary regarding their respective performance under this Contract.

**19. CITY OWNERSHIP OF PROPRIETARY INFORMATION:**

Any files, reports, histories, studies, tests, manuals, instructions, photographs, negatives, blue prints, plans, maps, data, system designs, computer programs, computer codes, and computer records (which are intended to be consideration under this Contract), or any other documents or drawings, prepared or in the course of preparation by **CONTRACTOR** (or its subcontractors) in performance of its obligations under this Contract shall be the exclusive property of **CITY** and all such materials shall be delivered into **CITY** possession by **CONTRACTOR** upon completion, termination, or cancellation of this Contract. **CONTRACTOR** shall not use, willingly allow, or cause to have such materials used for any purpose other than performance of **CONTRACTOR'S** obligations under this Contract without the prior written consent of **CITY**. Notwithstanding the foregoing, **CITY** shall have no proprietary interest in any materials licensed for use by **CITY** that are subject to patent, trademark or copyright protection.

**20. PUBLIC RECORDS:**

Pursuant to NRS 239.010, information or documents received from **CONTRACTOR** may be open to public inspection and copying. **CITY** will have the duty to disclose unless a particular record is made confidential by law

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or a common law balancing of interests. **CONTRACTOR** may clearly label specific parts of an individual document as a "trade secret" or "confidential" in accordance with NRS 332.061, provided that **CONTRACTOR** thereby agrees to indemnify and defend **CITY** for honoring such a designation. The failure to so label any document that is released by **CITY** shall constitute a complete waiver of any and all claims for damages caused by any release of the records.

**21. CONFIDENTIALITY:**

**CONTRACTOR** shall keep confidential all information, in whatever form, produced, prepared, observed or received by **CONTRACTOR** to the extent that such information is confidential by law or otherwise required by this Contract.

**22. FEDERAL FUNDING:**

*22.1 In the event federal grant funds are used for payment of all or part of this Contract:*

*22.1.1 **CONTRACTOR** certifies, by signing this Contract, that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any federal department or agency. This certification is made pursuant to the regulations implementing Executive Order 12549, Debarment and Suspension, 28 C.F.R. pt. 67, § 67.510, as published as pt. VII of the May 26, 1988, Federal Register (pp. 19160-19211), and any relevant program-specific regulations. This provision shall be required of every subcontractor receiving any payment in whole or in part from federal funds.*

*22.1.2 **CONTRACTOR** and its subcontractors shall comply with all terms, conditions, and requirements of the Americans with Disabilities Act of 1990 (P.L. 101-136), 42 U.S.C. 12101, as amended, and regulations adopted thereunder contained in 28 C.F.R. 26.101-36.999, inclusive, and any relevant program-specific regulations.*

*22.1.3 **CONTRACTOR** and its subcontractors shall comply with the requirements of the Civil Rights Act of 1964, as amended, the Rehabilitation Act of 1973, P.L. 93-112, as amended, and any relevant program-specific regulations, and Executive Order 11478 (July 21, 2014) and shall not discriminate against any employee or offeror for employment because of race, national origin, creed, color, sex, sexual orientation, gender identity, religion, age, disability or handicap condition (including AIDS and AIDS-related conditions).*

*22.1.4 If and when applicable to the particular federal funding and the Scope of Work under this Contract, **CONTRACTOR** and its subcontractors shall comply with: American Iron and Steel (AIS) provisions of P.L. 113- 76, Consolidated Appropriations Act, 2014, Section 1605 – Buy American (100% Domestic Content of iron, steel and manufactured goods); Federal Highway Administration (FHWA) 23 U.S.C. § 313 – Buy America, 23 C.F.R. §635.410 (100% Domestic Content of steel, iron and manufactured products); Federal Transit Administration (FTA) 49 U.S.C. § 5323(j), 49 C.F.R. Part 661 – Buy America Requirements (See 60% Domestic Content for buses and other Rolling Stock).*

**23. LOBBYING:**

23.1 The parties agree, whether expressly prohibited by federal law, or otherwise, that no funding associated with this Contract will be used for any purpose associated with or related to lobbying or influencing or attempting to lobby or influence for any purpose the following:

23.1.1 Any federal, state, county or local agency, legislature, commission, council or board;

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23.1.2 Any federal, state, county or local legislator, commission member, council member, board member, or other elected official; or

23.1.3 Any officer or employee of any federal, state, county or local agency; legislature, commission, council or board.

**24. GENERAL WARRANTY:**

**CONTRACTOR** warrants that it will perform all SERVICES required hereunder in accordance with the prevailing standard of care by exercising the skill and care normally required of individuals performing the same or similar SERVICES, under the same or similar circumstances, in the State of Nevada.

**25. PROPER AUTHORITY:**

The parties hereto represent and warrant that the person executing this Contract on behalf of each party has full power and authority to enter into this Contract. **CONTRACTOR** acknowledges that this Contract is effective only after approval by the Carson City Board of Supervisors and only for the period of time specified in this Contract. Any SERVICES performed by **CONTRACTOR** before this Contract is effective or after it ceases to be effective is performed at the sole risk of **CONTRACTOR**.

**26. GOVERNING LAW / JURISDICTION:**

This Contract and the rights and obligations of the parties hereto shall be governed by, and construed according to, the laws of the State of Nevada, without giving effect to any principle of conflict-of-law that would require the application of the law of any other jurisdiction. **CONTRACTOR** consents and agrees to the jurisdiction of the courts of the State of Nevada located in Carson City, Nevada for enforcement of this Contract.

**27. ENTIRE CONTRACT AND MODIFICATION:**

This Contract and its integrated attachment(s) constitute the entire Contract of the parties and such are intended as a complete and exclusive statement of the promises, representations, negotiations, discussions, and other Contracts that may have been made in connection with the subject matter hereof. Unless an integrated attachment to this Contract specifically displays a mutual intent to amend a particular part of this Contract, general conflicts in language between any such attachment and this Contract shall be construed consistent with the terms of this Contract. Unless otherwise expressly authorized by the terms of this Contract, no modification or amendment to this Contract shall be binding upon the parties unless the same is in writing and signed by the respective parties hereto and approved by the Carson City Board of Supervisors. Conflicts in language between this Contract and any other agreement between **CITY** and **CONTRACTOR** on this same matter shall be construed consistent with the terms of this Contract. The parties agree that each has had their respective counsel review this Contract which shall be construed as if it was jointly drafted.

**INDEPENDENT CONTRACTOR AGREEMENT**  
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**28. ACKNOWLEDGMENT AND EXECUTION:**

This Contract may be executed in counterparts. The parties hereto have caused this Contract to be signed and intend to be legally bound thereby as follows:

**CITY**

Finance Department  
Attn: Carol Akers, Purchasing & Contracts Administrator  
Purchasing and Contracts Department  
201 North Carson Street, Suite 2  
Carson City, Nevada 89701  
Telephone: 775-283-7362  
Fax: 775-887-2286  
[CAkers@carson.org](mailto:CAkers@carson.org)

**CITY'S LEGAL COUNSEL**

Carson City District Attorney

I have reviewed this Contract and approve as to its legal form.

By: \_\_\_\_\_  
Sheri Russell, Chief Financial Officer

By: \_\_\_\_\_  
Deputy District Attorney

Dated \_\_\_\_\_

Dated \_\_\_\_\_

**CONTRACTOR will not be given authorization to begin work until this Contract has been signed by Purchasing and Contracts**

**BY:** Carol Akers  
Purchasing & Contracts Administrator

Acct# 1012014-500309  
1012005-500332

By: \_\_\_\_\_

Dated \_\_\_\_\_

**INDEPENDENT CONTRACTOR AGREEMENT**  
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Undersigned deposes and says under penalty of perjury: That he/she is **CONTRACTOR** or authorized agent of **CONTRACTOR**; that he/she has read the foregoing Contract; and that he/she understands the terms, conditions and requirements thereof.

**CONTRACTOR**

**BY:** Joseph E. McEllistrem, Ph.D.

**FIRM:** Sierra Psychological Associates, LLC

**CARSON CITY BUSINESS LICENSE #:** BL-003595

**Address:** 329 West Fifth Street

**City:** Carson City **State:** NV **Zip Code:** 89703

**Telephone:** 775-883-6694

**E-mail Address:** [jemcellistrem@yahoo.com](mailto:jemcellistrem@yahoo.com)

\_\_\_\_\_  
(Signature of Contractor)

**DATED** \_\_\_\_\_

**STATE OF** \_\_\_\_\_ )

)ss

**County of** \_\_\_\_\_ )

Signed and sworn (or affirmed before me on this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
(Signature of Notary)

(Notary Stamp)

**INDEPENDENT CONTRACTOR AGREEMENT**  
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**CONTRACT ACCEPTANCE AND EXECUTION:**

The Board of Supervisors for Carson City, Nevada at their publicly noticed meeting of July 7, 2022 approved the acceptance of the attached Contract hereinbefore identified as **CONTRACT No. 23300139**. Further, the Board of Supervisors authorizes the Mayor of Carson City, Nevada to sign this document and record the signature for the execution of this Contract in accordance with the action taken.

**CARSON CITY, NEVADA**

\_\_\_\_\_  
LORI BAGWELL, MAYOR

DATED this 7<sup>th</sup> day of July, 2022.

**ATTEST:**

\_\_\_\_\_  
AUBREY ROWLATT, CLERK-RECORDER

DATED this 7th day of July, 2022.



## Scope of Work:

### Exhibit A

1. CONTRACTOR shall work with community agencies as needed for proper transfer of care.
2. CONTRACTOR shall make regular jail visits on a schedule to be arranged – it is expected that the CONTRACTOR visit will be coordinated to facilitate inmate care and exchange of information.
3. CONTRACTOR will continue mental health treatment which may have been initiated before incarceration.
4. CONTRACTOR shall assist Sheriff's Office staff in making mental health assessments among the jail population to identify depression and anxiety not appropriate for this population, to rule out other psychiatric diagnoses and make treatment recommendations to staff and inmate.
5. CONTRACTOR will do short term counselling on-site, recommending appropriate community treatment resources in conjunction with the Carson City Mental Health Coalition Coordinator.
6. CONTRACTOR will provide in-service training opportunities as identified and time permits.
7. CONTRACTOR will provide pre-employment psychological evaluations pursuant to NAC 289.110 and department policy. Each evaluation costs \$400.00.

\$75,072 each fiscal year, paid \$6,256 per month, additional \$9,200, will be paid at the rate of \$400.00 per pre-employment psychological evaluations.

The total annual amount of the contract is \$84,272.



## STAFF REPORT

**Report To:** Board of Supervisors

**Meeting Date:** July 7, 2022

**Staff Contact:** Carol Akers, Purchasing & Contracts Administrator, Sheriff Ken Furlong and Fire Chief Sean Slamon

**Agenda Title:** For Possible Action: Discussion and possible action regarding (1) an extension to the joinder contract for employee medical services from ARC Health & Wellness ("ARC"), through Washoe County contract (#3086-19) for Fiscal Year ("FY") 2023, (2) an increase in the annual not to exceed amount to \$95,000, and (3) authorization for the Purchasing & Contracts Administrator to execute the one-year extension for July 1, 2022 through June 30, 2023. (Carol Akers, cakers@carson.org, Sheriff Ken Furlong, kfurlong@carson.org and Fire Chief Sean Slamon, sslamon@carson.org)

Staff Summary: ARC provides the annual heart and lung physicals for the Carson City Sheriff's Office, court bailiffs and marshals, Juvenile Probation and the Carson City Fire Department. The physicals are required by NRS 617.454. The City has used services provided by ARC for a number of years; the City is very satisfied with the provider and wishes to continue to utilize their services. The physical includes, but is not limited to, laboratory testing (blood work), nicotine testing, TB skin test, audiogram, EKG, urinalysis, chest x-rays and pulmonary function testing.

**Agenda Action:** Formal Action / Motion

**Time Requested:** Consent

---

### **Proposed Motion**

I move to approve the amendment as presented.

### **Board's Strategic Goal**

Efficient Government

### **Previous Action**

July 16, 2020 – The Board of Supervisors approved the joinder contract with ARC for an amount not to exceed \$85,000 annually, through June 30, 2022.

### **Background/Issues & Analysis**

Due to the new pricing structure through ARC, it is anticipated the cost will increase from the previous annual amount of \$85,000. The City is requesting the annual amount of \$95,000 to allow for the increase.

Contract being utilized;

Washoe County Contract No. 3086-19

Initial Term: effective July 1, 2019 through June 30, 2022, with two additional one-year renewal options.

The first of two renewal options has been exercised by Washoe County.

### **Applicable Statute, Code, Policy, Rule or Regulation**

NRS 332.115, 332.195 and 617.454

**Financial Information**

**Is there a fiscal impact?** Yes

**If yes, account name/number:** See attached spreadsheet.

**Is it currently budgeted?** Yes

**Explanation of Fiscal Impact:** If approved, each department will manage their accounts and will not exceed \$95,000. See attached spreadsheet.

**Alternatives**

Do not approve the joinder contract and/or provide alternative direction to staff.

**Attachments:**

[FY 23 ARC Budget Summary.pdf](#)

[Joinder Letter 2022 Extension - Final.pdf](#)

[20300046 Executed Joinder.pdf](#)

**Board Action Taken:**

Motion: \_\_\_\_\_

- 1) \_\_\_\_\_
- 2) \_\_\_\_\_

Aye/Nay

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_  
(Vote Recorded By)

Org	Obj	Org Desc	Account Desc	FY 22 as of 6/23/22	FY 23 Approved Budget
1012005	500356	SHERIFF ADMIN	EE PHYSICAL	44,047.00	\$49,000.00
1012505	500356	FIRE ADMIN	EE PHYSICAL	525.00	\$450.00
1012512	500356	FIRE OP	EE PHYSICAL	23,481.00	\$20,051.00
1012515	500356	FIRE PREVE	EE PHYSICAL	1,055.00	\$1,300.00
1012520	500356	FIRE TRAIN	EE PHYSICAL	525.00	\$1,250.00
1012545	500356	WILD LAND	EE PHYSICAL		\$2,000.00
5012525	500356	AMB EXP	EE PHYSICAL	5,079.46	\$8,400.00
5012537	500356	BLS	EE PHYSICAL	168.00	\$2,000.00
1012705	500326	JUV PROB	MEDICAL TESTING	2,614.25	\$8,160.00
1012800	500356	ALT SENTEN	EE PHYSICAL	-	\$1,000.00
1014700	500356	DST/JST CT	EE PHYSICAL	1,385.00	\$2,625.00
				78,879.71	\$96,236.00

## Joinder Provision of Washoe County's Medical Services Contract # 3086-19

In June of 2022, Gilbert, Gaetke and Associates of Nevada, MD, LTD and ARC Health & Wellness Centers, LLC (collectively referred to as ARC Health & Wellness Centers) received an extension to Contract # 3086-19. This extension enabled a price increase for Contract # 3086-19 and granted an additional one year at these rates. We anticipate not needing to an additional price increase through June 30th, 2024. Washoe County is required to renew the contract annually since the term says annual extensions.

### “Joinder Provision” of Washoe County's - Medical Services Contract # 3086-19

Page 48 of RFP # 3086-19

Section B29

#### **B29 USE BY OTHER GOVERNMENT ENTITIES (JOINDER PROVISION)**

*In accordance with the provisions of NRS 332.195, unless otherwise stipulated under the exception section of the proposal response, other local government agencies may join in a resultant contract from this RFP with the permission of the successful proposer. Within the scope of this RFP, the County shall be held harmless in any and all transactions between the successful proposer and other participating governmental entities.*

#### **NRS 332.195 Joinder or mutual use of contracts by governmental entities.**

1. Except as otherwise provided in this section:
  - (a) A governing body or its authorized representative and the State of Nevada may join or use the contracts of local governments located within or outside this State with the authorization of the contracting vendor. The originally contracting local government is not liable for the obligations of the governmental entity which joins or uses the contract.
  - (b) A governing body or its authorized representative may join or use the contracts of the State of Nevada or another state with the authorization of the contracting vendor. The State of Nevada or other state is not liable for the obligations of the local government which joins or uses the contract.
2. A governing body or its authorized representative or the State of Nevada shall not join or use a contract pursuant to this section if a contractor's license issued pursuant to [chapter 624](#) of NRS is required for any portion of the work to be performed under the contract.

**ARC Health & Wellness Centers (ARC) hereby invites your Public Entity to exercise this joinder provision and offer ARC's services under Washoe County's Medical Services Contract # 3086-19 to include all prices listed in the contract with consideration given to volume and scheduling.**

**For simplicity we only increased three (3) services in the contract that effects the overall cost of the examination. Please see New Pricing Structure on Page 3**

**Contract # 3086-19 Extension**  
**Joinder Provision Agreement**

**Term:**

Contract Term is July 1, 2022 – June 30, 2023 with one additional one (1) year renewal option.

**Pricing:**

Pricing as listed on this Joinder Agreement is effective July 1, 2022– June 30, 2023

**Payment Term:** Net 45

**Cancellation of Agreement:**

Either party may cancel this agreement anytime ***without*** cause, penalty, charge or sanction on with written notice to the other party of their intent to terminate the agreement. In the event of cancellation, payment for all services rendered is due within 30 days.

**Signatures:**

This Extension to the Joinder Agreement is hereby executed the date the Public Entity listed below and becomes effective the date of this agreement.

**ARC Health & Wellness Centers:**

BY:  \_\_\_\_\_ 06/14/2022  
Paul W. Granstrom, President Date

**Public Entity Enacting Joinder Provision:**

\_\_\_\_\_  
*Public Entity Name*

**Authorized Representative:** \_\_\_\_\_  
*Printed Name*

BY: \_\_\_\_\_  
Signature Date

## New Pricing Structure under the Extension Summary

*Our new pricing structure goes into effect July 1st, 2022 and is valid through June 30, 2023.*

We are honored to continue to serve your Public Entity for the next year under this new pricing structure. We hereby invite you to enact the Joinder Provision of our new contract extension with Washoe County.

To simplify the changes to the pricing I'll break out the current rate structure versus the new rate structure.

NRS / NAC 617	Old Rate	New Rate	Increase Amount
<b>Under 40</b>	\$365.00	\$480.00	<b>\$115.00</b>
<b>Over 40</b>	\$450.00	\$565.00	<b>\$115.00</b>
<b>Prehire Under 40</b>	\$415.00	\$530.00	<b>\$115.00</b>
<b>Prehire Over 40</b>	\$500.00	\$615.00	<b>\$115.00</b>
<b>Mobile Fee</b>	\$135.00	\$135.00	<b>\$-0-</b>

### Three changes to service pricing effecting the overall cost of the exam:

**TB Testing (PPD)** – was \$25.00, increased to \$40.00 (increase of \$15.00)

*Comments: The cost of PPD serum skyrocketed and inventory is in short supply. **This is a 80% increase.***

**Physician Exam** – was \$100.00, increased to \$175.00 (increase of \$75.00)

*Comments: Increase in cost of doing business. **This is a 75% increase.***

**Two view Chest X-Ray** – was \$43.00, increased to \$68.00 (increase of \$25.00)

*Comments: **This is a 58.1% increase.***

*Questions or Further Clarification needed:*

*If you have any questions or need further clarification, please reach to me via email - ([paul@archealthandwellness.com](mailto:paul@archealthandwellness.com)) at (775) 846-3413.*

*We look forward to continuing to be your specialized medical resource for all your **New Recruit, Annual Medical/Physical Assessment, Return to Duty, Termination** of your Public Safety members as mandated under NRS / NAC 617.*

Sincerely,



Paul Granstrom  
President  
ARC Health & Wellness



## Annual NRS / NAC 617 Heart & Lung Examination

Under 40 - NRS / NAC 617 - Heart & Lung Exam		Over 40 - NRS / NAC 617 - Heart & Lung Exam	
	Cost		Cost
Heart and Lung Physical Exam ( <sup>1</sup> denotes included in cost)	\$ 175.00	Heart and Lung Physical Exam ( <sup>1</sup> denotes included in cost)	\$ 175.00
Vision Screening <sup>1</sup>	\$ -	Vision Screening <sup>1</sup>	\$ -
Medical History Form <sup>1</sup>	\$ -	Medical History Form <sup>1</sup>	\$ -
Blood Pressure Monitoring <sup>1</sup>	\$ -	Blood Pressure Monitoring <sup>1</sup>	\$ -
Urinalysis <sup>1</sup>	\$ -	Urinalysis <sup>1</sup>	\$ -
Physician's Report of Results Form & OD Forms	\$ 15.00	Physician's Report of Results Form & OD Forms	\$ 15.00
Audiometry with interpretation (air conduction or pure tone test)	\$ 25.00	Audiometry with interpretation (air conduction or pure tone test)	\$ 25.00
Hepatitis C Screening*	\$ 30.00	Hepatitis C Screening*	\$ 30.00
Chest X-Ray (Dual View) includes radiologist over-read	\$ 68.00	Chest X-Ray (Dual View) includes radiologist over-read	\$ 68.00
Coronary Risk II (CBC + Chem. Panel + Lipid Panel)	\$ 40.00	Coronary Risk II (CBC + Chem. Panel + Lipid Panel)	\$ 40.00
Per-Percent Body Fat (BMI Method) / Waist Circumference	\$ 7.00	Per-Percent Body Fat (BMI Method) / Waist Circumference	\$ 7.00
Resting EKG	\$ 40.00	Stress EKG	\$ 125.00
Pulmonary Function Test	\$ 40.00	Pulmonary Function Test	\$ 40.00
TB Skin Test	\$ 40.00	TB Skin Test	\$ 40.00
<b>Total - Under 40 Heart &amp; Lung Exam</b>	<b>\$ 480.00</b>	<b>Total - Over 40 Heart &amp; Lung Exam</b>	<b>\$ 565.00</b>

**Mobile Medical Fee Per Member (On-Site Services) \$ 135.00**

**Optional Tests / Letter (in conjunction with Annual Physical)**

OSHA Respirator Questionnaire / Clearance Letter	\$ 10.00
CDL Paperwork - Department of Transportation	\$ 45.00
Ambulance Attendance Certification	\$ 15.00
Hemoglobin A1C	\$ 35.00
HazMat Blood (Ar, Cd, Hg, Pb & Zpp) or 24 Hour Urine	\$ 150.00
Ultrasound Screening (Carotid, Aortic, Thyroid - Non Diagnostic)	\$ 100.00

**Vaccines:**

Hepatitis A Vaccine (per dose - normally a series of two)	\$ 75.00
Hepatitis B Vaccine (per dose - normally a series of three)	\$ 60.00
Twinrix Vaccine (combo Hep A and B - normally a series of three)	\$ 105.00

**Confirmation Charges on Hepatitis Positive\***

Hep A - Hep A IgM	\$ 40.00
Hep B Ag - Neutralization Assay	\$ 175.00
Hep C - HCV RIBA	\$ 70.00

Rates are identical to the ARC Health & Wellness contract with the Washoe County Agreement # 3086-19 - Occupational Health Services



## Prehire - NRS / NAC 617 Heart & Lung Examination

Prehire Under 40- NRS / NAC 617 - Heart & Lung Exam		Prehire Over 40 - NRS / NAC 617 - Heart & Lung Exam	
	Cost		Cost
Heart and Lung Physical Exam ( <sup>1</sup> denotes included in cost)	\$ 175.00	Heart and Lung Physical Exam ( <sup>1</sup> denotes included in cost)	\$ 175.00
Vision Screening <sup>1</sup>	\$ -	Vision Screening <sup>1</sup>	\$ -
Medical History Form <sup>1</sup>	\$ -	Medical History Form <sup>1</sup>	\$ -
Blood Pressure Monitoring <sup>1</sup>	\$ -	Blood Pressure Monitoring <sup>1</sup>	\$ -
Urinalysis <sup>1</sup>	\$ -	Urinalysis <sup>1</sup>	\$ -
Physician's Report of Results Form & OD Forms	\$ 15.00	Physician's Report of Results Form & OD Forms	\$ 15.00
Audiometry with interpretation (air conduction or pure tone test)	\$ 25.00	Audiometry with interpretation (air conduction or pure tone test)	\$ 25.00
Hepatitis Profile Screening* (Immunity to Hep A,B / Infection A,B,C)	\$ 80.00	Hepatitis Profile Screening* (Immunity to Hep A,B / Infection A,B,C)	\$ 80.00
Chest X-Ray (Dual View) includes radiologist over-read	\$ 68.00	Chest X-Ray (Dual View) includes radiologist over-read	\$ 68.00
Coronary Risk II (CBC + Chem. Panel + Lipid Panel)	\$ 40.00	Coronary Risk II (CBC + Chem. Panel + Lipid Panel)	\$ 40.00
Per-Cent Body Fat (BMI Method) / Waist Circumference	\$ 7.00	Per-Cent Body Fat (BMI Method) / Waist Circumference	\$ 7.00
Resting EKG	\$ 40.00	Stress EKG	\$ 125.00
Pulmonary Function Test	\$ 40.00	Pulmonary Function Test	\$ 40.00
TB Skin Test	\$ 40.00	TB Skin Test	\$ 40.00
<b>Total - Under 40 Heart &amp; Lung Exam</b>	<b>\$ 530.00</b>	<b>Total - Over 40 Heart &amp; Lung Exam</b>	<b>\$ 615.00</b>

**Optional Tests / Letter (\*in conjunction with Prehire Physical)**

POST Paperwork	\$ 15.00
Urine Drug Screen (Non DOT with MRO Review)	\$ 34.00
OSHA Respirator Questionnaire / Clearance Letter*	\$ 10.00
CDL Paperwork* (in conjunction with Heart and Lung Physical)	\$ 45.00
Ambulance Attendance Certification	\$ 15.00
Hemoglobin A1C	\$ 35.00
HazMat Blood (Ar, Cd, Hq, Pb & Zpp) or 24 Hour Urine	\$ 150.00
Ultrasound Screening (Carotid, Aortic, Thyroid - Non Diagnostic)	\$ 100.00

**Vaccines:**

Hepatitis A Vaccine (per dose - normally a series of two)	\$ 75.00
Hepatitis B Vaccine (per dose - normally a series of three)	\$ 60.00
Twinrix Vaccine (combo Hep A and B - normally a series of three)	\$ 105.00

**Confirmation Charges on Hepatitis Positive\***

Hep A - Hep A IgM	\$ 40.00
Hep B Ag - Neutralization Assay	\$ 175.00
Hep C - HCV RIBA	\$ 70.00

Rates are identical to the ARC Health & Wellness contract with the Washoe County Agreement # 3086-19 - Occupational Health Services

April 18th, 2022

To:  
Capt. Russell Pedersen  
Washoe County Sheriff's Office

From:  
Paul Granstrom  
President  
ARC Health & Wellness Centers

RE: Contract Extension # 3086-19 Option

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Capt. Pedersen,

The team at ARC Health & Wellness is honored to serve Washoe County Sheriff's Office under contract # 3086-19 (July 1<sup>st</sup>, 2019 – June 30<sup>th</sup>, 2022). This primary purpose of this letter is to address the optional renewal option and if the Sheriff's Office would like to extend our contract, in lieu of going to RFP for a whole new contract. Our goal is to continue serving the members of WCSO for years to come.

Due to the current economic climate, it's been a financially challenging year with increased expenses all around us. Like many organizations, we've experienced a significant increase in wages and salary, cost of goods, overall expenses and cost of living increases, etc.

We continuously strive to improve our product, like opening the brand new office last month at 5546 Longley Lane to finally provide an EXCLUSIVE private medical practice to serve Police and Fire only.

In saying all that, we are prepared to extend the current contract with for the additional two years with the following consideration – we are requesting an price increase effective July 1<sup>st</sup>, 2022 – June 30<sup>th</sup>, 2024 for the following items:

**Physician Examination** – increase of \$75.00 per examination

*Price increase justification – to cover the overall increased expenses based on the economic climate*

**TB Test** – increase of \$15.00 per TB skin test

*Price increase justification – price of PPD has literally doubled due to new CDC regulations and is in now in HIGH DEMAND, likely to continue to increase in the coming months.*

**Chest X-Ray** – increase of \$25.00 per Chest X-Ray

*New Nevada Based regulations involving X-Ray licensure mandate has increased all X-Ray Techs salary to provide competitive wages and difficulty finding skilled staff.*

**If we are unable to maintain our current X-Ray techs, we'll be forced to send to your Deputies to places like Northern Nevada Medical Center Radiology to provide this service instead of us being able to conduct during the Annual Examinations.**

We'll keep all other tests prices the same for simplicity.

If you would prefer to have a new RFP submitted, we will proudly participate in that. We thank you for your consideration and understanding. We wanted to allow ample time for the Sheriff's Office to find the best course of action.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Paul Granstrom'.

Paul Granstrom  
President  
ARC Health & Wellness Centers

<b>Current Contract</b>	<b>Current Pricing</b>	<b>New Pricing</b>
Pre-Employment Exam with Stress Treadmill	\$ 849.00	\$ 964.00
Pre-Employment Exam without Stress Treadmill	\$ 779.00	\$ 894.00
Panel One w/X-Ray	\$ 400.00	\$ 515.00
Panel One w/o X-Ray	\$ 357.00	\$ 447.00
Panel Two w/ X-Ray and w/o EKG	\$ 360.00	\$ 460.00
Panel Two w/ X-Ray and w/EKG	\$ 400.00	\$ 500.00
Panel Two w/o X-Ray and w/o EKG	\$ 317.00	\$ 407.00
Panel Two w/o X-Ray and w/EKG	\$ 357.00	\$ 447.00
Panel Three	\$ 485.00	\$ 600.00
Retirement Testing	\$ 395.00	\$ 510.00
Clandestine Physical	\$ 270.00	\$ 385.00
<b>COST INCREASE BREAKDOWN - MISC</b>		
	<b>Current Pricing</b>	<b>New Pricing</b>
TB Test	\$ 25.00	\$ 40.00
X-Ray	\$ 43.00	\$ 68.00
Physician Examination	\$ 100.00	\$ 175.00
<b>Miscellaneous Panels for Joinder Provision</b>		
	<b>Current Pricing</b>	<b>New Pricing</b>
U40 NRS617	\$ 365.00	\$ 480.00
O40 NRS617	\$ 450.00	\$ 565.00
Prehire U40 NRS 617	\$ 415.00	\$ 530.00
Prehire O40 NRS 617	\$ 500.00	\$ 615.00
FRC M Panel	\$ 505.89	\$ 620.89
FRC F Panel	\$ 476.94	\$ 591.94
NFPA 1582 Panel	\$ 423.24	\$ 625.00
DPS Pre Panel	\$ 580.00	\$ 695.00
DPS U40 Panel	\$ 400.00	\$ 515.00
DPS O40 Panel	\$ 482.00	\$ 597.00
V1	\$ 520.00	\$ 635.00
V2	\$ 200.00	\$ 290.00
V3	\$ 385.00	\$ 500.00
V4	\$ 470.00	\$ 585.00
TMC	\$ 485.00	\$ 600.00
TMP	\$ 615.00	\$ 730.00
<b>Ultrasound Screening conducted by ARC</b>		
	<b>Current Pricing</b>	<b>New Pricing</b>
C.A.T. Bundle (Carotid, Aortic, Thyroid - Non Diagnostic)	\$ 100.00	\$ 150.00
Abdominal - (Liver, Pancreas, Gall Bladder, Kidney - Non Diagnostic)	\$ 75.00	\$ 150.00
Heart - (Non Diagnostic)	\$ 75.00	<b>N/A</b>
Comprehensive (CAT, Abdominal, Testicular, Prostate - Non Diagnostic)	<b>N/A</b>	\$ 250.00



# WASHOE COUNTY

Integrity Communication Service

[www.washoecounty.gov](http://www.washoecounty.gov)

## STAFF REPORT

BOARD MEETING DATE: May 10, 2022

**DATE:** Thursday, May 05, 2022

**TO:** Board of County Commissioners

**FROM:** Tim O'Connor, Chief Deputy, Washoe County Sheriff's Office, (775) 328-3007 – [toconnor@washoecounty.gov](mailto:toconnor@washoecounty.gov)

**THROUGH:** Sheriff Darin Balaam

**SUBJECT:** Recommendation to approve a one-year extension to the original Request for Proposal (RFP) No. 3086-19 for Medical Services-Washoe County Personnel, ARC Health and Wellness Centers, in the estimated annual amount of [\$294,321], on behalf of the Sheriff's Office, and authorize the Purchasing and Contracts Manager to execute a one-year extension, July 1, 2022, through June 30, 2023, at the discretion of the County. (All Commission Districts).

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### SUMMARY

The Washoe County Sheriff's Office is requesting the Board to approve a one-year extension for Medical Services-Washoe County Personnel, to ARC Health and Wellness Centers.

Washoe County originally awarded ARC Health and Wellness Centers a three-year agreement, July 1, 2019- through June 30, 2022, with two one-year renewal options, at the discretion of the County (RFP No. 3086-19).

**Washoe County Strategic Objective supported by this item:** Fiscal Sustainability

### PREVIOUS ACTION

On July 14, 2009, the Board of County Commissioners approved agenda item 21, Award Request for Proposal No. 2688-09 for Medical Services – Sheriff's Office Personnel to Dr. Michael Haley in the estimated annual amount of \$163,405.00, Commission Order No. 09-775.

On January 11, 2011, the Board of County Commissioners approved agenda item 14.H., authorize the termination of agreement with Dr. Michael Haley pursuant to Request for Proposal No. 2688-09 for Medical Services – Sheriff's Office Personnel and authorized the Purchasing and Contracts Manager to award the remaining balance of the agreement to Concentra Health Services Inc, and further allow Purchasing and Contracts Manager to exercise County's option to extend the agreement for one additional year commencing July 18, 2011, Commission Order No. 11-25.

AGENDA ITEM # \_\_\_\_\_

On January 10, 2012, the Board approved agenda item 10.L.3., Authorize the Washoe County Sheriff's Office and Purchasing Department to develop and administer a Request for Proposal for Pre-placement Annual and Related Medical Services for Sheriff's Office Personnel, Commission Order No. 12-25.

On June 12, 2012, the Board of County Commissioners approved agenda item 8.E., Award Request for Proposal No. 2813-12 for Medical Services – Sheriff's Office Personnel to Concentra Medical Centers, in the estimated annual amount of \$89,337.00, Commission Order No. 12-508.

On July 14, 2015, the Board of County Commissioner approved agenda item 14 Award Request for Proposal No. 2929-15 for Medical Services – Sheriff's Office Personnel to ARC Health and Wellness Centers, in the estimated annual amount of \$135,194.32, Commission Order No. 15-0595.

On June 11, 2019, the Board of County Commissioners approved agenda item 16, Award Request for Proposal No 3086-19 for Medical Services (BCC agenda item #16) – Washoe County Personnel to ARC Health and Wellness Centers, in the estimated annual amount of \$216,030.00, Commission Order No. 19-0454

### **BACKGROUND**

The recruitment and retention of the best-qualified and physically fit workforce is one of the top priorities of the Washoe County Sheriff's Office. The use of preplacement and annual medical exams for physically demanding occupations are good business practice, and are also required by law:

NAC 289.110 requires that no person be appointed to perform the duties of a peace officer unless he/she has undergone a medical examination performed by a licensed physician who confirms in writing that no physical condition exists which would adversely affect his performance of the duties of a peace officer. The employing agency shall inform the examining physician of the specific functions required by the position to be filled.

NRS Chapter 617 mandates that full-time police officers submit to a physical examination on an annual basis in order to qualify for coverage for lung and heart diseases, which are considered under the law to be occupational diseases of police officers. The lung and heart physical examinations are conducted during the employee's birth month each year. Furthermore, NRS 616A.035 and 616C.052 requires the Sheriff's Office to provide pre-employment and post-employment baseline testing for contagious diseases, including without limitation, hepatitis A, hepatitis B, hepatitis C and human immunodeficiency virus (HIV). The Sheriff's Office has been providing an on-going hepatitis screening and vaccination program since the 1990s.

The County requires prospective Sheriff's Office employees, as required by specific positions, to submit to a preplacement medical screening examination following an offer of employment. The purpose of the preplacement medical examination is for the examining physician to review the prospective employee's past work and medical history as well as his or her present physical condition to ensure that the prospective employee will be able to

perform the physically demanding activities required by the specific job. The preplacement and annual medical examinations are job validated medical screening requirements.

The medical screening was developed based upon the physical requirements associated with the essential job functions in accordance with the Uniform Guidelines on Employee Selection and meet the requirements of the NRS and NAC listed above.

The preplacement medical examination is conducted to ensure that the prospective employee is free of any medical condition, which could become aggravated if the individual was placed in a position, which exposed him or her to environmental or physical hazards. It also provides the opportunity to collect baseline health information from the prospective employee to document any preexisting condition that could later interfere with job performance or other activities of daily living.

In addition to the statutory requirements, Washoe County also requires incumbent Sheriff's Office sworn personnel to submit to periodic medical examinations. The purpose of the periodic medical examination is to review the employee's current medical status and present physical condition to ensure that the employee can continue to perform the physically demanding activities required by the job.

ARC Health and Wellness Centers has served Washoe County's medical needs professionally since July of 2015. With increasing costs, ARC has requested a price increase effective July 1, 2022 – June 30, 2023, for the following items:

**Physical Examination** – increase of \$75.00 per examination.

*Price increase justification – to cover the overall increased expenses based on the economic climate*

**TB Test** – increase of \$15.00 per examination

*Price increase justification – price of PPD has literally doubled due to new CDC regulations and is now in HIGH DEMAD, likely to continue to increase in the coming months.*

**Chest X-Ray** – increase of \$25.00 per Chest X-Ray.

*Price increase justification – New Nevada Based regulation involving X-Ray licensure mandate has increased all X-Ray Techs salary to provide competitive wages and difficulty finding skill staff.*

The price increase is shown in the table below:

Current Contract	Current Pricing	New Pricing
Pre-Employment Exam with Stress Treadmill	\$849.00	\$964.00
Pre-Employment Exam without Stress Treadmill	\$779.00	\$894.00
Panel One w/X-Ray	\$400.00	\$515.00
Panel One w/o X-Ray	\$357.00	\$447.00
Panel Two w/ X-Ray and w/o EKG	\$360.00	\$460.00
Panel Two w/ X-Ray and w/EKG	\$400.00	\$500.00
Panel Two w/o X-Ray and w/o EKG	\$317.00	\$407.00
Panel Two w/o X-Ray and w/EKG	\$357.00	\$447.00

Panel Three	\$485.00	\$600.00
Retirement Testing	\$395.00	\$510.00
Clandestine Physical	\$270.00	\$385.00
Miscellaneous Services A-La-Carte	Current Pricing	New Pricing
TB Test	\$25.00	\$40.00
X-Ray	\$43.00	\$68.00
Current Physical Types (average cost)		
Panel I: 123 WCSO Employees	\$46,555	\$59,163
Panel II: 112 WCSO Employees	\$40,236	\$49,308
Panel III: 183 WCSO Employees	\$88,755	\$109,800
Pre-Employment: 70 WC Recruits	\$56,980	\$66,430
Other WC Employees: 20	\$7,570	\$9,620
Total:	\$240,096	\$294,321

**FISCAL IMPACT**

It is estimated the fiscal impact of the price increase will be approximately \$54,224 raising the total cost annually from approximately \$240,096 to \$294,321 for FY23.

Funds for these expenditures were included as part of the FY23 Recommended Budget presented on 4/19/22 within Fund Center 150-11 Office of the Sheriff and Fund Center 109-1 Human Resources Administration Services and Supplies budgets. Additional funds as needed are anticipated to be requested and approved for all future fiscal years applicable to the Agreement and renewals.

**RECOMMENDATION**

It is recommended that the Board of County Commissioners approve a one-year extension to the original Request for Proposal (RFP) No. 3086-19 for Medical Services-Washoe County Personnel, ARC Health and Wellness Centers, in the estimated annual amount of [\$294,321], on behalf of the Sheriff’s Office, and authorize the Purchasing and Contracts Manager to execute a one-year extension, July 1, 2022, through June 30, 2023, at the discretion of the County.

**POSSIBLE MOTION**

Should the Board agree with staff’s recommendation, a possible motion would be: “approve a one-year extension to the original Request for Proposal (RFP) No. 3086-19 for Medical Services-Washoe County Personnel, ARC Health and Wellness Centers, in the estimated annual amount of [\$294,321], on behalf of the Sheriff’s Office, and authorize the Purchasing and Contracts Manager to execute a one-year extension, July 1, 2022, through June 30, 2023, at the discretion of the County.”

## **AGREEMENT FOR EMPLOYEE MEDICAL SERVICES**

**THIS AGREEMENT** is made between the County of Washoe (hereinafter referred to as COUNTY) and ARC Health and Wellness Centers (hereinafter referred to as CONTRACTOR).

### **WITNESSETH**

WHEREAS, the COUNTY requires medical services for certain Washoe County and Washoe County Sheriff's Office (WCSO) employees; and

WHEREAS, the CONTRACTOR has the personnel and resources necessary to accomplish the CONTRACT within the required schedule and within the scope of work as set forth in this written agreement and attachments; and,

WHEREAS, the CONTRACTOR and its employees, shall have and maintain the required licenses and/or authorizations pursuant to all federal, State of Nevada and local laws in order to conduct business relative to this CONTRACT.

Now therefore in consideration of the mutual covenants and promises set forth, the Parties to this Agreement agree as follows:

#### **1. MEDICAL SERVICES**

CONTRACTOR agrees to provide the following medical services:

- 1.1 Pre-employment medical examinations for prospective sworn employees and designated civilian employees based upon specific job requirements pursuant to NAC 289.110.1(e).
- 1.2 Annual physical examinations for existing sworn employees in compliance with NRS 617.455, NRS 617.457, and NAC Chapter 617.
- 1.3 Administration of Hepatitis A and B vaccinations for designated employees pursuant to NRS 617.485.3(b).
- 1.4 Required medical services as identified in Attachment "A".

#### **2. DURATION OF AGREEMENT**

COUNTY agrees to retain and engage CONTRACTOR to perform said services for the period July 1, 2019 through June 30, 2022 unless terminated earlier pursuant to the provisions of Section 9, with (2) two additional one (1) year renewal options, at the discretion of the COUNTY.

#### **3. COMPENSATION AND TIME OF PAYMENT**

- 3.1 CONTRACTOR shall submit monthly invoices within five (5) business days of the end of each month for actual services rendered. Each invoice shall have detailed documentation to include the invoice number, patient's full name, service(s) provided, date(s) of service, approved fee amount for each service, and total balance due. Invoices shall be submitted to the following address unless other billing arrangements are approved by the COUNTY:

Washoe County Comptroller  
 Accounts Payable  
 1001 E. Ninth Street, Room D-200  
 Reno, Nevada 89512

- 3.2 CONTRACTOR shall provide all required completed patient forms, reports, and test results to Washoe County Sheriff's Office (WCSO) prior to submission of applicable invoices.
- 3.3 COUNTY agrees to pay CONTRACTOR in accordance with the Attachment "C" Fee Schedule and Attachment "D". These fees will remain firm for the duration of the initial three (3) year contract period. A new Fee Schedule must be presented in writing to the Washoe County Purchasing and Contracts Manager at least forty-five (45) days prior to the expiration of the three (3) year contract period, for the renewal period, and shall provide documentation for the need for any such increase, which is subject to the sole approval of the COUNTY.
- 3.4 Payment shall be rendered within thirty (30) days of invoice receipt by COUNTY to CONTRACTOR for each invoice submitted, unless COUNTY in good faith disputes the invoice in writing within ten (10) days of receiving invoice. Payment by COUNTY of invoices or request for payments shall not constitute acceptance by COUNTY of work performed by CONTRACTOR. If COUNTY disputes invoice, CONTRACTOR shall provide all additional material necessary to substantiate the amount claimed for payment.

#### 4. HOURS OF OPERATION AND SCHEDULING

CONTRACTOR shall maintain normal business hours of operation (Monday – Friday 8:00 a.m. – 5:00 p.m.) for scheduling of County employees.

#### 5. CONTRACTOR RESPONSIBILITIES

- 5.1 The CONTRACTOR has provided the WCSO in writing the primary and alternate contact point to be used during the transition period as well as after contract implementation. This point of contact will be responsible for keeping the WCSO informed of transition progress and be able to respond to WCSO inquiries within two (2) business days. The primary and alternate point of contact shall not be changed without written notification to WCSO.

Primary Contact:  
 Paul Granstrom  
 Title: President  
 Business Cell #: 775-846-3413  
 Email: [Paul@arhealthandwellness.com](mailto:Paul@arhealthandwellness.com)

Secondary Contact:  
 Wes Granstrom  
 Title: Chief Executive Officer  
 Business Cell #: 775-315-5150  
 Email: [Wes@arhealthandwellness.com](mailto:Wes@arhealthandwellness.com)

- 5.2 The CONTRACTOR has provided a medical examiner (Primary Physician) for contact purposes with the Washoe County Human Resources Department and the WCSO. The medical examiner (Primary Physician) shall not be changed without written notification to WCSO

Medical examiner (Primary Physician):  
 Mark J. Gaetke, MD  
 Title: Medical Director – ARC Health & Wellness  
 Email: [gactke@archealthandwellness.com](mailto:gactke@archealthandwellness.com)  
 Phone: 775-331-3361

- 5.3 The CONTRACTOR shall be responsible for providing all labor, materials, equipment, supplies, furniture, and office area(s) required to perform the required medical services.
- 5.4 The CONTRACTOR shall be responsible for notifying the WCSO the location(s) where the various medical services will be provided.
- 5.5 The CONTRACTOR shall provide a private waiting area for WCSO employees receiving medical services under this Agreement.
- 5.6 The CONTRACTOR shall ensure WCSO employees are seen within fifteen (15) minutes of their scheduled appointment and have medical services completed within two (2) hours of their scheduled appointment.
- 5.7 The CONTRACTOR shall complete all required medical services for annual physicals in no more than two (2) appointments. TB reads do not count as an appointment
- 5.8 The CONTRACTOR shall provide written medical reports of pre-employment examinations within five (5) business days of the examination and within ten (10) business days for all other examinations, unless otherwise agreed to on a case-by-case basis.
- 5.9 The CONTRACTOR may be required to provide statistical information regarding medical services provided under this Agreement. This will be a matter for future negotiations between the COUNTY and the CONTRACTOR including any fees, if applicable.

## **6. WCSO RESPONSIBILITIES**

- 6.1 At contract award, WCSO shall designate in writing a primary and alternate point of contact for all matters relative to this contract. WCSO shall provide a written notice to the CONTRACTOR should there be a subsequent change.
- 6.2 WCSO shall notify designated employees who require pre-employment or annual examinations, or other medical services and advise them to contact the CONTRACTOR.
- 6.3 WCSO shall provide all patient forms and reports necessary to perform all required medical services. These will be included in a County Medical Forms and Reports Manual that will be provided to the CONTRACTOR prior to the implementation of this Agreement. The COUNTY shall provide the CONTRACTOR updates to these forms and reports as necessary.

## **7. MEDICAL GUIDELINES**

- 7.1 In completing required medical services, the CONTRACTOR shall utilize a MED-TOX binder titled, "Medical Screening Manual for Law Enforcement Officers", which will be provided by WCSO.

7.1.1 CONTRACTOR shall not sell, rent, lease, loan, give, share, copy or otherwise provide in any way, the MED-TOX binder or the contents thereof to other individuals, public agencies or private businesses without the written consent of COUNTY and MED-TOX Health Services. If the CONTRACTOR has facilities or offices outside Washoe County, this prohibition shall apply to those facilities as well. Upon request by the COUNTY for return of the MED-TOX binder, CONTRACTOR agrees to return same within twenty-four (24) hours.

7.1.2 CONTRACTOR acknowledges and agrees that COUNTY will suffer irreparable harm if CONTRACTOR breaches the provisions of this section. CONTRACTOR fully understands and acknowledges that monetary damages alone will be inadequate to compensate COUNTY for such breach. Accordingly, CONTRACTOR agrees that this Agreement may be enforced by specific performance or other injunctive relief, in addition to any other remedies provided by this Agreement or otherwise available at law or equity.

## **8. ADA AND GINA REQUIREMENTS**

8.1 All medical examinations and determinations must be administered and evaluated in compliance with the American's with Disabilities Act of 1990 including changes made by the ADA Amendments Act of 2008 (P.L. 110-325), which became effective on January 1, 2009 and the Genetic Information Nondiscrimination Act of 2008 (GINA).

## **9. CANCELLATION OF AGREEMENT**

9.1 Either the COUNTY or the CONTRACTOR may cancel this Agreement without cause, penalty, charge, or sanction on ninety (90) days written notice to the other party of their intent to terminate the Agreement.

9.2 COUNTY reserves the right to terminate this Agreement at any time the CONTRACTOR fails to carry out the required services (i.e., breach of contract). However, COUNTY shall agree to give the CONTRACTOR prior notice of any deficiencies in performance, and shall state reasons for the deficiencies if known to COUNTY. If within thirty (30) days after receipt of such notice of deficiencies, the CONTRACTOR fails to cure the conditions stated to be deficient, COUNTY may terminate this Agreement. The following circumstances (including but not limited to) would result in a deficiency notification:

9.2.1 On evidence that CONTRACTOR fails to perform the work required by this Agreement with sufficient personnel and/or equipment to assure services as per this Agreement.

9.2.2 On evidence, in the opinion of the COUNTY, of failure of CONTRACTOR to perform the work suitably (e.g. acceptable to the COUNTY) or neglects or refuses to perform such work as may be rejected as unacceptable or unsuitable.

9.2.3 On evidence that the CONTRACTOR fails to perform, keep, or observe any and all of the terms contained in this Agreement.

9.3 COUNTY shall further reserve the right to cancel this Agreement for cause, and without prior notice and without penalty, charge, or sanction to the COUNTY under the following circumstances:

- 9.3.1 On evidence that CONTRACTOR fails to commence the work as required by this Agreement within the time specified in the Notice to Proceed.
- 9.3.2 On evidence that CONTRACTOR discontinues the prosecution of the work or fails to resume work which has been discontinued within ten (10) business days after notice to do so.
- 9.3.3 On evidence that CONTRACTOR shall be adjudicated as bankrupt, or is in receivership, or has made an assignment to creditors of the CONTRACTOR, or on evidence of any other indication that the financial or legal situation of the CONTRACTOR shall preclude the ability of the CONTRACTOR to continue to operate successfully.
- 9.3.4 Upon notification of delinquency or cancellation of any required insurance coverage held by CONTRACTOR.
- 9.3.5 On evidence that CONTRACTOR allows any final judgment to stand against him unsatisfied for a period of five (5) days.
- 9.3.6 On evidence that CONTRACTOR has come under criminal indictment. If an individual attorney(s) of the CONTRACTOR comes under criminal indictment, they shall be precluded from performing under this Agreement.

## **10. FUNDING OUT CLAUSE**

Notwithstanding any provision of this Agreement to the contrary, each payment obligation of the COUNTY created by this Agreement is conditioned upon the availability of funds that are appropriated or budgeted for the purposes of the Agreement. In the event that the COUNTY has failed to appropriate or budget funds for the purposes specified in the Agreement, or that COUNTY has been required, in its sole judgment, to amend previous appropriations or budgeted amounts to eliminate or reduce funding for the purposes of this Agreement, the COUNTY shall provide reasonable notice of such occurrence, and the Agreement shall be terminated without penalty, charge, or sanction.

## **11. INSURANCE AND INDEMNIFICATION REQUIREMENTS**

The CONTRACTOR agrees to provide legal representation, defend, indemnify, and hold harmless Owner, WCSO, and the employees, officers and agents of OWNER and the WCSO from any claims, legal action, liabilities, damages, or losses that may arise from the performance of this contract.

CONTRACTOR shall adhere to the insurance and indemnification requirements as specified in Attachment "B".

## **12. STATUS OF CONTRACTOR**

The CONTRACTOR shall have the status of an "INDEPENDENT CONTRACTOR," and shall not be entitled to any of the rights, privileges, benefits, and emoluments of either an officer or employee of the COUNTY. COUNTY and CONTRACTOR agrees to the following terms consistent with INDEPENDENT CONTRACTOR status:

- 12.1 CONTRACTOR has the right to perform services for others during the term of this Agreement
- 12.2 CONTRACTOR shall not be assigned a daily work location on COUNTY premises. However, COUNTY may occasionally provide an on-site area for Contractor to provide vaccinations/immunizations or for collection services. COUNTY may also occasionally

provide an area for the CONTRACTOR'S mobile unit to perform physical examinations for new hires, annual, and periodic examinations.

12.3 CONTRACTOR shall perform the services required by this Agreement and CONTRACTOR agrees to the faithful performance and delivery of described services in accordance with required time frames; COUNTY shall not hire, supervise, or pay any assistants to help CONTRACTOR.

12.4 The COUNTY shall not require CONTRACTOR to devote full time to performing the services required by this Agreement.

Further, CONTRACTOR hereby certifies:

12.5 That CONTRACTOR is not an employee of the County, and thereby CONTRACTOR waives any and all claims to benefits otherwise provided to employees of the COUNTY, including but not limited to: medical, dental, other personal insurance; retirement benefits, unemployment benefits, and liability or worker's compensation insurance.

12.6 That CONTRACTOR is licensed or exempted by the State or other political subdivisions to do business in accordance with applicable law.

12.7 CONTRACTOR shall be required to provide the COUNTY with their federal tax I.D. number or social security number in order to receive payment against this Agreement. CONTRACTOR understands that he/she is solely responsible, individually, for federal taxes and social security payments applicable to money received for services provided. CONTRACTOR understands that the COUNTY will file an IRS Form 1099 for all payments received.

### **13. COMPLIANCE WITH IMMIGRATION AND NATURALIZATION LAWS**

CONTRACTOR shall at all times be in compliance with Immigration and Naturalization Laws regarding eligibility of their employees or sub-contractors to work in the United States.

### **14. TRANSFER OF OWNERSHIP, CHANGE OF NAME, OR CHANGE OF PRINCIPALS**

CONTRACTOR agrees that, prior to any sale, transfer, business name change, change in principals, assignment or any other occurrence that alters this Agreement in any way between the CONTRACTOR and COUNTY, they shall notify the Washoe County Purchasing and Contracts Manager of their intent to make said change.

### **15. SUB-CONTRACTS**

The COUNTY must approve, in advance, all sub-contracts entered into by the CONTRACTOR for the purpose of completing the provisions of this Agreement.

### **16. SEVERABILITY**

It is expressly understood and agreed by the CONTRACTOR and COUNTY that in the event any term, covenant or condition in this Agreement is held to be invalid by any court of competent jurisdiction, the invalidity of the term, covenant or condition shall in no way affect any other term, covenant or condition; provided, however, that the invalidity of such term, covenant or condition does not materially prejudice either the CONTRACTOR or COUNTY in their respective rights and obligations contained in the valid terms, covenants or conditions of this Agreement.

## 17. NONDISCRIMINATION

The CONTRACTOR agrees not to discriminate against any employee or applicant for employment because of race, religion, color, national origin, disability, sex, sexual orientation, or age. Such agreements shall include, but not be limited to, the following: employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training including apprenticeship. Any violation of such provision by the CONTRACTOR shall constitute a material breach of contract. Further, CONTRACTOR agrees to insert this nondiscrimination provision in all sub-contracts hereunder, except sub-contracts for standard commercial supplies or raw materials.

## 18. AUDITING

18.1 The CONTRACTOR shall maintain medical examination records in accordance with the State of Nevada and in compliance with the Health Insurance Portability and Accountability Act (HIPAA). Upon contract award, the CONTRACTOR shall retain WCSO employee medical records for a minimum of three (3) years. If the CONTRACTOR is replaced for any reason, the CONTRACTOR shall transfer three (3) years of WCSO employee medical records to the COUNTY at no cost to the COUNTY.

18.1.1 The COUNTY reserves the right to subject all medical examinations to audit or review by COUNTY or external auditors to ensure appropriate procedures and practices have been followed. In the case of an audit, the CONTRACTOR must provide the information requested within fourteen (14) business days to the auditor. Any internal costs to provide this information will be the responsibility of the CONTRACTOR.

18.2 The CONTRACTOR shall maintain a complete set of financial records relating to this Agreement in accordance with generally accepted accounting practices.

18.2.1 CONTRACTOR shall permit COUNTY to inspect and audit all work materials, payrolls, books, accounts, and other financial data and records relating to its performance of this Agreement until the expiration of three (3) years after the final payment is made. Any internal costs to provide this information will be the responsibility of the CONTRACTOR.

## 19. INTEGRATION

This Agreement including any attachments incorporates the terms and conditions of the original Request for Proposal #3086-19 and the CONTRACTOR'S proposal response as accepted by COUNTY, and it represents the entire understanding of the parties. It may not be altered in any way without the express written consent of both parties.

## 20. GOVERNING LAW

The laws of the State of Nevada shall govern this Agreement executed between the CONTRACTOR and the COUNTY. Further, the place of performance and transaction of business shall be deemed to be in Washoe County, Nevada, and in the event of litigation, the exclusive venue and place of jurisdiction shall be the State of Nevada, and more specifically Washoe County, Nevada.

21. NOTICES

All written notices required or permitted under this Agreement shall be deemed to have been duly given when mailed postage prepaid, addressed to the designated representative of the respective parties at their address shown or at such other address as either party hereafter may designate in writing from time to time to the other party.

Except as otherwise specified, all notices under this Agreement shall be in writing. Notices to CONTRACTOR shall be addressed to:

ARC Health and Wellness Centers  
Attn: Paul Granstrom  
2205 Glendale Ave.  
Sparks, NV 89431

Notices to COUNTY shall be addressed to:  
Washoe County Comptroller  
Attn: Mark Stewart  
1001 E. Ninth Street, Room D-200  
Reno, NV 89512

IN WITNESS WHEREOF, the parties hereto or a representative of either have set their hands and subscribed their signatures as of the date and year indicated.

By:   
\_\_\_\_\_  
Mark Stewart  
Purchasing & Contracts Manager

Date: 7/12/2019

Contractor:  
By   
\_\_\_\_\_  
Date 7/9/19

## ATTACHMENT "A" REQUIRED MEDICAL SERVICES

### A1 PRE-EMPLOYMENT MEDICAL EXAMINATIONS

Pre-employment medical examinations are required by NAC 289.110.1(e). In conducting the physical examination, the physician will consider the prospective employee's ability to perform the physical requirements of the job based upon the County's medical guidelines, essential functions, and job analysis information.

- 1.1 The WCSO Assistant Sheriff or designee shall authorize all referrals to specialists or recommendations for additional testing or treatment determined by the examination in advance. The CONTRACTOR will indicate in writing the risk factor for heart disease (being over 40 or having two or more risk factors) and if the prospective employee will be referred for a treadmill (if the treadmill is not part of the employee's exams).
- 1.2 The content of the pre-employment examination for sworn employees (civilian employees only require selected tests due to specific job requirements) is as follows:
  - 1.2.1 Doctor exam, review of medical history and reports
  - 1.2.2 TB Skin Test or Quantiferon-Gold TB Test
  - 1.2.3 Spirometry – Pulmonary Function Test
  - 1.2.4 Urine drug screen
  - 1.2.5 Chem Panel + Lipid Panel + CBC+UA
  - 1.2.6 Audiogram with interpretation (including annual reporting)
  - 1.2.7 Resting EKG
  - 1.2.8 Stress Treadmill for those over age 40, or under age 40 with two or more risk factors for heart disease
  - 1.2.9 Vision screening (Bailey-Lovie Wall Chart)
  - 1.2.10 Color vision screening: (Plate Test followed by Farnsworth D-15 if necessary)
  - 1.2.11 Chest X-ray interpreted by Radiologist
  - 1.2.12 Heart-lung medical review letter - if needed
  - 1.2.13 Immunization review (Per Center for Disease Control Guidelines Hepatitis Panel A, B, C )
  - 1.2.14 Blood pressure monitoring
  - 1.2.15 Body Mass Index
  - 1.2.16 Percent body fat by electrical impedance test or other approved medical procedure

### A2 REPORT OF EXAMINATION RESULTS

For all pre-employment examinations, the physician should translate pertinent medical findings into functional placement data that can be transmitted to the Appointing Authority (hiring department). Functional assessments generally should not contain specific details of medical diagnosis but be in sufficient detail to assist the Appointing Authority in assessing the individual's capability of fulfilling employment requirements. However, it is recognized that exceptions will need to be made since it is often difficult to consider particular accommodations without knowledge of the specifics of the condition and its impact on performance, work hours, and other factors. The Health Status Report has been designed to facilitate this process. Each examined person will be assigned to a status category (1, 2, 3, or 4) on the Health Status Report. Status categories are defined as follows:

- **Status Category 1**

This designation indicates that no medical condition has been identified that conflicts with the individual's ability to safely address the physical demands of the position being applied for or currently held.

- **Status Category 2**

This designation means that the prospective employee was found to have a medical condition that could interfere with the individual's ability to safely perform the essential duties of the position. The physician on the Health Status Report may indicate restrictions. The physician must also reference the medical guideline(s) they reviewed in reaching the recommendation. The Appointing Authority should review these restrictions and functional limitations to determine if such limitations will impose an undue hardship upon the jurisdiction's ability to provide service. The Department of Human Resources and the Primary Physician may need to consult with the Appointing Authority to assess issues of reasonable accommodation.

- **Status Category 3**

This designation indicates that the physician is not willing to make a placement decision without further evaluation, tests, and consultation with the Appointing Authority.

- **Status Category 4**

This designation is for the physician to write in other comments directed to the Appointing Authority regarding the individual's medical status. An example might be that the individual's condition is so severe that the physician cannot recommend placement of the individual into the job.

### **A3 DRUG SCREENING:**

Drug screening is used only during pre-employment medical examinations. The successful proposer is responsible for maintaining the integrity of the specimen collection and transfer process for alcohol and drug screening and the privacy of the prospective employee, and is to avoid any conduct or remarks that might be construed as accusatorial or otherwise offensive or inappropriate.

### **A4 TESTING EQUIPMENT AND CONDITIONS**

- 4.1 Spirometry - will be performed on equipment that meets or exceeds the current standards for National Institute for Occupational Safety and Health (NIOSH), Occupational Safety and Health Administration (OSHA), American Thoracic Society (ATS), and American College of Chest Physicians (ACCP) Standards for Pulmonary Function Equipment. A technician who must have current certification of completion of an approved NIOSH course on Spirometry will perform tests.
- 4.2 Audiology - testing must be performed using a soundproof booth that meets the current requirements as set forth by OSHA. Testing to be conducted by a technician with a current certification for audio logic testing from the Council for Accreditation in Occupational Hearing Conservation (CAOHC). Regular calibration is mandatory and records must be permanently maintained.
- 4.3 Stress Treadmill – A Physician needs to be present.
- 4.4 Far Visual Acuity Screening - is particularly important for the unique job demands of public safety occupations. Vision screening must be performed using a wall chart recommended by the National Academy of Sciences - National Research Council Committee (NAS-NRC) on

Vision Working Group 39. The Bailey-Lovie Wall chart is one of two acceptable wall charts meeting NAS-NRC specifications. Bailey-Lovie wall charts are available from the University of Berkeley, (510) 642-0229 or online at [http://optometry.berkeley.edu/opt\\_txtpp/student\\_life/ucosa/merchandise/professional\\_materials.html](http://optometry.berkeley.edu/opt_txtpp/student_life/ucosa/merchandise/professional_materials.html). Titmus and Ortho-Rater devices do not meet the NAC-NRC specifications and must not be used for vision screening for law enforcement.

- 4.5 Color Vision - is critical for certain COUNTY occupations. Color vision screening must be performed with a clinical test recommended by the National Academy of Science - National Research Council Committee on Vision Working Group 41. Initial testing must be with an approved Pseudoisochromatic Plate Test. Tests that meet these criteria are the Dvorine Pseudo-Isochromatic Plate Test and the Ishihara Plate Test for Color Blindness. Persons failing the initial screening test will be tested using the Farnsworth Dichotomous Test for Color Blindness (Panel D-15). The Farnsworth D-15 is available from Richmond Products (505) 275-2406 or online at [http://www.richmondproducts.com/shop/index.php?route=product/category&path=317\\_321](http://www.richmondproducts.com/shop/index.php?route=product/category&path=317_321). Titmus and other automated tests for color vision are unacceptable, as they do not meet NAS-NRC specifications for use as screening devices.

4.5.1 Color vision and visual acuity tests must be performed under the standards of illumination as recommended by the manufacturers of the tests.

#### **A5 FORMS/REPORTS:**

Prospective and existing employees will be given a physical examination utilizing examination forms specified by the COUNTY. All required forms and reports will be provided by the COUNTY in a Medical Forms and Reports Manual at the Pre-Proposal Conference. This manual will include a Medical History Form (OD-1), a Lung Examination Form (OD-2), an Extensive Heart and Limited Heart Combination Form (OD-3/OD-4), a Hearing Examination Form (OD-5), a MED-TOX Clinical Examination Form, a Public Safety Officer Examination Recap Form, an Annual TB Skin Test Result Report, an Annual Heart-Lung/Corrective Action Response Form, a Patient Information Form, a Health Status Report, an OSHA Respiratory Questionnaire and Clearance Letter, etc.

- 5.1 Documentation of physical examination findings can be important in future workers' compensation proceedings and in evaluating whether any subsequent abnormal findings are related to a preexisting condition. The COUNTY will rely on the CONTRACTOR to clearly document abnormal physical examination findings discovered during the pre-employment medical examination.
- 5.2 Documentation of the medical decision making process is critical. The CONTRACTOR must maintain clear, accurate and retrievable written records regarding the evaluative steps, which were taken in problem cases after the initial medical evaluation was performed. For persons with complex problems, the examining physician should document the basis or rationale for subsequent placement recommendations and decisions.
- 5.3 The CONTRACTOR shall provide written medical reports of pre-employment examinations within five (5) business days of the examination, and within ten (10) business days for all other examinations, unless otherwise agreed to on a case-by-case basis. In emergency situations, a telephone call shall be made within twenty-four (24) hours of the examination. Pursuant to NRS 617.457.10, the examining physician will report in writing any predisposing conditions that may affect employee's benefits or position.

#### **A6 MEDICAL CONSULTATION:**

The Primary Physician shall provide medical consultation for the purposes of special medical interpretation of reports and "return to work" slips provided to the COUNTY by other medical

practitioners. It is sometimes necessary that this be accomplished through telephone consultation or facsimile. The Primary Physician shall also be required to perform specialized medical evaluations of those employees whose physical abilities to perform certain job functions may be questionable (fitness for duty examinations, back to work examinations). Such evaluations will be in accordance with the medical guidelines established for the classification. Consultations that may also be requested by the COUNTY include case reviews, case intervention with patient's treating physician or coordination with other consultants performing services for the COUNTY. The Primary Physician shall assist the COUNTY in identifying job modifications or work restrictions for COUNTY employees when necessary.

- 6.1 The COUNTY may require the Primary Physician to provide information to or testify before screening panels or commissions or other administrative bodies regarding specific cases such as medical appeals, reasonable accommodation, and other occupational medical issues.
- 6.2 The COUNTY requires the Primary Physician to refer any employee who does not pass the Heart/Lung portion(s) of the exam to the COUNTY's Risk Management Division within twenty-four (24) hours.

#### A7 PHYSICAL EXAMINATION REQUIREMENTS FOR EXISTING EMPLOYEES

Annual physical examinations shall be conducted in accordance with the provisions of NRS 617.455 and NRS 617.457 and NAC Chapter 617.

It is preferred that an Occupational Physician perform the Heart/Lung exams also in accordance with NRS 617.455 and NRS 617.457. Occupational and contagious diseases applying to law enforcement are outlined in NRS 617.450, NRS 617.481, NRS 617.485, and NRS 617.487

- 7.1 The following describes the services required for each physical examination panel.
  - 7.1.1 Panel I - Employees under the age of forty (40) with less than five (5) years' service, required annually:
    - 7.1.1.1 Physical examination and vital signs
    - 7.1.1.2 Spirometry - Pulmonary Function Test
    - 7.1.1.3 TB Skin Test or Quantiferon-Gold TB Test
    - 7.1.1.4 Urinalysis
    - 7.1.1.5 Coronary Risk Panel (Chem Panel + CBC + UA + HDL + LDL)
    - 7.1.1.6 Audiogram with interpretation (including annual reporting)
    - 7.1.1.7 Two (2) View Chest X-ray interpreted by a Radiologist – **required every other year on even years**
    - 7.1.1.8 Vision screening (Bailey-Lovie Wall Chart)
    - 7.1.1.9 Heart-lung medical review letter – if needed
    - 7.1.1.10 Blood pressure monitoring
    - 7.1.1.11 Body Mass Index
    - 7.1.1.12 Percent body fat by electrical impedance test or other approved medical procedure
    - 7.1.1.13 Hepatitis C (screen antibody)
  - 7.1.2 Panel II - Employees with more than five (5) years of service, required annually until age forty (40):
    - 7.1.2.1 Physical examination and vital signs
    - 7.1.2.2 Spirometry – Pulmonary Function Test
    - 7.1.2.3 TB Skin Test or Quantiferon-Gold TB Test
    - 7.1.2.4 Urinalysis

- 7.1.2.5 Coronary Risk Panel (Chem Panel + CBC + UA + HDL + LDL)
  - 7.1.2.6 Audiogram with interpretation (including annual reporting)
  - 7.1.2.7 Two (2) View Chest X-ray interpreted by a Radiologist – **required every other year on even years**
  - 7.1.2.8 Vision screening (Bailey-Lovie Wall Chart)
  - 7.1.2.9 Heart-lung medical review letter – if needed
  - 7.1.2.10 Blood pressure monitoring
  - 7.1.2.11 Body Mass Index
  - 7.1.2.12 Percent body fat by electrical impedance test or other approved medical procedure
  - 7.1.2.13 Hepatitis C (screen antibody)
  - 7.1.2.14 **Resting EKG unless contradiction may require a Stress Treadmill**
- 7.1.3 Panel III – Employees over the age of forty (40) with more than five (5) years of service require a basic physical with a **Chest X-ray and a Stress Treadmill EKG every year.**
- 7.1.3.1 Physical examination and vital signs
  - 7.1.3.2 Spirometry – Pulmonary Function Test
  - 7.1.3.3 TB Skin Test or Quantiferon-Gold TB Test
  - 7.1.3.4 Urinalysis
  - 7.1.3.5 Coronary Risk Panel (Chem Panel + CBC + UA + HDL + LDL)
  - 7.1.3.6 Audiogram with interpretation (including annual reporting)
  - 7.1.3.7 Two (2) View Chest X-ray interpreted by a Radiologist – required every year
  - 7.1.3.8 Vision screening (Bailey-Lovie Wall Chart)
  - 7.1.3.9 Heart-lung medical review letter – if needed
  - 7.1.3.10 Blood pressure monitoring
  - 7.1.3.11 Body Mass Index
  - 7.1.3.12 Percent body fat by electrical impedance test or other approved medical procedure
  - 7.1.3.13 Hepatitis C (screen antibody)
  - 7.1.3.14 **Stress Treadmill EKG (read by Physician)**
- 7.2 As discussed in NRS 617.485.3(b), the CONTRACTOR shall administer Hepatitis A and B vaccinations to all designated employees.

## **ATTACHMENT "B"**

### **INSURANCE, HOLD HARMLESS AND INDEMNIFICATION REQUIREMENTS FOR MEDICAL PHYSICALS**

#### **INDEMNIFICATION AGREEMENT**

CONTRACTOR agrees to hold harmless, indemnify, and defend COUNTY, its officers, agents, employees, and volunteers from any loss or liability, financial or otherwise resulting from any claim, demand, suit, action, or cause of action based on bodily injury including death or property damage, including damage to CONTRACTOR'S property, caused by any negligent act, omission, or failure to act, on the part of CONTRACTOR, its employees, agents, representatives, or Subcontractors arising out of the performance of work under this Agreement by CONTRACTOR, or by others under the direction or supervision of CONTRACTOR.

In the event of a lawsuit against the COUNTY arising out of the activities of CONTRACTOR, should CONTRACTOR be unable to defend COUNTY due to the nature of the allegations involved, CONTRACTOR shall reimburse COUNTY, its officers, agents, and employees for cost of COUNTY personnel in defending such actions at its conclusion should it be determined that the basis for the action was in fact the negligent acts, errors or omissions of CONTRACTOR.

#### **GENERAL REQUIREMENTS**

CONTRACTOR shall purchase Industrial Insurance, General Liability, and Automobile Liability Insurance as described below. The cost of such insurance shall be borne by CONTRACTOR. CONTRACTOR may be required to purchase Professional Liability coverage based upon the nature of the service agreement.

#### **INDUSTRIAL INSURANCE**

It is understood and agreed that there shall be no Industrial Insurance coverage provided for CONTRACTOR or any Sub-consultant by COUNTY agrees, as a precondition to the performance of any work under this Agreement and as a precondition to any obligation of the COUNTY to make any payment under this Agreement to provide COUNTY with a certificate issued by an insurer in accordance with NRS 616B.627 and with a certificate of an insurer showing coverage pursuant to NRS 617.210 for CONTRACTOR and any sub-consultants used pursuant to this Agreement.

If CONTRACTOR or Subcontractor is a sole proprietor, coverage for the sole proprietor must be purchased and evidence of coverage must appear on the Certificate of Insurance. Such requirement may be waived for a sole proprietor who does not use the services of any employees, Subcontractors, or independent contractors and completes an Affirmation of Compliance pursuant to NRS 616B.627.

Should CONTRACTOR be self-funded for Industrial Insurance, CONTRACTOR shall so notify COUNTY in writing prior to the signing of this Agreement. COUNTY reserves the right to approve said retentions and may request additional documentation financial or otherwise for review prior to the signing of this Agreement.

It is further understood and agreed by and between COUNTY and CONTRACTOR that CONTRACTOR shall procure, pay for, and maintain the above-mentioned industrial insurance coverage at CONTRACTOR'S sole cost and expense.

### **MINIMUM LIMITS OF INSURANCE**

CONTRACTOR shall maintain limits no less than:

1. General Liability: \$1,000,000 combined single limit per claim for bodily injury, personal injury, and property damage. If Commercial General Liability Insurance or other form with a general aggregate limit is used, the general aggregate limit shall be increased to equal twice the required occurrence limit or revised to apply separately to each project or location.
2. Automobile Liability: \$1,000,000 combined single limit per claim for bodily injury and property damage. No aggregate limits may apply.
3. Professional Liability: \$5,000,000 per claim and as an annual aggregate.

### **DEDUCTIBLES AND SELF-INSURED RETENTIONS**

Any deductibles or self-insured retentions must be declared to and approved by the COUNTY Risk Management Division. COUNTY reserves the right to request additional documentation, financial or otherwise, prior to giving its approval of the deductibles and self-insured retention and prior to executing the underlying agreement. Any changes to the deductibles or self-insured retentions made during the term of this Agreement or during the term of any policy must be approved by the COUNTY Risk Manager prior to the change taking effect.

### **OTHER INSURANCE PROVISIONS**

The policies are to contain, or be endorsed to contain, the following provisions:

1. COUNTY, its officers, employees and volunteers are to be covered as insureds as respects: liability arising out of activities performed by or on behalf of CONTRACTOR, including COUNTY'S general supervision of CONTRACTOR; products and completed operations of CONTRACTOR; premises owned, occupied or used by CONTRACTOR; or automobiles owned, leased, hired, or borrowed by CONTRACTOR. The coverage shall contain no special limitations on the scope of protection afforded to COUNTY, its officers, employees or volunteers.
2. CONTRACTOR'S insurance coverage shall be primary insurance as Respects COUNTY, its officers, employees and volunteers. Any insurance or self-insurance maintained by COUNTY, its officers, employees or volunteers shall be excess of CONTRACTOR'S insurance and shall not contribute with it in any way.
3. Any failure to comply with reporting provisions of the policies shall not affect coverage provided to COUNTY, its officers, employees or volunteers.
4. CONTRACTOR'S insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.

5. Each insurance policy required by this clause shall be endorsed to state that coverage shall not be suspended, voided, canceled or non-renewed by either party, reduced in coverage or in limits except after thirty (30) days' prior written notice by certified mail, return receipt requested, has been given to COUNTY except for nonpayment of premium.

### ACCEPTABILITY OF INSURERS

Insurance is to be placed with insurers with a Best's rating of no less than A-: VII. COUNTY, with the approval of the Risk Manager, may accept coverage with carriers having lower Best's Ratings upon review of financial information concerning CONTRACTOR and insurance carrier. COUNTY reserves the right to require that CONTRACTOR'S insurer be a licensed and admitted insurer in the State of Nevada, or on the Insurance Commissioner's approved but not admitted list.

### VERIFICATION OF COVERAGE

CONTRACTOR shall furnish COUNTY with certificates of insurance and with original endorsements affecting coverage required by this exhibit. The certificates and endorsements for each insurance policy are to be signed by a person authorized by that insurer to bind coverage on its behalf. **All certificates and endorsements are to be addressed to the specific COUNTY contracting department and be received and approved by the COUNTY before work commences.** COUNTY reserves the right to require complete, certified copies of all required insurance policies, at any time.

### SUBCONTRACTORS

CONTRACTOR shall include all Subcontractors as insureds under its policies or shall furnish separate certificates and endorsements for each Subcontractor. All coverages for Subcontractors shall be subject to all of the requirements stated herein.

### MISCELLANEOUS CONDITIONS

1. CONTRACTOR shall be responsible for and remedy all damage or loss to any property, including property of COUNTY, caused in whole or in part by CONTRACTOR, any Subcontractor, or anyone employed, directed or supervised by CONTRACTOR.
2. Nothing herein contained shall be construed as limiting in any way the extent to which the CONTRACTOR may be held responsible for payment of damages to persons or property resulting from its operations or the operations of any Subcontractor under it.
3. In addition to any other remedies COUNTY may have if CONTRACTOR fails to provide or maintain any insurance policies or policy endorsements to the extent and within the time herein required, COUNTY may, at its sole option:
  - a. Order CONTRACTOR to stop work under this Agreement and/or withhold any payments which become due CONTRACTOR hereunder until CONTRACTOR demonstrates compliance with the requirements hereof;
  - b. Terminate the Agreement.

**ATTACHMENT "C"**  
**FEE SCHEDULE**

<b>Type of Examination</b>	<b>Cost per Exam</b>
Pre-Employment Examination with Stress Treadmill	\$ 849.00
Pre-Employment Examination without Stress Treadmill	\$ 779.00
Panel One (1) Annual Examination with Two (2) View Chest X-ray	\$ 400.00
Panel One (1) Annual Examination without Two (2) View Chest X-ray	\$ 357.00
Panel Two (2) Annual Examination with Chest X-ray without EKG	\$ 360.00
Panel Two (2) Annual Examination with Chest X-ray with EKG	\$ 400.00
Panel Two (2) Annual Examination without Chest X-ray and EKG	\$ 317.00
Panel Two (2) Annual Examination without Chest X-ray and with EKG	\$ 357.00
Panel Three (3) Annual Examination with Chest X-ray and Treadmill	\$ 485.00
Retirement Testing	\$ 395.00
Clandestine Physical	\$ 270.00

<b>Misc. Services Separate from Pre-Employment/Annual Exams</b>	<b>Cost per Test, Screen, Shot, or Hour</b>
Audiogram with Interpretation	\$ 35.00
Urine/Drug	\$ 34.00
PSA	\$ 25.00
Hepatitis A Vaccine – Two (2) shot series – cost per shot	\$ 75.00
Hepatitis B Vaccine – Three (3) shot series – cost per shot	\$ 60.00
Hepatitis A/B Combination – cost per shot	\$ 105.00
Hepatitis Titer A, B, C Blood Tests:	\$ 70.00
Hepatitis A (screen antibody)	\$ 35.00
Hepatitis B (screen antigen)	\$ 25.00
Hepatitis B (screen antibody)	\$ 25.00
Hepatitis C (screen antibody)	\$ 30.00
Hepatitis Panel A, B, C (Hepatitis Profile Infection A,B,C and Immunity to A & B)	\$ 80.00
Travel time for on-site shot(s) - two (2) hours allowed per visit	\$50.00 per hour
Physical Exam and Vital Signs	\$ 100.00
Spirometry – Breathing Test	\$ 50.00
TB Skin Test	\$ 25.00
Quantiferon- Gold TB Test	\$ 80.00
Quantiferon – Blood Test	\$ 80.00
Blood Lead (Not Serum) Blood Test	\$ 150.00
Zinc Protoporphyrin (ZPP) Blood Test	\$ 60.00
Lab Tests (Chem Panel+UA+CBC+Lipid Panel)	\$ 50.00
Resting EKG	\$ 60.00
Stress Treadmill EKG (read by Physician)	\$ 185.00
Stress Treadmill EKG (read by Cardiologist)	\$ 307.00
Two (2) View Chest X-ray (Radiologist Review)	\$ 43.00
Department of Transportation Physical for CDL License (if separate from Annual Physical)	\$ 90.00
Medical Consultation - cost per hour	\$ 200.00
Testifying Fee (See Appendix A12.1) – cost per hour	\$ 200.00
OSHA Respirator Questionnaire & Clearance Letter	\$ 35.00

Basic Lifting Evaluation	\$	15.00
Physical Capacity Evaluation (conducted by PT)	\$	90.00
Prostate Specific Antigen (PSA Test)	\$	25.00
Psychological Evaluation (MMPI-2-RF)	\$	295.00
Other (describe service)	See Attachment # 1	

Note: Fee Schedule service cost includes completion and return of all required medical forms and reports to the County.

## ATTACHMENT D – SUPPLEMENTARY COST

<b>Additional Services if requested</b>	<b>Cost</b>
<b>Confirmation Charges on HIV and Hepatitis (if Positive)</b>	<b>Cost</b>
Hep A - Hep A IgM	\$ 40.00
Hep B Ag - Neutralization Assay	\$ 175.00
HIV 1/2 Differentiation	\$ 70.00
HCV Verification	\$ 386.00
<b>Respirator Clearance Exams</b>	<b>Cost</b>
Respiratory Fit Test (Quantitative or Qualitative)	\$ 30.00
OSHA Respirator Questionnaire	\$ 25.00
Pulmonary Function Test	\$ 40.00
Respirator Clearance Letter	\$ 10.00
<b>Department of Transportation/CDL Exams</b>	<b>Cost</b>
DOT Examinations	\$ 45.00
DOT Paperwork	\$ 45.00
<b>Drug and Alcohol Testing</b>	<b>Cost</b>
DOT Urine Drug Screen	\$ 39.00
Non DOT Urine Drug Screen	\$ 34.00
DOT Breath Alcohol Test	\$ 25.00
Non DOT Breath Alcohol Test	\$ 25.00
Breath Alcohol Confirmation (if positive)	\$ 15.00
<b>Individual Test Pricing (Not part of Heart and Lung Physical)</b>	<b>Cost</b>
Audiometry with interpretation (air conduction or pure tone test)	\$ 35.00
Chest X-Ray (Single View)	\$ 60.00
Chest X-Ray (Dual View) includes radiologist over-read	\$ 70.00
Coronary Risk II (CBC + Chem. Panel + HDL + LDL)	\$ 50.00
Resting EKG	\$ 60.00
Stress EKG (Graded Exercise Test)	\$ 185.00
TB Skin Test	\$ 25.00
Nicotine Test (Cotinine Only) with Quant Levels	\$ 25.00
Per-Cent Body Fat (BMI Method)/Waist Circumference	\$ 15.00
Pulmonary Function Test	\$ 50.00
Normal Vision screening (Snellen, Far, Near)	\$ 25.00
Venipuncture	\$ 15.00
<b>Vo2 Max Testing conducted by ARC</b>	<b>Cost</b>
Cardio Pulmonary Exercise Test - Vo2 Max - Cardiopulmonary Stress Test	\$ 350.00
Vo2 Max Pulmonary Interpretation (Saint Mary's Pulmonary)	\$ 50.00
<b>Ultrasound Screening conducted by ARC</b>	<b>Cost</b>
C.A.T. Ultrasound Bundle ( <i>Carotid, Aortic, Thyroid - Non Diagnostic</i> )	\$ 100.00
Abdominal - ( <i>Liver, Pancreas, Gall Bladder, Kidney - Non Diagnostic</i> )	\$ 100.00
Heart Ultrasound - ( <i>Non Diagnostic</i> )	\$ 100.00
<b>Audiology</b>	<b>Cost</b>
Full Comprehensive Audiology Exam and Report	\$ 200.00
Cerumen Removal (Ear Lavage)	\$ 75.00
Office Visit	\$ 150.00

ATTACHMENT D – SUPPLEMENTARY COST

<b>Psychological Screening and Interpretation</b>	
Psychological Evaluation/Consultation/Interview - Pre-hire	\$ 295.00
Psychological Evaluation 1 (Jail/Corrections - Prehire Pysch MMPI-2)	\$ 225.00
Psychological Evaluation 2 (Police - Prehire Pysch MMPI-2)	\$ 295.00
Fitness for Duty – Non-occupational condition or potential workplace violence situation psychological interview, testing and evaluation	\$500.00 - \$750.00
Fitness for Duty – medical evaluation (situations like Officer Involved Shooting, Written Up or Put on Leave with or without Pay, Potential Psychological Condition possible harm to self or others.)	\$500.00 - \$1,300.00
LAQ Test	\$ 50.00
Hourly Rate - (Can be fractionated to actual minutes)	\$ 200.00

<b>Physical Assessment screening (Physical Therapy)</b>	
Return to work examination	\$ 80.00
Functional Capacity Evaluation (per hour)	\$ 210.00
Musculoskeletal Evaluation	\$ 90.00
Physical Capacity Evaluation	\$ 90.00

<b>Cardiology</b>	
Office visit- consultation	\$ 350.00
Office visit -New patient comprehensive	\$ 402.00
24 Hour Holter Monitor Tech and Professional	\$ 188.00
24 Hour Holter Monitor interpretation	\$ 60.00
ECG Monitor 24 hr w/Scan & Recording	\$ 50.00
Treadmill Stress Test	\$ 307.00
Thallium Single View w/supplies (aka - Cardiolite Stress)	\$ 1,687.00
Echocardiogram complete	\$ 549.00
Catheterize left heart	\$ 3,120.00
Left ventricular angiogram (Anesthesiologist will be extra)	\$ 210.00
Telemetry (including CPT 93288 and 93229)	\$ 800.00
Catheterize Left Heart complete* (Anesthesiologist will be extra)	\$ 3,120.00

<b>Pulmonary Referral</b>	
New Patient Consult (reviewing ARC findings)	\$ 250.00
Established Patient Consult	\$ 175.00
Complete Pulmonary Function Test	\$ 250.00
Diffusion Study	\$ 125.00

<b>Diagnostic Imaging</b>	
Firefighter CT (Chest and Abdomen)	\$ 756.00
2 View Chest X-Ray with B-Reader (Las Vegas only)	\$ 150.00
Mammography	\$ 300.00
PET Scan	\$ 2,675.00
CT Calcium Scoring	\$ 119.00
CT Chest with Contrast	\$ 456.00
CT Chest w/o Contrast	\$ 406.00
Coronary CTA	\$ 456.00
Echo w/Rest & CV Stress	\$ 474.00

## ATTACHMENT D – SUPPLEMENTARY COST

<b>Specialist Billing Fee per Patient Encounter</b>	<b>Cost</b>
To cover administrative, postage, processing and handling costs.	\$ 25.00

<b>Mobile Medical Fee</b>	<b>Cost</b>
Charge for physical conducted on site (Monday - Friday 7 AM - 5 PM)	\$ 135.00
Afterhours / Holiday or Weekend Runs (per employee)	\$ 175.00

*In the event, ARC is asked to provide services that are outside the scope of normal business hours (Mon. - Fri. 7 AM to 5 PM), then ARC can charge an increased mobile fee per Officer Firefighter*

<b>Additional Physician related services</b>	<b>Cost</b>
Digital Rectal Exam / Hernia Check (Males)	\$ 15.00
Skin Cancer Screening	\$ 15.00
Expanded Physical Dictation <i>(cost in addition to current Physical)</i>	\$ 10.00
Expanded Physical <i>(cost in addition to current Physical)</i>	\$ 25.00
Ambulance Attendance Certification and Physical Bundle	\$ 115.00
Blood Pressure Check	\$ 15.00
Caliper	\$ 10.00
Hand's on Physical / Range of Motion	\$ 15.00
Sleep Study Screening - Non-Diagnostic (Take Home)	\$ 200.00

<b>Medical Paperwork</b>	<b>Cost</b>
Ambulance Attendance Certification <i>(in conjunction with Physical)</i>	\$ 15.00
Physical Screening Fact Sheet <i>(in conjunction with Physical)</i>	\$ 15.00
FBI Paperwork <i>(in conjunction with Physical)</i>	\$ 15.00
Calendestine Physical Paperwork <i>(in conjunction with Physical)</i>	\$ 15.00
POST Paperwork <i>(in conjunction with Physical)</i>	\$ 15.00
FEMA Nevada Task Force Paperwork <i>(in conjunction with Physical)</i>	\$ 15.00
14 Essential Tasks Paperwork <i>(in conjunction with Physical)</i>	\$ 15.00
Sleep Apnea Questionnaire <i>(in conjunction with Physical)</i>	\$ 15.00
Lateral Transfer (Dept. to Dept.) Physician Review and Clearance	\$ 50.00
ARC Physician Review and/or Dictation of other Physician's Exam / Testing	\$ 100.00

<b>Additional Lab Testing</b>	<b>Cost</b>
NMR Blood	\$ 95.00
HAZMAT Blood (As, Cd,Hg, Pb/Zpp)	\$ 150.00
Serum Lead & Zpp Testing	\$ 60.00
Rabies Test	\$ 40.00
Hemocult for Stool Occult Blood (Slide Instant)	\$ 10.00
Hemocult for Stool Occult Blood (Lab Analysis)	\$ 60.00
TSH	\$ 30.00
Cortisol Testing	\$ 24.00
NMP22 Bladder Check	\$ 30.00
CA-125	\$ 65.00
C-Reactive Protein, Cadiac	\$ 45.00
LP-Pla2	\$ 95.00
Anabolic Steroid Testing	\$ 150.00
Testosterone Screening	\$ 60.00

## Agreement for Employee Medical Services

1

<b>Comprehensive Medical Panel - In Office</b>	<b>Cost</b>
FRC M Panel	\$ 505.89
FRC F Panel	\$ 476.94
NFPA FRC M Panel	\$ 423.24
NFPA FRC F Panel	\$ 394.19
DPS Pre Panel	\$ 580.00
DPS U40	\$ 400.00
DPS O40	\$ 482.00
V1	\$ 520.00
V2	\$ 200.00
V3	\$ 385.00
V4	\$ 470.00
TMC	\$ 485.00
TMP	\$ 614.00
NRS U40	\$ 365.00
NRS O40	\$ 450.00

<b>NFPA 1582</b>	<b>Cost</b>
SMART Paperwork	\$ 15.00
Sleep Disturbance Apnea Questionnaire	\$ 10.00
Mental Health Screening	\$ 20.00
Chap. 8 Muscular Strength, Endurance & Flexibility Evaluation	\$ 90.00



## STAFF REPORT

**Report To:** Board of Supervisors **Meeting Date:** July 16, 2020

**Staff Contact:** Carol Akers, Sheriff Ken Furlong and Fire Chief Sean Slamon

**Agenda Title:** For Possible Action: Discussion and possible action regarding a joinder contract for employee medical services from ARC Health & Wellness, through Washoe County contract #3086-19 for an amount not to exceed \$85,000 annually through June 30, 2024<sup>22</sup> (File no. 20300051<sup>20300046</sup>), and authorization for the Purchasing and Contracts Administrator to extend the joinder contract when the Washoe County contract is renewed. (Carol Akers; CAkers@carson.org, Sheriff Ken Furlong KFurlong@carson.org, and Fire Chief Sean Slamon SSlamon@carson.org)

Staff Summary: ARC Health & Wellness provides the annual heart and lung physicals for the Carson City Sheriff's Office, court bailiffs and marshalls, and the Carson City Fire Department. The physicals are required by NRS 617.454. The City has used services provided by ARC Health & Wellness for a number of years; the City is very satisfied with the provider and wishes to continue to utilize their services. The physical includes, but is not limited to laboratory testing (blood work), nicotine testing, TB skin test, audiogram, EKG, urinalysis, chest x-rays and pulmonary function testing.

**Agenda Action:** Formal Action / Motion **Time Requested:** Consent

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### Proposed Motion

I move to approve the joinder contract as presented, and to authorize the Purchasing and Contracts Administrator to extend the joinder contract if the underlying contract is renewed and the terms do not substantively change.

### Board's Strategic Goal

Efficient Government

### Previous Action

None

### Background/Issues & Analysis

Prices and services were compared against the State joinder contracts with Concentra and Nevada Occupational Health, ARC is providing the lowest pricing. ARC also has offices in both Carson City and Reno, whereas Concentra only has an office in Reno and Nevada Occupational Health only has an office in Carson City. Due to the new pricing structure through ARC, it is anticipated the cost will increase an average of 15% from the previous contract. The City is requesting the annual amount of \$85,000 to allow for the increase.

Contract being utilized;

Washoe County Contract No. 3086-19

Initial Term: effective July 1, 2019 through June 30, 2022, with two additional one-year renewal options.

**Applicable Statute, Code, Policy, Rule or Regulation**  
NRS 332.116, 332.195 and 617.454

**Financial Information**

**Is there a fiscal impact?** Yes

**If yes, account name/number:** See attached spreadsheet.

**Is It currently budgeted?** Yes

**Explanation of Fiscal Impact:** Each department will manage their accounts. Each fiscal year will not exceed \$85,000. See attached spreadsheet.

**Alternatives**

Do not approve the joinder contract and provide alternative direction to staff.

**Attachments:**

ARC Budget Summary.pdf

Carson City-WC Joinder Contract 3086-19.pdf

**Board Action Taken:**

Motion: approve

- 1) BB
- 2) LB

Aye/Nay

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

5/8/0

AR

(Vote Recorded By)

## Joinder Provision of Washoe County's Medical Services Contract # 3086-19

In June of 2019, Gilbert, Gaetke and Associates of Nevada, MD, LTD and ARC Health & Wellness Centers, LLC (collectively referred to as ARC Health & Wellness Centers) were awarded the **Employee Medical Services contract with Washoe County**. This Contract included a Joinder Provision whereby other local government agencies may exercise this joinder provision to obtain the Occupational Health Services stipulated in Contract # 3086-19 with the authorization ARC Health & Wellness Centers.

**“Joinder Provision”** of Washoe County's - Medical Services Contract # 3086-19

Page 48 of RFP # 3086-19

Section B29

### **B29 USE BY OTHER GOVERNMENT ENTITIES (JOINDER PROVISION)**

*In accordance with the provisions of NRS 332.195, unless otherwise stipulated under the exception section of the proposal response, other local government agencies may join in a resultant contract from this RFP with the permission of the successful proposer. Within the scope of this RFP, the County shall be held harmless in any and all transactions between the successful proposer and other participating governmental entities.*

#### **NRS 332.195 Joinder or mutual use of contracts by governmental entities.**

1. Except as otherwise provided in this section:
  - (a) A governing body or its authorized representative and the State of Nevada may join or use the contracts of local governments located within or outside this State with the authorization of the contracting vendor. The originally contracting local government is not liable for the obligations of the governmental entity which joins or uses the contract.
  - (b) A governing body or its authorized representative may join or use the contracts of the State of Nevada or another state with the authorization of the contracting vendor. The State of Nevada or other state is not liable for the obligations of the local government which joins or uses the contract.
2. A governing body or its authorized representative or the State of Nevada shall not join or use a contract pursuant to this section if a contractor's license issued pursuant to [chapter 624](#) of NRS is required for any portion of the work to be performed under the contract.

**ARC Health & Wellness Centers (ARC) hereby invites your Public Entity to exercise this joinder provision and offer ARC's services under Washoe County's Medical Services Contract # 3086-19 to include all prices listed in the contract with consideration given to volume and scheduling.**

**Contract # 3086-19**  
**Joinder Provision Agreement**

**Term:**

Contract Term is July 1, 2019 – June 30, 2022 with two additional one (1) year renewal options.

**Pricing:**

Pricing as listed on this Joinder Agreement is effective January 1, 2020 – June 30, 2024

**Payment Term:** Net 45

**Cancellation of Agreement:**

Either party may cancel this agreement anytime *without* cause, penalty, charge or sanction on with written notice to the other party of their intent to terminate the agreement. In the event of cancellation, payment for all services rendered is due within 30 days.

**Signatures:**

This Joinder Agreement is hereby executed the date the Public Entity listed below and becomes effective the date of this agreement.

**ARC Health & Wellness Centers:**

BY:  \_\_\_\_\_ 09/27/2019  
Paul W. Granstrom, President Date

**Public Entity Enacting Joinder Provision:**

Carson City  
Public Entity Name

Authorized Representative: Carol Akers, Purchasing & Contracts Administrator  
Printed Name

BY:  \_\_\_\_\_ 6/25/20  
Signature Date

## New Pricing Structure under the Joinder Provision Summary

*Our new pricing structure goes into effect January 1, 2020 and is valid through June 30, 2024.*

We are honored to continue to serve your Public Entity for the next four and half years under this new pricing structure. We hereby invite you to enact the Joinder Provision of our new contract with Washoe County.

To simplify the changes to the pricing I'll break out the current rate structure versus the new rate structured.

<b>NRS / NAC 617</b>	<b>Old Rate</b>	<b>New Rate</b>	<b>Increase Amount</b>
<b>Under 40</b>	\$306.64	\$365.00	<b>\$58.36</b>
<b>Over 40</b>	\$379.39	\$450.00	<b>\$70.61</b>
<b>Prehire Under 40</b>	\$357.08	\$415.00	<b>\$57.92</b>
<b>Prehire Over 40</b>	\$429.83	\$500.00	<b>\$70.17</b>
<b>Mobile Fee</b>	\$125.00	\$135.00	<b>\$10.00</b>

### **Notable changes in pricing:**

**TB Testing (PPD)** – was \$4.85, increased to \$25.00 (increase of \$20.15)

*Comments: The cost of PPD serum skyrocketed (increased by 7x) and inventory is in short supply.*

**Physician Exam** – was \$77.72, increased to \$100.00 (increase of \$22.28)

*Comments: Increase in cost of doing business.*

**Two view Chest X-Ray** – was \$38.80, increased to \$43.00 (increase of \$4.70)

*Comments: Increase due to AB130, new regulations involving licensure.*

*Questions or Further Clarification needed:*

*If you have any questions or need further clarification, please reach to myself or Mike Poehlman ([mike@archealthandwellness.com](mailto:mike@archealthandwellness.com)) at (775) 745-9323.*

*We look forward to continuing to be your specialized medical resource for all your **New Recruit, Annual Medical/Physical Assessment, Return to Duty, Termination** of your Public Safety members as mandated under NRS / NAC 617.*

Sincerely,



Paul Granstrom  
President  
ARC Health & Wellness



## Annual NRS / NAC 617 Heart & Lung Examination

Under 40 - NRS / NAC 617 - Heart & Lung Exam		Over 40 - NRS / NAC 617 - Heart & Lung Exam	
	Cost		Cost
Heart and Lung Physical Exam ( <sup>1</sup> denotes included in cost)	\$ 100.00	Heart and Lung Physical Exam ( <sup>1</sup> denotes included in cost)	\$ 100.00
Vision Screening <sup>1</sup>	\$ -	Vision Screening <sup>1</sup>	\$ -
Medical History Form <sup>1</sup>	\$ -	Medical History Form <sup>1</sup>	\$ -
Blood Pressure Monitoring <sup>1</sup>	\$ -	Blood Pressure Monitoring <sup>1</sup>	\$ -
Urinalysis <sup>1</sup>	\$ -	Urinalysis <sup>1</sup>	\$ -
Physician's Report of Results Form & OD Forms	\$ 15.00	Physician's Report of Results Form & OD Forms	\$ 15.00
Audiometry with interpretation (air conduction or pure tone test)	\$ 25.00	Audiometry with interpretation (air conduction or pure tone test)	\$ 25.00
Hepatitis C Screening*	\$ 30.00	Hepatitis C Screening*	\$ 30.00
Chest X-Ray (Dual View) includes radiologist over-read	\$ 43.00	Chest X-Ray (Dual View) includes radiologist over-read	\$ 43.00
Coronary Risk II (CBC + Chem. Panel + Lipid Panel)	\$ 40.00	Coronary Risk II (CBC + Chem. Panel + Lipid Panel)	\$ 40.00
Per-Percent Body Fat (BMI Method) / Waist Circumference	\$ 7.00	Per-Percent Body Fat (BMI Method) / Waist Circumference	\$ 7.00
Resting EKG	\$ 40.00	Stress EKG	\$ 125.00
Pulmonary Function Test	\$ 40.00	Pulmonary Function Test	\$ 40.00
TB Skin Test	\$ 25.00	TB Skin Test	\$ 25.00
<b>Total - Under 40 Heart &amp; Lung Exam</b>	<b>\$ 365.00</b>	<b>Total - Over 40 Heart &amp; Lung Exam</b>	<b>\$ 450.00</b>

**Mobile Medical Fee Per Member (On-Site Services) \$ 135.00**

**Optional Tests / Letter (in conjunction with Annual Physical)**

OSHA Respirator Questionnaire / Clearance Letter	\$ 10.00
CDL Paperwork - Department of Transportation	\$ 45.00
Ambulance Attendance Certification	\$ 15.00
Hemoglobin A1C	\$ 35.00
HazMat Blood (Ar, Cd, Hg, Pb & Zpp) or 24 Hour Urine	\$ 150.00
Ultrasound Screening (Carotid, Aortic, Thyroid - Non Diagnostic)	\$ 100.00

**Vaccines:**

Hepatitis A Vaccine (per dose - normally a series of two)	\$ 75.00
Hepatitis B Vaccine (per dose - normally a series of three)	\$ 60.00
Twinrix Vaccine (combo Hep A and B - normally a series of three)	\$ 105.00

**Confirmation Charges on Hepatitis Positive\***

Hep A - Hep A IgM	\$ 40.00
Hep B Ag - Neutralization Assay	\$ 175.00
Hep C - HCV RIBA	\$ 70.00

Rates are identical to the ARC Health & Wellness contract with the Washoe County Agreement # 3086-19 - Occupational Health Services



## Prehire - NRS / NAC 617 Heart & Lung Examination

Prehire Under 40- NRS / NAC 617 - Heart & Lung Exam		Prehire Over 40 - NRS / NAC 617 - Heart & Lung Exam	
	Cost		Cost
Heart and Lung Physical Exam ( <sup>1</sup> denotes included in cost)	\$ 100.00	Heart and Lung Physical Exam ( <sup>1</sup> denotes included in cost)	\$ 100.00
Vision Screening <sup>1</sup>	\$ -	Vision Screening <sup>1</sup>	\$ -
Medical History Form <sup>1</sup>	\$ -	Medical History Form <sup>1</sup>	\$ -
Blood Pressure Monitoring <sup>1</sup>	\$ -	Blood Pressure Monitoring <sup>1</sup>	\$ -
Urinalysis <sup>1</sup>	\$ -	Urinalysis <sup>1</sup>	\$ -
Physician's Report of Results Form & OD Forms	\$ 15.00	Physician's Report of Results Form & OD Forms	\$ 15.00
Audiometry with interpretation (air conduction or pure tone test)	\$ 25.00	Audiometry with interpretation (air conduction or pure tone test)	\$ 25.00
Hepatitis Profile Screening* (Immunity to Hep A,B / Infection A,B,C)	\$ 80.00	Hepatitis Profile Screening* (Immunity to Hep A,B / Infection A,B,C)	\$ 80.00
Chest X-Ray (Dual View) includes radiologist over-read	\$ 43.00	Chest X-Ray (Dual View) includes radiologist over-read	\$ 43.00
Coronary Risk II (CBC + Chem. Panel + Lipid Panel)	\$ 40.00	Coronary Risk II (CBC + Chem. Panel + Lipid Panel)	\$ 40.00
Per-Cent Body Fat (BMI Method) / Waist Circumference	\$ 7.00	Per-Cent Body Fat (BMI Method) / Waist Circumference	\$ 7.00
Resting EKG	\$ 40.00	Stress EKG	\$ 125.00
Pulmonary Function Test	\$ 40.00	Pulmonary Function Test	\$ 40.00
TB Skin Test	\$ 25.00	TB Skin Test	\$ 25.00
<b>Total - Under 40 Heart &amp; Lung Exam</b>	<b>\$ 415.00</b>	<b>Total - Over 40 Heart &amp; Lung Exam</b>	<b>\$ 500.00</b>

**Optional Tests / Letter (\*in conjunction with Prehire Physical)**

POST Paperwork	\$ 15.00
Urine Drug Screen (Non DOT with MRO Review)	\$ 34.00
OSHA Respirator Questionnaire / Clearance Letter*	\$ 10.00
CDL Paperwork* (in conjunction with Heart and Lung Physical)	\$ 45.00
Ambulance Attendance Certification	\$ 15.00
Hemoglobin A1C	\$ 35.00
HazMat Blood (Ar, Cd, Hq, Pb & Zpp) or 24 Hour Urine	\$ 150.00
Ultrasound Screening (Carotid, Aortic, Thyroid - Non Diagnostic)	\$ 100.00

**Vaccines:**

Hepatitis A Vaccine (per dose - normally a series of two)	\$ 75.00
Hepatitis B Vaccine (per dose - normally a series of three)	\$ 60.00
Twinrix Vaccine (combo Hep A and B - normally a series of three)	\$ 105.00

**Confirmation Charges on Hepatitis Positive\***

Hep A - Hep A IgM	\$ 40.00
Hep B Ag - Neutralization Assay	\$ 175.00
Hep C - HCV RIBA	\$ 70.00

Rates are identical to the ARC Health & Wellness contract with the Washoe County Agreement # 3086-19 - Occupational Health Services

**WASHOE COUNTY REQUEST FOR PROPOSAL NO. 3086-19**

**MEDICAL SERVICES**

The Cost Appendix "Exhibit A"



**SUBMITTED BY:**

**ARC HEALTH & WELLNESS CENTERS, LLC  
2205 GLENDALE AVENUE, SUITE 131  
SPARKS, NV 89431**

A handwritten signature in blue ink, appearing to read "Paul Granstrom", is positioned above a horizontal line.

**Paul Granstrom, President  
PH: (775) 846-3413**

**April 19, 2019**

**EXHIBIT 6**

**The Cost Appendix (Exhibit A) - 13.7**

**Exhibit A - Fee Schedule**

<b>Type of Examination</b>	<b>Cost per Exam</b>	
Pre-Employment Examination with Stress Treadmill	\$	849.00
Pre-Employment Examination without Stress Treadmill	\$	779.00
Panel One (1) Annual Examination with Two (2) View Chest X-ray	\$	400.00
Panel One (1) Annual Examination without Two (2) View Chest X-ray	\$	357.00
Panel Two (2) Annual Examination with Chest X-ray without EKG	\$	360.00
Panel Two (2) Annual Examination with Chest X-ray with EKG	\$	400.00
Panel Two (2) Annual Examination without Chest X-ray and EKG	\$	317.00
Panel Two (2) Annual Examination without Chest X-ray and with EKG	\$	357.00
Panel Three (3) Annual Examination with Chest X-ray and Treadmill	\$	485.00
Retirement Testing	\$	395.00
Clandestine Physical	\$	270.00

<b>Misc. Services Separate from Pre-Employment/Annual Exams</b>	<b>Cost per Test, Screen, Shot, or Hour</b>	
Audiogram with Interpretation	\$	35.00
Urine/Drug	\$	34.00
PSA	\$	25.00
Hepatitis A Vaccine – Two (2) shot series – cost per shot	\$	75.00
Hepatitis B Vaccine – Three (3) shot series – cost per shot	\$	60.00
Hepatitis A/B Combination – cost per shot	\$	105.00
Hepatitis Titer A, B, C Blood Tests:	\$	70.00
Hepatitis A (screen antibody)	\$	35.00
Hepatitis B (screen antigen)	\$	25.00
Hepatitis B (screen antibody)	\$	25.00
Hepatitis C (screen antibody)	\$	30.00
Hepatitis Panel A, B, C (Hepatitis Profile Infection A,B,C and Immunity to A & B)	\$	80.00
Travel time for on-site shot(s) - two (2) hours allowed per visit	\$50.00 per hour	
Physical Exam and Vital Signs	\$	100.00
Spirometry – Breathing Test	\$	50.00
TB Skin Test	\$	25.00
Quantiferon- Gold TB Test	\$	80.00
Quantiferon – Blood Test	\$	80.00
Blood Lead (Not Serum) Blood Test	\$	150.00
Zinc Protoporphyrin (ZPP) Blood Test	\$	60.00
Lab Tests (Chem Panel+UA+CBC+Lipid Panel)	\$	50.00
Resting EKG	\$	60.00
Stress Treadmill EKG (read by Physician)	\$	185.00
Stress Treadmill EKG (read by Cardiologist)	\$	307.00
Two (2) View Chest X-ray (Radiologist Review)	\$	43.00
Department of Transportation Physical for CDL License (if separate from Annual Physical)	\$	90.00
Medical Consultation - cost per hour	\$	200.00
Testifying Fee (See Appendix A12.1) – cost per hour	\$	200.00
OSHA Respirator Questionnaire & Clearance Letter	\$	35.00

Basic Lifting Evaluation	\$	15.00
Physical Capacity Evaluation (conducted by PT)	\$	90.00
Prostate Specific Antigen (PSA Test)	\$	25.00
Psychological Evaluation (MMPI-2-RF	\$	295.00
Other (describe service)		See Attachment # 1

Note: Fee Schedule service cost includes completion and return of all required medical forms and reports to the County.

ATTACHMENT I – SUPPLEMENTARY COST SCHEDULE

<b>Additional Services if requested</b>	<b>Cost</b>
<b>Confirmation Charges on HIV and Hepatitis (if Positive)</b>	
Hep A - Hep A IgM	\$ 40.00
Hep B Ag - Neutralization Assay	\$ 175.00
HIV 1/2 Differentiation	\$ 70.00
HCV Verification	\$ 386.00
<b>Respirator Clearance Exams</b>	
Respiratory Fit Test (Quantitative or Qualitative)	\$ 30.00
OSHA Respirator Questionnaire	\$ 25.00
Pulmonary Function Test	\$ 40.00
Respirator Clearance Letter	\$ 10.00
<b>Department of Transportation/CDL Exams</b>	
DOT Examinations	\$ 45.00
DOT Paperwork	\$ 45.00
<b>Drug and Alcohol Testing</b>	
DOT Urine Drug Screen	\$ 39.00
Non DOT Urine Drug Screen	\$ 34.00
DOT Breath Alcohol Test	\$ 25.00
Non DOT Breath Alcohol Test	\$ 25.00
Breath Alcohol Confirmation (if positive)	\$ 15.00
<b>Individual Test Pricing (Not part of Heart and Lung Physical)</b>	
Audiometry with interpretation (air conduction or pure tone test)	\$ 35.00
Chest X-Ray (Single View)	\$ 60.00
Chest X-Ray (Dual View) includes radiologist over-read	\$ 70.00
Coronary Risk II (CBC + Chem. Panel + HDL + LDL)	\$ 50.00
Resting EKG	\$ 60.00
Stress EKG (Graded Exercise Test)	\$ 185.00
TB Skin Test	\$ 25.00
Nicotine Test (Cotinine Only) with Quant Levels	\$ 25.00
Per-Cent Body Fat (BMI Method)/Waist Circumference	\$ 15.00
Pulmonary Function Test	\$ 50.00
Normal Vision screening (Snellen, Far, Near)	\$ 25.00
Venipuncture	\$ 15.00
<b>Vo2 Max Testing conducted by ARC</b>	
Cardio Pulmonary Exercise Test - Vo2 Max - Cardiopulmonary Stress Test	\$ 350.00
Vo2 Max Pulmonary Intrepretation (Saint Mary's Pulmonary)	\$ 50.00
<b>Ultrasound Screening conducted by ARC</b>	
C.A.T. Ultrasound Bundle ( <i>Carotid, Aortic, Thyroid - Non Diagnostic</i> )	\$ 100.00
Abdominal - ( <i>Liver, Pancreas, Gall Bladder, Kidney - Non Diagnostic</i> )	\$ 75.00
Heart Ultrasound - ( <i>Non Diagnostic</i> )	\$ 75.00
<b>Audiology</b>	
Full Comprehensive Audiology Exam and Report	\$ 200.00
Cerumen Removal (Ear Lavage)	\$ 75.00
Office Visit	\$ 150.00

ATTACHMENT I – SUPPLEMENTARY COST SCHEDULE

<b>Psychological Screening and Interpretation</b>	
Psychological Evaluation/Consultation/Interview - Pre-hire	\$ 295.00
Psychological Evaluation 1 (Jail/Corrections - Prehire Pysch MMPI-2)	\$ 225.00
Psychological Evaluation 2 (Police - Prehire Pysch MMPI-2)	\$ 295.00
Fitness for Duty – Non-occupational condition or potential workplace violence situation psychological interview, testing and evaluation	\$500.00 - \$750.00
Fitness for Duty – medical evaluation (situations like Officer Involved Shooting, Written Up or Put on Leave with or without Pay, Potential Psychological Condition possible harm to self or others.)	\$500.00 - \$1,300.00
LAQ Test	\$ 50.00
Hourly Rate - (Can be fractionated to actual minutes)	\$ 200.00

<b>Physical Assessment screening (Physical Therapy)</b>	<b>Cost</b>
Return to work examination	\$ 80.00
Functional Capacity Evaluation (per hour)	\$ 210.00
Musculoskeletal Evaluation	\$ 90.00
Physical Capacity Evaluation	\$ 90.00

<b>Cardiology</b>	<b>Cost</b>
Office visit- consultation	\$ 350.00
Office visit -New patient comprehensive	\$ 402.00
24 Hour Holter Monitor Tech and Professional	\$ 188.00
24 Hour Holter Monitor interpretation	\$ 60.00
ECG Monitor 24 hr w/Scan & Recording	\$ 50.00
Treadmill Stress Test	\$ 307.00
Thallium Single View w/supplies (aka - Cardiolute Stress)	\$ 1,687.00
Echocardiogram complete	\$ 549.00
Catheterize left heart	\$ 3,120.00
Left ventricular angiogram (Anesthesiologist will be extra)	\$ 210.00
Telemetry (including CPT 93288 and 93229)	\$ 800.00
Catheterize Left Heart complete* (Anesthesiologist will be extra)	\$ 3,120.00

<b>Pulmonary Referral</b>	<b>Cost</b>
New Patient Consult (reviewing ARC findings)	\$ 250.00
Established Patient Consult	\$ 175.00
Complete Pulmonary Function Test	\$ 250.00
Diffusion Study	\$ 125.00

<b>Diagnostic Imaging</b>	<b>Cost</b>
Firefighter CT (Chest and Abdomen)	\$ 756.00
2 View Chest X-Ray with B-Reader (Las Vegas only)	\$ 150.00
Mammography	\$ 300.00
PET Scan	\$ 2,675.00
CT Calcium Scoring	\$ 119.00
CT Chest with Contrast	\$ 456.00
CT Chest w/o Contrast	\$ 406.00
Coronary CTA	\$ 456.00
Echo w/Rest & CV Stress	\$ 474.00

ATTACHMENT I – SUPPLEMENTARY COST SCHEDULE

<b>Specialist Billing Fee per Patient Encounter</b>	<b>Cost</b>
To cover administrative, postage, processing and handling costs.	\$ 25.00

<b>Mobile Medical Fee</b>	<b>Cost</b>
Charge for physical conducted on site (Monday - Friday 7 AM - 5 PM)	\$ 135.00
Afterhours / Holiday or Weekend Runs (per employee)	\$ 175.00

*In the event, ARC is asked to provide services that are outside the scope of normal business hours (Mon. - Fri. 7 AM to 5 PM), then ARC can charge an increased mobile fee per Officer Firefighter*

<b>Additional Physician related services</b>	<b>Cost</b>
Digital Rectal Exam / Hernia Check (Males)	\$ 15.00
Skin Cancer Screening	\$ 15.00
Expanded Physical Dictation <i>(cost in addition to current Physical)</i>	\$ 10.00
Expanded Physical <i>(cost in addition to current Physical)</i>	\$ 25.00
Ambulance Attendance Certification and Physical Bundle	\$ 115.00
Blood Pressure Check	\$ 15.00
Caliper	\$ 10.00
Hand's on Physical / Range of Motion	\$ 15.00
Sleep Study Screening - Non-Diagnostic (Take Home)	\$ 200.00

<b>Medical Paperwork</b>	<b>Cost</b>
Ambulance Attendance Certification <i>(inconjunction with Physical)</i>	\$ 15.00
Physical Screening Fact Sheet <i>(inconjunction with Physical)</i>	\$ 15.00
FBI Paperwork <i>(in conjunction with Physical)</i>	\$ 15.00
Calendestine Physical Paperwork <i>(in conjunction with Physical)</i>	\$ 15.00
POST Paperwork <i>(inconjunction with Physical)</i>	\$ 15.00
FEMA Nevada Task Force Paperwork <i>(inconjunction with Physical)</i>	\$ 15.00
14 Essential Tasks Paperwork <i>(inconjunction with Physical)</i>	\$ 15.00
Sleep Apnea Questionnaire <i>(inconjunction with Physical)</i>	\$ 15.00
Lateral Transfer (Dept. to Dept.) Physician Review and Clearance	\$ 50.00
<b>ARC Physician Review and/or Dictation of other Physician's Exam / Testing</b>	\$ 100.00

<b>Additional Lab Testing</b>	<b>Cost</b>
NMR Blood	\$ 95.00
HAZMAT Blood (As, Cd,Hg, Pb/Zpp)	\$ 150.00
Serum Lead & Zpp Testing	\$ 60.00
Rabies Test	\$ 40.00
Hemocult for Stool Occult Blood (Slide Instant)	\$ 10.00
Hemocult for Stool Occult Blood (Lab Analysis)	\$ 60.00
TSH	\$ 30.00
Cortisol Testing	\$ 24.00
NMP22 BladderChek	\$ 30.00
CA-125	\$ 65.00
C-Reactive Protein, Cadiac	\$ 45.00
LP-Pla2	\$ 95.00
Anabolic Steroid Testing	\$ 150.00
Testosterone Screening	\$ 60.00

ATTACHMENT I – SUPPLEMENTARY COST SCHEDULE

<b>Comprehensive Medical Panel - In Office</b>	<b>Cost</b>
FRC M Panel	\$ 505.89
FRC F Panel	\$ 476.94
NFPA FRC M Panel	\$ 423.24
NFPA FRC F Panel	\$ 394.19
DPS Pre Panel	\$ 580.00
DPS U40	\$ 400.00
DPS O40	\$ 482.00
V1	\$ 520.00
V2	\$ 200.00
V3	\$ 385.00
V4	\$ 470.00
TMC	\$ 485.00
TMP	\$ 614.00
NRS U40	\$ 365.00
NRS O40	\$ 450.00

<b>NFPA 1582</b>	<b>Cost</b>
SMART Paperwork	\$ 15.00
Sleep Disturbance Apnea Questionnaire	\$ 10.00
Mental Health Screening	\$ 20.00
Chap. 8 Muscular Strength, Endurance & Flexibility Evaluation	\$ 90.00

## **AGREEMENT FOR EMPLOYEE MEDICAL SERVICES**

**THIS AGREEMENT** is made between the County of Washoe (hereinafter referred to as COUNTY) and ARC Health and Wellness Centers (hereinafter referred to as CONTRACTOR).

### **WITNESSETH**

WHEREAS, the COUNTY requires medical services for certain Washoe County and Washoe County Sheriff's Office (WCSO) employees; and

WHEREAS, the CONTRACTOR has the personnel and resources necessary to accomplish the CONTRACT within the required schedule and within the scope of work as set forth in this written agreement and attachments; and,

WHEREAS, the CONTRACTOR and its employees, shall have and maintain the required licenses and/or authorizations pursuant to all federal, State of Nevada and local laws in order to conduct business relative to this CONTRACT.

Now therefore in consideration of the mutual covenants and promises set forth, the Parties to this Agreement agree as follows:

### **1. MEDICAL SERVICES**

CONTRACTOR agrees to provide the following medical services:

- 1.1 Pre-employment medical examinations for prospective sworn employees and designated civilian employees based upon specific job requirements pursuant to NAC 289.110.1(e).
- 1.2 Annual physical examinations for existing sworn employees in compliance with NRS 617.455, NRS 617.457, and NAC Chapter 617.
- 1.3 Administration of Hepatitis A and B vaccinations for designated employees pursuant to NRS 617.485.3(b).
- 1.4 Required medical services as identified in Attachment "A".

### **2. DURATION OF AGREEMENT**

COUNTY agrees to retain and engage CONTRACTOR to perform said services for the period July 1, 2019 through June 30, 2022 unless terminated earlier pursuant to the provisions of Section 9, with (2) two additional one (1) year renewal options, at the discretion of the COUNTY.

### **3. COMPENSATION AND TIME OF PAYMENT**

- 3.1 CONTRACTOR shall submit monthly invoices within five (5) business days of the end of each month for actual services rendered. Each invoice shall have detailed documentation to include the invoice number, patient's full name, service(s) provided, date(s) of service, approved fee amount for each service, and total balance due. Invoices shall be submitted to the following address unless other billing arrangements are approved by the COUNTY:

Washoe County Comptroller  
Accounts Payable  
1001 E. Ninth Street, Room D-200  
Reno, Nevada 89512

- 3.2 CONTRACTOR shall provide all required completed patient forms, reports, and test results to Washoe County Sheriff's Office (WCSO) prior to submission of applicable invoices.
- 3.3 COUNTY agrees to pay CONTRACTOR in accordance with the Attachment "C" Fee Schedule and Attachment "D". These fees will remain firm for the duration of the initial three (3) year contract period. A new Fee Schedule must be presented in writing to the Washoe County Purchasing and Contracts Manager at least forty-five (45) days prior to the expiration of the three (3) year contract period, for the renewal period, and shall provide documentation for the need for any such increase, which is subject to the sole approval of the COUNTY.
- 3.4 Payment shall be rendered within thirty (30) days of invoice receipt by COUNTY to CONTRACTOR for each invoice submitted, unless COUNTY in good faith disputes the invoice in writing within ten (10) days of receiving invoice. Payment by COUNTY of invoices or request for payments shall not constitute acceptance by COUNTY of work performed by CONTRACTOR. If COUNTY disputes invoice, CONTRACTOR shall provide all additional material necessary to substantiate the amount claimed for payment.

#### **4. HOURS OF OPERATION AND SCHEDULING**

CONTRACTOR shall maintain normal business hours of operation (Monday – Friday 8:00 a.m. – 5:00 p.m.) for scheduling of County employees.

#### **5. CONTRACTOR RESPONSIBILITIES**

- 5.1 The CONTRACTOR has provided the WCSO in writing the primary and alternate contact point to be used during the transition period as well as after contract implementation. This point of contact will be responsible for keeping the WCSO informed of transition progress and be able to respond to WCSO inquiries within two (2) business days. The primary and alternate point of contact shall not be changed without written notification to WCSO.

Primary Contact:  
Paul Granstrom  
Title: President  
Business Cell #: 775-846-3413  
Email: [Paul@arhealthandwellness.com](mailto:Paul@arhealthandwellness.com)

Secondary Contact:  
Wes Granstrom  
Title: Chief Executive Officer  
Business Cell #: 775-315-5150  
Email: [Wes@arhealthandwellness](mailto:Wes@arhealthandwellness)

- 5.2 The CONTRACTOR has provided a medical examiner (Primary Physician) for contact purposes with the Washoe County Human Resources Department and the WCSO. The medical examiner (Primary Physician) shall not be changed without written notification to WCSO

Medical examiner (Primary Physician):  
Mark J. Gaetke, MD  
Title: Medical Director – ARC Health & Wellness  
Email: gaetke@arhealthandwellness.com  
Phone: 775-331-3361

- 5.3 The CONTRACTOR shall be responsible for providing all labor, materials, equipment, supplies, furniture, and office area(s) required to perform the required medical services.
- 5.4 The CONTRACTOR shall be responsible for notifying the WCSO the location(s) where the various medical services will be provided.
- 5.5 The CONTRACTOR shall provide a private waiting area for WCSO employees receiving medical services under this Agreement.
- 5.6 The CONTRACTOR shall ensure WCSO employees are seen within fifteen (15) minutes of their scheduled appointment and have medical services completed within two (2) hours of their scheduled appointment.
- 5.7 The CONTRACTOR shall complete all required medical services for annual physicals in no more than two (2) appointments. TB reads do not count as an appointment
- 5.8 The CONTRACTOR shall provide written medical reports of pre-employment examinations within five (5) business days of the examination and within ten (10) business days for all other examinations, unless otherwise agreed to on a case-by-case basis.
- 5.9 The CONTRACTOR may be required to provide statistical information regarding medical services provided under this Agreement. This will be a matter for future negotiations between the COUNTY and the CONTRACTOR including any fees, if applicable.

## **6. WCSO RESPONSIBILITIES**

- 6.1 At contract award, WCSO shall designate in writing a primary and alternate point of contact for all matters relative to this contract. WCSO shall provide a written notice to the CONTRACTOR should there be a subsequent change.
- 6.2 WCSO shall notify designated employees who require pre-employment or annual examinations, or other medical services and advise them to contact the CONTRACTOR.
- 6.3 WCSO shall provide all patient forms and reports necessary to perform all required medical services. These will be included in a County Medical Forms and Reports Manual that will be provided to the CONTRACTOR prior to the implementation of this Agreement. The COUNTY shall provide the CONTRACTOR updates to these forms and reports as necessary.

## **7. MEDICAL GUIDELINES**

- 7.1 In completing required medical services, the CONTRACTOR shall utilize a MED-TOX binder titled, “Medical Screening Manual for Law Enforcement Officers”, which will be provided by WCSO.

7.1.1 CONTRACTOR shall not sell, rent, lease, loan, give, share, copy or otherwise provide in any way, the MED-TOX binder or the contents thereof to other individuals, public agencies or private businesses without the written consent of COUNTY and MED-TOX Health Services. If the CONTRACTOR has facilities or offices outside Washoe County, this prohibition shall apply to those facilities as well. Upon request by the COUNTY for return of the MED-TOX binder, CONTRACTOR agrees to return same within twenty-four (24) hours.

7.1.2 CONTRACTOR acknowledges and agrees that COUNTY will suffer irreparable harm if CONTRACTOR breaches the provisions of this section. CONTRACTOR fully understands and acknowledges that monetary damages alone will be inadequate to compensate COUNTY for such breach. Accordingly, CONTRACTOR agrees that this Agreement may be enforced by specific performance or other injunctive relief, in addition to any other remedies provided by this Agreement or otherwise available at law or equity.

## **8. ADA AND GINA REQUIREMENTS**

8.1 All medical examinations and determinations must be administered and evaluated in compliance with the American's with Disabilities Act of 1990 including changes made by the ADA Amendments Act of 2008 (P.L. 110-325), which became effective on January 1, 2009 and the Genetic Information Nondiscrimination Act of 2008 (GINA).

## **9. CANCELLATION OF AGREEMENT**

9.1 Either the COUNTY or the CONTRACTOR may cancel this Agreement without cause, penalty, charge, or sanction on ninety (90) days written notice to the other party of their intent to terminate the Agreement.

9.2 COUNTY reserves the right to terminate this Agreement at any time the CONTRACTOR fails to carry out the required services (i.e., breach of contract). However, COUNTY shall agree to give the CONTRACTOR prior notice of any deficiencies in performance, and shall state reasons for the deficiencies if known to COUNTY. If within thirty (30) days after receipt of such notice of deficiencies, the CONTRACTOR fails to cure the conditions stated to be deficient, COUNTY may terminate this Agreement. The following circumstances (including but not limited to) would result in a deficiency notification:

9.2.1 On evidence that CONTRACTOR fails to perform the work required by this Agreement with sufficient personnel and/or equipment to assure services as per this Agreement.

9.2.2 On evidence, in the opinion of the COUNTY, of failure of CONTRACTOR to perform the work suitably (e.g. acceptable to the COUNTY) or neglects or refuses to perform such work as may be rejected as unacceptable or unsuitable.

9.2.3 On evidence that the CONTRACTOR fails to perform, keep, or observe any and all of the terms contained in this Agreement.

9.3 COUNTY shall further reserve the right to cancel this Agreement for cause, and without prior notice and without penalty, charge, or sanction to the COUNTY under the following circumstances:

- 9.3.1 On evidence that CONTRACTOR fails to commence the work as required by this Agreement within the time specified in the Notice to Proceed.
- 9.3.2 On evidence that CONTRACTOR discontinues the prosecution of the work or fails to resume work which has been discontinued within ten (10) business days after notice to do so.
- 9.3.3 On evidence that CONTRACTOR shall be adjudicated as bankrupt, or is in receivership, or has made an assignment to creditors of the CONTRACTOR, or on evidence of any other indication that the financial or legal situation of the CONTRACTOR shall preclude the ability of the CONTRACTOR to continue to operate successfully.
- 9.3.4 Upon notification of delinquency or cancellation of any required insurance coverage held by CONTRACTOR.
- 9.3.5 On evidence that CONTRACTOR allows any final judgment to stand against him unsatisfied for a period of five (5) days.
- 9.3.6 On evidence that CONTRACTOR has come under criminal indictment. If an individual attorney(s) of the CONTRACTOR comes under criminal indictment, they shall be precluded from performing under this Agreement.

## **10. FUNDING OUT CLAUSE**

Notwithstanding any provision of this Agreement to the contrary, each payment obligation of the COUNTY created by this Agreement is conditioned upon the availability of funds that are appropriated or budgeted for the purposes of the Agreement. In the event that the COUNTY has failed to appropriate or budget funds for the purposes specified in the Agreement, or that COUNTY has been required, in its sole judgment, to amend previous appropriations or budgeted amounts to eliminate or reduce funding for the purposes of this Agreement, the COUNTY shall provide reasonable notice of such occurrence, and the Agreement shall be terminated without penalty, charge, or sanction.

## **11. INSURANCE AND INDEMNIFICATION REQUIREMENTS**

The CONTRACTOR agrees to provide legal representation, defend, indemnify, and hold harmless Owner, WCSO, and the employees, officers and agents of OWNER and the WCSO from any claims, legal action, liabilities, damages, or losses that may arise from the performance of this contract.

CONTRACTOR shall adhere to the insurance and indemnification requirements as specified in Attachment "B".

## **12. STATUS OF CONTRACTOR**

The CONTRACTOR shall have the status of an "INDEPENDENT CONTRACTOR," and shall not be entitled to any of the rights, privileges, benefits, and emoluments of either an officer or employee of the COUNTY. COUNTY and CONTRACTOR agrees to the following terms consistent with INDEPENDENT CONTRACTOR status:

- 12.1 CONTRACTOR has the right to perform services for others during the term of this Agreement
- 12.2 CONTRACTOR shall not be assigned a daily work location on COUNTY premises. However, COUNTY may occasionally provide an on-site area for Contractor to provide vaccinations/immunizations or for collection services. COUNTY may also occasionally

provide an area for the CONTRACTOR'S mobile unit to perform physical examinations for new hires, annual, and periodic examinations.

12.3 CONTRACTOR shall perform the services required by this Agreement and CONTRACTOR agrees to the faithful performance and delivery of described services in accordance with required time frames; COUNTY shall not hire, supervise, or pay any assistants to help CONTRACTOR.

12.4 The COUNTY shall not require CONTRACTOR to devote full time to performing the services required by this Agreement.

Further, CONTRACTOR hereby certifies:

12.5 That CONTRACTOR is not an employee of the County, and thereby CONTRACTOR waives any and all claims to benefits otherwise provided to employees of the COUNTY, including but not limited to: medical, dental, other personal insurance; retirement benefits, unemployment benefits, and liability or worker's compensation insurance.

12.6 That CONTRACTOR is licensed or exempted by the State or other political subdivisions to do business in accordance with applicable law.

12.7 CONTRACTOR shall be required to provide the COUNTY with their federal tax I.D. number or social security number in order to receive payment against this Agreement. CONTRACTOR understands that he/she is solely responsible, individually, for federal taxes and social security payments applicable to money received for services provided. CONTRACTOR understands that the COUNTY will file an IRS Form 1099 for all payments received.

### **13. COMPLIANCE WITH IMMIGRATION AND NATURALIZATION LAWS**

CONTRACTOR shall at all times be in compliance with Immigration and Naturalization Laws regarding eligibility of their employees or sub-contractors to work in the United States.

### **14. TRANSFER OF OWNERSHIP, CHANGE OF NAME, OR CHANGE OF PRINCIPALS**

CONTRACTOR agrees that, prior to any sale, transfer, business name change, change in principals, assignment or any other occurrence that alters this Agreement in any way between the CONTRACTOR and COUNTY, they shall notify the Washoe County Purchasing and Contracts Manager of their intent to make said change.

### **15. SUB-CONTRACTS**

The COUNTY must approve, in advance, all sub-contracts entered into by the CONTRACTOR for the purpose of completing the provisions of this Agreement.

### **16. SEVERABILITY**

It is expressly understood and agreed by the CONTRACTOR and COUNTY that in the event any term, covenant or condition in this Agreement is held to be invalid by any court of competent jurisdiction, the invalidity of the term, covenant or condition shall in no way affect any other term, covenant or condition; provided, however, that the invalidity of such term, covenant or condition does not materially prejudice either the CONTRACTOR or COUNTY in their respective rights and obligations contained in the valid terms, covenants or conditions of this Agreement.

## 17. NONDISCRIMINATION

The CONTRACTOR agrees not to discriminate against any employee or applicant for employment because of race, religion, color, national origin, disability, sex, sexual orientation, or age. Such agreements shall include, but not be limited to, the following: employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training including apprenticeship. Any violation of such provision by the CONTRACTOR shall constitute a material breach of contract. Further, CONTRACTOR agrees to insert this nondiscrimination provision in all sub-contracts hereunder, except sub-contracts for standard commercial supplies or raw materials.

## 18. AUDITING

18.1 The CONTRACTOR shall maintain medical examination records in accordance with the State of Nevada and in compliance with the Health Insurance Portability and Accountability Act (HIPAA). Upon contract award, the CONTRACTOR shall retain WCSO employee medical records for a minimum of three (3) years. If the CONTRACTOR is replaced for any reason, the CONTRACTOR shall transfer three (3) years of WCSO employee medical records to the COUNTY at no cost to the COUNTY.

18.1.1 The COUNTY reserves the right to subject all medical examinations to audit or review by COUNTY or external auditors to ensure appropriate procedures and practices have been followed. In the case of an audit, the CONTRACTOR must provide the information requested within fourteen (14) business days to the auditor. Any internal costs to provide this information will be the responsibility of the CONTRACTOR.

18.2 The CONTRACTOR shall maintain a complete set of financial records relating to this Agreement in accordance with generally accepted accounting practices.

18.2.1 CONTRACTOR shall permit COUNTY to inspect and audit all work materials, payrolls, books, accounts, and other financial data and records relating to its performance of this Agreement until the expiration of three (3) years after the final payment is made. Any internal costs to provide this information will be the responsibility of the CONTRACTOR.

## 19. INTEGRATION

This Agreement including any attachments incorporates the terms and conditions of the original Request for Proposal #3086-19 and the CONTRACTOR'S proposal response as accepted by COUNTY, and it represents the entire understanding of the parties. It may not be altered in any way without the express written consent of both parties.

## 20. GOVERNING LAW

The laws of the State of Nevada shall govern this Agreement executed between the CONTRACTOR and the COUNTY. Further, the place of performance and transaction of business shall be deemed to be in Washoe County, Nevada, and in the event of litigation, the exclusive venue and place of jurisdiction shall be the State of Nevada, and more specifically Washoe County, Nevada.

21. NOTICES

All written notices required or permitted under this Agreement shall be deemed to have been duly given when mailed postage prepaid, addressed to the designated representative of the respective parties at their address shown or at such other address as either party hereafter may designate in writing from time to time to the other party.

Except as otherwise specified, all notices under this Agreement shall be in writing. Notices to CONTRACTOR shall be addressed to:

ARC Health and Wellness Centers  
Attn: Paul Granstrom  
2205 Glendale Ave.  
Sparks, NV 89431

Notices to COUNTY shall be addressed to:  
Washoe County Comptroller  
Attn: Mark Stewart  
1001 E. Ninth Street, Room D-200  
Reno, NV 89512

IN WITNESS WHEREOF, the parties hereto or a representative of either have set their hands and subscribed their signatures as of the date and year indicated.

By:   
Mark Stewart  
Purchasing & Contracts Manager

Date: 7/12/2019

Contractor:  
By   
Date 7/9/19

## **ATTACHMENT “A” REQUIRED MEDICAL SERVICES**

### **A1 PRE-EMPLOYMENT MEDICAL EXAMINATIONS**

Pre-employment medical examinations are required by NAC 289.110.1(e). In conducting the physical examination, the physician will consider the prospective employee’s ability to perform the physical requirements of the job based upon the County's medical guidelines, essential functions, and job analysis information.

1.1 The WCSO Assistant Sheriff or designee shall authorize all referrals to specialists or recommendations for additional testing or treatment determined by the examination in advance. The CONTRACTOR will indicate in writing the risk factor for heart disease (being over 40 or having two or more risk factors) and if the prospective employee will be referred for a treadmill (if the treadmill is not part of the employee’s exams).

1.2 The content of the pre-employment examination for sworn employees (civilian employees only require selected tests due to specific job requirements) is as follows:

- 1.2.1 Doctor exam, review of medical history and reports
- 1.2.2 TB Skin Test or Quantiferon-Gold TB Test
- 1.2.3 Spirometry – Pulmonary Function Test
- 1.2.4 Urine drug screen
- 1.2.5 Chem Panel + Lipid Panel + CBC+UA
- 1.2.6 Audiogram with interpretation (including annual reporting)
- 1.2.7 Resting EKG
- 1.2.8 Stress Treadmill for those over age 40, or under age 40 with two or more risk factors for heart disease
- 1.2.9 Vision screening (Bailey-Lovie Wall Chart)
- 1.2.10 Color vision screening: (Plate Test followed by Farnsworth D-15 if necessary)
- 1.2.11 Chest X-ray interpreted by Radiologist
- 1.2.12 Heart-lung medical review letter - if needed
- 1.2.13 Immunization review (Per Center for Disease Control Guidelines Hepatitis Panel A, B, C )
- 1.2.14 Blood pressure monitoring
- 1.2.15 Body Mass Index
- 1.2.16 Percent body fat by electrical impedance test or other approved medical procedure

### **A2 REPORT OF EXAMINATION RESULTS**

For all pre-employment examinations, the physician should translate pertinent medical findings into functional placement data that can be transmitted to the Appointing Authority (hiring department). Functional assessments generally should not contain specific details of medical diagnosis but be in sufficient detail to assist the Appointing Authority in assessing the individual's capability of fulfilling employment requirements. However, it is recognized that exceptions will need to be made since it is often difficult to consider particular accommodations without knowledge of the specifics of the condition and its impact on performance, work hours, and other factors. The Health Status Report has been designed to facilitate this process. Each examined person will be assigned to a status category (1, 2, 3, or 4) on the Health Status Report. Status categories are defined as follows:

- **Status Category 1**

This designation indicates that no medical condition has been identified that conflicts with the individual's ability to safely address the physical demands of the position being applied for or currently held.

- **Status Category 2**

This designation means that the prospective employee was found to have a medical condition that could interfere with the individual's ability to safely perform the essential duties of the position. The physician on the Health Status Report may indicate restrictions. The physician must also reference the medical guideline(s) they reviewed in reaching the recommendation. The Appointing Authority should review these restrictions and functional limitations to determine if such limitations will impose an undue hardship upon the jurisdiction's ability to provide service. The Department of Human Resources and the Primary Physician may need to consult with the Appointing Authority to assess issues of reasonable accommodation.

- **Status Category 3**

This designation indicates that the physician is not willing to make a placement decision without further evaluation, tests, and consultation with the Appointing Authority.

- **Status Category 4**

This designation is for the physician to write in other comments directed to the Appointing Authority regarding the individual's medical status. An example might be that the individual's condition is so severe that the physician cannot recommend placement of the individual into the job.

### **A3 DRUG SCREENING:**

Drug screening is used only during pre-employment medical examinations. The successful proposer is responsible for maintaining the integrity of the specimen collection and transfer process for alcohol and drug screening and the privacy of the prospective employee, and is to avoid any conduct or remarks that might be construed as accusatorial or otherwise offensive or inappropriate.

### **A4 TESTING EQUIPMENT AND CONDITIONS**

- 4.1 Spirometry - will be performed on equipment that meets or exceeds the current standards for National Institute for Occupational Safety and Health (NIOSH), Occupational Safety and Health Administration (OSHA), American Thoracic Society (ATS), and American College of Chest Physicians (ACCP) Standards for Pulmonary Function Equipment. A technician who must have current certification of completion of an approved NIOSH course on Spirometry will perform tests.
- 4.2 Audiology - testing must be performed using a soundproof booth that meets the current requirements as set forth by OSHA. Testing to be conducted by a technician with a current certification for audio logic testing from the Council for Accreditation in Occupational Hearing Conservation (CAOHC). Regular calibration is mandatory and records must be permanently maintained.
- 4.3 Stress Treadmill – A Physician needs to be present.
- 4.4 Far Visual Acuity Screening - is particularly important for the unique job demands of public safety occupations. Vision screening must be performed using a wall chart recommended by the National Academy of Sciences - National Research Council Committee (NAS-NRC) on

Vision Working Group 39. The Bailey-Lovie Wall chart is one of two acceptable wall charts meeting NAS-NRC specifications. Bailey-Lovie wall charts are available from the University of Berkeley, (510) 642-0229 or online at [http://optometry.berkeley.edu/opt\\_txtpp/student\\_life/ucosa/merchandise/professional\\_materials.html](http://optometry.berkeley.edu/opt_txtpp/student_life/ucosa/merchandise/professional_materials.html). Titmus and Ortho-Rater devices do not meet the NAC-NRC specifications and must not be used for vision screening for law enforcement.

- 4.5 Color Vision - is critical for certain COUNTY occupations. Color vision screening must be performed with a clinical test recommended by the National Academy of Science - National Research Council Committee on Vision Working Group 41. Initial testing must be with an approved Pseudoisochromatic Plate Test. Tests that meet these criteria are the Dvorine Pseudo-Ischromatic Plate Test and the Ishihara Plate Test for Color Blindness. Persons failing the initial screening test will be tested using the Farnsworth Dichotomous Test for Color Blindness (Panel D-15). The Farnsworth D-15 is available from Richmond Products (505) 275-2406 or online at [http://www.richmondproducts.com/shop/index.php?route=product/category&path=317\\_321](http://www.richmondproducts.com/shop/index.php?route=product/category&path=317_321). Titmus and other automated tests for color vision are unacceptable, as they do not meet NAS-NRC specifications for use as screening devices.

4.5.1 Color vision and visual acuity tests must be performed under the standards of illumination as recommended by the manufacturers of the tests.

## **A5 FORMS/REPORTS:**

Prospective and existing employees will be given a physical examination utilizing examination forms specified by the COUNTY. All required forms and reports will be provided by the COUNTY in a Medical Forms and Reports Manual at the Pre-Proposal Conference. This manual will include a Medical History Form (OD-1), a Lung Examination Form (OD-2), an Extensive Heart and Limited Heart Combination Form (OD-3/OD-4), a Hearing Examination Form (OD-5), a MED-TOX Clinical Examination Form, a Public Safety Officer Examination Recap Form, an Annual TB Skin Test Result Report, an Annual Heart-Lung/Corrective Action Response Form, a Patient Information Form, a Health Status Report, an OSHA Respiratory Questionnaire and Clearance Letter, etc.

- 5.1 Documentation of physical examination findings can be important in future workers' compensation proceedings and in evaluating whether any subsequent abnormal findings are related to a preexisting condition. The COUNTY will rely on the CONTRACTOR to clearly document abnormal physical examination findings discovered during the pre-employment medical examination.
- 5.2 Documentation of the medical decision making process is critical. The CONTRACTOR must maintain clear, accurate and retrievable written records regarding the evaluative steps, which were taken in problem cases after the initial medical evaluation was performed. For persons with complex problems, the examining physician should document the basis or rationale for subsequent placement recommendations and decisions.
- 5.3 The CONTRACTOR shall provide written medical reports of pre-employment examinations within five (5) business days of the examination, and within ten (10) business days for all other examinations, unless otherwise agreed to on a case-by-case basis. In emergency situations, a telephone call shall be made within twenty-four (24) hours of the examination. Pursuant to NRS 617.457.10, the examining physician will report in writing any predisposing conditions that may affect employee's benefits or position.

## **A6 MEDICAL CONSULTATION:**

The Primary Physician shall provide medical consultation for the purposes of special medical interpretation of reports and "return to work" slips provided to the COUNTY by other medical

practitioners. It is sometimes necessary that this be accomplished through telephone consultation or facsimile. The Primary Physician shall also be required to perform specialized medical evaluations of those employees whose physical abilities to perform certain job functions may be questionable (fitness for duty examinations, back to work examinations). Such evaluations will be in accordance with the medical guidelines established for the classification. Consultations that may also be requested by the COUNTY include case reviews, case intervention with patient's treating physician or coordination with other consultants performing services for the COUNTY. The Primary Physician shall assist the COUNTY in identifying job modifications or work restrictions for COUNTY employees when necessary.

- 6.1 The COUNTY may require the Primary Physician to provide information to or testify before screening panels or commissions or other administrative bodies regarding specific cases such as medical appeals, reasonable accommodation, and other occupational medical issues.
- 6.2 The COUNTY requires the Primary Physician to refer any employee who does not pass the Heart/Lung portion(s) of the exam to the COUNTY's Risk Management Division within twenty-four (24) hours.

## **A7 PHYSICAL EXAMINATION REQUIREMENTS FOR EXISTING EMPLOYEES**

Annual physical examinations shall be conducted in accordance with the provisions of NRS 617.455 and NRS 617.457 and NAC Chapter 617.

It is preferred that an Occupational Physician perform the Heart/Lung exams also in accordance with NRS 617.455 and NRS 617.457. Occupational and contagious diseases applying to law enforcement are outlined in NRS 617.450, NRS 617.481, NRS 617.485, and NRS 617.487

- 7.1 The following describes the services required for each physical examination panel.
  - 7.1.1 Panel I - Employees under the age of forty (40) with less than five (5) years' service, required annually:
    - 7.1.1.1 Physical examination and vital signs
    - 7.1.1.2 Spirometry - Pulmonary Function Test
    - 7.1.1.3 TB Skin Test or Quantiferon-Gold TB Test
    - 7.1.1.4 Urinalysis
    - 7.1.1.5 Coronary Risk Panel (Chem Panel + CBC + UA + HDL + LDL)
    - 7.1.1.6 Audiogram with interpretation (including annual reporting)
    - 7.1.1.7 Two (2) View Chest X-ray interpreted by a Radiologist – **required every other year on even years**
    - 7.1.1.8 Vision screening (Bailey-Lovie Wall Chart)
    - 7.1.1.9 Heart-lung medical review letter – if needed
    - 7.1.1.10 Blood pressure monitoring
    - 7.1.1.11 Body Mass Index
    - 7.1.1.12 Percent body fat by electrical impedance test or other approved medical procedure
    - 7.1.1.13 Hepatitis C (screen antibody)
  - 7.1.2 Panel II - Employees with more than five (5) years of service, required annually until age forty (40):
    - 7.1.2.1 Physical examination and vital signs
    - 7.1.2.2 Spirometry – Pulmonary Function Test
    - 7.1.2.3 TB Skin Test or Quantiferon-Gold TB Test
    - 7.1.2.4 Urinalysis

- 7.1.2.5 Coronary Risk Panel (Chem Panel + CBC + UA + HDL + LDL)
  - 7.1.2.6 Audiogram with interpretation (including annual reporting)
  - 7.1.2.7 Two (2) View Chest X-ray interpreted by a Radiologist – **required every other year on even years**
  - 7.1.2.8 Vision screening (Bailey-Lovie Wall Chart)
  - 7.1.2.9 Heart-lung medical review letter – if needed
  - 7.1.2.10 Blood pressure monitoring
  - 7.1.2.11 Body Mass Index
  - 7.1.2.12 Percent body fat by electrical impedance test or other approved medical procedure
  - 7.1.2.13 Hepatitis C (screen antibody)
  - 7.1.2.14 **Resting EKG unless contradiction may require a Stress Treadmill**
- 7.1.3 Panel III – Employees over the age of forty (40) with more than five (5) years of service require a basic physical with a **Chest X-ray and a Stress Treadmill EKG every year.**
- 7.1.3.1 Physical examination and vital signs
  - 7.1.3.2 Spirometry – Pulmonary Function Test
  - 7.1.3.3 TB Skin Test or Quantiferon-Gold TB Test
  - 7.1.3.4 Urinalysis
  - 7.1.3.5 Coronary Risk Panel (Chem Panel + CBC + UA + HDL + LDL)
  - 7.1.3.6 Audiogram with interpretation (including annual reporting)
  - 7.1.3.7 Two (2) View Chest X-ray interpreted by a Radiologist – required every year
  - 7.1.3.8 Vision screening (Bailey-Lovie Wall Chart)
  - 7.1.3.9 Heart-lung medical review letter – if needed
  - 7.1.3.10 Blood pressure monitoring
  - 7.1.3.11 Body Mass Index
  - 7.1.3.12 Percent body fat by electrical impedance test or other approved medical procedure
  - 7.1.3.13 Hepatitis C (screen antibody)
  - 7.1.3.14 **Stress Treadmill EKG (read by Physician)**
- 7.2 As discussed in NRS 617.485.3(b), the CONTRACTOR shall administer Hepatitis A and B vaccinations to all designated employees.

## **ATTACHMENT "B"**

### **INSURANCE, HOLD HARMLESS AND INDEMNIFICATION REQUIREMENTS FOR MEDICAL PHYSICALS**

#### **INDEMNIFICATION AGREEMENT**

CONTRACTOR agrees to hold harmless, indemnify, and defend COUNTY, its officers, agents, employees, and volunteers from any loss or liability, financial or otherwise resulting from any claim, demand, suit, action, or cause of action based on bodily injury including death or property damage, including damage to CONTRACTOR'S property, caused by any negligent act, omission, or failure to act, on the part of CONTRACTOR, its employees, agents, representatives, or Subcontractors arising out of the performance of work under this Agreement by CONTRACTOR, or by others under the direction or supervision of CONTRACTOR.

In the event of a lawsuit against the COUNTY arising out of the activities of CONTRACTOR, should CONTRACTOR be unable to defend COUNTY due to the nature of the allegations involved, CONTRACTOR shall reimburse COUNTY, its officers, agents, and employees for cost of COUNTY personnel in defending such actions at its conclusion should it be determined that the basis for the action was in fact the negligent acts, errors or omissions of CONTRACTOR.

#### **GENERAL REQUIREMENTS**

CONTRACTOR shall purchase Industrial Insurance, General Liability, and Automobile Liability Insurance as described below. The cost of such insurance shall be borne by CONTRACTOR. CONTRACTOR may be required to purchase Professional Liability coverage based upon the nature of the service agreement.

#### **INDUSTRIAL INSURANCE**

It is understood and agreed that there shall be no Industrial Insurance coverage provided for CONTRACTOR or any Sub-consultant by COUNTY agrees, as a precondition to the performance of any work under this Agreement and as a precondition to any obligation of the COUNTY to make any payment under this Agreement to provide COUNTY with a certificate issued by an insurer in accordance with NRS 616B.627 and with a certificate of an insurer showing coverage pursuant to NRS 617.210 for CONTRACTOR and any sub-consultants used pursuant to this Agreement.

If CONTRACTOR or Subcontractor is a sole proprietor, coverage for the sole proprietor must be purchased and evidence of coverage must appear on the Certificate of Insurance. Such requirement may be waived for a sole proprietor who does not use the services of any employees, Subcontractors, or independent contractors and completes an Affirmation of Compliance pursuant to NRS 616B.627.

Should CONTRACTOR be self-funded for Industrial Insurance, CONTRACTOR shall so notify COUNTY in writing prior to the signing of this Agreement. COUNTY reserves the right to approve said retentions and may request additional documentation financial or otherwise for review prior to the signing of this Agreement.

It is further understood and agreed by and between COUNTY and CONTRACTOR that CONTRACTOR shall procure, pay for, and maintain the above-mentioned industrial insurance coverage at CONTRACTOR'S sole cost and expense.

### **MINIMUM LIMITS OF INSURANCE**

CONTRACTOR shall maintain limits no less than:

1. General Liability: \$1,000,000 combined single limit per claim for bodily injury, personal injury, and property damage. If Commercial General Liability Insurance or other form with a general aggregate limit is used, the general aggregate limit shall be increased to equal twice the required occurrence limit or revised to apply separately to each project or location.
2. Automobile Liability: \$1,000,000 combined single limit per claim for bodily injury and property damage. No aggregate limits may apply.
3. Professional Liability: \$5,000,000 per claim and as an annual aggregate.

### **DEDUCTIBLES AND SELF-INSURED RETENTIONS**

Any deductibles or self-insured retentions must be declared to and approved by the COUNTY Risk Management Division. COUNTY reserves the right to request additional documentation, financial or otherwise, prior to giving its approval of the deductibles and self-insured retention and prior to executing the underlying agreement. Any changes to the deductibles or self-insured retentions made during the term of this Agreement or during the term of any policy must be approved by the COUNTY Risk Manager prior to the change taking effect.

### **OTHER INSURANCE PROVISIONS**

The policies are to contain, or be endorsed to contain, the following provisions:

1. COUNTY, its officers, employees and volunteers are to be covered as insureds as respects: liability arising out of activities performed by or on behalf of CONTRACTOR, including COUNTY'S general supervision of CONTRACTOR; products and completed operations of CONTRACTOR; premises owned, occupied or used by CONTRACTOR; or automobiles owned, leased, hired, or borrowed by CONTRACTOR. The coverage shall contain no special limitations on the scope of protection afforded to COUNTY, its officers, employees or volunteers.
2. CONTRACTOR'S insurance coverage shall be primary insurance as Respects COUNTY, its officers, employees and volunteers. Any insurance or self-insurance maintained by COUNTY, its officers, employees or volunteers shall be excess of CONTRACTOR'S insurance and shall not contribute with it in any way.
3. Any failure to comply with reporting provisions of the policies shall not affect coverage provided to COUNTY, its officers, employees or volunteers.
4. CONTRACTOR'S insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.

5. Each insurance policy required by this clause shall be endorsed to state that coverage shall not be suspended, voided, canceled or non-renewed by either party, reduced in coverage or in limits except after thirty (30) days' prior written notice by certified mail, return receipt requested, has been given to COUNTY except for nonpayment of premium.

## ACCEPTABILITY OF INSURERS

Insurance is to be placed with insurers with a Best's rating of no less than A-: VII. COUNTY, with the approval of the Risk Manager, may accept coverage with carriers having lower Best's Ratings upon review of financial information concerning CONTRACTOR and insurance carrier. COUNTY reserves the right to require that CONTRACTOR'S insurer be a licensed and admitted insurer in the State of Nevada, or on the Insurance Commissioner's approved but not admitted list.

## VERIFICATION OF COVERAGE

CONTRACTOR shall furnish COUNTY with certificates of insurance and with original endorsements affecting coverage required by this exhibit. The certificates and endorsements for each insurance policy are to be signed by a person authorized by that insurer to bind coverage on its behalf. **All certificates and endorsements are to be addressed to the specific COUNTY contracting department and be received and approved by the COUNTY before work commences.** COUNTY reserves the right to require complete, certified copies of all required insurance policies, at any time.

## SUBCONTRACTORS

CONTRACTOR shall include all Subcontractors as insureds under its policies or shall furnish separate certificates and endorsements for each Subcontractor. All coverages for Subcontractors shall be subject to all of the requirements stated herein.

## MISCELLANEOUS CONDITIONS

1. CONTRACTOR shall be responsible for and remedy all damage or loss to any property, including property of COUNTY, caused in whole or in part by CONTRACTOR, any Subcontractor, or anyone employed, directed or supervised by CONTRACTOR.
2. Nothing herein contained shall be construed as limiting in any way the extent to which the CONTRACTOR may be held responsible for payment of damages to persons or property resulting from its operations or the operations of any Subcontractor under it.
3. In addition to any other remedies COUNTY may have if CONTRACTOR fails to provide or maintain any insurance policies or policy endorsements to the extent and within the time herein required, COUNTY may, at its sole option:
  - a. Order CONTRACTOR to stop work under this Agreement and/or withhold any payments which become due CONTRACTOR hereunder until CONTRACTOR demonstrates compliance with the requirements hereof;
  - b. Terminate the Agreement.



## STAFF REPORT

**Report To:** Board of Supervisors                      **Meeting Date:** July 7, 2022

**Staff Contact:** Darren Schulz, Public Works Director

**Agenda Title:** For Possible Action: Discussion and possible action regarding the potential disposal of 1.133 acres of Carson City-owned land, which includes a 15,841 square foot office building at 2621 Northgate Lane, APN 002-062-05 ("Property"), through an auction among qualified non-profits and the adoption of a related, proposed resolution, or through alternative means as may be directed by the Board of Supervisors ("Board"). (Robert Nellis, rnellis@carson.org; Randall Rice, rrice@carson.org).

Staff Summary: On April 21, 2022, the Board adopted Resolution No. 2022-R-9 declaring the intention to sell the Property under NRS 244.284 for no less than \$385,000 through an auction among qualified non-profits at its July 7, 2022, meeting. During this item, the Board will open any sealed bids from qualified non-profits that were timely submitted to the City Manager. The Board reserves the right to reject any bid, or all bids, if it determines doing so is in the best interests of Carson City. If the Board determines it has received one or more acceptable bids, it may adopt a resolution recognizing the highest bidder, and if applicable, the second highest bidder. The Board may also order disposal of the Property through alternative means.

**Agenda Action:** Formal Action / Motion                      **Time Requested:** 20 minutes

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### **Proposed Motion**

I move to approve Resolution No. 2022-R- \_\_\_\_\_, with:  
the \$ \_\_\_\_\_ bid from \_\_\_\_\_ as the highest bid, and  
the \$ \_\_\_\_\_ bid from \_\_\_\_\_ as the second highest bid.

### **Board's Strategic Goal**

Sustainable Infrastructure

### **Previous Action**

June 1987 – The Board approved an agreement for the support and conduct of cooperative extension work between the Agricultural/Extension Department of the University of Nevada System of Higher Education and Carson City.

April 18, 1996 – The Board approved the sale of the Property at public auction.

May 1, 1997 – The Board approved action to allow the Nevada Department of Transportation to auction the Property; auction was unsuccessful.

October 16, 1997 – The Board approved entering into sales agreements with licensed real estate brokers or agents to facilitate the Property’s sale; sales efforts were unsuccessful.

September 17, 2009 – The Board approved a lease for \$1.00 per year to Nevada Rural Counties RSVP Program, Inc. (“RSVP”) for an initial 10-year term expiring on September 17, 2019, with one 10-year option to renew. The lease may be terminated with 30 days' notice in the event the City conveys the office building on the Property.

March 18, 2010 – The Board approved a lease for \$1.00 per year to Ron Wood Family Resource Center (“RWFRC”) beginning on August 1, 2010, and terminating on July 30, 2020, with one 10-year option to renew. The lease may be terminated with 30 days' notice in the event the City conveys the office building on the Property.

July 21, 2016 – The Board approved a lease for \$1.00 per year to Capital City Circles Initiative (“CCCI”) for a 5-year term through August 31, 2021, with one 5-year option to renew. The lease may be terminated with 30 days' notice in the event the City disposes of the Property.

February 17, 2017 – The Board directed staff to review existing lease agreements for the Property and determine potential termination options.

December 21, 2017 – The Board approved, and the City subsequently entered into, lease amendments clarifying maintenance responsibilities between the City and the Property’s tenants, RSVP, RWFRC and CCCI.

July 1, 2021 – The Board directed staff to proceed with diligence related to disposal of the Property, including securing a title report and appraisals, discussing the possibility of transferring the Property to one or multiple non-profit tenants with the District Attorney’s Office and providing the current tenants with information on the Property’s capital investment needs.

February 25, 2022 – The Board directed staff to prepare a proposed resolution declaring the intent to sell the Property to a qualified non-profit at auction and perform all preparatory tasks for disposal in compliance with NRS 244.284.

April 7, 2022 – The Board directed staff to make modifications to sections 5, 6, 8 and 11 to a proposed resolution regarding disposal of the Property, as well as a proposed Quitclaim Deed, and sought additional guidance from the District Attorney’s Office regarding the enforceability of potential restraints on a grantee’s power to convey the Property in the future.

April 21, 2022 – The Board adopted Resolution No. 2022-R-9, declaring the Board’s intent to sell the Property through an auction among qualified non-profits, and establishing the terms and conditions for any conveyance to auction bidders.

### **Background/Issues & Analysis**

#### Property History:

In 1982, the City acquired the Property, including the office building situated on the Property, which was constructed in 1976.

On August 12, 1997, the Property was offered for sale at auction and there were no bidders. Due to there being no bidders at public auction, the City attempted to list the Property for sale with agents and brokers, but the Property still did not sell.

#### Current Tenants & Leases:

The City currently leases the office building on the Property to three non-profit organizations: RSVP, RWFRM and CCCI (collectively, "Non-Profit Tenants") and to the Board of Regents, University of Nevada System Cooperative Extension program ("UNCE"). The Non-Profit Tenants pay a dollar a year in rent, plus maintenance costs. The leases with the Non-Profit Tenants can be terminated with 30 days' notice if the office building on the Property is conveyed. UNCE is a holdover tenant on the Property unless or until an agreement is executed with the City, and it pays for utilities on the Property.

#### Maintenance & Capital Investment Needs:

The average annual cost to the City for maintenance on the Property is approximately \$19,000. On March 3, 2020, Faithful + Gould, Inc. ("F+G") prepared a Facility Condition Assessment ("FCA") Report that identified capital investment needs that are projected to be \$1,693,406.00 over 10 years for the Property. Adjusted for today's dollars and considering current building market conditions, the estimated cost for the Property's capital investment needs is estimated to be \$1,814,608. F+G also estimated the Construction Replacement Value of the office building on the Property to be \$5,132,400, or \$350.00 per SF, if the City was to construct an equivalent building.

#### Diligence Completed by Staff:

On July 19, 2021, the District Attorney's Office provided an analysis regarding City's ability to potentially convey the Property to a new non-profit comprising the current Non-Profit Tenants and UNCE pursuant to NRS 244.284 or 244.2833. On September 23, 2021, Public Works' staff met with the current Non-Profit Tenants and UNCE to discuss the costs of the recommended capital investment for the building over a 10-year period, Non-Profit Tenants' and UNCE's financial plan to maintain the building if it were to be conveyed to them, Non-Profit Tenants' and UNCE's plan to continue to lease space and the possibility of forming a new non-profit, comprising the current Non-Profit Tenants and UNCE, to accept the donation.

Between October 21, 2021, and December 14, 2021, staff received two appraisals for the Property indicating a minimum average value of \$1,035,000 if the City elects to not cure any of the recommended deferred maintenance prior to disposal.

#### Resolution No. 2022-R-9:

On April 21, 2022, the Board adopted Resolution No. 2022-R-9. That resolution was intended to follow the general procedures for real property auctions, except where doing so is inconsistent with the Board's goal to transfer the Property to a local non-profit organization that will actually use the Property to provide charitable services to the community. Resolution No. 2022-R-9 allows the Board to determine whether a non-profit organization is qualified to bid before opening sealed bids. Based on NRS 244.284 and direction provided during the Board's February 25, 2022 meeting, bidding is limited to "qualified non-profits," which must (1) be Nevada non-profit corporations, (2) be tax exempt 501(c)(3) organizations, and (3) have been providing charitable services in Carson City for at least one year.

Resolution No. 2022-R-9 set the Board's July 7, 2022, meeting as the date for an auction among qualified non-profits.

#### Public Notice regarding the July 7, 2022, Auction:

As required by Resolution No. 2022-R-9, notice of the July 7, 2022 auction was published in the Nevada Appeal on June 15, 2022; June 22, 2022; June 29, 2022; and July 6, 2022. In addition, a complete copy of Resolution No. 2022-R-9 was posted at the following locations beginning on June 15, 2022: Carson City Hall (201 N. Carson St.), Carson City Community Center (851 E. William St.), Carson City Courthouse (885 E. Musser St.) and Carson City Public Works (3505 Butti Way).

#### The July 7, 2022, Auction:

Based on Resolution No. 2022-R-9, potential bidders were required to submit a sealed bid and an unsealed explanation of the bidder's status as a qualified non-profit to the City Manager no later than 5:00 pm on July 6, 2022. Sealed bids from qualified non-profits are scheduled to be opened at 8:45 am during the Board's July 7,

2022 meeting. The Board will determine the highest written bid, then solicit oral bids exceeding the highest written bid by 5% or more from qualified non-profits that timely submitted sealed bids. The Board maintains discretion to reject any particular bid, or all bids, if it determines doing so is in the City's best interests.

If the Board identifies one or more acceptable bids, it should determine the highest bidder and, if applicable, the second highest bidder. The proposed resolution accompanying this item allows the Board to declare the highest and second highest bidders at auction and authorizes the Mayor to execute a deed conveying the Property to the appropriate bidder if all terms and conditions for conveyance are properly fulfilled. Those terms and conditions are set forth in Resolution No. 2022-R-9.

The conveyance will be made "as-is, where-is" through a quitclaim deed, and, as required by NRS 244.284(3), the Property would automatically revert to the City if it is no longer used for charitable purposes.

If the Board determines disposal of the Property via auction is, for any reason, not in the City's best interests, it may provide alternative direction to staff regarding disposal of the Property.

**Applicable Statute, Code, Policy, Rule or Regulation**

NRS 244.284

**Financial Information**

**Is there a fiscal impact?** Yes

**If yes, account name/number:** General Fund – Surplus Sales – 1010090-482080

**Is it currently budgeted?** No

**Explanation of Fiscal Impact:** Proceeds from the sale would go into the General Fund to be used for future facilities maintenance or to acquire other real property for the City's use. Revenues are not known, therefore they are not currently budgeted.

**Alternatives**

Do not adopt the resolution and/or provide alternative direction, which could include the following motion: I move to direct staff to engage in direct negotiations with interested, qualified parties for the disposal of the Property under NRS 244.284.

**Attachments:**

[2. NRS 244.284 Resolution for Disposal-Northgate.pdf](#)

[3. 2022R9Recorded.pdf](#)

[4. Nevada Appeal Publication.pdf](#)

**Board Action Taken:**

Motion: \_\_\_\_\_

1) \_\_\_\_\_

2) \_\_\_\_\_

Aye/Nay

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

---

(Vote Recorded By)

**RESOLUTION NO. 2022-R-\_\_\_\_\_**

**A RESOLUTION FOR THE CONVEYANCE, UNDER NRS 244.284, OF CARSON CITY (“CITY”) LAND KNOWN AS 2621 NORTHGATE LANE, APN 002-062-05, (“PROPERTY”), INCLUDING THE 15,841 SQUARE FOOT OFFICE BUILDING ON THE PROPERTY, THROUGH AN AUCTION, AND AUTHORIZING THE MAYOR TO EXECUTE AND DELIVER A DEED UPON BIDDER’S CONFORMING PERFORMANCE OF TERMS AND CONDITIONS FOR CONVEYANCE.**

**WHEREAS**, the City owns the Property, which is further depicted in Exhibit A to Resolution No. 2022-R-9, and with the legal description in Exhibit B to Resolution No. 2022-R-9; and

**WHEREAS**, the City acquired the Property in 1982, including the office building situated on the Property, which was constructed in 1976; and

**WHEREAS**, on August 12, 1997, the Property was offered for sale at auction and there were no bidders. Due to there being no bidders at public auction, the City attempted to list the Property for sale with agents and brokers, but the Property still did not sell; and

**WHEREAS**, the City currently leases the office building on the Property to three non-profit organizations and to the Board of Regents; and

**WHEREAS**, NRS 244.284 allows the City to dispose of real property to a corporation for public benefit to be used for charitable or civic purposes on such terms and conditions as seem proper to the City; and

**WHEREAS**, on April 21, 2022, the Carson City Board of Supervisors (“Board of Supervisors”) adopted Resolution No. 2022-R-9 declaring its intention to sell the Property at an auction among qualified non-profits under NRS 244.284 and setting forth the terms and conditions for conveyance of the Property; and

**WHEREAS**, notice of the adoption of Resolution No. 2022-R-9 and of the time, place and manner of the auction among qualified non-profits was published in the Nevada Appeal on June 15, 2022; June 22, 2022; June 29, 2022; and July 6, 2022; and

**WHEREAS**, on June 15, 2022, Resolution No. 2022-R-9, including its exhibits, was posted at the following public locations: Carson City Hall (201 N. Carson St.), Carson City Community Center (851 E. William St.), Carson City Courthouse (885 E. Musser St.) and Carson City Public Works (3505 Butti Way); and

**WHEREAS**, the terms and conditions from Resolution No. 2022-R-9 for any conveyance of the Property are fully incorporated here by reference and shall be binding on bidders for the Property, including any eventual purchaser through the auction procedures established by Resolution No. 2022-R-9; and

**WHEREAS**, the Board of Supervisors conducted an auction at its July 7, 2022 meeting under Resolution No. 2022-R-9, which requires, among other things, that:

- (1) The Board of Supervisors only consider bids from qualified non-profits;

(2) The minimum price of the Property at auction shall be Three-Hundred Eighty-Five Thousand Dollars and 00/100 (\$385,000.00);

(3) Sealed bids and unsealed qualifications be submitted by potential bidders to the City Manager by 5:00 pm on July 6, 2022;

(4) The Board Supervisors open the sealed bids of qualified non-profits at its public meeting on July 7, 2022, then call for any oral bids which exceed the highest written bid by 5% or more from qualified non-profits that properly submitted a sealed bid;

(5) At the conclusion of any oral bidding, the Board of Supervisors determine the highest and second highest bidders;

(6) The Board of Supervisors maintain the discretion to reject any bid, or all bids, if it determines doing so is in the best interests of Carson City, and any rejected bids be excluded from the determination of the highest and second highest bidders; and

**NOW, THEREFORE,** the Board of Supervisors hereby resolves that:

(1) The bid in the amount of \$ \_\_\_\_\_ from \_\_\_\_\_ was the highest bid for the Property;

(2) The bid in the amount of \$ \_\_\_\_\_ from \_\_\_\_\_ was the second highest bid for the Property;

(3) The City does not need the Property for public purposes, and conveying the Property to the highest or second highest bidder in accord with the terms and conditions established in Resolution No. 2022-R-9 is in the best interests of the City; and

(4) The Mayor is authorized to execute a deed and to deliver it upon the relevant bidder's conforming performance of all the terms or conditions set forth in Resolution No. 2022-R-9.

Upon motion by Supervisor \_\_\_\_\_, seconded by Supervisor \_\_\_\_\_, the foregoing Resolution was passed and adopted this 7th day of July, 2022 by the following vote.

VOTE:	AYES:	_____
		_____
		_____
		_____
		_____
	NAYS:	_____
		_____
		_____
	ABSENT:	_____

ABSTAIN: \_\_\_\_\_

\_\_\_\_\_  
Lori Bagwell, Mayor

ATTEST

\_\_\_\_\_  
Aubrey Rowlett, Clerk  
Carson City, Nevada

APN: 002-062-05

**Doc # 532148**  
Recorded 5/2/2022 10:04 AM  
Requested By: RECORDING  
SECRETARY  
Carson City - NV  
Aubrey Rowlett Clerk-Recorder  
Pg 1 of 11 Fee: \$0.00  
Recorded By:CM

FOR RECORDER'S USE ONLY

### RESOLUTION NO. 2022-R-9

Resolution declaring the intention to sell 1.133 Acres of Carson City land known  
as 2621 Northgate Lane

#### TITLE OF DOCUMENT

I, the undersigned, hereby affirm that the attached document, including any exhibits, hereby submitted for recording does not contain personal information of any person or persons.  
(NRS 239B.030)

I, the undersigned, hereby affirm that the attached document, including any exhibits, hereby submitted for recording does contain personal information of a person or persons as required by law. State specific law: \_\_\_\_\_

  
Signature

**Hope Mills- Office Specialist**  
Print Name & Title

WHEN RECORDED MAIL TO:

Carson City  
885 E. Musser Street, suite 1032  
Carson City, NV 89701

**RESOLUTION NO. 2022-R-9**

**A RESOLUTION DECLARING THE INTENTION TO SELL 1.133 ACRES OF CARSON CITY LAND KNOWN AS 2621 NORTHGATE LANE, APN 002-062-05, ("PROPERTY"), INCLUDING THE 15,841 SQUARE FOOT OFFICE BUILDING ON THE PROPERTY, THROUGH AN AUCTION AMONG QUALIFIED NON-PROFITS.**

**WHEREAS**, the City owns the Property, which is further depicted in Exhibit A to the resolution, and with the legal description in Exhibit B to the resolution; and

**WHEREAS**, the City acquired the Property in 1982, including the office building situated on the Property, which was constructed in 1976; and

**WHEREAS**, on August 12, 1997, the Property was offered for sale at auction and there were no bidders. Due to there being no bidders at public auction, the City attempted to list the Property for sale with agents and brokers, but the Property still did not sell; and

**WHEREAS**, the City currently leases the office building on the Property to three non-profit organizations and to the Board of Regents; and

**WHEREAS**, the average annual cost to the City for maintenance on the Property is approximately \$19,000 and the estimated cost for the Property's capital investment needs is \$1,814,608 over 10 years; and

**WHEREAS**, NRS 244.284 allows the City to dispose of real property to a corporation for public benefit to be used for charitable or civic purposes on such terms and conditions as seem proper to the City; and

**WHEREAS**, the proposed sale of the City's interest in this Property via an auction among qualified non-profits would be consistent with NRS 244.284;

**NOW, THEREFORE**, the Carson City Board of Supervisors hereby resolves that:

- (1) As used in this resolution, the term "qualified non-profit" shall refer to an organization that:
  - (a) Is organized as a Nevada non-profit corporation under NRS Ch. 82;
  - (b) Is a tax exempt 501(c)(3) organization; and
  - (c) Has provided charitable services in Carson City for at least one year from the date of this resolution;
- (2) Carson City does not need the Property for public purposes, and auctioning the Property among qualified non-profits to be used for charitable purposes is desirable and in the best interest of Carson City;
- (3) The Board of Supervisors intends to sell the Property through an auction among qualified non-profit organizations to be used for charitable purposes, consistent with NRS 244.284;
- (4) As required by NRS 244.284(3), any conveyance is subject to automatic reversion to the City if the qualified non-profit organization ceases to use the Property for charitable purposes;

(5) The minimum price of the auction shall be Three-Hundred Eighty-Five Thousand Dollars and 00/100 (\$385,000.00);

(6) A sealed-bid auction for the Property will be held on July 7, 2022, at 8:45 am;

(7) Notice of the adoption of this resolution and of the time, place and manner of the auction among qualified non-profits shall be given by:

- (a) Posting this resolution, including exhibits, in at least three public locations for at least the 15 days preceding the scheduled sealed-bid auction; and
- (b) Publishing in the Nevada Appeal, at least once a week for the three weeks preceding the scheduled sealed-bid auction, notice of the resolution's adoption; a description of the Property; the minimum price for the Property; the time, place and manner of the auction; and where copies of the resolution can be found.

(8) No later than 5:00 pm on July 6, 2022, prospective bidders shall submit to the City Manager a package containing the following sealed and unsealed components for the Board of Supervisors' review and consideration:

- (a) Unsealed Portion of Submission:
  - (i) Information sufficient for the City to quickly verify that the prospective bidder fulfills the criteria of a "qualified non-profit," as defined in this resolution, and is therefore eligible to participate in the auction.
- (b) Sealed Portion of Submission:
  - (i) The qualified non-profit's actual bid for the Property; and
  - (ii) A letter of credit or other proof of ability to pay at least the amount of the written bid by the qualified non-profit.

(9) The Board of Supervisors will open the sealed bids of qualified non-profits at the date and time designated for the sealed-bid auction. The Board of Supervisors will determine the highest written bidder, then call for any oral bids which exceed the highest written bid by 5% or more. Oral bids may only be made by qualified non-profits that properly submitted a sealed bid. At the conclusion of any oral bidding, the Board of Supervisors will determine the highest and second highest bidders. The Board of Supervisors may reject any oral bids that exceed the amount of the letter of credit or other proof of ability to pay provided in the qualified non-profit's sealed submission.

(10) The Board of Supervisors reserves the right to reject any bid, or all bids, if it determines doing so is in the best interests of Carson City. Any rejected bids will be excluded from the determination of the highest and second highest bidders.

(11) All bids for the Property, and the Property's conveyance, are subject to the following terms and conditions:

- (a) A \$15,000 security deposit from the highest bidder will be required. The security deposit must be paid within two business days of notification of selection as the

highest bidder, and must be made payable to the Carson City Treasurer. The security deposit will be credited against the purchase price.

- (b) Payment in full must be received from the highest bidder within 90 days of the date of the resolution approving the highest bidder.
- (c) If the highest bidder fails to submit full payment within 90 days, the security deposit will be forfeited to the City as liquidated damages, not as a penalty, and the Property will be offered to second highest bidder.
- (d) If the highest bidder fails to perform within 90 days, the City will provide the second highest bidder with written notice that the highest bidder failed to perform, and the second highest bidder will then have two business days to tender a \$15,000 security deposit made payable to the Carson City Treasurer. The security deposit will be credited against the purchase price. The second highest bidder must then tender payment in full within 90 days from the date the City gave written notice of the highest bidder's failure to perform. If the second highest bidder fails to submit full payment within those 90 days, the security deposit will also be forfeited to the City as liquidated damages, not as a penalty.
- (e) The purchase price for the Property shall be paid via certified funds acceptable to the Carson City Treasurer or wire-transferred funds, and Carson City shall provide a fully executed quitclaim deed, substantially similar to Exhibit C to this resolution, to the buyer upon confirmation that the full purchase price has cleared. Thereafter, Carson City shall record that fully executed quitclaim deed upon buyer's request.
- (f) **The Property is being conveyed AS-IS, WHERE-IS, via quitclaim deed and subject to NRS 244.284 and any other restrictions on future conveyance shown in Exhibit C to this resolution.** Carson City has disclosed the following items during open meetings regarding the Property: a title report from Stewart Title (dated July 26, 2021; File No. 1321115); two appraisals for the Property (Johnson, Perkins, Griffin appraisal, dated Nov. 12, 2021; John S. Wright & Assocs. appraisal, dated Sept. 29, 2021), and a facility condition assessment for the Property (Faithful+Gould assessment, dated March 3, 2020). **However, all bidders and the ultimate buyer must rely on their own diligence and investigations, performed at their own expense, in determining whether to bid on and/or buy the Property. This section is a material part of Carson City's consideration for and inducement to offer the Property for sale, and this term shall survive the closing for this transaction.**
- (g) The buyer shall be responsible for all costs associated with closing, including but not limited to any transfer costs.

(12) The Board of Supervisors will issue a resolution declaring the qualified non-profits it determines to be the highest and second highest bidders, and it will authorize the Mayor to execute a quitclaim deed substantially similar to Exhibit C to this resolution, in favor of the appropriate, qualified non-profit.





SECTION 8,  
E SURVEY  
JF  
THE DATE  
5 OF THE  
AND ARE

**RECORDER'S CERTIFICATE:**

FILED FOR RECORD AT THE REQUEST OF MANHARD CONSULTING, LTD. ON THIS  
17 DAY OF SEPT 2018, AT 32 MINUTES PAST 10 O'CLOCK A.M. IN  
BOOK 11, AT PAGE 1949 OF OFFICIAL RECORDS OF CARSON CITY, NEVADA.  
RECORDING FEE: \$177.00 BY: SUSAN MERLIWETHER  
RECORDER  
FILE NUMBER: 448548 BY: [Signature]

**CARSON CITY**

BEING THAT PARCEL OF LAND DESCRIBED IN DOC. # 14528  
RECORDED NOV. 4, 1982, OFFICIAL RECORDS OF CARSON CITY, NV  
SITUATE WITHIN THE NE 1/4 NW 1/4 OF SECTION 8, T15N, R20E, MDB&M  
CARSON CITY NEVADA

RECORD OF SURVEY  
FOR



**Manhard**  
CONSULTING LTD

8850 Douglas Rd Boulevard, Suite 101, Reno, NV 89521 ph: 775-748-3500 fx: 775-748-3580 manhard.com  
Civil Engineers • Surveyors • Water Resource Engineers • Water & Wastewater Engineers  
Construction Managers • Environmental Scientists • Landscape Architects • Planners

DRAWN BY:	JM
DATE:	4/5/2018
PROJ. CODE:	CON.CNV
PROJ. #:	01
SHEET	1
OF	1

2949

2949

# EXHIBIT B

## Legal Description

That portion of the Northeast 1/4 of the Northwest 1/4 of Section 8, Township 15 North, Range 20 East, M.D.B. & M., in Carson City Nevada, described as follows:

Commencing at the North 1/4 corner of Section 8, Township 15 North, Range 20 East, M.D.B.&M., thence South  $56^{\circ}16'21''$  West, 1404.87 feet to the Northeast corner of the parcel and the True Point of Beginning; thence South  $00^{\circ}26'34''$  East, 288.37 feet; thence South  $87^{\circ}20'26''$  West, 173.50 feet; thence along Northgate Street, North  $00^{\circ}46'26''$  East, 291.79 feet; thence North  $88^{\circ}24'26''$  East, 167.21 feet to the Point of Beginning.

Reference is hereby made to that certain Record of Survey Map No. 2949 for Carson City in the office of the County Recorder of Carson City, State of Nevada, on September 17, 2018 as file no. 488548 of Official Records.

# EXHIBIT C

APN 002-062-05

**AFTER RECORDING RETURN TO:**

Attention: Real Property Manager  
Carson City Public Works

3505 Butti Way  
Carson City, NV 89701

**MAIL TAX STATEMENTS TO:**

[Buyer]  
[Buyer Address 1]  
[Buyer Address 2]

The undersigned hereby affirms that this document, including any exhibits, submitted for recording does not contain the personal information of any person or persons. (Pursuant to NRS 239B.030)

## **QUITCLAIM DEED**

THIS DEED, made this \_\_\_\_ day of \_\_\_\_\_, 2022 by and between CARSON CITY, a consolidated municipality and political subdivision of the State of Nevada, hereinafter called GRANTOR, and \_\_\_\_\_, a Nevada nonprofit corporation and I.R.S. tax-exempt 501(c)(3) organization, hereinafter called GRANTEE,

### WITNESSETH:

That said GRANTOR, pursuant to Resolution 2022-R-9 (recorded with the Carson City Recorder as Document No. \_\_\_\_\_) and NRS 244.284, and for good and valuable consideration, the receipt whereof is hereby acknowledged, and subject to the requirements of NRS 244.284(3), does hereby remise, release and forever quitclaim unto the said GRANTEE all of the right, title and fee interest said GRANTOR can convey in and to that certain real property, hereinafter PROPERTY, located at 2621 Northgate Lane, Carson City, Nevada (APN 002-062-05), described as follows:

That portion of the Northeast 1/4 of the Northwest 1/4 of Section 8, Township 15 North, Range 20 East, M.D.B. & M., in Carson City Nevada, described as follows: Commencing at the North 1/4 corner of Section 8, Township 15 North, Range 20 East, M.D.B.&M., thence South 56°16'21" West, 1404.87 feet to the Northeast corner of the parcel and the True Point of Beginning; thence South 00°26'34" East, 288.37 feet; thence South 87°20'26" West, 173.50 feet; thence along Northgate Street, North 00°46'26" East, 291.79 feet; thence North 88°24'26" East, 167.21 feet to the Point of Beginning. Reference is hereby made to that certain Record of Survey Map No. 2949 for Carson City in the office of the County Recorder of Carson City, State of Nevada, on September 17, 2018 as file no. 488548 of Official Records.

# EXHIBIT C

**SUBJECT TO THE FOLLOWING RESTRICTIONS WHICH GRANTEE AND GRANTOR INTEND TO RUN WITH THE LAND:**

- (1) As used in this Quitclaim Deed, the term “qualified non-profit” shall refer to an organization that (a) is organized as a Nevada non-profit corporation under NRS Ch. 82, (b) is a tax exempt 501(c)(3) organization, and (c) has provided charitable services in Carson City for at least one year preceding the date it receives any estate or interest in the PROPERTY.
- (2) Consistent with NRS 244.284(3), this Quitclaim Deed conveys GRANTOR’s interest in the PROPERTY to GRANTEE so long as the PROPERTY is used by a qualified non-profit to actually provide charitable services to the residents of Carson City, and if the PROPERTY ceases to be used by a qualified non-profit for such charitable purposes, the PROPERTY automatically reverts to GRANTOR.
- (3) In addition, any transfer of estate or interest in the PROPERTY from GRANTEE or its successors (“GRANTEE-CONVEYOR”), to a third party (“GRANTEE-CONVEYEE”) with a term of 10 years or longer is void unless pre-approved by the Board of Supervisors. GRANTEE-CONVEYOR and GRANTEE-CONVEYEE will be responsible for presenting the Board of Supervisors with information sufficient to determine whether the GRANTEE-CONVEYEE (a) will be a qualified non-profit as defined in Resolution 2022-R-9, and (b) is otherwise eligible to receive an interest in the Property under NRS 244.284. The Board of Supervisors shall not unreasonably withhold such pre-approval.

IN WITNESS WHEREOF said GRANTOR has hereunto signed on the day and year first above written.

\_\_\_\_\_  
LORI BAGWELL, Mayor

STATE OF NEVADA )  
CARSON CITY )

This instrument was acknowledged before me on this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_  
by \_\_\_\_\_.

\_\_\_\_\_  
Notary Public

# EXHIBIT C

APPROVED AS TO FORM:  
Carson City District Attorney

By: \_\_\_\_\_

Date: \_\_\_\_\_

**NOTICE OF PUBLIC AUCTION  
CARSON CITY BOARD OF SUPERVISORS**

On April 21, 2022, the Carson City Board of Supervisors adopted Resolution No. 2022-R-9, declaring the Board of Supervisor's ("Board") intent to sell 1.133 acres of Carson City land known as 2621 Northgate Lane, APN 002-062-05 ("Property"), including the 15,841 square foot office building on the Property, through and auction among qualified nonprofits. "Qualified non-profit" shall be an organization that:

1. Is organized as a Nevada non-profit corporation under NRS Ch. 82;
2. Is a tax exempt 501(c)(3) organization; and
3. Has provided charitable services in Carson City for at least one year from the date of the Resolution.

The Board intends to convey the Property under NRS 244.284 through an auction among qualified non-profits. That auction will occur during a public meeting on Thursday, July 7, 2022 at 8:45 am at the Carson City Community Center, Robert 'Bob' Crowell Board Room, 851 East William Street, Carson City, Nevada.

All prospective bidders that wish to participate in the July 7, 2022 auction must submit the following sealed and unsealed components to the City Manager, no later than 5:00 pm on July 6, 2022:

Unsealed Portion of Submission: Information sufficient for the City to quickly verify that the prospective bidder fulfills the criteria of a "qualified non-profit," as defined in the Resolution.

1. Unsealed Portion of Submission: Information sufficient for the City to quickly verify that the prospective bidder fulfills the criteria of a "qualified non-profit," as defined in the Resolution
2. Sealed Portion of Submission: The qualified non-profit's actual bid for the Property and a letter of credit or other proof of ability to pay at least the amount of the written bid by the qualified non-profit.

The minimum price of the auction shall be Three-Hundred Eight-Five Thousand Dollars and 00/100 (\$385,000).

The Board will open the sealed bids of qualified non-profits at the date and time designated for the auction. The Board will determine the highest written bidder, then call for any oral bids which exceed the highest written bid by 5% or more from among the qualified non-profits that submitted written bids. At the conclusion of any oral bidding, the Board will determine the highest and second highest bidders. The Board reserves the right to reject any bid, or all bids, if it determines doing so is in the best interests of Carson City. Any rejected bids will be excluded from the determination of the highest and second highest bidders.

To request a complete copy of Resolution No. 2022-R-9, including that resolution's exhibits, contact Robert Nellis at RNellis@carson.org or (775) 283-7714. In addition, a complete copy of Resolution No. 2022-R-9 will be posted at the following locations beginning on June 15, 2022: City Hall (201 N. Carson St, Carson City, NV 89701), Community Center (851 E. William St, Carson City, NV 89701), Public Works (3505 Butti Way, Carson City, NV 89701).



## STAFF REPORT

**Report To:** Board of Supervisors **Meeting Date:** July 7, 2022

**Staff Contact:** Aubrey Rowlatt, Clerk Recorder

**Agenda Title:** For Possible Action: Discussion and possible action regarding the canvass of the recount of the vote for the June 14, 2022, primary election. (Aubrey Rowlatt, arowlatt@carson.org).

Staff Summary: NAC 293.365 requires the Board of Supervisors to meet and canvass the returns of any recount of a vote demanded pursuant to NRS 293.403 on or before the fifth working day following the completion of the recount.

**Agenda Action:** Formal Action / Motion **Time Requested:** 15 minutes

---

### **Proposed Motion**

I move to accept the canvass of the recount of the vote for the primary election held on June 14, 2022.

### **Board's Strategic Goal**

Efficient Government

### **Previous Action**

N/A

### **Background/Issues & Analysis**

Voting for the 2022 primary election closed on June 14, 2022. A recount was demanded by a candidate for governor pursuant to NRS 293.403. NAC 293.365(1) requires the Board of Supervisors to meet and canvass the returns of the recount of the vote on or before the fifth working day following the completion of the recount.

### **Applicable Statute, Code, Policy, Rule or Regulation**

NRS 293.304; NAC 293.365

### **Financial Information**

**Is there a fiscal impact?** No

**If yes, account name/number:**

**Is it currently budgeted?**

**Explanation of Fiscal Impact:**

### **Alternatives**

Do not accept the canvass of the recount of the vote and provide alternative direction.

**Attachments:**

**Board Action Taken:**

Motion: \_\_\_\_\_

1) \_\_\_\_\_

2) \_\_\_\_\_

Aye/Nay

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
(Vote Recorded By)



## STAFF REPORT

**Report To:** Board of Supervisors

**Meeting Date:** July 7, 2022

**Staff Contact:** Earl A. Mays III, Captain

**Agenda Title:** For Discussion Only: Presentation of a biannual report on Carson City jail conditions and information concerning deaths of prisoners within the jail. (Earl A. Mays III, emays@carson.org)

**Staff Summary:** During the 2019 Legislative Session, the Nevada Legislature enacted Assembly Bill (AB) 301, which requires the Sheriff to submit to the Board of Supervisors a biannual report containing aggregated data similar to the information required to be submitted pursuant to the federal Death in Custody Reporting Act of 2013, Public Law 113-242, concerning the deaths of prisoners in the jail during the immediately preceding 6 months and the circumstances surrounding any such deaths. AB 301 also requires the Board, at least twice each year, to include as an item on the agenda of a public meeting a consideration of the conditions of the jail, the number of deaths of prisoners in the jail and the known circumstances surrounding any such deaths during the immediately preceding 6 months.

**Agenda Action:** Other / Presentation

**Time Requested:** 10 minutes

---

### **Proposed Motion**

N/A

### **Board's Strategic Goal**

Safety

### **Previous Action**

N/A

### **Background/Issues & Analysis**

The Nevada Legislature enacted AB 301 during the 2019 Legislative Session to amend various provisions of NRS Chapter 211, which sets forth state statutes governing local facilities for detention. NRS 211.020, which makes the Board of Supervisors responsible for building, inspecting and repairing any county jail and also requires the Board to inquire, once every 3 months, into the security of the jail and the treatment and condition of the prisoners and to take all necessary precautions against escape, sickness and infection, was amended to also require the Board to take precautions to prevent suicide and death. NRS 211.020 was further amended to require the Board to review all available information concerning deaths of prisoners in the county jail and, at least twice each year, to include as an item on the agenda of a public meeting, consideration of the conditions of the jail and the number of deaths of prisoners and the known circumstances surrounding any such deaths.

AB 301 also amended NRS 211.030 to require the Sheriff to report to the Board of Supervisors the death of any prisoner in the jail not later than 48 hours of the occurrence. NRS 211.030 was further amended to require the Sheriff to submit to the Board a biannual report that contains aggregated data similar to the information that is

required to be submitted to the federal Death in Custody Reporting Act of 2013, Public Law 113-242, concerning the deaths of prisoners in the jail during the immediately preceding 6 months and the circumstances surrounding any such deaths.

This agenda item is to present to the Board the second of the two biannual reports required to be submitted by the Sheriff, and also satisfies the second of the two public meeting items required in each year for the Board to review the available information concerning prisoner deaths and to consider the conditions of the jail and the number of prisoner deaths and any known circumstances surrounding any such deaths. The first report was submitted during the first public meeting earlier this year, on January 6, 2022.

**Applicable Statute, Code, Policy, Rule or Regulation**

Assembly Bill No. 301 (2019); Death in Custody Reporting Act of 2013, Public Law 113-242

**Financial Information**

**Is there a fiscal impact?** No

**If yes, account name/number:**

**Is it currently budgeted?** No

**Explanation of Fiscal Impact:**

**Alternatives**

N/A

**Attachments:**

[2022 Detention.pdf](#)

**Board Action Taken:**

Motion: \_\_\_\_\_

1) \_\_\_\_\_

2) \_\_\_\_\_

Aye/Nay

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
(Vote Recorded By)



# Carson City Sheriff's Office



Sheriff Ken Furlong

Volume 20 Number 5

## CompStat

*Detention Division*

*Captain Earl Mays*

May 2022	Month to Month Comparison			Year to Year Comparison					
	May 2022	Apr 2022	% Change	2022 YTD	2021 YTD	% Change	2022 YTD	2020 YTD	% Change
<b>Booking Activity</b>									
Total Bookings	226	256	-12%	1,216	1,355	-10%	1,216	992	23%
By Carson City Sheriff	141	186	-24%	899	1,063	-15%	899	654	37%
By Alternative Sent.	41	29	41%	135	96	41%	135	85	59%
By NHP	12	7	71%	46	36	28%	46	38	21%
By Parole & Probation	6	4	50%	20	16	25%	20	23	-13%
By Other Agency	26	30	-13%	116	144	-19%	116	192	-40%
Total Outside Agency Arrests	85	70	21%	317	292	9%	317	338	-6%
Releases	198	242	-18%	1,119	1,140	-2%	1,119	1,077	4%
<b>Monthly Population</b>									
Monthly High	185	189	-2%	181	155	17%	181	164	10%
Monthly Low	163	166	-2%	157	130	21%	157	129	22%
Monthly Average	180	184	-2%	176	146	21%	176	152	16%
<b>Avg. Daily Population</b>									
Male	141	140	1%	133	115	16%	133	116	15%
Female	39	44	-11%	43	31	39%	43	36	19%
<b>Average Stay in Jail</b>	130	131	-1%	127	111	14%	127	114	11%



# Carson City Sheriff's Office



Sheriff Ken Furlong

Volume 20 Number 5

## CompStat

*Detention Division*

*Captain Earl Mays*

May 2022	Month to Month Comparison			Year to Year Comparison					
	May 2022	Apr 2022	% Change	2022 YTD	2021 YTD	% Change	2022 YTD	2020 YTD	% Change
<b>Inmate Incidents</b>									
Argument	0	2	---	3	5	-40%	3	3	---
Arrest	6	0	---	7	3	133%	7	2	250%
Assault on Officer	0	0	---	1	0	---	1	0	---
Attempted Suicide	1	0	---	1	4	-75%	1	1	---
Battery on Officer	0	0	---	0	0	---	0	0	---
Cell Extraction	0	0	---	0	0	---	0	0	---
Contraband - General	1	3	-67%	5	4	25%	5	9	-44%
Contraband - Drug	2	1	100%	3	2	50%	3	2	50%
Contraband - Weapon	0	0	---	0	0	---	0	0	---
Criminal Offense	0	0	---	0	2	---	0	1	---
Damage to Jail Property	0	0	---	0	3	---	0	1	---
Escape	0	0	---	0	0	---	0	0	---
Incident	10	10	---	56	62	-10%	56	37	51%
Inmate Grievance	0	0	---	0	3	---	0	2	---
Inmate vs. Inmate	5	0	---	6	5	20%	6	6	---
Medical	9	3	200%	23	31	-26%	23	49	-53%
Rule Violation	23	16	44%	63	71	-11%	63	68	-7%
Strip Search	7	4	75%	14	9	56%	14	1	1300%
Use of Force	0	0	---	0	4	---	0	0	---
Total	64	39	64%	182	208	-13%	182	182	---
<b>Searches Conducted</b>	163	89	83%	620	571	9%	620	519	19%



# Carson City Sheriff's Office



Sheriff Ken Furlong

Volume 20 Number 5

## CompStat

*Detention Division*

*Captain Earl Mays*

May 2022	Month to Month Comparison			Year to Year Comparison					
	May 2022	Apr 2022	% Change	2022 YTD	2021 YTD	% Change	2022 YTD	2020 YTD	% Change
<b>Medical Activity</b>									
Consultation	65	59	10%	295	458	-36%	295	659	-55%
Sick Call Requests	486	505	-4%	2,499	1,974	27%	2,499	1,940	29%
Sick Calls Seen	338	456	-26%	2,019	1,891	7%	2,019	1,663	21%
Medical Emergency	7	5	40%	26	24	8%	26	16	63%
Total	896	1,025	-13%	4,839	4,347	11%	4,839	4,278	13%

# Detention

## 2022

QSID	Booking Activity	Dec-21	Jan-22	Feb-22	Mar-22	Apr-22	May-22	Jun-22	Jul-22	Aug-22	Sep-22	Oct-22	Nov-22	Dec-22
2143	By Carson City Sheriff	185	175	173	224	186	141							
2141	By Alternative Sent.	21	20	18	27	29	41							
3140	By NHP	3	5	11	11	7	12							
3141	By Parole & Probation	5	2	3	5	4	6							
3142	By Other Agency	26	16	19	25	30	26							
Releases	Releases	234	209	209	261	242	198							

	Monthly Population	Dec-21	Jan-22	Feb-22	Mar-22	Apr-22	May-22	Jun-22	Jul-22	Aug-22	Sep-22	Oct-22	Nov-22	Dec-22
M High	Monthly High	192	171	172	189	189	185							
M Low	Monthly Low	147	150	149	155	166	163							
2112	Monthly Average	174	166	167	181	184	180							

	Avg. Daily Population	Dec-21	Jan-22	Feb-22	Mar-22	Apr-22	May-22	Jun-22	Jul-22	Aug-22	Sep-22	Oct-22	Nov-22	Dec-22
Male	Male	127	121	123	139	140	141							
Female	Female	47	45	44	42	44	39							

	% of Population Capacity	Dec-21	Jan-22	Feb-22	Mar-22	Apr-22	May-22	Jun-22	Jul-22	Aug-22	Sep-22	Oct-22	Nov-22	Dec-22
2431	Male	72	69	70	79	80	80	0	0	0	0	0	0	0
2430	Female	48	46	45	43	45	40	0	0	0	0	0	0	0

2113	Average Stay in Jail	120	131	121	120	131	130							
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	Inmate Incidents	Dec-21	Jan-22	Feb-22	Mar-22	Apr-22	May-22	Jun-22	Jul-22	Aug-22	Sep-22	Oct-22	Nov-22	Dec-22
2114	Argument	-		1		2								
2127	Arrest	2	1				6							
2115	Assault on Officer	-	1											
2116	Attempted Suicide	-					1							
2117	Battery on Officer	-												
2118	Cell Extraction	-												
2120	Contraband - General	-		1		3	1							
2119	Contraband - Drug	-				1	2							
2121	Contraband - Weapon	-												

2122	Criminal Offense	1											
2123	Damage to Jail Property	2											
2738	Escape	-											
2126	Incident	13	10	16	10	10	10						
2125	Inmate Grievance	-											
2128	Inmate vs. Inmate	1		1			5						
2129	Medical	3	6	2	3	3	9						
2131	Rule Violation	9	5	6	13	16	23						
2133	Strip Search	3		3		4	7						
2134	Use of Force												

2132	<b>Searches Conducted</b>	94	124	113	131	89	163						
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	<b>Inmate Treatment</b>	<b>Dec-21</b>	<b>Jan-22</b>	<b>Feb-22</b>	<b>Mar-22</b>	<b>Apr-22</b>	<b>May-22</b>	<b>Jun-22</b>	<b>Jul-22</b>	<b>Aug-22</b>	<b>Sep-22</b>	<b>Oct-22</b>	<b>Nov-22</b>	<b>Dec-22</b>
2137	Consultation	102	60	52	59	59	65							
2138	Sick Call Requests	456	507	428	573	505	486							
2136	Sick Calls Seen	338	402	389	434	456	338							
2135	Medical Emergency	5	5	2	7	5	7							

# Detention

## 2021

QSID	Booking Activity	Dec-20	Jan-21	Feb-21	Mar-21	Apr-21	May-21	Jun-21	Jul-21	Aug-21	Sep-21	Oct-21	Nov-21	Dec-21
2143	By Carson City Sheriff	113	172	171	226	249	245	253	298	236	194	186	140	185
2141	By Alternative Sent.	14	25	16	15	17	23	26	21	15	28	21	19	21
3140	By NHP	5	14	7	4	5	6	7	7	12	4	11	6	3
3141	By Parole & Probation	1	4	3	2	2	5	4	9	9	4	3	2	5
3142	By Other Agency	24	31	31	30	22	30	32	28	22	35	26	44	26
Releases	Releases	44	216	203	247	229	245	316	317	278	273	231	204	234

	Monthly Population	Dec-20	Jan-21	Feb-21	Mar-21	Apr-21	May-21	Jun-21	Jul-21	Aug-21	Sep-21	Oct-21	Nov-21	Dec-21
M High	Monthly High	126	131	143	154	163	184	182	203	192	202	187	176	192
M Low	Monthly Low	105	108	121	138	135	149	166	161	155	171	163	153	147
2112	Monthly Average	121	124	136	148	153	169	181	195	182	193	179	172	174

	Avg. Daily Population	Dec-20	Jan-21	Feb-21	Mar-21	Apr-21	May-21	Jun-21	Jul-21	Aug-21	Sep-21	Oct-21	Nov-21	Dec-21
Male	Male	97	100	110	115	120	129	138	146	135	139	131	126	127
Female	Female	24	24	26	33	33	40	43	49	47	54	48	46	47

	% of Population Capacity	Dec-20	Jan-21	Feb-21	Mar-21	Apr-21	May-21	Jun-21	Jul-21	Aug-21	Sep-21	Oct-21	Nov-21	Dec-21
2431	Male	55	57	63	65	68	73	78	83	77	79	74	72	72
2430	Female	24	24	27	34	34	41	44	50	48	55	49	47	48

2113	Average Stay in Jail	125	107	111	117	113	106	92	102	103	110	116	121	120
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	Inmate Incidents	Dec-20	Jan-21	Feb-21	Mar-21	Apr-21	May-21	Jun-21	Jul-21	Aug-21	Sep-21	Oct-21	Nov-21	Dec-21
2114	Argument	4	0	1	1	2	1	0	0	1	0	0	1	0
2127	Arrest	-	2	0	1	0	0	0	0	1	0	0	0	2
2115	Assault on Officer	-	0	0	0	0	0	1	0	0	0	0	0	0
2116	Attempted Suicide	2	1	1	0	2	0	0	0	0	0	0	1	0
2117	Battery on Officer	-	0	0	0	0	0	0	0	0	0	0	0	0
2118	Cell Extraction	-	0	0	0	0	0	0	0	0	0	0	0	0
2120	Contraband - General	2	0	0	2	1	1	0	1	1	2	0	1	0
2119	Contraband - Drug	-	2	0	0	0	0	2	0	0	1	0	1	0
2121	Contraband - Weapon	-	0	0	0	0	0	0	0	0	1	0	0	0

2122	Criminal Offense	-	1	0	1	0	0	3	0	0	0	0	1
2123	Damage to Jail Property	1	1	2	0	0	0	0	2	0	0	2	2
2738	Escape	-	0	0	0	0	0	2	0	0	0	0	0
2126	Incident	8	17	15	10	6	14	8	24	13	8	11	12
2125	Inmate Grievance	-	0	0	1	0	2	1	0	0	0	0	0
2128	Inmate vs. Inmate	1	1	0	0	1	3	0	1	2	1	2	1
2129	Medical	6	8	5	1	12	5	9	15	10	5	10	5
2131	Rule Violation	12	27	12	16	7	9	9	6	18	9	8	7
2133	Strip Search	-	3	1	3	1	1	3	1	1	0	0	3
2134	Use of Force		1	1	1	1	0	0	0	0	0	0	1

2132	<b>Searches Conducted</b>	110	130	100	107	85	149	104	89	151	115	94	112	94
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	<b>Inmate Treatment</b>	<b>Dec-20</b>	<b>Jan-21</b>	<b>Feb-21</b>	<b>Mar-21</b>	<b>Apr-21</b>	<b>May-21</b>	<b>Jun-21</b>	<b>Jul-21</b>	<b>Aug-21</b>	<b>Sep-21</b>	<b>Oct-21</b>	<b>Nov-21</b>	<b>Dec-21</b>
2137	Consultation	102	104	79	97	90	88	116	72	82	44	41	43	46
2138	Sick Call Requests	345	381	335	410	365	483	536	643	430	484	410	355	456
2136	Sick Calls Seen	338	367	317	392	354	461	508	<b>568</b>	354	396	352	289	379
2135	Medical Emergency	3	5	2	4	9	4	6	11	8	3	1	5	5



## STAFF REPORT

**Report To:** Board of Supervisors **Meeting Date:** July 7, 2022

**Staff Contact:** Ken Furlong, Sheriff

**Agenda Title:** For Possible Action: Discussion and possible action regarding proposed revisions to the 911 Surcharge Master Plan for Fiscal Years 2023 through 2027. (Sheriff Ken Furlong, kfurlong@carson.org)

**Staff Summary:** In accordance with NRS 244A.7641 through NRS 244A.7648, Carson City is required to adopt a 911 Surcharge Master Plan and review the plan at least annually. The 911 Surcharge Master Plan was approved by the Board of Supervisors in 2017. The proposed revisions are intended to accomplish three primary goals: (1) to provide a stable and adequate funding source for the operation of the 911 emergency communications systems and infrastructure; (2) to avoid the need for future allocations from the General Fund for those same operational costs; and (3) to provide a stable and adequate funding source for the operation of the audio/video recording devices for designated City law enforcement personnel. These revisions are being presented to provide the Board of Supervisors an overview of considered changes and to receive input and direction, if any, from the Board for further edits before a final version is submitted to the Board at a future meeting for final approval.

**Agenda Action:** Formal Action / Motion **Time Requested:** 5 minutes

---

### **Proposed Motion**

I move to direct the following revisions be incorporated into the 911 Surcharge Master Plan [if any]:

\_\_\_\_\_.

### **Board's Strategic Goal**

Safety

### **Previous Action**

October 19, 2017 - The Board of Supervisors approved the final draft of the 911 Surcharge Master Plan.

### **Background/Issues & Analysis**

### **Applicable Statute, Code, Policy, Rule or Regulation**

NRS 244A.7641 through NRS 244A.7648; NRS 289.830

### **Financial Information**

**Is there a fiscal impact?** No

**If yes, account name/number:**

Is it currently budgeted? No

**Explanation of Fiscal Impact:**

**Alternatives**

Do not request further edits to the proposed revisions.

**Attachments:**

[911\\_Surcharge\\_Master\\_Plan\\_2022\\_Revision.pdf](#)

[Surcharge\\_Budget\\_and\\_5\\_Year\\_Plan\\_2.1.pdf](#)

[NRS 244A.7641 - NRS 244A.7648.pdf](#)

[NRS 289.830.pdf](#)

[CCMC 4.05.pdf](#)

**Board Action Taken:**

Motion: \_\_\_\_\_

1) \_\_\_\_\_

2) \_\_\_\_\_

Aye/Nay

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(Vote Recorded By)



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# 911 SURCHARGE MASTER PLAN

September 28, 2017[TBD]

## **Introduction**

A mature, robust, and reliable public safety communications center is the heart of any community's public safety infrastructure. To accomplish this, there must be adequate funding to insure that the proper equipment and technology are in place to support not only the public safety user, but the community as well. To provide for this, the community, along with the Board of Supervisors, has chosen to support the 911 infrastructure via a surcharge pursuant to NRS 244A.7643 and CCMC 4.05.080.

As time and technology have developed, expanded services and networks are needed to provide 911 services for wireless and Voice over Internet Protocol (VoIP) users who subscribe to services on today's telephone networks. In addition to currently existing services, emerging technologies continue to challenge the 911 systems in our community. The City must prepare for the impact that changing technology has on our 911 services. In order to ensure funding is available and adequate, a service fee is imposed by the Board of Supervisors on telephone lines in accordance with NRS 244A.7641 through ~~NRS 244A.7647~~ NRS 244A.7648 and CCMC 4.05.010 through 4.05.110.

Additionally, funds from the surcharge authorized by NRS 244A.7643 and CCMC 4.05.080 can be used to purchase and maintain portable event recording devices and vehicular event recording devices for law enforcement.

~~†The most recent 911 Surcharge~~ his five-year master plan was a five-year plan that was recommended by the 911 Surcharge Advisory Committee on October 10, 2017, and adopted by the Board of Supervisors on October 19, 2017.

This 911 Surcharge Master Plan has been developed to provide a five-year plan for funds collected through the surcharge authorized by NRS 244A.7643 and CCMC 4.05.080, to replace the 911 Surcharge Master Plan adopted in 2017, to comply with NRS 244A.7643, and to -

~~This document serves a dual purpose as the 911 Surcharge Master Plan for the City, Board of Supervisors Master Plan and the 911 Surcharge Advisory Committee Master Plan.~~

## **Purpose**

The purpose of this document is to ensure that the Carson City 911 system, ~~and~~ the associated dispatch and radio infrastructure systems, and law enforcement's portable and vehicular event recording devices will remain current and reliable so that all the citizens and visitors of Carson City may connect to 911 emergency services using any device from any location, and that public safety entities are equipped as required by law.

## **Mission**

Carson City's 911 Surcharge Advisory Committee. The mission of this advisory committee is to be charged with developing a five-year master plan for the enhancement or improvement of the systems for reporting emergencies in Carson City and to oversee 911 surcharge funds in accordance with NRS 244A.7641 through 244A.7648 and CCMC 4.05.010 through 4.05.110 Carson City Municipal Code Chapter 4.05, and equipment in accordance with NRS 289.830 inclusive.

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**Goals: To maintain the 911 surcharge fund with sufficient stable funding.**

1. To assess the technical needs of the 911 system on a regular basis;
2. To ensure that the 911 equipment is meeting an adequate and proper level of service;
3. To ensure that the associated radio and dispatch systems are meeting an adequate and proper level of service to ensure delivery of emergency response personnel to 911 calls for service;
4. To ensure that the technology and equipment are supporting the operations within the communications center and meeting the needs of those using the equipment;
5. To ensure the proper use of funds collected under the surcharge.
6. To ensure compliance with NRS 289.830 for equipping of audio/video devices to public safety entities.

**Attainment of Goals**

The goals of this Master Plan will be attained by utilizing staff available through the Fire Department, Sheriff's Office, and other appropriate city agencies. The staff members will work with industry experts and utilize their own knowledge, skills and abilities to assess technical needs and equipment utilization and needs. Staff will report to the 911 Surcharge Advisory Committee as needed to keep committee members informed.

**Review and Update**

This plan will be reviewed and updated once each calendar year or at other times when the [911 Surcharge Advisory Committee](#) ~~committee~~ deems appropriate. The Emergency Manager/[Fire Chief](#) ~~ment Director~~ and the Sheriff are responsible for making recommendations to the committee as they relate to the 911, dispatch, radio systems, audio/video recording devices, -and the applicable surcharge to the fund.

**Revenues / Expenditures**

Critical to this plan are accurate funding projections on which to build a budget. At each meeting of the committee, city staff will provide the committee with a current budget indicating the revenue that has been collected and the expenses that have been charged against this [special](#) revenue fund. The five-year budget plan is attached and incorporated into this Master Plan as Exhibit A.

**Exhibit A**  
**Fund 287 - 911 Surcharge**

		FY23 Requested	FY24 Projected	FY25 Projected	FY26 Projected	FY27 Projected
495000	Beginning Balance	50,000	50,000	50,000	50,000	50,000
<b>Revenue</b>						
421405	Franchise Fees	840,000	840,000	840,000	840,000	840,000
461010	Interest Income	5,000	5,000	5,000	5,000	5,000
462020	Net Inc in Fair Value Inv	-	-	-	-	-
	Total Revenues	845,000	845,000	845,000	845,000	845,000
	Beginning Balance + Revenue	895,000	895,000	895,000	895,000	895,000
593000	Unreserved Fund Balance	50,000	50,000	50,000	50,000	50,000
<b>Expenditures</b>						
500309	Professional Services	-	-	-	-	-
500431	Video Equipment & Maint	211,500	222,075	222,075	233,180	233,180
500432	Maintenance Service Contracts	314,581	306,623	306,623	307,717	44,740
500433	Software Maintenance	146,225	156,248	169,473	184,020	200,022
500625	Operating Supplies	5,000	5,000	5,000	5,000	5,000
500674	Small Tools/Equipment	-	-	-	-	-
500675	Small Furnishings	37,348	37,348	37,348	37,348	10,000
500699	Undesignated Projects	27,432	14,618	104,481	77,735	352,058
507010	Capital Improvements	-	-	-	-	-
507205	Debt Service	102,914	103,088	-	-	-
507727	Tiburon Project	-	-	-	-	-
507743	Furniture and Fixtures	-	-	-	-	-
507775	Equipment	-	-	-	-	-
	Total Expenditures	845,000	845,000	845,000	845,000	845,000
	Total Expenditures + UFB	895,000	895,000	895,000	895,000	895,000
	<b>Ending Fund Balance</b>	<b>50,000</b>	<b>50,000</b>	<b>50,000</b>	<b>50,000</b>	<b>50,000</b>

Note: Tiburon bond to be paid off FY24, currently end of life/replacement not known and not included on 5 year plan

**SURCHARGE FOR ENHANCEMENT OF TELEPHONE SYSTEM USED FOR REPORTING EMERGENCY AND  
PURCHASE AND MAINTENANCE OF EVENT RECORDING DEVICES**

**NRS 244A.7641 Definitions.** As used in [NRS 244A.7641](#) to [244A.7648](#), inclusive, unless the context otherwise requires:

1. "Mobile telephone service" means cellular or other service to a telephone installed in a vehicle or which is otherwise portable.
2. "Place of primary use" has the meaning ascribed to it in 4 U.S.C. § 124(8), as that section existed on August 1, 2002.
3. "Portable event recording device" has the meaning ascribed to it in [NRS 289.830](#).
4. "Supplier" means a person authorized by the Federal Communications Commission to provide mobile telephone service.
5. "Telephone system" means a system for transmitting information between or among points specified by the user that does not change the form or content of the information regardless of the technology, facilities or equipment used. A telephone system may include, without limitation:
  - (a) Wireless or Internet technology, facilities or equipment; and
  - (b) Technology, facilities or equipment used for transmitting information from an emergency responder to the user or from the user to an emergency responder.
6. "Vehicular event recording device" means a device which is affixed to a marked vehicle of a law enforcement agency, as defined in [NRS 289.830](#), and which records both audio and visual events.  
(Added to NRS by [1995, 1056](#); A [1999, 1686, 2715](#); [2001, 621, 622, 1642, 2124](#); [2003, 69](#); [2009, 639](#); [2017, 591](#))

**NRS 244A.7643 Surcharge: Imposition; master plan required; amount; collection; penalties for delinquent payment.**

1. Except as otherwise provided in this section, the board of county commissioners of a county may by ordinance, for the enhancement of the telephone system for reporting an emergency in the county and for the purpose of purchasing and maintaining portable event recording devices and vehicular event recording devices, impose a surcharge on:
  - (a) Each access line or trunk line of each customer to the local exchange of any telecommunications provider providing those lines in the county; and
  - (b) The mobile telephone service provided to each customer of that service whose place of primary use is in the county.
2. A board of county commissioners may not impose a surcharge pursuant to this section unless the board first adopts a 5-year master plan for the enhancement of the telephone system for reporting emergencies in the county or for the purpose of purchasing and maintaining portable event recording devices and vehicular event recording devices, as applicable. The master plan must include an estimate of the cost of the enhancement of the telephone system or of the cost of purchasing and maintaining portable event recording devices and vehicular event recording devices, as applicable, and all proposed sources of money for funding those costs. For the duration of the imposition of the surcharge, the board shall, at least annually, review and, if necessary, update the master plan.
3. The surcharge imposed by a board of county commissioners pursuant to this section:
  - (a) For each access line to the local exchange of a telecommunications provider, must not exceed \$1 each month;
  - (b) For each trunk line to the local exchange of a telecommunications provider, must equal 10 times the amount of the surcharge imposed for each access line to the local exchange of a telecommunications provider pursuant to paragraph (a); and

(c) For each telephone number assigned to a customer by a supplier of mobile telephone service, must equal the amount of the surcharge imposed for each access line to the local exchange of a telecommunications provider pursuant to paragraph (a).

4. A telecommunications provider which provides access lines or trunk lines in a county which imposes a surcharge pursuant to this section or a supplier which provides mobile telephone service to a customer in such a county shall collect the surcharge from its customers each month. Except as otherwise provided in [NRS 244A.7647](#), the telecommunications provider or supplier shall remit the surcharge it collects to the treasurer of the county in which the surcharge is imposed not later than the 15th day of the month after the month it receives payment of the surcharge from its customers.

5. An ordinance adopted pursuant to this section may include a schedule of penalties for the delinquent payment of amounts due from telecommunications providers or suppliers pursuant to this section. Such a schedule:

(a) Must provide for a grace period of not less than 90 days after the date on which the telecommunications provider or supplier must otherwise remit the surcharge to the county treasurer; and

(b) Must not provide for a penalty that exceeds 5 percent of the cumulative amount of surcharges owed by a telecommunications provider or a supplier.

6. As used in this section, "trunk line" means a line which provides a channel between a switchboard owned by a customer of a telecommunications provider and the local exchange of the telecommunications provider.

(Added to NRS by [1995, 1056](#); A [1997, 2212](#); [1999, 1686](#); [2001, 621, 1643, 2124](#); [2003, 152, 153](#); [2007, 559](#); [2009, 640](#); [2011, 1122](#); [2017, 591](#))

**NRS 244A.7645 Establishment of advisory committee to develop plan to enhance or improve telephone system; creation of special revenue fund; use of money in fund.**

1. If a surcharge is imposed pursuant to [NRS 244A.7643](#) in a county whose population is 100,000 or more, the board of county commissioners of that county shall establish by ordinance an advisory committee to develop a plan to enhance the telephone system for reporting an emergency in that county and to oversee any money allocated for that purpose. The advisory committee must:

(a) Consist of not less than five members who:

(1) Are residents of the county;

(2) Possess knowledge concerning telephone systems for reporting emergencies; and

(3) Are not elected public officers.

(b) Subject to the provisions of subparagraph (3) of paragraph (a), include the chief law enforcement officer or his or her designee from each office of the county sheriff, metropolitan police department, police department of an incorporated city within the county and department, division or municipal court of a city or town that employs marshals within the county, as applicable.

2. If a surcharge is imposed pursuant to [NRS 244A.7643](#) in a county whose population is less than 100,000, the board of county commissioners of that county shall establish by ordinance an advisory committee to develop a plan to enhance or improve the telephone system for reporting an emergency in that county and to oversee any money allocated for that purpose. The advisory committee must:

(a) Consist of not less than five members who:

(1) Are residents of the county;

(2) Possess knowledge concerning telephone systems for reporting emergencies; and

(3) Are not elected public officers.

(b) Include a representative of an incumbent local exchange carrier which provides service to persons in that county. As used in this paragraph, "incumbent local exchange carrier" has the meaning ascribed to it in 47 U.S.C. § 251(h)(1), as that section existed on October 1, 1999, and includes a local exchange carrier that is treated as an incumbent local exchange carrier pursuant to that section.

(c) Subject to the provisions of subparagraph (3) of paragraph (a), include the chief law enforcement officer or his or her designee from each office of the county sheriff, metropolitan police department,

police department of an incorporated city within the county and department, division or municipal court of a city or town that employs marshals within the county, as applicable.

3. If a surcharge is imposed in a county pursuant to [NRS 244A.7643](#), the board of county commissioners of that county shall create a special revenue fund of the county for the deposit of the money collected pursuant to [NRS 244A.7643](#). The money in the fund must be used only:

(a) To pay the costs of adopting and reviewing the 5-year master plan for the enhancement of the telephone system for reporting emergencies in the county that is required pursuant to [NRS 244A.7643](#).

(b) With respect to the telephone system for reporting an emergency:

(1) In a county whose population is 45,000 or more, to enhance the telephone system for reporting an emergency, including only:

(I) Paying recurring and nonrecurring charges for telecommunication services necessary for the operation of the enhanced telephone system;

(II) Paying costs for personnel and training associated with the routine maintenance and updating of the database for the system;

(III) Purchasing, leasing or renting the equipment and software necessary to operate the enhanced telephone system, including, without limitation, equipment and software that identify the number or location from which a call is made; and

(IV) Paying costs associated with any maintenance, upgrade and replacement of equipment and software necessary for the operation of the enhanced telephone system.

(2) In a county whose population is less than 45,000, to improve the telephone system for reporting an emergency in the county.

(c) With respect to purchasing and maintaining portable event recording devices and vehicular event recording devices, to pay:

(1) By an entity described in this subparagraph, costs associated with the acquisition, maintenance, storage of data, upgrade and replacement of equipment and software necessary for the operation of portable event recording devices and vehicular event recording devices or systems that consist of both portable event recording devices and vehicular event recording devices. Money may be expended pursuant to this subparagraph for the purchase and maintenance of portable event recording devices or vehicular event recording devices only by:

(I) The sheriff's office of a county;

(II) A metropolitan police department;

(III) A police department of an incorporated city;

(IV) A department, division or municipal court of a city or town that employs marshals;

(V) A department of alternative sentencing; or

(VI) A county school district that employs school police officers.

(2) Costs for personnel and training associated with maintaining, updating and operating the equipment, hardware and software necessary for portable event recording devices and vehicular event recording devices or systems that consist of both portable event recording devices and vehicular event recording devices.

(3) Costs for personnel and training associated with the maintenance, retention and redaction of audio and video events recorded on portable event recording devices and vehicular event recording devices or systems that consist of both portable event recording devices and vehicular event recording devices.

(d) To pay any costs associated with performing an analysis or audit pursuant to [NRS 244A.7648](#) of the surcharges collected by telecommunications providers.

4. For the purposes described in subsection 3, money in the fund must be expended in the following order of priority:

(a) Paying the costs authorized pursuant to paragraph (a) of subsection 3 to adopt and review the 5-year master plan.

(b) If the county performs an analysis or audit described in [NRS 244A.7648](#), paying the costs associated authorized pursuant to paragraph (d) of subsection 3.

(c) Paying the costs authorized pursuant to paragraph (b) of subsection 3.

(d) If the county has imposed a portion of the surcharge for purposes of purchasing and maintaining portable event recording devices and vehicular event recording devices:

(1) Paying the costs authorized pursuant to paragraph (c) of subsection 3 other than costs related to personnel and training.

(2) Paying the costs authorized pursuant to paragraph (c) of subsection 3 related to personnel.

(3) Paying the costs authorized pursuant to paragraph (c) of subsection 3 related to training.

5. If money in the fund is distributed to a recipient and:

(a) The recipient has not used the money for any purpose authorized pursuant to subsection 3 within 6 months, the recipient must:

(1) Notify the board of county commissioners and the advisory committee; and

(2) Return the unused money.

(b) The recipient used any portion of the money for a purpose that is not authorized pursuant to subsection 3, the recipient must:

(1) Notify the board of county commissioners and the advisory committee; and

(2) Repay the portion of the money that was used for a purpose not authorized pursuant to subsection 3.

(c) The recipient was not entitled to receive all or a portion of the money, the recipient must:

(1) Notify the board of county commissioners and the advisory committee; and

(2) Repay all money to which the recipient was not entitled to receive.

6. If the balance in the fund created in a county whose population is 100,000 or more pursuant to subsection 3 which has not been committed for expenditure exceeds \$5,000,000 at the end of any fiscal year, the board of county commissioners shall reduce the amount of the surcharge imposed during the next fiscal year by the amount necessary to ensure that the unencumbered balance in the fund at the end of the next fiscal year does not exceed \$5,000,000.

7. If the balance in the fund created in a county whose population is 45,000 or more but less than 100,000 pursuant to subsection 3 which has not been committed for expenditure exceeds \$1,000,000 at the end of any fiscal year, the board of county commissioners shall reduce the amount of the surcharge imposed during the next fiscal year by the amount necessary to ensure that the unencumbered balance in the fund at the end of the next fiscal year does not exceed \$1,000,000.

8. If the balance in the fund created in a county whose population is less than 45,000 pursuant to subsection 3 which has not been committed for expenditure exceeds \$500,000 at the end of any fiscal year, the board of county commissioners shall reduce the amount of the surcharge imposed during the next fiscal year by the amount necessary to ensure that the unencumbered balance in the fund at the end of the next fiscal year does not exceed \$500,000.

(Added to NRS by [1995, 1056](#); A [1999, 1686](#); [2001, 621, 2125](#); [2007, 561](#); [2009, 641](#); [2011, 1124](#); [2017, 592](#); [2019, 1562, 3253](#))

**NRS 244A.7646 Dispute of amount of surcharge or designation of place of primary use by customer of supplier of mobile telephone service: Notice by customer; review by supplier; refund, credit or explanation.**

1. If a customer of a supplier of mobile telephone service believes that the amount of a surcharge imposed pursuant to [NRS 244A.7643](#) or the designation of a place of primary use is incorrect, the customer may notify the supplier of mobile telephone service in writing of the alleged error. The notice must include:

(a) The street address for the place of primary use of the customer;

(b) The account number and name shown on the billing statement of the account for which the customer alleges the error;

- (c) A description of the alleged error; and
- (d) Any other information which the supplier of mobile telephone service may reasonably require to investigate the alleged error.

2. Within 60 days after receiving a notice sent pursuant to subsection 1, the supplier of mobile telephone service shall review the records that the supplier of mobile telephone service uses to determine the place of primary use of its customers.

3. If the review indicates:

(a) That the alleged error exists, the supplier of mobile telephone service shall correct the error and refund or credit the customer for the amount which was erroneously collected for the applicable period, not to exceed the 24 months immediately preceding the date on which the customer notified the supplier of mobile telephone service of the alleged error.

(b) That no error exists, the supplier of mobile service shall provide a written explanation to the customer who alleged the error.

4. A customer may not bring a cause of action against a supplier of mobile telephone service for surcharges incorrectly imposed pursuant to [NRS 244A.7643](#) unless the customer first complies with this section.

(Added to NRS by [2001, 1642](#))

**NRS 244A.7647 Recovering cost of collecting surcharge.** A telecommunications provider or supplier which collects the surcharge imposed pursuant to [NRS 244A.7643](#) is entitled to retain an amount of the surcharge collected which is equal to the cost to collect the surcharge.

(Added to NRS by [1995, 1057](#); A [1999, 1686](#); [2001, 621](#); [2007, 562](#))

**NRS 244A.7648 Engagement of auditor to analyze or audit surcharge.**

1. Except as otherwise provided in subsection 3, if a surcharge is imposed in a county pursuant to [NRS 244A.7643](#), the board of county commissioners of that county may, as part of its review of the 5-year master plan adopted pursuant to [NRS 244A.7643](#) for the enhancement of the telephone system for reporting emergencies in the county or for the purpose of purchasing and maintaining portable event recording devices and vehicular event recording devices, as applicable, engage a qualified independent auditor to perform an analysis or audit of the surcharges collected by telecommunications providers in the county.

2. An auditor that performs an analysis or audit pursuant to this section:

(a) Shall not charge a fee exceeding the actual costs of performing the analysis or audit.

(b) Shall submit a report of his or her findings to the advisory committee of the county established pursuant to [NRS 244A.7645](#).

3. If an auditor performing an analysis or audit of the surcharges collected by telecommunications providers finds in the course of conducting the analysis or audit evidence of a violation of the provisions of [NRS 244A.7643](#), with respect to the amount of money collected or remitted to the county treasurer by a telecommunications provider, the board of county commissioners may engage a qualified independent auditor to perform an additional analysis or audit of the surcharges collected by the telecommunications provider before the next review of the 5-year master plan is conducted.

(Added to NRS by [2019, 1562](#))

## MISCELLANEOUS PROVISIONS

### **NRS 289.830 Certain law enforcement agencies shall require certain peace officers to wear portable event recording device while on duty; adoption of policies and procedures governing use; request for and inspection of record made by device.**

1. A law enforcement agency shall require uniformed peace officers that it employs and who routinely interact with the public to wear a portable event recording device while on duty. Each law enforcement agency shall adopt policies and procedures governing the use of portable event recording devices, which must include, without limitation:

(a) Except as otherwise provided in paragraph (d), requiring activation of a portable event recording device whenever a peace officer is responding to a call for service or at the initiation of any other law enforcement or investigative encounter between a uniformed peace officer and a member of the public;

(b) Except as otherwise provided in paragraph (d), prohibiting deactivation of a portable event recording device until the conclusion of a law enforcement or investigative encounter;

(c) Prohibiting the recording of general activity;

(d) Protecting the privacy of persons:

(1) In a private residence;

(2) Seeking to report a crime or provide information regarding a crime or ongoing investigation anonymously; or

(3) Claiming to be a victim of a crime;

(e) Requiring that any video recorded by a portable event recording device must be retained by the law enforcement agency for not less than 15 days; and

(f) Establishing disciplinary rules for peace officers who:

(1) Fail to operate a portable event recording device in accordance with any departmental policies;

(2) Intentionally manipulate a video recorded by a portable event recording device; or

(3) Prematurely erase a video recorded by a portable event recording device.

2. Any record made by a portable event recording device pursuant to this section is a public record which may be:

(a) Requested only on a per incident basis; and

(b) Available for inspection only at the location where the record is held if the record contains confidential information that may not otherwise be redacted.

3. As used in this section:

(a) "Law enforcement agency" means:

(1) The sheriff's office of a county;

(2) A metropolitan police department;

(3) A police department of an incorporated city;

(4) A department, division or municipal court of a city or town that employs marshals;

(5) The Nevada Highway Patrol; or

(6) A board of trustees of any county school district that employs or appoints school police officers.

(b) "Portable event recording device" means a device issued to a peace officer by a law enforcement agency to be worn on his or her body and which records both audio and visual events occurring during an encounter with a member of the public while performing his or her duties as a peace officer.

(Added to NRS by [2015, 572](#); A [2017, 588](#); [2019, 3257](#))

## **Chapter 4.05 SURCHARGE FOR ENHANCEMENT OR IMPROVEMENT OF TELEPHONE SYSTEM USED FOR REPORTING EMERGENCIES<sup>1</sup>**

### **4.05.010 Authority and purpose.**

1. This chapter is enacted pursuant to NRS 244A.7641 through 244A.7647 for the following purposes:
  - a. To establish an advisory committee to develop a plan for the enhancement or improvement of the telephone system for reporting emergencies in Carson City and to oversee any money allocated for that purpose.
  - b. To impose a surcharge for the enhancement or improvement of the telephone system for reporting an emergency in Carson City on:
    1. Each access line or trunk line of each customer to the local exchange of any telecommunications provider providing those lines in Carson City; and
    2. The mobile telephone service provided to each customer of that service whose place of primary use is in Carson City.

(Ord. 2008-21 § 3, 2008).

( Ord. No. 2010-2, § II, 2-18-2010 )

### **4.05.020 Definitions.**

As used in this chapter, the words and terms defined in this section have the meanings ascribed to them unless the context requires otherwise.

"Incumbent local exchange carrier" has the meaning ascribed to it in 47 U.S.C. § 251(h)(1), as that section existed on October 1, 1999, and includes a local exchange carrier that is treated as an incumbent local exchange carrier pursuant to that section.

"Mobile telephone service" means cellular or other service to a telephone installed in a vehicle or which is otherwise portable.

"Place of primary use" has the meaning ascribed to it in 4 U.S.C. § 124(8), as that section existed on August 1, 2002.

"Portable event recording device" has the meaning ascribed to it in NRS 289.830.

"Supplier" means a person authorized by the Federal Communications Commission to provide mobile telephone service.

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<sup>1</sup>Editor's note(s)—Ord. No. 2010-2, § I, adopted February 18, 2010 , amended the title of Ch. 4.05 to read as herein set out. See also the Code Comparative Table and Disposition List.

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"Telephone system" means a system for transmitting information between or among points specified by the user that does not change the form or content of the information regardless of the technology, facilities or equipment used. A telephone system may include, without limitation:

- (a) Wireless or Internet technology, facilities or equipment; and
- (b) Technology, facilities or equipment used for transmitting information from an emergency responder to the user or from the user to an emergency responder.

"Trunk line" means a line that provides a channel between a switchboard owned by a customer of a telecommunications provider and the local exchange of the telecommunications provider.

"Vehicular event recording device" means a device which is affixed to a marked vehicle of a law enforcement agency, as defined in NRS 289.830, and which records both audio and visual events.

(Ord. 2008-21 § 4, 2008).

( Ord. No. 2010-2, § III, 2-18-2010 ; Ord. No. 2017-20 , § I, 9-21-2017)

#### **4.05.030 Establishment of an advisory committee to develop a plan to enhance or improve telephone system for reporting emergency.**

1. The Board of Supervisors hereby creates an advisory committee called the "9-1-1 surcharge advisory committee" to develop a plan to enhance or improve the telephone system for reporting an emergency in Carson City and to oversee any money allocated for that purpose. The advisory committee shall be comprised of a minimum of five (5) members and a maximum of seven (7) members.
  - a. Members will serve without compensation.
  - b. A member appointed to the committee must:
    - (1) Be a resident of Carson City;
    - (2) Possess knowledge concerning telephone systems for reporting emergencies; and
    - (3) Not be an elected public officer.
  - c. As Carson City has a population of less than one hundred thousand (100,000), at least one member of the committee must be a representative of an incumbent local exchange carrier which provides service to persons in Carson City.
2. Members will be selected at large by the Board of Supervisors at its discretion.
3. The Board of Supervisors must appoint members for a term of two (2) years. In order to stagger the terms, the Board of Supervisors must set the appointed members' terms to provide for terms of three of the appointed members to end in odd numbered years. A member may be reappointed to subsequent terms of two years. Any vacancy occurring during a member's term will be filled by the Board of Supervisors. A person appointed to fill a vacancy occurring during a term must serve out the unexpired term of the member replaced.

(Ord. 2008-21 § 5, 2008).

( Ord. No. 2010-2, § IV, 2-18-2010 ; Ord. No. 2014-1 , § I, 1-16-2014; Ord. No. 2017-20 , § II, 9-21-2017)

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#### **4.05.040 Chairman, election and duties.**

1. The committee must elect from its membership a chairman and vice-chairman.
2. The chairman will preside at meetings and be the signatory of any correspondence necessitated by operation of the committee.
3. The vice-chairman will carry out the duties of the chairman in his/her absence.

(Ord. 2008-21 § 6, 2008).

#### **4.05.050 Rules, regulations and bylaws.**

The committee may adopt rules, regulations and/or bylaws regarding its meetings and procedures.

(Ord. 2008-21 § 7, 2008).

#### **4.05.060 Quorum.**

A majority of members of the advisory committee will constitute a quorum. The approval of a majority of all members present to vote is necessary on any action the committee desires to take.

(Ord. 2008-21 § 8, 2008).

(Ord. No. 2014-1 , § II, 1-16-2014)

#### **4.05.070 Meetings.**

The committee must hold a public meeting not less than quarterly. Any member of the committee may request a meeting of the committee for special purposes. Such requests shall be made to the chairman, or in his absence, the vice-chairman. Notice of the meetings and the conduct of the meetings of the committee, including the taking of minutes and their transcription and retention, must comply with the provisions of chapter 241 of the Nevada Revised Statutes.

(Ord. 2008-21 § 9, 2008).

(Ord. No. 2017-20 , § III, 9-21-2017)

#### **4.05.080 Imposition of telephone surcharge.**

1. For the duration of the imposition of the surcharges, the Board of Supervisors shall, at least annually, review and if necessary, update the master plan.
2. The Board of Supervisors imposes surcharges for the enhancement of the telephone system for reporting an emergency in Carson City on:
  - (a) Each access line or trunk line of each customer to the local exchange of any telecommunications provider providing those lines in Carson City; and
  - (b) The mobile telephone service provided to each customer of that service whose place of primary use is in Carson City.

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(Supp. No. 58, 3-22)

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3. The surcharge on access lines to the local exchange of a telecommunications provider is one dollar (\$1.00) per month per line.
  4. The surcharge on trunk lines to the local exchange of a telecommunications provider is ten dollars (\$10.00) per month per line.
  5. The surcharge for each telephone number assigned to a customer by a supplier of mobile telephone service is one dollar (\$1.00) per month per telephone number.
  6. A telecommunications provider that provides access lines or trunk lines in Carson City and a supplier that provides mobile telephone service to customers in Carson City must collect the surcharge from its customers each month. Except as otherwise provided in NRS 244A.7647, each telecommunications provider and supplier must remit the surcharge it collects to the treasurer of the county in which the surcharge is imposed not later than the 15th day of the month after the month it receives payment of the surcharge from its customers. In accordance with NRS 244A.7647, a telecommunications provider or supplier which collects the surcharge imposed pursuant to this section is entitled to retain an amount of the surcharge collected which is equal to the cost to collect the surcharge.
  7. The committee or city manager may adopt procedures as necessary to effectuate the provisions of this section.

(Ord. 2008-21 § 10, 2008).

( Ord. No. 2010-2, § V, 2-18-2010 ; Ord. No. 2017-20 , § V, 9-21-2017)

#### **4.05.090 Creation of special revenue fund; use of money in fund.**

1. The Board of Supervisors hereby creates a special revenue fund for the deposit of any money collected pursuant to NRS 244A.7643 and CCMC 4.05.080. The money in the fund must be used only for the following purposes:
  - (a) With respect to the telephone system for reporting an emergency:
    - (1) Paying recurring and nonrecurring charges for telecommunication services necessary for the operation of the enhanced telephone system;
    - (2) Paying costs for personnel and training associated with the routine maintenance and updating of the database for the system;
    - (3) Purchasing, leasing or renting the equipment and software necessary to operate the enhanced telephone system, including, without limitation, equipment and software that identify the number or location from which a call is made; and
    - (4) Paying costs associated with any maintenance, upgrade and replacement of equipment and software necessary for the operation of the enhanced telephone system.
  - (b) With respect to purchasing and maintaining portable event recording devices and vehicular event recording devices:
    - (1) Paying costs associated with the acquisition, maintenance, storage of data, upgrade and replacement of equipment and software necessary for the operation of portable event recording devices and vehicular event recording devices or systems that consist of both portable event recording devices and vehicular event recording devices.
2. If the balance in the fund created pursuant to subsection 1. of this section which has not been committed for expenditure exceeds \$1,000,000 at the end of any fiscal year, the Board of Supervisors must reduce the

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(Supp. No. 58, 3-22)

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amount of the surcharge imposed during the next fiscal year by the amount necessary to ensure that the unencumbered balance in the fund at the end of the next fiscal year does not exceed \$1,000,000.

(Ord. 2008-21 § 11, 2008).

( Ord. No. 2010-2, § VI, 2-18-2010 ; Ord. No. 2017-20 , § VI, 9-21-2017)

#### **4.05.100 Penalty for failure to remit surcharges.**

Any telecommunications provider or mobile telephone service supplier that fails to remit surcharges due within 90 days after the date on which the telecommunications provider or supplier must otherwise remit the surcharges to the county treasurer will be subject to a penalty of 5% of the cumulative amount of surcharges owed by the telecommunications provider or supplier.

(Ord. 2008-21 § 12, 2008).

#### **4.05.110 Dispute of amount of surcharge or designation of place of primary use by customer of supplier of mobile telephone service: Notice by customer; review by supplier; refund, credit or explanation.**

1. If a customer of a supplier of mobile telephone service believes that the amount of a surcharge imposed pursuant to NRS 244A.7643 or the designation of a place of primary use is incorrect, the customer may notify the supplier of mobile telephone service in writing of the alleged error. The notice must include:
  - (a) The street address for the place of primary use of the customer;
  - (b) The account number and name shown on the billing statement of the account for which the customer alleges the error;
  - (c) A description of the alleged error; and
  - (d) Any other information which the supplier of mobile telephone service may reasonably require to investigate the alleged error.
2. Within 60 days after receiving a notice sent pursuant to subsection 1, the supplier of mobile telephone service shall review the records that the supplier of mobile telephone service uses to determine the place of primary use of its customers.
3. If the review indicates:
  - (a) That the alleged error exists, the supplier of mobile telephone service shall correct the error and refund or credit the customer for the amount which was erroneously collected for the applicable period, not to exceed the 24 months immediately preceding the date on which the customer notified the supplier of mobile telephone service of the alleged error.
  - (b) That no error exists, the supplier of mobile service shall provide a written explanation to the customer who alleged the error.
4. A customer may not bring a cause of action against a supplier of mobile telephone service for surcharges incorrectly imposed pursuant to NRS 244A.7643 unless he first complies with this section.

( Ord. No. 2010-2, § VII, 2-18-2010 )