COUNTY OF LOS ANGELES

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Director

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DEPARTMENT OF MENTAL HEALTH

http://dmh.lacounty.gov

Reply To: (213) 738-4601
Fax: (213) 386-1297

September 9, 2008

ADOPTED
BOARD OF SUPERVISORS
COUNTY OF LOS ANGELES

REVISED

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

32 SEP 16 2008

Sachi A. Hamai
SACHI A. HAMAI
EXECUTIVE OFFICER

Dear Supervisors:

APPROVAL OF AMENDMENT NO. 3 TO COUNTY AGREEMENT NUMBER 74144 WITH SIERRA SYSTEMS INC. FOR FISCAL YEARS 2008-09, 2009-10, 2010-11, 2011-12 and 2012-13
(ALL SUPERVISORIAL DISTRICTS)
(3 VOTES)
CIO RECOMMENDATION: APPROVE (X)

SUBJECT

Request approval of Amendment No. 3 to extend the term of the Agreement with Sierra Systems Inc., for continued maintenance services of the Integrated System (IS) and to acknowledge the corporate merger of Sierra Systems Group Inc., a California corporation (Sierra California), with and into Sierra Systems Inc., a Washington corporation (Sierra Washington), effective as of December 31, 2003, and the delegation and assignment of the Agreement from Sierra California to Sierra Washington, effective as of December 31, 2003.

IT IS RECOMMENDED THAT YOUR BOARD:

1. Acknowledge (i) the merger of Sierra Systems Group Inc., a California corporation (Sierra California), with and into Sierra Systems Inc., a Washington corporation (Sierra Washington), effective as of December 31, 2003, whereby Sierra California ceased to exist on such date, and (ii) the delegation and assignment of the Agreement, effective as of December 31, 2003;

2. Approve a retroactive adjustment to the Maximum Contract Sum (MCS) in the amount of $1,281,564, for a total of $20,302,121, for the term through September 21, 2008, to reflect one year of optional maintenance services provided for the period of September 22, 2007, through September 21, 2008;

3. Approve and instruct the Director of Mental Health (DMH) or his designee to prepare, sign, and execute Amendment No. 3 to the Agreement, substantially similar in format to the Attachment, effective upon Board approval, to provide for continued maintenance services of the IS and Professional Services/Change Orders; extend the term of the Agreement through June 30, 2012; and increase the MCS to $27,245,525, funded by County General funds, federal and state revenues and other sources;

4. Delegate authority to the County Project Director, in his sole discretion, to extend the term of the Agreement by six months through December 31, 2012; and

5. Delegate authority to the Director of DMH, in his/her sole discretion, to terminate the Agreement for convenience when DMH's planned replacement system, the Integrated Behavioral Health Information System (IBHIS), is fully developed and operational, as determined in the sole judgment of the Director of DMH.

PURPOSE/JUSTIFICATION OF RECOMMENDED ACTION

Board approval of the recommended actions ensures uninterrupted day-to-day operations and continued maintenance of the IS, which is the system by which contractors and DMH directly operated programs are able to claim services and receive reimbursement from various funding sources. The proposed Amendment will also require Sierra Washington to perform transition services that will facilitate a smooth shut-down of the IS and transition to DMH's planned IBHIS.

On September 3, 2002, your Board approved an agreement with Sierra California, a wholly owned subsidiary of Sierra Systems Group Inc., a British Columbia corporation (Sierra BC), to develop an IS in order to assist DMH in achieving compliance under the Health Insurance Portability and Accountability Act (HIPAA) Transaction and Code Set (TCS) rules to meet the HIPAA requirements by the extended Federal deadline of October 16, 2003.

Effective December 31, 2003, Sierra California was merged with and into Sierra Washington, a wholly owned subsidiary of Sierra BC, and Sierra California ceased to exist. However, DMH did not learn of such merger until July 8, 2008. As part of such corporate merger, Sierra Washington acquired all the assets, including, but not limited to, all hardware, software (including all copyrights and other intellectual property rights), facilities and personnel, of Sierra California, and assumed all the obligations, responsibilities, liabilities and rights of Sierra California under the Agreement. However, there is no evidence that DMH was notified of this merger.

The Agreement provided for an Initial Term of September 3, 2002, through three years ~~after~~ following the Final Acceptance Date of the IS. The Final Acceptance Date was September 21, 2004, so the Initial Term expired on September 21, 2007. The original Agreement also provided for three automatic two-year extensions followed by a one-year extension for continued maintenance of the system, unless either party chose to terminate the agreement with six months notice prior to the end of the Initial Term or any applicable Option Term. Sierra California has previously submitted two termination notices to County, dated March 9, 2007 and March 19, 2008. Under Amendment No. 3, the right of a party to terminate the Agreement with six months notice prior to the end of the Initial Term or an Option Term has been removed.

On March 9, 2007, ~~Sierra California submitted~~ DMH received a termination notice ~~to DMH~~, signed by Sierra California, effective as of September 22, 2007. As the expiration date of the Initial Term (September 21, 2007) was approaching, DMH executed ~~with~~ a Change Order, signed by Sierra California ~~a Change Order~~, to extend the Agreement term for only one year, from September 22, 2007 through September 21, 2008, which was within the scope of delegated authority granted by the Board under the Agreement.

The Change Order also provided for the annual maintenance payment for the extended term, calculated in accordance with the language included in the Agreement, in the amount of $1,281,564. However, the Board letter that approved the Agreement required DMH to return to the Board to amend and increase the MCS to cover the extended term. **As the language in the Agreement did not specifically reflect this requirement, DMH staff did not realize that it did not have the authority to pay for maintenance services in the extended term without Board approval.**

The proposed Amendment acknowledges the merger of Sierra California with and into Sierra Washington, effective as of December 31, 2003; extends the term of the Agreement through June 30, 2012, with an additional six-month extension (Option Term) through December 31, 2012; increases the MCS by a total of $8,224,968 to a total of $27,245,525; and adds and revises certain other County-required provisions of the Agreement.

Retroactive Contracts Review Committee

On August 12, 2008, DMH presented this proposed action to the Retroactive Contracts Review Committee (RCRC). The RCRC approved this action moving forward for Board approval but requested that DMH incorporate corrective actions to 1) identify any "red flags" that may alert DMH to potential mergers and/or acquisitions of contractors when the contractors fail to notify the Department; 2) ensure that contract monitoring procedures for information technology (IT) contracts are consistent with contract

monitoring procedures for DMH's other contracts; and 3) eliminate ambiguity regarding DMH's ability to exercise renewal options when such options will increase the maximum contract amount.

In response to the RCRC's concerns, DMH proposes the following corrective actions:

- DMH has identified two potential "red flags" that may indicate changes of ownership or potential mergers or acquisitions. These potential red flags include changes in a remittance address and minor name changes that would otherwise go unnoticed unless the new company established a new tax identification number. Fiscal staff will notify the DMH Contracts Development and Administration Division (CDAD) whenever a DMH contractor requests a change in the remittance address or when invoices or other documents indicate any potential name change. CDAD staff will investigate to ensure that the change has not resulted from a merger, acquisition or other change of ownership.

- DMH will remind all contractors of the requirement that they notify the Department of any merger, acquisition or other change of ownership.

- DMH will assign CDAD staff to work in conjunction with DMH's Chief Information Office Bureau (CIOB) to ensure ~~that~~ CIOB staff is fully trained and has implemented the requisite internal monitoring and controls to ensure ~~that~~ contract sums are not exceeded.

- DMH fiscal and budget staff, who control payments and encumbrances for all regular and IT contracts, will be provided with copies of the Board letter approving the contract(s) as well as the actual contracts to ensure that provisions related to the contract maximum amounts and any delegated authority to change those amounts are clearly understood. <u>In addition, DMH management will ensure fiscal staff continues to comply with the eCAPS Internal Control Plan which requires staff performing data entry and approval of payment documents to review and verify the contract before entering/authorizing payments.</u>

- In contracts that include provisions for option periods, the pricing and/or payment provisions will include separate entries for each option period that 1) states the basis of the amount of payment in any option period and 2) clearly indicates what authority (Board, DMH or other) is required in order to authorize payment in the option period.

An employee's failure to comply with the Department's revised procedures to avoid retroactive contracts may constitute grounds for disciplinary action pursuant to Civil Service Rules.

Implementation of Strategic Plan Goals

The recommended Board actions are consistent with the principles of the Countywide Strategic Plan Programmatic Goal No. 7, "Health and Mental Health." Board approval of the recommended actions will help DMH establish a client-centered, information-based mental health services delivery system that provides cost-effective and quality services within DMH and prepares DMH to collaborate more effectively with other County departments.

The recommended Board actions are consistent with the County's Chief Information Office Goals Nos. 1, 2, and 3. Board approval of the recommended actions will help DMH conduct County business electronically, provide secured access to electronic applications and utilize enterprise solutions to meet common needs.

The recommended Board actions are consistent with DMH Business Goals Nos. 1, 4, and 5. Board approval of the recommended actions will help DMH implement, manage, and report on the major new programs funded through MHSA; implement the plan for the cost-effective replacement of the legacy MHMIS and IS; and improve the collection of data for children (including foster children), adults, and older adults to be used for Performance Counts and other initiatives.

The recommended Board actions are consistent with the DMH IT Strategies Nos. 8 and 9. Board approval of the recommended actions will help DMH facilitate appropriate provider access to client information and clinical functionality regardless of the location of the provider or the client, and minimize paper and focus on digital information captured as close as possible to the point of origin.

FISCAL IMPACT/FINANCING

The Amendment will have no impact on net County Cost. The Amendment increases the MCS by a maximum of $8,224,968 for a revised total MCS of $27,245,525, broken down as follows:

- $1,281,564 for maintenance services from September 22, 2007 through September 21, 2008;

- $5,271,291 for maintenance services from September 22, 2008 through June 30, 2012;

- $772,113 for maintenance services from July 1, 2012 through December 31, 2012, which will be utilized only if DMH opts to extend the Agreement by the additional six- month term; and

- $900,000 in "Pool Dollars" to be used for additional Professional Services/Change Orders in the amount of no more than $200,000 per year for Fiscal Years (FYs) 2008-09 through 2011-12 and $100,000 in FY 2012-13.

Funding for the FY 2008-09 portion is fully funded in DMH's FY 2008-09 Budget. Funding for future years will be requested by DMH as part of the annual budget process.

FACTS AND PROVISIONS/LEGAL REQUIREMENTS

The Agreement was entered into originally with Sierra California, a wholly owned subsidiary of Sierra Systems Group Inc., a British Columbia corporation (Sierra BC), on September 3, 2002, to develop an IS in order to assist DMH in achieving compliance under the HIPAA TCS rules to meet the HIPAA requirements and the extended Federal deadline of October 16, 2003.

On or about September 3, 2002, Sierra BC made and executed a Continuing Special Guaranty as guarantor for Sierra California on the Agreement.

Subsequently, pursuant to the Agreement, DMH executed Amendment Nos. 1 and 2, on March 26, 2003 and December 15, 2005, respectively. Amendment No. 1 revised standard County contract language regarding HIPAA. Amendment No. 2 changed the names of the County Project Director and County Project Manager, added standard contract monitoring language to protect against contract overruns, added and revised certain standard contract provisions and amended contract language regarding HIPAA.

Effective December 31, 2003, Sierra California was merged with and into Sierra Washington, a wholly owned subsidiary of Sierra BC, and Sierra California ceased to exist. As part of such corporate merger, Sierra Washington acquired all the assets, including, but not limited to, all hardware, software (including all copyrights and other intellectual property rights), facilities and personnel, of Sierra California, and assumed all the obligations, responsibilities, liabilities and rights of Sierra California under the Agreement.

Sierra Washington represents that it does not believe that the December 31, 2003 corporate merger of Sierra California with and into Sierra Washington has had or will have any financial impact or service delivery impact whatsoever for the County under the Agreement, and that Sierra Washington shall fully perform all of the obligations, responsibilities and liabilities of Sierra California under the Agreement.

On January 6, 2007, Sierra BC was acquired by GGC Sierra Holdco Ltd., a Cayman Islands corporation (GGC Sierra).

On December 29, 2006, Sierra Top Holding S.A.R.L., a Luxembourg corporation (Sierra Top Holding), was formed as, and is now, a wholly owned subsidiary of GGC Sierra.

On December 29, 2006, Sierra Intermediate Holdings S.A.R.L., a Luxembourg corporation (Sierra Intermediate), was formed as, and is now, a wholly owned subsidiary of Sierra Top Holding.

On February 10, 2007, Sierra Washington and Sierra BC became, and are now, sister corporations and wholly owned subsidiaries of Sierra Intermediate.

On August 1, 2008, Sierra BC and Sierra Top Holding made and executed a Continuing Special Guaranty as joint and several guarantors for Sierra Washington on the Agreement, effective (i) as to Sierra BC, on January 1, 2004; and (ii) as to Sierra Top Holding, on January 6, 2007.

DMH conducted a thorough review of the merger of Sierra California with and into Sierra Washington, pursuant to the standards set forth in the Board Policy on contractor mergers/acquisitions, approved by the Board on July 19, 2005. DMH found Sierra Washington to be a financially viable entity and has the necessary experience to perform the services required under the existing Agreement.

The proposed Amendment acknowledges the merger of Sierra California with and into Sierra Washington, effective as of December 31, 2003; extends the term of the Agreement through June 30, 2012, with an additional six-month extension (Option Term) through December 31, 2012, which can be exercised at the sole discretion of the County Project Director; increases Pool Dollars for Professional Services/Change Orders, which may include, without limitation, IS-related work needed to transition to DMH's new IBHIS; increases maintenance fees through December 31, 2012; and increases the MCS by $8,224,968 effective as of September 22, 2007 to a total of $27,245,525. The Agreement, and the MCS, provide for an increase in the annual maintenance fees of three percent for FY 2008-09 and a projected increase of four percent for the remaining FYs 2009-10, 2010-11, 2011-12, and 2012-13, provided that the actual percentage increase will be based on the lesser of the annual Consumer

Price Index (CPI) increase or the general annual percentage salary change granted to County employees as of the prior July 1.

This Amendment also revises the "Contractor's Responsibility and Debarment" and "Delegation and Assignment by Contractor" provisions to be consistent with the County's standard contract language. Also included is the Board-mandated provision on "Contractor's Charitable Activities Compliance."

Sidley Austin LLP (outside counsel) has reviewed and commented on the provisions of the Amendment applicable to ongoing litigation relating to the Agreement in which the firm is representing the County. The Amendment has also been reviewed and approved as to form by County Counsel. The Chief Executive Office and County's Chief Information Officer have reviewed and approved the recommended actions.

During the extended term of the Agreement under this Amendment, DMH, through a Request For Proposal (RFP) process, plans to select a commercial off-the-shelf (COTS) software application for an IBHIS with clinical, administrative, and billing/claiming capabilities that has a track record of success in other large mental health services delivery organizations. The application will be vendor supported and maintained and integrated with broad functionality to meet the requirements of DMH under the Mental Health Services Act (MHSA). Once an agreement has been executed with a software vendor for the IBHIS and the IBHIS has been implemented, both the IS and the legacy Mental Health Management Information System (MHMIS) will be retired. The MHMIS is DMH's legacy HIPAA non-compliant billing system that was augmented by the IS as a "wrapper" in February 2004 to achieve HIPAA compliance.

CONTRACTING PROCESS

Sierra California was selected through a formal open, competitive solicitation process. On September 3, 2002, your Board awarded the Agreement, with a three-year term measured from the date of system acceptance (with an automatic extension for three two-year extension periods and a single one-year extension period, unless either party elected not to extend the term further) in the amount of $19,020,557, to Sierra California to provide an information technology solution to allow DMH to achieve compliance with the HIPAA TCS rules while continuing to use and improve its legacy system, the MHMIS.

DMH did not advertise this proposed Amendment No. 3 on the Office of Small Business Countywide Web Site as a contracting opportunity, because it is for the continued provision of technical services which the current contractor is uniquely qualified to perform. To select a new contractor at this time would be extremely costly to the County.

IMPACT ON CURRENT SERVICES

The execution of Amendment No. 3 will allow for the Agreement extension and will enable Sierra Washington to continue maintenance and operation services to the IS. This extension is necessary to continue to operate and maintain the IS until the replacement system (IBHIS) can be procured and implemented.

CONCLUSION

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

Respectfully submitted,

Marvin J. Southard, D.S.W.
Director of Mental Health

Reviewed by:

Richard Sanchez
Interim, Chief Information Officer

MJS:LW:RG:RK

Attachment

c: County Counsel
Chief Executive Office
Chief Information Officer
Chairperson, Mental Health Commission

CIO ANALYSIS

AMENDMENT NO. 3 TO AGREEMENT NUMBER 74144 WITH SIERRA SYSTEMS, INC.

CIO RECOMMENDATION: ☒ APPROVE ☐ APPROVE WITH MODIFICATION ☐ DISAPPROVE

Contract Type:
☐ New Contract ☐ Contract Amendment ☒ Contract Extension
☐ Sole Source Contract ☐ Hardware Acquisition ☐ Other

New/Revised Contract Term: Base Term: 3 Yrs., 9 Mos. # of Option Yrs: 6 Mos.

Contract Components:
☒ Software ☐ Hardware ☐ Telecommunications
☐ Professional Services

Project Executive Sponsor: Marvin J. Southard, D.S.W., Director, DMH

Budget Information :

Y-T-D Contract Expenditures	$ 1,281,564
Requested Contract Amount	$ 8,224,968
Aggregate Contract Amount	$ 27,245,525

Project Background:

Yes	No	Question
☐	☒	Is this project legislatively mandated?
☐	☒	Is this project subvented? If yes, what percentage is offset?
☐	☒	Is this project/application applicable to (shared use or interfaced) other departments? If yes, name the other department(s) involved.

Strategic Alignment:

Yes	No	Question
☒	☐	Is this project in alignment with the County of Los Angeles Strategic Plan?
☒	☐	Is this project consistent with the currently approved Department Business Automation Plan?
☒	☐	Does the project's technology solution comply with County of Los Angeles IT Directions document?
☒	☐	Does the project technology solution comply with preferred County of Los Angeles IT standards?
☐	☒	This contract and/or project and its milestone deliverables must be entered into the Information Technology Tracking System (ITTS).

Project/Contract Description:

The Department of Mental Health (DMH) is requesting Board approval to:

- Acknowledge the merger of Sierra Systems Group Inc., a California corporation, with and into Sierra Systems Inc., a Washington corporation, and the delegation and assignment of the existing maintenance agreement, effective as of December 31, 2003;
- Approve a retroactive adjustment to the Maximum Contract Sum (MCS), in the amount of $1,281,564, to reflect one year of optional maintenance services provided for the period of September 22, 2007 through September 21, 2008;
- Approve the Director of Mental Health or his designee to prepare, sign and execute Amendment No. 3 to the existing Agreement to provide continued maintenance services of the Information Systems and Professional Services/Change Orders; extend the term of the Agreement through June 30, 2012; and increase the MCS to $27,245,525;
- Delegate authority to the County Project Director to extend the term of the Agreement by six months through December 31, 2012; and
- Delegate authority to the Director of DMH, in his/her sole discretion, to terminate the Agreement for convenience when DMH's planned replacement system, the Integrated Behavioral Health Information System (IBHIS), is fully developed and operational, as determined in the sole judgment of the Director of DMH.

This CIO Analysis focuses on proposed Amendment No. 3 to extend the term of the Agreement, issues related to the acknowledgement of the merger of Sierra Systems Group Inc. with and into Sierra Systems Inc., and retroactive adjustments to the MCS as addressed in DMH's Board Letter.

Background:

The Integrated System (IS) is a Health Insurance Portability and Accountability Act (HIPAA) compliant wrapper system developed as a front-end to DMH's core Mental Health Management Information System (MHMIS). The IS enables contractors and DMH directly operated programs to claim services and receive reimbursements from various funding sources.

On September 3, 2002, your Board approved an Agreement with Sierra California to develop an IS. The Agreement provided for three years of maintenance after the final acceptance date of the IS (September 21, 2004), so the initial term expired on September 21, 2007. This base Agreement also provided for three automatic two-year extensions followed by a one-year extension unless either party chose to terminate the contract.

On March 9, 2007, Sierra California submitted a termination notice to DMH effective as of September 22, 2007. DMH executed a Change Order with Sierra California to extend the Agreement term for only one year, from September 22, 2007 through September 21, 2008, which was within the delegated authority granted by the original Board Letter.

The Change Order also provided for the annual maintenance payment for the extended term in the amount of $1,281,154. However, the Board Letter that approved the Agreement required DMH to return to the Board to amend and increase the MCS to cover the extended term. This is the issue that necessitated DMH working with the Retroactive Contracts Review Committee (RCRC) on a resolution to the retroactive contract issue. This resulted in specific corrective actions highlighted in the Board Letter.

The proposed Amendment extends the term of the Agreement through June 30, 2012, with an additional six-month extension through December 31, 2012. It also increases the MCS by a total of $8,224,968 to a total of $27,245,525.

Project Justification/Benefits:

The execution of Amendment No. 3 will allow for the Agreement extension and will enable Sierra Washington to continue maintenance and operation services of the IS. This extension is necessary to continue to operate and maintain the IS until the replacement system (Integrated Behavioral Health Information System) can be procured and implemented. This Amendment prevents Sierra Washington from terminating maintenance and operation services throughout the remainder of the term.

Project Metrics:

This Amendment is an extension of the existing Agreement, with essentially the same terms and conditions, and DHM will be utilizing current project metrics to measure vendor performance.

Impact On Service Delivery Or Department Operations, If Proposal Is Not Approved:

Board approval of the recommended actions ensures uninterrupted day-to-day operations and continued maintenance of the IS, which supports mission-critical claiming and reimbursement from various funding sources for services rendered by DMH contractors and directly operated programs.

Alternatives Considered:

Because this is an Amendment to an existing Agreement, no other alternatives were considered.

Project Risks:

The primary risk with this Amendment is that it assumes that IBHIS will be successfully implemented when this amended Agreement expires on December 31, 2012. If this system transition is successful, it will allow DMH to retire the MHMIS and IS systems, and eliminate the dependency on Sierra.

Risk Mitigation Measures:

DMH is aware of the criticality of a timely IBHIS implementation, and has a dedicated project team, with a Project Management Advisory Body supporting it, to manage the procurement and implementation of IBHIS. Beyond the original expiration date of the Amendment (June 30, 2012), DMH has included an optional six-month extension to accommodate any delays in the IBHIS implementation.

Financial Analysis:

The Amendment will have no impact on net County costs. The Amendment increases the MCS by a maximum of $8,224,968 for a revised MCS total of $27,245,525. The components are as follows:

Description	Cost
Retroactive maintenance services from September 22, 2007 through September 21, 2008.	$ 1,281,564
Maintenance services from September 22, 2008 through June 30, 2012.	5,271,291
Maintenance services from July 1, 2012, through December 31, 2012, which will be utilized only if DMH opts to extend the Agreement by the additional six-month term.	772,113
Pool Dollars to be used for additional Professional Services/Change Orders in the amount of no more than $200,000 per year for Fiscal Years 2008-09 through FY 2011-12, and $100,000 for Fiscal Year 2012-13.	900,000
Total	$ 8,224,968

Funding for Fiscal Year 2008-09 is in DMH's budget, and funding for future years will be requested by DMH as part of the annual budget process.

CIO Concerns:

The CIO's only concern at this time has to do with the timely procurement and implementation of the IBHIS, which will be required in order to retire the existing legacy systems. We will working closely with DMH to ensure schedule adherence.

CIO Recommendations:

Based on our review of the Board Letter, and discussions with the Department and County Counsel, we recommend Board approval of the recommended actions.

CIO APPROVAL

Date Received: August 14, 2008

Prepared by: Henry Balta

Date: August 19, 2008

Approved: Greg Melendez

Date: 8/27/2008

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Amendment No. 3 to Agreement for

HIPAA Remediation Project

(County Agreement Number 74144)

This Amendment No. 3 ("Amendment No. 3") is entered into by and between the County of Los Angeles ("County") and Sierra Systems Inc., a Washington corporation ("Sierra Washington") and amends that certain County agreement Number 74144, dated September 3, 2002, by and between County and Sierra Systems Group Inc., a California corporation ("Sierra California") for a HIPAA Remediation Project ("Original Agreement"), as amended by that certain Amendment No. 1, dated as of March 26, 2003 ("Amendment No. 1"), and that certain Amendment No. 2, which is dated as of December 15, 2005 and, as adopted and ratified herein, is effective as of December 15, 2005 ("Amendment No. 2"), and any prior implemented Change Orders (the Original Agreement, as so amended prior to the date hereof, the "Existing Agreement").

WHEREAS, on September 3, 2002, County and Sierra California entered into the Original Agreement;

WHEREAS, from September 3, 2002 to December 31, 2003, Sierra California was a wholly owned subsidiary of Sierra Systems Group Inc., a British Columbia corporation ("Sierra BC");

WHEREAS, on or about September 3, 2002, Sierra BC made and executed a Continuing Special Guaranty as guarantor for Sierra California on the Original Agreement and any amendments thereto;

WHEREAS, on March 26, 2003, County and Sierra California entered into Amendment No. 1, for the purpose of implementing federally mandated changes to Exhibit E-1 (Contractor's Obligation As A Business Associate Under the Health Insurance Portability and Accountability Act of 1996);

WHEREAS, effective December 31, 2003, Sierra California was merged with and into Sierra Washington and Sierra California ceased to exist on such date;

WHEREAS, effective December 31, 2003, as part of such corporate merger of Sierra California with and into Sierra Washington, Sierra Washington acquired all the assets, including, but not limited to, all hardware, software (including all copyrights and other intellectual property rights), facilities and personnel, of Sierra California, and assumed all the obligations, responsibilities, liabilities and rights of Sierra California under the Original Agreement and any amendments thereto;

WHEREAS, from December 31, 2003 to February 10, 2007, Sierra Washington was a wholly owned subsidiary of Sierra BC;

WHEREAS, on December 15, 2005, County executed and Sierra California purportedly executed Amendment No. 2, for the purpose of changing County Project Director and County Project Manager, adding contract monitoring language to protect against contract overruns, adding and revising certain provisions of Exhibit A (Additional Terms and Conditions) and amending and restating Exhibit E-1 (Contractor's Obligation As A Business Associate Under the Health Insurance Portability and Accountability Act of 1996);

WHEREAS, on January 6, 2007, Sierra BC was acquired by GGC Sierra Holdco Ltd., a Cayman Islands corporation ("GGC Sierra");

WHEREAS, on December 29, 2006, Sierra Top Holding S.A.R.L., a Luxembourg corporation ("Sierra Top Holding") was formed as, and is now, a wholly owned subsidiary of GGC Sierra;

WHEREAS, on December 29, 2006, Sierra Intermediate Holdings S.A.R.L., a Luxembourg corporation ("Sierra Intermediate") was formed as, and is now, a wholly owned subsidiary of Sierra Top Holding;

WHEREAS, on February 10, 2007, Sierra Washington and Sierra BC became, and are now, sister corporations and wholly owned subsidiaries of Sierra Intermediate;

WHEREAS, on August 1, 2008, Sierra BC and Sierra Top Holding made and executed a Continuing Special Guaranty as joint and several guarantors for Sierra Washington on the Existing Agreement and any amendments thereto, effective (i) as to Sierra BC, on January 1, 2004; and (ii) as to Sierra Top Holding, on January 6, 2007;

WHEREAS, the Existing Agreement is set to expire on September 21, 2008;

WHEREAS, County and Contractor desire to amend the Existing Agreement in order to, *inter alia*, acknowledge such corporate merger of Sierra California with and into Sierra Washington; to extend the Term as set forth herein; to increase the amount of Pool Dollars available for Professional Services/Change Orders and to reflect an adjustment in the Maintenance Fees for the extended Term; and to update certain provisions required by County's Board of Supervisors; and

WHEREAS, County and Contractor are presently engaged in negotiations concerning rights and obligations under the Existing Agreement and, without prejudice to each party's position and interpretation of the terms contained in the Existing Agreement, desire to extend and amend the Existing Agreement as set forth herein.

NOW, THEREFORE, in consideration of the foregoing and pursuant to Paragraph 6 (Change Orders and Amendments) of the Existing Agreement, County and Contractor hereby agree as follows:

1. Construction.

1.1 Capitalized terms used in this Amendment No. 3 without further definition shall have the meaning ascribed to them in the Existing Agreement.

1.2 As used in this Amendment No. 3, words and phrases such as "including," "for example," "e.g.," and "such as," are intended to be descriptive and not limiting.

1.3 Neither the existence of this Amendment No. 3 nor any provision herein shall be used as an admission of liability with respect to any acts, transactions or events occurring or arising prior to the Amendment No. 3 Effective Date. Nor shall this Amendment No. 3 be used as evidence of a breach by either party of any contractual or other obligation that existed prior to the Amendment No. 3 Effective Date. This Amendment No. 3 shall not be admissible as evidence in any dispute between the parties other than to establish the duties arising from this Amendment No. 3 with respect to transactions, events or occurrences after the Amendment No. 3 Effective Date.

2. Representations By Sierra Washington Regarding Corporate Merger

2.1 Effective December 31, 2003, Sierra Washington hereby adopts, ratifies, reaffirms and confirms the Original Agreement and Amendment No. 1.

2.2 All references in the Original Agreement and Amendment No. 1 to "Contractor" and "Sierra Systems Group Inc., a California corporation" shall be deemed amended, effective December 31, 2003, to refer to "Sierra Systems Inc., a Washington corporation", which shall be deemed "Contractor" under the Original Agreement, Amendment No. 1, and any further amendments thereto, including, but not limited to, Amendment No. 3.

2.3 Amendment No. 2 shall be deemed to have been in effect since December 15, 2005, and Sierra Washington hereby adopts, ratifies, reaffirms and confirms Amendment No. 2.

2.4 All references in Amendment No. 2 to "Contractor" and "Sierra Systems Group Inc., a California corporation" shall be deemed amended, effective December 15, 2005, to refer to "Sierra Systems Inc., a Washington corporation", which shall be deemed "Contractor" under Amendment No. 2, and any further amendments thereto, including, but not limited to, Amendment No. 3.

2.5 Effective December 31, 2003, Sierra Washington hereby adopts, ratifies, reaffirms and confirms (i) any and all Change Orders entered into between County and Sierra California from September 3, 2002 to and including December 31, 2003; and (ii) any and all notices, billings, and other documents prepared by Sierra California and submitted to County in connection with this Agreement from September 3, 2002 to and including December 31, 2003.

2.6 All references to "Contractor" and "Sierra Systems Group Inc., a California corporation", in (i) any and all Change Orders entered into between County and Sierra California from September 3, 2002 to and including December 31, 2003, and (ii) any and all notices, billings, and other documents prepared by Sierra California and submitted to County in connection with this Agreement from September 3, 2002 to and including December 31, 2003, shall be deemed amended, effective December 31, 2003, to refer to "Sierra Systems Inc., a Washington corporation", which shall be deemed "Contractor" on such Change Orders, notices, billings, and other documents.

2.7 To the extent that, since December 31, 2003, (i) any Change Orders have been executed by Sierra California, and (ii) any notices, billings, and other documents prepared by Sierra California have been submitted to County in connection with this Agreement, any and all such Change Orders, notices, billings, and other documents shall be deemed to have been in effect from the date such Change Orders, notices, billings, and other documents would have been effective, pursuant to the terms of this Agreement, if such Change Orders, notices, billings and other documents were executed or submitted by an entity legally authorized to do so.

2.8 To the extent that, since December 31, 2003, (i) any Change Orders have been executed by Sierra California, and (ii) any notices, billings, and other documents prepared by Sierra California have been submitted to County in connection with this Agreement, Sierra Washington hereby adopts, ratifies, reaffirms and confirms any and all such Change Orders, notices, billings, and other documents. The date on which each such Change Order, notice, billing, and other document shall be adopted, ratified, reaffirmed and confirmed, pursuant to this Subsection 2.8, shall be the date on which, as applicable, each such Change Order, notice, billing, and other document would have been effective, pursuant to the terms of this Agreement, if each such Change Order, notice, billing and other document were executed or submitted by an entity legally authorized to do so.

2.9 To the extent that, since December 31, 2003, (i) any Change Orders have been executed by Sierra California, and (ii) any notices, billings, and other documents prepared by Sierra California have been submitted to County in connection with this Agreement, all references to "Contractor" and "Sierra Systems Group Inc., a California corporation" in any and all such Change Orders, notices, billings and other documents, shall be deemed amended to refer to "Sierra Systems Inc., a Washington corporation", which shall be deemed "Contractor" on each such Change Order, notice, billing, and other document. The date on which each such Change Order, notice, billing and other document shall be deemed amended, pursuant to this Subsection 2.9, shall be the date on which, as applicable, each such Change Order, notice, billing, and other document would have been effective, pursuant to the terms of this Agreement, if each such Change Order, notice, billing and other document were executed or submitted by an entity legally authorized to do so.

2.10 Contractor does not believe that the December 31, 2003 corporate merger of Sierra California with and into Sierra Washington has had or will have any financial

impact or service delivery impact whatsoever for County under the Original Agreement, Amendment No. 1, Amendment No. 2, and/or any further amendments thereto, including, but not limited to, Amendment No. 3.

3. Amendments to the Base Document of the Existing Agreement.

The base document to the Existing Agreement is amended as follows:

3.1 Agreement. Subparagraph 1.1 is hereby amended by deleting it in its entirety and replacing it with the following:

"1.1 Agreement. This base document, along with Exhibits A through Q attached hereto and the appendices attached to the Statement of Work, in each case, as amended by Amendment No. 1 (defined below), Amendment No. 2 (defined below), Amendment No. 3 (defined below) and Change Orders 1 through 79 (with the exception of cancelled Change Orders 14, 30, 33, 43, 54, 62, 66, 72 and 74), collectively constitute and throughout and hereinafter are referred to as the "Agreement"."

3.2 Interpretation. Subparagraph 1.2 is hereby amended by deleting it in its entirety and replacing it with the following:

"1.2 Interpretation. In the event of any conflict or inconsistency in the definition or interpretation of any word, responsibility, schedule, or the contents or description of any Task, Subtask, Deliverable, or other Work or otherwise, such conflict or inconsistency shall be resolved by giving precedence first to this base document, and then to the Exhibits and Appendices according to the following priority:

1.2.1 Exhibit A – Additional Terms and Conditions

1.2.2 Exhibit E-1 – Business Associate Health Information Disclosure

1.2.3 Exhibit B – Statement of Work

Appendix A: Requirements

Appendix B: Project Control Document

Appendix C: Project Status Reports

Appendix D: System Test Specification Document

Appendix E: Test Results Matrix

1.2.4 Exhibit C – Price and Schedule of Payments

1.2.5 Exhibit D – Description of Software

1.2.6 Exhibit F – Maintenance & Support

1.2.7 Exhibit G-1 – Third Party Software

1.2.8 Exhibit G-2 – Third Party Customizations Software

1.2.9 Exhibit H – Third Party Hardware Compatibility Specifications

1.2.10 Exhibit I – Contract Discrepancy Report

1.2.11 Exhibit J – Preapproved Subcontractors

1.2.12 Exhibit K – Sample Subcontract

1.2.13 Exhibit L – Performance Bond

1.2.14 Exhibit M – Contractor's Employee Acknowedgement, Confidentiality & Assignment of Rights

1.2.15 Exhibit N – Task/Deliverable Acceptance Certificate

1.2.16 Exhibit O – Safely Surrendered Baby Law Fact Sheet

1.2.17 Exhibit P – Attestation Regarding Federally Funded Programs

1.2.18 Exhibit Q – Charitable Contributions Certificate"

3.3 Definitions. Paragraph 2 (Definitions) is hereby amended by adding the following definitions thereto in the appropriate alphabetical order:

3.3.1. ""Amendment No. 1" means that certain Amendment No. 1 to County Agreement Number 74144, dated as of March 23, 2003, by and between County and Contractor."

3.3.2. ""Amendment No. 2" means that certain Amendment No. 2 to County Agreement Number 74144, dated as of December 15, 2005, by and between County and Contractor."

3.3.3. ""Amendment No. 3" means that certain Amendment No. 3 to County Agreement Number 74144, dated as of the date of approval by County's Board of Supervisors, by and between County and Contractor."

3.3.4. ""Amendment No. 3 Effective Date" means the date on which Amendment No. 3 becomes effective in accordance with its terms."

2.2.6 ""Transition Services" includes:

- Provision of up-to-date copies of all technical documentation;
- Provision of current source code and report definitions;
- Training DMH programmers to maintain and modify IS source code;

- Training DMH report writing staff how to develop and implement new reports into the Production environment;
- Training DMH support staff on the operation of the IS, including preparing and submitting batches of ANSI X.12 837 health care claims transactions and receiving and posting batches of ANSI X.12 835 Remittance Advice transactions; and
- Training DMH programmers, report writers, and support staff on how to troubleshoot IS problems, especially claims or remittance advice related problems."

3.4 Term. Paragraph 7 is hereby amended by deleting it in its entirety and replacing it with the following:

> "7. **TERM**. The term of this Agreement shall commence upon the Effective Date and shall continue until June 30, 2012, unless terminated earlier in whole or in part, as provided in this Agreement (the "Initial Term"). At the sole discretion of County Project Director, the Initial Term may be extended for six (6) additional months through December 31, 2012 (such extension shall be referred to as the "Option Term"). County Project Director shall notify Contractor of such extension of the Initial Term no less than 15 days prior to expiration of the Initial Term. Beginning 120 days before the end of the Initial Term of this Agreement or, if extended, the Option Term, Contractor shall provide, upon written request by County, Transition Services through the end of the Term as part of Maintenance Services and for no additional cost to County beyond the Maintenance Fee. As used herein, the "Term" shall mean the Initial Term and, if extended, the Option Term, as the case may be."

3.5 Maximum Contract Sum. Subparagraph 8.2.1 is hereby amended by deleting the first sentence thereof in its entirety, and replacing it with the following:

> "8.2.1 Maximum Contract Sum. The "Maximum Contract Sum" under this Agreement is set forth on Exhibit C (Price and Schedule of Payments) and is the total monetary amount that would be payable by County to Contractor for supplying all Work, including the Tasks, Subtasks, Deliverables, Maintenance Services, all Professional Services/Change Orders, and applicable Taxes, under this Agreement. The Maximum Contract Sum for this Agreement authorized by County hereunder shall in no event, expressly or by implication, exceed the amount set forth on Exhibit C (Price and Schedule of Payments) and shall be allocated as set forth thereon. Contractor shall perform and complete all

Work required of Contractor by this Agreement in exchange for the amounts to be paid to Contractor as set forth in this Agreement but in any event, not in excess of the Maximum Contract Sum. Contractor acknowledges and agrees that the Maximum Contract Sum is an all-inclusive, fixed price, that is an agreed upon assessment of the amount to be paid by County to Contractor in exchange for Contractor delivering to County, and County accepting, within the required delivery schedule an Integrated System. Contractor further acknowledges that the Specifications set forth in the Statement of Work are functional Specifications and that it is Contractor's responsibility to design, achieve and timely deliver an Integrated System. This Subparagraph 8.2.1 shall be effective as of September 22, 2007."

3.6 Subparagraph 8.3 is hereby amended by deleting it in its entirety and replacing it with the following:

"8.3 Pool Dollars. Exhibit C (Price and Schedule of Payments) includes the aggregate pool dollars available for Professional Services/Change Orders in accordance with Subparagraph 13.5 (Professional Services) and Paragraph 6 (Change Orders and Amendments) (collectively, "Pool Dollars"). Contractor acknowledges that, as of the Amendment No. 3 Effective Date, Change Orders 1 through 79, with the exception of cancelled Change Orders 14, 30, 33, 43, 54, 62, 66, 72 and 74, have been executed and County has paid to Contractor $2,456,471 in Pool Dollars in exchange for Professional Services/Change Orders requested by County thereunder. County and Contractor acknowledge and agree that as of the Amendment No. 3 Effective Date, $279,234 [($2,535,705 – [$2,456,471]) + [$200,000]] of Pool Dollars are available for Professional Services/Change Orders in accordance with Subparagraph 13.5 (Professional Services) and Paragraph 6 (Change Orders and Amendments). Beginning each fiscal year (i.e., July 1) following the Amendment No. 3 Effective Date, and during the Initial Term, County Project Director will have the authority, in his/her sole discretion and subject to availability of funds in County's budget, to increase the then remaining amount of available Pool Dollars by up to $200,000. In the event County Project Director exercises his/her discretion to extend the Initial Term pursuant to Paragraph 7 (Term), County Project Director will have the authority, in his/her sole discretion and subject to availability of funds in County's budget, to increase the then remaining amount of available Pool Dollars by up to $100,000. Notwithstanding any

provision of this Agreement to the contrary, Contractor is not obligated to perform Work under Change Orders if Pool Dollars are not available to pay for such Work."

3.7 Subparagraph 16.2 is hereby amended by deleting it in its entirety and replacing it with the following:

"16.2 County acknowledges that it may have to execute certain third party license agreements in respect of Third Party Software required for the Integrated System. Except with regard to Crystal Enterprise Software, these third party license agreements shall be at no additional cost to County. To the extent that any such third party license agreement conflicts with this Agreement or in any way restricts County's full use and enjoyment of the Software as contemplated herein, Contractor shall take all necessary action, and (except with regard to Crystal Enterprise Software) pay all sums required, for County fully to enjoy all the rights and benefits in respect of the Software granted under this Agreement. Contractor shall promptly and (except with regard to Crystal Enterprise Software) at no cost to County, either: (1) obtain a license from the appropriate third party which shall enable Contractor to modify such Third Party Software, and Contractor shall provide all necessary modifications, or (2) to the extent that Contractor is unable to obtain such a license, provide an Update or alternative solution, which is functionally equivalent, in the reasonable determination of Contractor Project Manager and County Project Manager, in lieu of modifying such Third Party Software."

3.8 Notices. Paragraph 21 is hereby amended by deleting it in its entirety and replacing it with the following:

"21. **NOTICES**. All notices or demands required or permitted to be given or made under this Agreement, unless otherwise specified, shall be in writing and shall be addressed to the parties at the following addresses and delivered: (1) by hand with signed receipt, (2) by first-class registered or certified mail, postage prepaid, (3) by facsimile or electronic mail transmission followed within twenty-four (24) hours by a confirmation copy mailed by first-class registered or certified mail, postage prepaid, or (4) by overnight commercial carrier, with signed receipt. Notice is deemed given at the time of signed receipt in the case of hand delivery, three (3) days after deposit in the United States mail as set forth above, on the date of facsimile or

electronic mail transmission if followed by timely confirmation mailing, or on the date of signature receipt by the receiving party of any overnight commercial carrier delivery. Addresses may be changed by either party giving ten (10) Working Days prior notice in accordance with the procedures set forth above, to the other party.

To County: (1) Department of Mental Health
695 S. Vermont Avenue, 7th Floor
Los Angeles, California 90005
Facsimile: 213) 736-9360

With a copy to:

(2) County Counsel, Los Angeles County
648 Kenneth Hahn Hall of Administration
500 West Temple Street
Los Angeles, California 90012
Attention: Richard Bloom
Facsimile: (213) 633-1915

To Contractor: (1) Sierra Systems Inc., a Washington Corporation
400 N. Continental Blvd., Suite 300
El Segundo, California 90245
Attention: Christopher Jacoby
Facsimile: (310) 536-6282

With a copy to:

(2) Sierra Systems Inc.
2500 – 1177 West Hastings St.
Vancouver, BC V6E 2K3
Canada
Attention: Legal Department
Facsimile: 1-888-688-6482

County Project Director shall have the authority to issue all notices or demands, which are required or permitted by County under this Agreement."

4. Amendments to Exhibit A (Additional Terms and Conditions).

Exhibit A (Additional Terms and Conditions) to the Existing Agreement is hereby amended as follows:

4.1 Subparagraph 6.1 is hereby amended by deleting it in its entirety and replacing it with the following:

> "6.1 The Agreement may be terminated, in whole or in part from time to time, by County, in its sole discretion, for whatever reason. Termination of Work hereunder shall be effected by delivery to Contractor of a notice of termination specifying the extent to which performance of Work is terminated, and the date upon which such termination becomes effective shall be no less than thirty (30) days after notice. The Director of DMH, in his/her sole discretion, may terminate the Agreement pursuant to this Paragraph 6 when any replacement system to the Integrated System is fully developed and operational, as determined in the sole judgment of the Director of DMH."

4.2 Paragraph 17 (Contractor's Responsibility and Debarment) is hereby amended by deleting it in its entirety and replacing it with the following:

> **"17. CONTRACTOR'S RESPONSIBILITY AND DEBARMENT.**
>
> 17 .1 Responsible Contractor
>
> A responsible contractor is a contractor who has demonstrated the attribute of trustworthiness, as well as quality, fitness, capacity and experience to satisfactorily perform the contract. It is County's policy to conduct business only with responsible contractors.
>
> 17.2 Chapter 2.202 of the County Code
>
> Contractor is hereby notified that, in accordance with Chapter 2.202 of the Los Angeles County Code, if County acquires information concerning the performance of Contractor on this or other contracts which indicates that Contractor is not responsible, County may, in addition to other remedies provided in this Agreement, debar Contractor from bidding or proposing on, or being awarded, and/or performing work on County contracts for a specified period of time, which generally will not exceed five (5) years but may exceed five years or be permanent if warranted by the

circumstances, and terminate any or all existing contracts Contractor may have with County.

17.3 Non-responsible Contractor

County may debar Contractor if County's Board of Supervisors finds, in its discretion, that Contractor has done any of the following: (i) violated a term of a contract with County or a nonprofit corporation created by County; (ii) committed an act or omission which negatively reflects on Contractor's quality, fitness or capacity to perform a contract with County, any other public entity, or a nonprofit corporation created by County, or engaged in a pattern or practice which negatively reflects on same; (iii) committed an act or offense which indicates a lack of business integrity or business honesty or (iv) made or submitted a false claim against County or any other public entity.

17.4 Contractor Hearing Board

If there is evidence that Contractor may be subject to debarment, County's Project Director will notify Contractor in writing of the evidence which is the basis for the proposed debarment and will advise Contractor of the scheduled date for a debarment hearing before the Contractor Hearing Board.

The Contractor Hearing Board will conduct a hearing where evidence on the proposed debarment is presented. Contractor and/or Contractor's representative shall be given an opportunity to submit evidence at that hearing. After the hearing, the Contractor Hearing Board shall prepare a tentative proposed decision, which shall contain a recommendation regarding whether Contractor should be debarred, and if so, the appropriate length of time of the debarment. Contractor and County shall be provided an opportunity to object to the tentative proposed decision prior to its presentation to County's Board of Supervisors.

After consideration of any objections, or if no objections are submitted, a record of the hearing, the proposed decision and any other recommendation of the Contractor Hearing Board shall be presented to County's Board of Supervisors. County's Board of Supervisors shall have the right at its sole discretion to modify, deny or adopt the proposed decision and recommendation of the Contractor Hearing Board.

17.5 Review of Debarment Decision

If a contractor has been debarred for a period longer than five (5) years, that contractor may, after the debarment has been in effect for at least five (5) years, submit a written request for review of the debarment determination to reduce the period of debarment or terminate the debarment. County may, in its discretion, reduce the period of debarment or terminate the debarment if it finds that such contractor has adequately demonstrated one or more of the following: (i) elimination of the grounds for which the debarment was imposed; (ii) a bona fide change in ownership or management; (iii) material evidence discovered after debarment was imposed; or (iv) any other reason that is in the best interests of County.

The Contractor Hearing Board will consider a request for review of a debarment determination only where (i) the requesting contractor has been debarred for a period longer than five (5) years, (ii) the debarment has been in effect for at least five (5) years and (iii) the request is in writing, states one or more of the grounds for reduction of the debarment period or termination of the debarment, and includes supporting documentation. Upon receiving an appropriate request, the Contractor Hearing Board will provide notice of the hearing on the request. At the hearing, the Contractor Hearing Board shall conduct a hearing where evidence on the proposed reduction of debarment period or termination of debarment is presented. This hearing shall be conducted and the request for review decided by the Contractor Hearing Board pursuant to the same procedures as for a debarment hearing.

The Contractor Hearing Board's proposed decision shall contain a recommendation on the request to reduce the period of debarment or terminate the debarment. The Contractor Hearing Board shall present its proposed decision and recommendation to County's Board of Supervisors. County's Board of Supervisors shall have the right to modify, deny, or adopt the proposed decision and recommendation of the Contractor Hearing Board

17.6 Subcontractors of Contractor

These terms shall also apply to Subcontractors of County."

4.3 Paragraph 40 (Assignment by Contractor) is hereby amended by deleting it in its entirety and replacing it with the following:

"40. DELEGATION AND ASSIGNMENT BY CONTRACTOR.

40.1 Contractor shall not assign its rights or delegate its duties under this Agreement, or both, whether in whole or in part, without the prior written consent of County, in its discretion, and any attempted assignment or delegation without such consent shall be null and void. For purposes of this paragraph, County consent shall require a written amendment to this Agreement, which is formally approved and executed by the parties. Any payments by County to any approved delegate or assignee on any claim under this Agreement shall be deductible, at County's sole discretion, against the claims which Contractor may have against County.

40.2 Shareholders, partners, members, or other equity holders of Contractor may transfer, sell, exchange, assign, or divest themselves of any interest they may have therein. However, in the event any such sale, transfer, exchange, assignment, or divestment is effected in such a way as to give majority control of Contractor to any person(s), corporation, partnership, or legal entity other than the majority controlling interest therein at the time of execution of this Agreement, such disposition is an assignment requiring the prior written consent of County in accordance with applicable provisions of this Agreement.

40.3 Any assumption, assignment, delegation, or takeover of any of the Contractor's duties, responsibilities, obligations, or performance of same by any entity other than the Contractor, whether through assignment, subcontract, delegation, merger, buyout, or any other mechanism, with or without consideration for any reason whatsoever without County's express prior written approval, shall be a material breach of this Agreement which may result in the termination of this Agreement. In the event of such termination, County shall be entitled to pursue the same remedies against Contractor as it could pursue in the event of default by Contractor."

4.4 Paragraph 60 (Contractor's Charitable Activities Compliance) is hereby added to Exhibit A (Additional Terms and Conditions) to the Existing Agreement, which shall read as follows:

"**60. CONTRACTOR'S CHARITABLE ACTIVITIES COMPLIANCE.** The Supervision of Trustees and Fundraisers for Charitable Purposes Act regulates entities receiving or raising charitable contributions. The "Nonprofit Integrity Act of 2004" (SB 1262, Chapter 919) increased Charitable Purposes Act requirements. By requiring Contractors to complete the certification in **Exhibit Q**, the County seeks to ensure that all County contractors which receive or raise charitable contributions comply with California law in order to protect the County and its taxpayers. A Contractor which receives or raises charitable contributions without complying with its obligations under California law commits a material breach subjecting it to either contract termination or debarment proceedings or both. (County Code Chapter 2.202)."

5. Amendment to Exhibit C (Price and Schedule of Payments).

Exhibit C (Price and Schedule of Payments) to the Existing Agreement is hereby amended by deleting it in its entirety and replacing it with the revised Exhibit C (Price and Schedule of Payments), each page dated September 2008, which is attached hereto as Attachment 1 (Exhibit C (Price and Schedule of Payments)) and incorporated herein by reference.

6. Amendment to Exhibit D (Description of Software).

Exhibit D (Description of Software) to the Existing Agreement is hereby amended by deleting it in its entirety and replacing it with the revised Exhibit D (Description of Software), each page dated September 2008, which is attached hereto as Attachment 2 (Exhibit D (Description of Software)) and incorporated herein by reference.

7. Amendment to Exhibit E-1 (Business Associate Health Information Disclosure).

Exhibit E-1 (Contractors Obligation As A Business Associate Under The Health Insurance Portability and Accountability Act of 1996) to the Existing Agreement is hereby amended by deleting it in its entirety and replacing it with the revised Exhibit E-1 (Contractors Obligation As A Business Associate Under The Health Insurance Portability and Accountability Act of 1996), each page dated September 2008, which is attached hereto as Attachment 3 (Exhibit E-1 (Contractors Obligation As A Business Associate Under The Health Insurance Portability and Accountability Act of 1996)) and incorporated herein by reference.

8. Amendment to Exhibit F (Maintenance and Support).

Exhibit F (Maintenance and Support) to the Existing Agreement is hereby amended by deleting it in its entirety and replacing it with the revised Exhibit F

(Maintenance and Support), each page dated September 2008, which is attached hereto as Attachment 4 (Exhibit F (Maintenance and Support)) and incorporated herein by reference.

9. Amendment to Exhibit G-1 (Third Party Software).

Exhibit G-1 (Third Party Software) to the Existing Agreement is hereby amended by deleting it in its entirety and replacing it with the revised Exhibit G-1 (Third Party Software), each page dated September 2008, which is attached hereto as Attachment 5 (Exhibit G-1(Third Party Software)) and incorporated herein by reference.

10. Addition of Exhibit Q (Charitable Contributions Certificate).

Exhibit Q (Charitable Contributions Certificate) is hereby added to the Existing Agreement in the form and substance attached hereto as Attachment 6 (Exhibit Q (Charitable Contributions Certificate)).

11. Effectiveness of Amendment No. 3.

11.1 Except as set forth in Section 2 (Representations By Sierra Washington Regarding Corporate Merger) and Subparagraph 8.2.1 (Maximum Contract Sum), this Amendment No. 3 shall become effective on the date of approval by County's Board of Supervisors.

12. Incorporation of "Whereas" Clauses.

Contractor and County agree that the "Whereas" clauses in this Amendment No. 3 are hereby incorporated into this Amendment No. 3 as though fully set forth hereat.

13. Other Provisions of Agreement.

Except as provided in this Amendment No. 3, all other terms and conditions of the Agreement shall remain in full force and effect.

14. Authorization Warranty.

Contractor hereby represents and warrants that the person executing this Amendment No. 3 for Contractor is an authorized agent who has actual authority to bind Contractor to each and every term, condition, and obligation of this Amendment No. 3 and that all requirements of Contractor have been fulfilled to provide such actual authority.

15. Arm's Length Negotiations.

This Amendment No. 3 is the product of arm's length negotiation between Contractor and County. Each party has had at all times the opportunity to receive advice from independent counsel of its own choosing. This Amendment No. 3 is to be interpreted fairly as between the parties, and not strictly construed as against either party as drafter or creator.

16. Entire Agreement.

This Amendment No. 3 together with the Existing Agreement and exhibits and attachments hereto and thereto and Change Orders 1 through 79, with the exception of cancelled Change Orders 14, 30, 33, 43, 54, 62, 66, 72 and 74, constitutes the entire agreement of County and Contractor as of the date of approval of this Amendment No. 3 by County's Board of Supervisors, superseding any and all prior understandings, arrangements and agreements between County and Contractor, whether oral or written, in respect of the terms and conditions hereof. However, nothing in this Section 16 (Entire Agreement) shall affect any effective date set forth in this Amendment No. 3, including, without limitation, the effective dates set forth in Section 2 (Representations By Sierra Washington Regarding Corporate Merger) and Subparagraph 8.2.1 (Maximum Contract Sum).

17. No Waiver.

The execution of this Amendment by the parties shall not serve as a waiver by either party of any claims, rights, defenses or remedies that either party may have against the other party. Any and all such claims, rights or remedies are hereby expressly reserved by the parties.

IN WITNESS WHEREOF, the County of Los Angeles Board of Supervisors has caused this Amendment No. 3 to County Agreement Number 74144 to be subscribed by County's Director of Mental Health, and Contractor has caused this Amendment No. 3 to be subscribed on its behalf by its duly authorized officer, this ____ day of _____, 2008.

COUNTY OF LOS ANGELES

By:_____
MARVIN J. SOUTHARD, D.S.W.
Director of Mental Health

SIERRA SYSTEMS INC., A WASHINGTON CORPORATION

By: _____
Name: JOHN BROERE
Title: EVP

APPROVED AS TO FORM:

RAYMOND G. FORTNER, JR.
County Counsel

By: _____
Richard D. Bloom
Senior Deputy County Counsel

APPROVED AS TO CONTRACT ADMINISTRATION:

DEPARTMENT OF MENTAL HEALTH

By: _____
Chief, Contracts Development
and Administration Division

Amendment No. 3 to Agreement for
HIPAA Remediation Project,
County Agreement Number 74144

Attachment 1

Exhibit C (Price and Schedule of Payments)

[see attached]

Payment Schedule by Deliverable

Task	DMH HIPAA Remediation Deliverables	Payment Date	Invoice Amount	Monthly Maintenance Fees	% of Invoiced Amount to Total
1.0 Manage and Control Project	1.1 Project Control Document	09/23/02	$ 17,303		0.14%
	1.2 Semi-Monthly Project Status Reports (14 Months) **	Semi-Monthly	$ 367,043		2.89%
2.0 Design General Solution	2.1 Prepare Integrated System Requirements	11/04/02	$ 109,720		0.87%
	2.2 Design General Solution	11/18/02	$ 88,090		0.69%
3.0 Document Business Processes	3.1.1 April 16th Business Processes	12/18/02	$ 283,148		2.23%
	3.1.2. Other Business Processes	03/11/03	$ 192,645		1.52%
	3.2.1 April 16th Data Elements	12/27/02	$ 278,429		2.20%
	3.2.2 Other Data Elements	04/15/03	$ 208,376		1.64%
4.0 Establish Technical Architecture	4 Technical Architecture Document and Plan	10/14/02	$ 30,412		0.24%
5.0 Impl & Config Integration Broker	5.1 Install and Configure Integration Broker	11/27/02	$ 982,995		7.75%
	5.2.1 April 16th System Edits	02/28/03	$ 801,093		6.32%
	5.2.2 Other System Edits	05/21/03	$ 245,652		1.94%
7.0 Develop & Impl End User Interface	7.1 Replace MHMIS Subsystems & Screens	06/18/03	$ 601,636		4.75%
	7.2 Develop DDE	07/24/03	$ 981,509		7.74%
	7.3 Replacement end-user Interface	03/13/03	$ 352,262		2.78%
8.0 Design & Impl Security and Audit F	8.1 Integrated System Security Plan	12/13/02	$ 34,607		0.27%
	8.2 Integrated System Audit Specifications	01/08/03	$ 25,955		0.20%
	8.3 Integrated System Security and Audit Features	03/20/03	$ 313,755		2.47%
9.0 Design & Develop Reports	9 Design & Develop Reports	05/05/03	$ 329,804		2.60%
10.0 Test Integrated System	10.1 Develop Test Plan	01/20/03	$ 88,845		0.70%
	10.3.1 April 16th Regression Test	05/01/03	$ 565,396		4.46%
	10.3.2 Other Regression Test	06/11/03	$ 124,467		0.98%
	10.3.3 DDE Regression Test	07/24/03	$ 468,426		3.69%
	10.4 April Transaction Roundtrip Test	04/16/03	$ 57,023		0.45%
	10.5 Simulated Load Test	07/24/03	$ 371,317		2.93%
	10.6 Acceptance Test	02/16/04	$ 1,969,711		15.54%
	10.7 Process to Accept Trading Partners	05/05/03	$ 18,142		0.14%
	10.8 Escrow Deposit of all Integrated System	10/30/03			0.00%
11.0 Training	11.1 Design and Document Training Program	06/18/03	$ 698,827		5.51%
	11.2 Technical Staff Training	09/12/03	$ 86,343		0.68%
	11.3 End User Staff Training	11/07/03	$ 129,514		1.02%
	11.4 Updated Training Programs	01/23/04	$ 19,576		0.15%

Task	DMH HIPAA Remediation Deliverables	Payment Date	Invoice Amount	Monthly Maintenance Fees	% of Invoiced Amount to Total
12.0 Impl and Post Prod Maint & Suppo	12.1 Production Rollout	10/01/03	$ 39,850		0.31%
	12.2 Go Live	10/16/03	$ 950,890		7.50%
13.0 Pharmacy	13.1 Pharmacy Requirements Document	11/18/02	$ 166,917		1.32%
	13.2 Pharmacy Mapping and Translation Prototype	12/18/02	$ 138,078		1.09%
	13.3 Pharmacy Transaction Implementation	06/11/03	$ 371,754		2.93%
	13.4 Pharmacy Compliance Testing	06/25/03	$ 169,017		1.33%
Total Professional Services	**Total All-in to Final Acceptance**		$ 12,678,527		100.00%
	Pool Dollars (based on 20% of the Total All-in to Final Acceptance)		$ 2,535,705		
	Pool Dollars beginning 9/22/08		$ 200,000		
	Pool Dollars for FY 2009-10		$ 200,000		
	Pool Dollars for FY 2010-11		$ 200,000		
	Pool Dollars for FY 2011-12		$ 200,000		
	Pool Dollars for FY 2012-13 **(Option Term)**		$ 100,000		
	Maximum Total Pool Dollars		**$ 3,435,705**		
	1st Year Maint (9/22/04 - 9/21/05)		$ 1,243,191	$ 103,599	
	2nd Year Maint (9/22/05 - 9/21/06)		$ 1,281,567	$ 106,797	
	3rd Year Maint (9/22/06 - 9/21/07)		$ 1,281,567	$ 106,797	
	4th Year Maint (9/22/07 - 9/21/08)		$ 1,281,564	$ 106,797	
	5th Year Maint (9/22/08 - 9/21/09 includes 3% CPI)		$ 1,320,010	$ 110,001	
	6th Year Maint (9/22/09 - 9/21/10 includes 4% CPI)		$ 1,372,811	$ 114,401	
	7th Year Maint (9/22/10 - 9/21/11 includes 4% CPI)		$ 1,427,724	$ 118,978	
	8th Year Maint (9/22/11 - 6/30/12 includes 4% CPI)		$ 1,150,745	$ 123,736	
	Option Term (7/1/12 - 12/31/12 includes 4% CPI)		$ 772,113	$ 128,686	
	Maximum Total Maintenance		**$ 11,131,293**		
	Maximum Contract Sum		**$ 27,245,525**		
	** Amount of each semi-monthly payment - $13,109				

Amendment No. 3 to Agreement for HIPAA Remediation Project, County Agreement Number 74144

Attachment 2

Exhibit D (Description of Software)

[see attached]

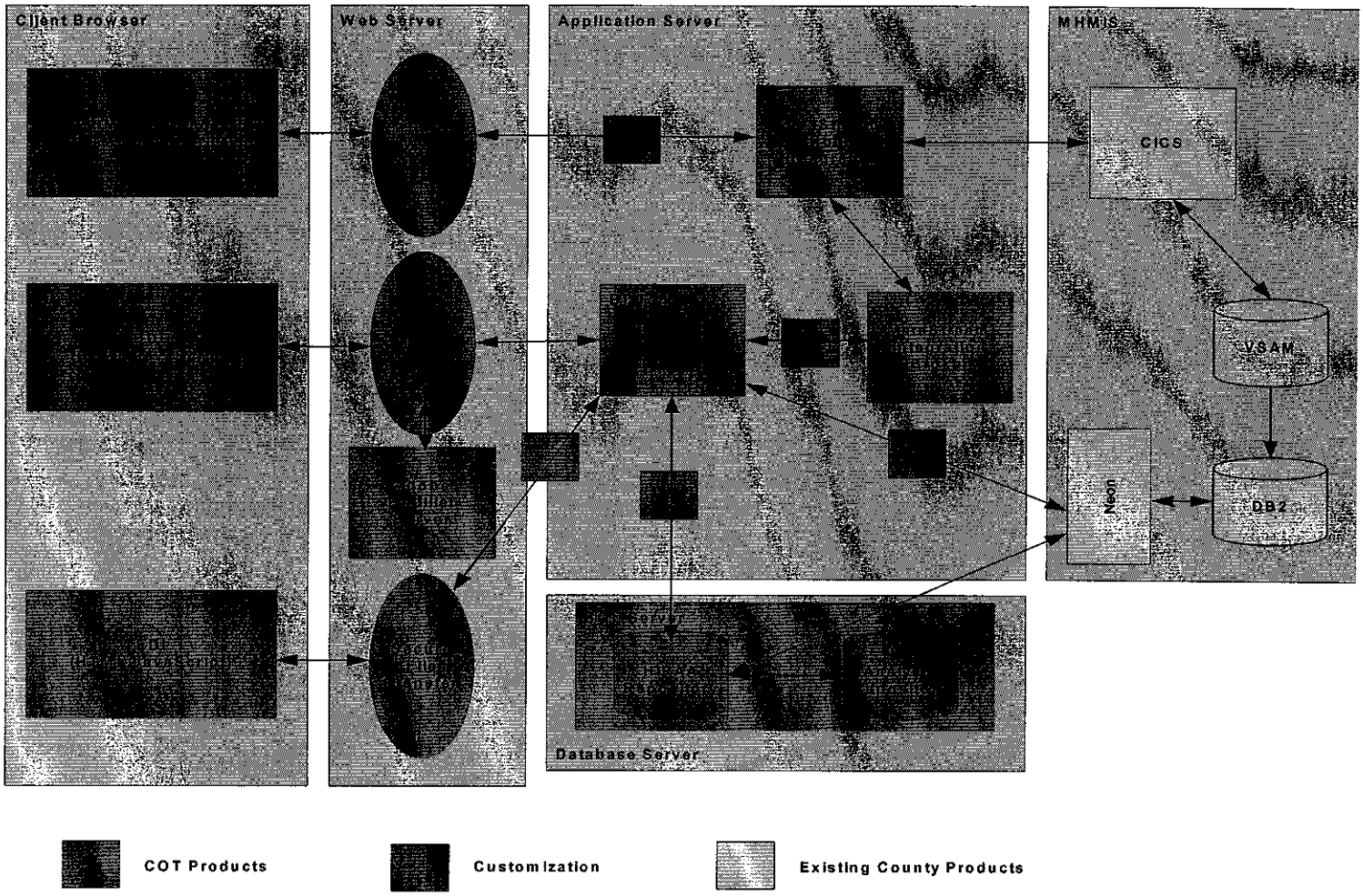
EXHIBIT D

DESCRIPTION OF SOFTWARE

Vendor	Software Licenses	Description
ValiCert	Secure File Transfer	EDI secure file transfer software.
ValiCert	Secure Transport ActiveX Client	Browser based secure file transfer client ActiveX control with rich functionality for higher-volume trading partners.
WRQ	Verastream Host Integrator	Mainframe 3270 Host integration server for web enabling MHMIS screens.
WRQ	Verastream Integration Broker	Mainframe Integration software.
WRQ	Verastream Host Integrator Development Kit	Development environment for Verastream Host Integrator
Claredi	Claredi Certification	HIPAA testing and certification software
Xpediate	HIPAA Xpediator	HIPAA compliance tool for privacy and security compliance.
WPC	Only Connect CAT	HIPAA X12N validation software
Microsoft	BizTalk Server Standard	Middleware product used to translate, transform and route HIPAA, MHMIS and other messages between software components.
Microsoft	BizTalk Server HIPAA Accelerator Standard	Adapter component to receive HIPAA compliant X12N messages into BizTalk.
Microsoft	SQL Server Standard	Relational database and Analysis server.
Microsoft	Visual Studio .Net Enterprise	Integrated Development Environment for the Integrated Solution.
Microsoft	Visual Source Safe	Source and document control and versioning software.
Adobe	Acrobat Distiller Server (Unlimited)	Server based PDF rendering server, used to generate PDF forms.
Adobe	Acrobat	Development tool for generating PDF forms.
Rational	Rational TeamTest	Regression and Load testing tool
CA	Erwin 4.1	Data Modeling environment
Netegrity	Siteminder (5000 Users)	Permission Management Software. Authentication, Authorization and role based security management software.
Business Objects	Crystal Enterprise Report	Web based server environment for deployment of reports
Business Objects	Crystal Report Professional	Development environment for reports.

Integrated System Software Component Diagram

The diagram indicates which components are Commercial of the Shelf (COTS), a customization and existing County products.



Amendment No. 3 to Agreement for
HIPAA Remediation Project,
County Agreement Number 74144

Attachment 3

Exhibit E-1 (Contractor's Obligation As A Business Associate Under The Health Insurance Portability and Accountability Act of 1996)

[see attached]

CONTRACTOR'S OBLIGATION AS A BUSINESS ASSOCIATE UNDER THE HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY ACT OF 1996

Under this Agreement, Contractor ("Business Associate") provides services ("Services") to County ("Covered Entity") and Business Associate receives, has access to, or creates Protected Health Information in order to provide those Services. Covered Entity is subject to the Administrative Simplification requirements of the Health Insurance Portability and Accountability Act of 1996 ("HIPAA"), and regulations promulgated thereunder, including the Standards for Privacy of Individually Identifiable Health Information ("the Privacy Regulations") and the Health Insurance Reform: Security Standards ("the Security Regulations") at 45 Code of Federal Regulations Parts 160 and 164 ("together, the "Privacy and Security Regulations").

The Privacy and Security Regulations require Covered Entity to enter into a contract with Business Associate in order to mandate certain protections for the privacy and security of Protected Health Information, and those Regulations prohibit the disclosure to or use of Protected Health Information by Business Associate if such a contract is not in place.

Therefore, the parties agree as follows:

DEFINITIONS

1.1 "Disclose" or "Disclosure" means, with respect to Protected Health Information, the release, transfer, provision of access to, or divulging in any other manner of Protected Health Information outside Business Associate's internal operations or to other than its employees.

1.2 "Electronic Media" has the same meaning as the term "electronic media" in 45 C.F.R. § 160.103. Electronic Media means (1) Electronic storage media including memory

devices in computers (hard drives) and any removable/transportable digital memory medium, such as magnetic tape or disk, optical disk, or digital memory card; or (2) Transmission media used to exchange information already in electronic storage media. Transmission media include, for example, the internet (wide-open), extranet (using internet technology to link a business with information accessible only to collaborating parties), leased lines, dial-up lines, private networks, and the physical movement of removable/transportable electronic storage media. Certain transmissions, including of paper, via facsimile, and of voice, via telephone, are not considered to be transmissions via electronic media, because the information being exchanged did not exist in electronic form before the transmission.

1.3 "Electronic Protected Health Information" has the same meaning as the term "Electronic Protected Health Information" in 45 C.F.R. § 160.103. Electronic Protected Health Information means Protected Health Information that is (i) transmitted by electronic media; (ii) maintained in electronic media.

1.4 "Individual" means the person who is the subject of Protected Health Information and shall include a person who qualifies as a personal representative in accordance with 45 C.F.R. § 164.502(g).

1.5 "Protected Health Information" has the same meaning as the term "Protected Health Information" in 45 C.F.R. § 160.103, limited to the information created or received by Business Associate from or on behalf of Covered Entity. Protected Health Information includes information, whether oral or recorded in any form or medium, that (i) relates to the past, present, or future physical or mental health or condition of an Individual; the provision of health care to an Individual, or the past, present or future payment for the provision of health care to an

Individual; (ii) identifies the Individual (or for which there is a reasonable basis for believing that the information can be used to identify the Individual); and (iii) is received by Business Associate from or on behalf of Covered Entity, or is created by Business Associate, or is made accessible to Business Associate by Covered Entity. "Protected Health Information" includes Electronic Health Information.

1.6 "Required By Law" means a mandate contained in law that compels an entity to make a Use or Disclosure of Protected Health Information and that is enforceable in a court of law. Required by law includes, but is not limited to, court orders and court-ordered warrants; subpoenas or summons issued by a court, grand jury, a governmental or tribal inspector general, or any administrative body authorized to require the production of information; a civil or an authorized investigative demand; Medicare conditions of participation with respect to health care providers participating in the program; and statutes or regulations that require the production of information, including statutes or regulations that require such information if payment is sought under a government program providing benefits.

1.7 "Security Incident" means the attempted or successful unauthorized access, Use, Disclosure, modification, or destruction of information in, or interference with system operations of, an Information System which contains Electronic Protected Health Information. However, Security Incident does not include attempts to access an Information System when those attempts are not reasonably considered by Business Associate to constitute an actual threat to the Information System.

1.8 "Services" has the same meaning as in the body of this Agreement.

1.9 "Use" or "Uses" means, with respect to Protected Health Information, the sharing, employment, application, utilization, examination or analysis of such Information within Business Associate's internal operations.

1.10 Terms used, but not otherwise defined in this Paragraph shall have the same meaning as those terms in the HIPAA Regulations.

OBLIGATIONS OF BUSINESS ASSOCIATE

2.1 Permitted Uses and Disclosures of Protected Health Information. Business Associate:

(a) shall Use and Disclose Protected Health Information as necessary to perform the Services, and as provided in Sections 2.3, 2.4, 2.5, 2.6, 2.7, 2.8, 4.3 and 5.2 of this Agreement;

(b) shall Disclose Protected Health Information to Covered Entity upon request;

(c) may, as necessary for the proper management and administration of its business or to carry out its legal responsibilities:

(i) Use Protected Health Information; and

(ii) Disclose Protected Health Information if the Disclosure is Required by Law.

Business Associate shall not Use or Disclose Protected Health Information for any other purpose.

2.2 Adequate Safeguards for Protected Health Information. Business Associate:

(a) shall implement and maintain appropriate safeguards to prevent the Use or Disclosure of Protected Health Information in any manner other than as permitted by this

Paragraph. Business Associate agrees to limit the Use and Disclosure of Protected Health Information to the minimum necessary in accordance with the Privacy Regulation's minimum necessary standard.

(b) effective as of April 20, 2005, specifically as to Electronic Health Information, shall implement and maintain administrative, physical, and technical safeguards that reasonably and appropriately protect the confidentiality, integrity, and availability of Electronic Protected Health Information.

2.3 Reporting Non-Permitted Use or Disclosure and Security Incidents. Business Associate shall report to Covered Entity each Use or Disclosure that is made by Business Associate, its employees, representatives, agents or subcontractors but is not specifically permitted by this Agreement, and effective as of April 20, 2005, shall report to Covered Entity each Security Incident of which Business Associate becomes aware. The initial report shall be made by telephone call to the Department of Mental Health's Privacy Officer, telephone number 1(213) 738-4864 within forty-eight (48) hours from the time the Business Associate becomes aware of the non-permitted Use or Disclosure or Security Incident, followed by a full written report no later than ten (10) business days from the date the Business Associate becomes aware of the non-permitted Use or Disclosure or Security Incident to the Chief Privacy Officer at:

Chief Privacy Officer, County of Los Angeles
Kenneth Hahn Hall of Administration
500 West Temple Street
Suite 525
Los Angeles, CA 90012

2.4 Mitigation of Harmful Effect. Business Associate agrees to mitigate, to the extent practicable, any harmful effect that is known to Business Associate of a Use or Disclosure of Protected Health Information by Business Associate in violation of the requirements of this Paragraph.

2.5 Availability of Internal Practices, Books and Records to Government Agencies. Business Associate agrees to make its internal practices, books, and records relating to the Use and Disclosure of Protected Health Information available to the Secretary of the Federal Department of Health and Human Services for purposes of determining Covered Entity's compliance with the Privacy and Security Regulations. Business Associate shall immediately notify Covered Entity of any requests made by the Secretary and provide Covered Entity with copies of any documents produced in response to such request.

2.6 Access to Protected Health Information. Business Associate shall, to the extent Covered Entity determines that any Protected Health Information constitutes a "designated record set" as defined by 45 C.F.R. § 164.501, make the Protected Health Information specified by Covered Entity available to the Individual(s) identified by Covered Entity as being entitled to access and copy that Protected Health Information. Business Associate shall provide such access for inspection of that Protected Health Information within two (2) business days after receipt of request from Covered Entity. Business Associate shall provide copies of that Protected Health Information within five (5) business days after receipt of request from Covered Entity.

2.7 Amendment of Protected Health Information. Business Associate shall, to the extent Covered Entity determines that any Protected Health Information constitutes a "designated record set" as defined by 45 C.F.R. § 164.501, make any amendments to Protected

Health Information that are requested by Covered Entity. Business Associate shall make such amendment within ten (10) business days after receipt of request from Covered Entity in order for Covered Entity to meet the requirements under 45 C.F.R. § 164.526.

2.8 Accounting of Disclosures. Business Associate agrees to maintain documentation of the information required to provide an accounting of Disclosures of Protected Health Information in accordance with 45 C.F.R. § 164.528, and to make this information available to Covered Entity upon Covered Entity's request, in order to allow Covered Entity to respond to an Individual's request for accounting of disclosures. However, Business Associate is not required to provide an accounting of Disclosures that are necessary to perform its Services if such Disclosures are for either payment or health care operations purposes, or both. Additionally, such accounting is limited to disclosures that were made in the six (6) years prior to the request (not including disclosures that were made prior to the compliance date of the Privacy Rule, April 14, 2003) and shall be provided for as long as Business Associate maintains the Protected Health Information.

Any accounting provided by Business Associate under this Section 2.8 shall include: (a) the date of the Disclosure; (b) the name, and address if known, of the entity or person who received the Protected Health Information; (c) a brief description of the Protected Health Information disclosed; and (d) a brief statement of the purpose of the Disclosure. For each Disclosure that could require an accounting under this Section 2.8, Business Associate shall document the information specified in (a) through (d), above, and shall securely maintain the information for six (6) years from the date of the Disclosure. Business Associate shall provide to Covered Entity, within ten (10) business days after receipt of request from Covered Entity,

information collected in accordance with this Section 2.8 to permit Covered Entity to respond to a request by an Individual for an accounting of disclosures of Protected Health Information in accordance with 45 C.F.R. § 164.528.

OBLIGATION OF COVERED ENTITY

3.1 Obligation of Covered Entity. Covered Entity shall notify Business Associate of any current or future restrictions or limitations on the use of Protected Health Information that would affect Business Associate's performance of the Services, and Business Associate shall thereafter restrict or limit its own uses and disclosures accordingly.

TERM AND TERMINATION

4.1 Term. The term of this Paragraph shall be the same as the term of this Agreement. Business Associate's obligations under Sections 2.1 (as modified by Section 4.2), 2.3, 2.4, 2.5, 2.6, 2.7, 2.8, 4.3 and 5.2 shall survive the termination or expiration of this Agreement.

4.2 Termination for Cause. In addition to and notwithstanding the termination provisions set forth in this Agreement, upon Covered Entity's knowledge of a material breach by Business Associate, Covered Entity shall either:

(a) Provide an opportunity for Business Associate to cure the breach or end the violation and terminate this Agreement if Business Associate does not cure the breach or end the violation within the time specified by Covered Entity;

(b) Immediately terminate this Agreement if Business Associate has breached a material term of this Paragraph and cure is not possible; or

(c) If neither termination nor cure is feasible, Covered Entity shall report the violation to the Secretary of the Federal Department of Health and Human Services.

4.3 Disposition of Protected Health Information Upon Termination or Expiration.

(a) Except as provided in paragraph (b) of this section, upon termination for any reason or expiration of this Agreement, Business Associate shall return or destroy all Protected Health Information received from Covered Entity, or created or received by Business Associate on behalf of Covered Entity. This provision shall apply to Protected Health Information that is in the possession of subcontractors or agents of Business Associate. Business Associate shall retain no copies of the Protected Health Information.

(b) In the event that Business Associate determines that returning or destroying the Protected Health Information is infeasible, Business Associate shall provide to Covered Entity notification of the conditions that make it infeasible. If return or destruction is infeasible, Business Associate shall extend the protections of this Agreement to such Protected Health Information and limit further use and Disclosures of such Protected Health Information to those purposes that make the return or destruction infeasible, for so long as Business Associate maintains such Protected Health Information.

MISCELLANEOUS

5.1 No Third Party Beneficiaries. Nothing in this Paragraph shall confer upon any person other than the parties and their respective successors or assigns, any rights, remedies, obligations, or liabilities whatsoever.

5.2 Use of Subcontractors and Agents. Business Associate shall require each of its agents and subcontractors that receive Protected Health Information from Business Associate, or

create Protected Health Information for Business Associate, on behalf of Covered Entity, to execute a written agreement obligating the agent or subcontractor to comply with all the terms of this Paragraph.

5.3 Relationship to Services Agreement Provisions. In the event that a provision of this Paragraph is contrary to another provision of this Agreement, the provision of this Paragraph shall control. Otherwise, this Paragraph shall be construed under, and in accordance with, the terms of this Agreement.

5.4 Regulatory References. A reference in this Paragraph to a section in the Privacy or Security Regulations means the section as in effect or as amended.

5.5 Interpretation. Any ambiguity in this Paragraph shall be resolved in favor of a meaning that permits Covered Entity to comply with the Privacy and Security Regulations.

5.6 Amendment. The parties agree to take such action as is necessary to amend this Paragraph from time to time as is necessary for Covered Entity to comply with the requirements of the Privacy and Security Regulations.

Amendment No. 3 to Agreement for HIPAA Remediation Project, County Agreement Number 74144

Attachment 4

Exhibit F (Maintenance and Support)

[see attached]

MAINTENANCE & SUPPORT

The Maintenance Services procedures include tasks necessary to support and maintain the Integrated System. Contractor shall maintain and support the Integrated System. Contractor is not responsible for maintaining and supporting the MHMIS itself.

For the purpose of this Agreement, "Severity Levels" ("S-1" – "S-4") shall be defined as follows:

- **1- Critical**: Integrated System feature or function does not work or performance is unacceptable and a large number or otherwise significant part of the user population is affected.
- **2- Serious**: Integrated System feature or function does not work or performance is unacceptable and there is no known or established work-around that permits the Integrated System to work during remediation.
- **3- Moderate**: Integrated System feature or function does not work or performance is unacceptable and there is a known or established work-around that permits the Integrated System to work during remediation.
- **4- Minor**: No disruption of operation or performance.

The system maintenance and support services procedures shall include the following

1. Establish the maintenance and support procedures for the Integrated System, including refinements of the roles and responsibilities assigned in this Exhibit;
2. Monitor production performance and system status of the Integrated System on a regular basis, implement corrective actions in a timely manner, upgrade the Integrated System as Updates and Major Releases are implemented, and take other actions to maintain the Integrated System;
3. Perform corrections to the Integrated System when the Integrated System fails to operate in accordance with specifications;
4. Track Updates and Major Releases of the Integrated System and notify DMH of availability;
5. Provide toll-free access to Contractor's Integrated System support (staffed single point of contact) on a 24 hours per day, 7 days per week basis;
6. Provide onsite support at the County facility where Integrated System is operating within two hours after notification by County Project Manager that onsite Integrated System support or maintenance is required. Notification may be by telephonic communication;
7. Provide a mechanism to:
   - Import new EDI standards electronically
   - Apply maintenance to existing HIPAA standards electronically
   - Adapt to new Rules.
8. Provide mechanism to easily upgraded baseline product or COTS. The usage of customized scripts or applets during pre-translation, translation, and post-translation processes shall be implemented independently of the baseline product or COTS, so that any future upgrades to the baseline product or COTS can be easily applied;

9. Furnish and perform support services for the Integrated System through Contractor's designated support organization;
10. Provide support services for Severity Level 3 (Moderate) and 4 (Minor) issues via telephone during normal business hours (7:00 A.M. Pacific Time to 6:00 P.M. Pacific Time, Monday through Friday);
11. Provide support services for Severity Level 1 (Critical) and 2 (Serious) issues via telephone on a 24 hours a day, 7 days week basis;
12. Provide onsite support as requested by DMH in its sole judgment;
13. Contractor shall take ownership of all problems reported by County help desk staff and coordinating the timely resolution of the problem. County help desk staff shall make the initial determination of a problem's Severity Level, based on the criteria set forth in this Exhibit, at the time of reporting such problem to Contractor;
14. Create and update an automated Problem Log, which shall be reviewed on a daily basis for follow up on unresolved problems. County will provide access to County problem tracking system if requested by Contractor. The problem log shall include the following:
    - Problem Number
    - Date
    - Facility or program location where problem occurred
    - Problem Severity Level
    - Resolution Status
    - Resolution plan and results (in detail)
15. Provide Levels of Support Services as described below:

Description	Call Back	Diagnosis & Prognosis	Resolution
Problems with severity levels 1 and 2	15 minute Response	One hour Initiation on Diagnosis	Continual work, including the reassignment of staff, to bring resolution as quickly as possible
Problems with severity level 3	Four Hours	Four Hours Initiation on Diagnosis	Two days or fewer
Problems with severity level 4	One work day	Two work days Initiation on Diagnosis	Planned response for scheduled resolution within one week or less

16. Provide escalation procedures to address extended and unresolved problems to County Project Manager. Notification and emergency procedures shall be established in the event of system failure. The escalation procedures shall require approval of County Project Manager. The escalation procedures shall include the following:
    - Conditions warranting additional help in resolving a problem

- Time durations between escalating to next level of support
- A hierarchal diagram showing the various levels of response
- The names or titles, telephone numbers, and pager numbers of Contractor personnel responsible for response at the various levels of support

17. Paragraph 6 of this Agreement shall apply to Maintenance Services change control.
18. Implement code management procedures according to current Department and ISD/ITS standards. Contractor shall provide for updates and upgrades of the Integrated System as Updates and Major Releases of Contractor's base product are released, in accordance with Paragraph 13 of this Agreement.
19. Implement release management procedures to ensure stability of the Customization of the Integrated System in accordance with Paragraph 13 of this Agreement, and including, as a minimum, the following procedures:
    - Prioritizing and grouping change requests
    - System and regression testing (system, integration, and user acceptance)
    - Plan for production implementation
    - Updates to the User Manuals as features are added or modified
    - Updates to the Training Program
20. Implement software distribution procedures to upgrade existing Integrated System soft ware. Contractor shall provide a method where the software is loaded with minimal operator intervention. The procedures shall include:
    - Use of standard distribution methods
    - Version control
    - Source code escrow management in accordance with the provisions of Exhibit N of this Agreement.
21. Without limiting the foregoing items 1 through 20, as requested by the County Project Director in his/her sole judgment, deploy two (2) reports per month into the Integrated System test and production environments.
22. Without limiting the foregoing items 1 through 21, as requested by the County Project Director in his/her sole judgment, provide eight (8) hours support services per month for the following:
    - Integrated System database structure
    - Integrated System user interface
    - Reporting repository database structure
    - Reporting repository crystal enterprise reports

Amendment No. 3 to Agreement for HIPAA Remediation Project, County Agreement Number 74144

Attachment 5

Exhibit G-1 (Third Party Software)

[see attached]

EXHIBIT G-1

THIRD PARTY SOFTWARE

Vendor	Software Licenses	Qty
ValiCert	Secure File Transfer (Production Primary)	1
ValiCert	Secure File Transfer (Production Backup)	1
ValiCert	Secure File Transfer (Development)	1
ValiCert	Secure File Transfer (Test)	1
ValiCert	Secure File Transfer (Training)	1
ValiCert	Secure Transport ActiveX Client	25
WRQ	Verastream Host Integrator (Single Use License)	1
WRQ	Verastream Integration Broker (Single Use License)	1
WRQ	Verastream Host Integrator Development Kit	1
Claredi	Claredi Certification	1
WPC	Only Connect CAT	2
Xpediate	HIPAA Xpediator	1
Microsoft	BizTalk Server Standard	5
Microsoft	BizTalk Server HIPAA Accelerator Standard	5
Microsoft	SQL Server Standard	6
Microsoft	Visual Studio .Net Enterprise	6
Microsoft	Visual Source Safe	14
Adobe	Acrobat Distiller Server (Unlimited)	2
Adobe	Acrobat Distiller Server (100 User)	2
Adobe	Acrobat	3
Rational	Rational TeamTest	4
CA	Erwin 4.1	1
Netegrity	Siteminder (5000 Users)	1
Business Objects	Crystal Enterprise Concurrent User License	10
Business Objects	Crystal Enterprise Named User License	25
Business Objects	Crystal Report Professional	2

Amendment No. 3 to Agreement for
HIPAA Remediation Project,
County Agreement Number 74144

Attachment 6

Exhibit Q (Charitable Contributions Certificate)

[see attached]

EXHIBIT Q

CHARITABLE CONTRIBUTIONS CERTIFICATION

SIERRA SYSTEMS INC., A WASHINGTON CORPORATION
Company Name

400 North Continental Blvd., Suite 300, El Segundo, CA 90245
Address

98-0061802
Internal Revenue Service Employer Identification Number

N/A
California Registry of Charitable Trusts "CT" number (if applicable)

The Nonprofit Integrity Act (SB 1262, Chapter 919) added requirements to California's Supervision of Trustees and Fundraisers for Charitable Purposes Act which regulates those receiving and raising charitable contributions.

Check the Certification below that is applicable to your company.

☑ Proposer or Contractor has examined its activities and determined that it does not now receive or raise charitable contributions regulated under California's Supervision of Trustees and Fundraisers for Charitable Purposes Act. If Proposer engages in activities subjecting it to those laws during the term of a County contract, it will timely comply with them and provide County a copy of its initial registration with the California State Attorney General's Registry of Charitable Trusts when filed.

OR

☐ Proposer or Contractor is registered with the California Registry of Charitable Trusts under the CT number listed above and is in compliance with its registration and reporting requirements under California law. Attached is a copy of its most recent filing with the Registry of Charitable Trusts as required by Title 11 California Code of Regulations, sections 300-301 and Government Code sections 12585-12586.

Signature

Aug 14/08
Date

JOHN BROERE EVP
Name and Title of Signer (please print)

September 2008

(Added Under Amendment No. 3 of Agreement)