

Exhibit E
Additional Provisions

1. Amendment Process

- A. The Department of Health Care Services (DHCS) may amend the Intergovernmental Agreement.
- B. Should either party, during the term of this Intergovernmental Agreement, desire a change or amendment to the terms of this Intergovernmental Agreement, such changes or amendments shall be proposed in writing to the other party, who will respond in writing as to whether the proposed changes/amendments are accepted or rejected. If accepted and after negotiations are concluded, the agreed upon changes shall be made through the State's official agreement amendment process. No amendment will be considered binding on either party until it is formally approved by the both parties and the Department of General Services (DGS), if DGS approval is required.
- C. Intergovernmental Agreement amendments will be required to change encumbered amounts for each year of a multi-year contract period, of which the first amendment will be based on the Governor's Budget Act allocation of that specific fiscal year. The signed Intergovernmental Agreement from the Contractor will be due to the Department of Health Care Services (DHCS) within 90 days from the issuance to the County. If the signed Intergovernmental Agreement from the Contractor is not received within 90 days from the issuance to the County, DHCS may withhold all non-DMC payments under Exhibit B of this Intergovernmental Agreement until the required amendment is received by the State.
- D. Intergovernmental Agreement amendments may be requested by the Contractor until May 1 of each of the contract's fiscal years. An amendment proposed by either the Contractor or the State shall be forwarded in writing to the other party.
 - 1) The proposed amendment submitted by Contractor shall include the proposed changes, and a statement of the reason and basis for the proposed change.
 - 2) Amendments shall be duly approved by the County Board of Supervisors or its authorized designee, and signed by a duly authorized representative.
- E. Contractor acknowledges that any newly allocated funds that are in excess of the initial amount for each fiscal year may be forfeited if DHCS does not receive a fully executable Intergovernmental Agreement amendment on or before June 30th.
- F. State may settle costs for substance use disorder services based on the year-end cost settlement report as the final amendment to the approved Intergovernmental Agreement.

Exhibit E
Additional Provisions

2. Cancellation / Termination

- A. This Intergovernmental Agreement may be cancelled by DHCS without cause upon 30 calendar days advance written notice to the Contractor.
- B. DHCS reserves the right to cancel or terminate this Intergovernmental Agreement immediately for cause. The Contractor may submit a written request to terminate this Intergovernmental Agreement only if DHCS substantially fails to perform its responsibilities as provided herein.
- C. The term “for cause” shall mean that the Contractor fails to meet the terms, conditions, and/or responsibilities of this Intergovernmental Agreement.
- D. Intergovernmental Agreement termination or cancellation shall be effective as of the date indicated in DHCS’ notification to the Contractor. The notice shall stipulate any final performance, invoicing or payment requirements.
- E. Upon receipt of a notice of termination or cancellation, the Contractor shall take immediate steps to stop performance and to cancel or reduce subsequent agreement costs.
- F. In the event of early termination or cancellation, the Contractor shall be entitled to payment for all allowable costs authorized under this Intergovernmental Agreement and incurred up to the date of termination or cancellation, including authorized non-cancelable obligations, provided such expenses do not exceed the stated maximum amounts payable.
- G. In the event of changes in law that affect provisions of this Intergovernmental Agreement, the parties agree to amend the affected provisions to conform to the changes in law retroactive to the effective date of such changes in law. The parties further agree that the terms of this Intergovernmental Agreement are severable and in the event that changes in law render provisions of the Intergovernmental Agreement void, the unaffected provisions and obligations of this Intergovernmental Agreement will remain in full force and effect.
- H. The following additional provisions regarding termination apply only to Exhibit A, Attachment I, of this Intergovernmental Agreement:
 - 1) In the event the federal Department of Health and Human Services (hereinafter referred to as DHHS), or State determines Contractor does not meet the requirements for participation in the DMC-ODS Waiver Program, State will terminate payments for services provided pursuant to Exhibit A, Attachment I, of this Intergovernmental Agreement for cause.
 - 2) All obligations to provide covered services under this Intergovernmental Agreement will automatically terminate on the effective date of any

Exhibit E
Additional Provisions

termination of this Intergovernmental Agreement. Contractor will be responsible for providing or arranging for covered services to beneficiaries until the effective date of termination or expiration of the Intergovernmental Agreement.

Contractor will remain liable for processing and paying invoices and statements for covered services and utilization review requirements prior to the expiration or termination until all obligations have been met.

- 3) In the event Exhibit A, Attachment I, of this Intergovernmental Agreement is nullified, Contractor shall refer DMC clients to providers who are certified to provide State Plan services.
- I. In the event this Intergovernmental Agreement is terminated, Contractor shall deliver its entire fiscal and program records pertaining to the performance of this Intergovernmental Agreement to the State, which will retain the records for the required retention period.

3. Avoidance of Conflicts of Interest by Contractor

- A. DHCS intends to avoid any real or apparent conflict of interest on the part of the Contractor, subcontractors, or employees, officers and directors of the Contractor or subcontractors. Thus, DHCS reserves the right to determine, at its sole discretion, whether any information, assertion or claim received from any source indicates the existence of a real or apparent conflict of interest; and, if a conflict is found to exist, to require the Contractor to submit additional information or a plan for resolving the conflict, subject to DHCS review and prior approval.
- B. Conflicts of interest include, but are not limited to:
 - 1) An instance where the Contractor or any of its subcontractors, or any employee, officer, or director of the Contractor or any subcontractor has an interest, financial or otherwise, whereby the use or disclosure of information obtained while performing services under the Intergovernmental Agreement would allow for private or personal benefit or for any purpose that is contrary to the goals and objectives of the Intergovernmental Agreement.
 - 2) An instance where the Contractor's or any subcontractor's employees, officers, or directors use their positions for purposes that are, or give the appearance of being, motivated by a desire for private gain for themselves or others, such as those with whom they have family, business or other ties.
- C. If DHCS is or becomes aware of a known or suspected conflict of interest, the Contractor will be given an opportunity to submit additional information or to resolve the conflict. A Contractor with a suspected conflict of interest will have five (5) working days from the date of notification of the conflict by DHCS to provide complete information regarding the suspected conflict. If a conflict of interest is

Exhibit E
Additional Provisions

determined to exist by DHCS and cannot be resolved to the satisfaction of DHCS, the conflict will be grounds for terminating the Agreement. DHCS may, at its discretion upon receipt of a written request from the Contractor, authorize an extension of the timeline indicated herein.

- D. Contractor acknowledges that state laws on conflict of interest, found in the Political Reform Act, Public Contract Code Section 10365.5, and Government Code Section 1090, apply to this Intergovernmental Agreement.

4. Freeze Exemptions

- A. Contractor agrees that any hiring freeze adopted during the term of this Intergovernmental Agreement shall not be applied to the positions funded, in whole or part, by this Intergovernmental Agreement.
- B. Contractor agrees not to implement any personnel policy, which may adversely affect performance or the positions funded, in whole or part, by this Intergovernmental Agreement.
- C. Contractor agrees that any travel freeze or travel limitation policy adopted during the term of this Intergovernmental Agreement shall not restrict travel funded, in whole or part, by this Intergovernmental Agreement.
- D. Contractor agrees that any purchasing freeze or purchase limitation policy adopted during the term of this Intergovernmental Agreement shall not restrict or limit purchases funded, in whole or part, by this Intergovernmental Agreement.

5. Force Majeure

Neither party shall be responsible for delays or failures in performance resulting from acts beyond the control of the offending party. Such acts shall include but not be limited to acts of God, fire, flood, earthquake, other natural disaster, nuclear accident, strike, lockout, riot, freight-embargo, related-utility, or governmental statutes or regulations super-imposed after the fact. If a delay or failure in performance by the Contractor arises out of a default of its Subcontractor, and if such default of its Subcontractor, arises out of causes beyond the control of both the Contractor and Subcontractor, and without the fault or negligence of either of them, the Contractor shall not be liable for damages of such delay or failure, unless the supplies or services to be furnished by the Subcontractor were obtainable from other sources in sufficient time to permit the Contractor to meet the required performance schedule.

6. Identification of Contractor versus Subrecipient

DHCS has classified this Agreement as a procurement contract. Therefore, the Contractor is considered a contractor, and not a subrecipient, for the purposes of U.S. Office of Management and Budget Uniform Guidance pursuant to 2 CFR 200.330.