

**SECOND AMENDMENT TO AGREEMENT NO. 09-080, AND RESTATEMENT OF,  
JOINT EXERCISE OF POWERS AGREEMENT  
BETWEEN THE COUNTIES OF FRESNO, KINGS AND MADERA  
FOR THE JOINT PROVISION OF MEDI-CAL MANAGED  
CARE AND OTHER HEALTH SERVICES PROGRAMS**

**THIS AMENDED AND RESTATED AGREEMENT** is made and entered into this 14th day of September, 2010, by and between the COUNTY OF FRESNO, a political subdivision of the State of California, hereinafter referred to as "FRESNO," and the COUNTY OF MADERA, a political subdivision of the State of California, hereinafter referred to as "MADERA," and the COUNTY OF KINGS, a political subdivision of the State of California, hereinafter referred to as "KINGS." FRESNO, MADERA and KINGS are sometimes hereinafter collectively referred to as the "PARTIES" or the "COUNTIES."

**WITNESSETH:**

**WHEREAS**, in regions designated by the State of California (hereinafter referred to as the "State"), health care services to eligible Medi-Cal beneficiaries may be provided by two (2) managed care health plans, with one (1) of the health plans designated by County governments; and

**WHEREAS**, the State has authorized and encouraged FRESNO, MADERA and KINGS to create a three-county health authority to provide services to eligible Medi-Cal beneficiaries within the jurisdiction of Fresno, Madera and Kings Counties; and

**WHEREAS**, pursuant to California Welfare and Institutions Code section 14087.38, FRESNO, MADERA and KINGS each individually possess the power to establish by ordinance a health authority which may contract with the State to provide services to, arrange for or case manage the provision of health care services to Medi-Cal beneficiaries; and

**WHEREAS**, under the provisions of the California Joint Exercise of Powers Act (Government Code section 6500, *et seq*; hereinafter referred to as the "Act"), the PARTIES desire to jointly exercise the power to establish a multi-county health authority under the provisions of said section 14087.38; and

**WHEREAS**, FRESNO, MADERA and KINGS have each adopted an ordinance which with the execution of this Agreement shall establish a single health authority to provide services to eligible Medi-Cal beneficiaries within the jurisdiction of the

COUNTIES (hereinafter referred to as the "Health Authority"); and

**WHEREAS**, FRESNO signed the Joint Exercise of Powers Agreement on March 3, 2009 (Fresno County Agreement 09-080), KINGS signed on March 3, 2009 (Kings County Agreement 09-013), and MADERA signed on April 7, 2009 (Madera County Contract No. 8844-C-2009); and

**WHEREAS**, FRESNO signed the First Amendment to the Joint Exercise of Powers Agreement on October 6, 2009 (Fresno County Agreement 09-080-1), KINGS signed on September 22, 2009 (Kings County Agreement 09-013.1), and MADERA signed on August 18, 2009 (Madera County Contract No. 8844A-C-2009), whereby the Joint Exercise of Powers Agreement was amended to allow for the appointment of alternate members to the Health Authority's governing body (hereinafter referred to as the "Commission"); and

**WHEREAS**, the Joint Exercise of Powers Agreement specifies that KINGS Finance Director shall be the Auditor-Controller and Treasurer of the Health Authority; and

**WHEREAS**, the Health Authority Commission has appointed a Chief Financial Officer as a full-time employee of the Health Authority responsible for all financial and accounting matters; and

**WHEREAS**, it is desired to have the Chief Financial Officer serve as the Auditor-Controller and Treasurer of the Health Authority as provided in California Government Code section 6505.6, which allows a joint-powers authority to appoint one of its officers or employees to serve as Auditor-Controller or Treasurer, or both, in lieu of the Auditor-Controller or Treasurer of one of the contracting parties; and

**WHEREAS**, it is desired to have KINGS Finance Director perform the Auditor-Controller and Treasurer functions on an interim basis, until a claim-processing system is established under the direction and control of the Chief Financial Officer, and until the Commission selects a financial institution as the Health Authority depository.

**NOW, THEREFORE**, in consideration of their mutual covenants and conditions, the PARTIES agree to amend and restate the Agreement to read in its entirety as follows:

1. **PURPOSES.**

This Joint Powers Agreement (hereinafter referred to as "Agreement") is made pursuant to the provisions of the Act for the express purposes of providing Medi-Cal

managed care systems or other health care systems to serve eligible residents of the PARTIES and to negotiate and enter into contracts under the provisions of Welfare and Institutions Code section 14087.38 and/or under Chapter 7 of Part 3 of Division 9 of the California Welfare and Institutions Code (commencing with section 14000 thereof). The Health Authority may also enter into contracts for the provision of health care services to individuals including, but not limited to, those covered under Subchapter XVIII (commencing with section 1395) of Chapter 7 of Title 42 of the United States Code, those entitled to coverage under other publicly supported programs, those employed by public agencies or private businesses, and uninsured or indigent individuals. The purposes of this Agreement shall be accomplished and the common powers of the PARTIES exercised in the manner hereinafter set forth, subject however to such restrictions as are applicable to Fresno County in its manner of exercising such powers, as required by Government Code section 6509.

2. **CREATION OF AUTHORITY.**

Pursuant to the Act, there is hereby created a public entity to be known as the "Fresno-Kings-Madera Regional Health Authority." The Health Authority shall be a public entity, separate and apart from the PARTIES and, as provided by law and not otherwise prohibited by this Agreement, shall be empowered to take such actions as may be necessary or desirable to implement and carry out the purposes of this Agreement. Within the thirty (30) days of the date of this Agreement, the Health Authority's Chief Administrator shall provide the notice to the California Secretary of State required under the provisions of California Government Code section 6503.5.

3. **TERM.**

This Agreement shall become effective upon execution by the PARTIES and shall remain in full force and effect until terminated as provided in Section 4 of this Agreement.

4. **TERMINATION AND WITHDRAWAL.**

- A. Subject to the provisions contained in subsections 4.D and 4.E below, the PARTIES may terminate or amend this Agreement by mutual written consent.
- B. If the Health Authority has incurred no obligations any party may withdraw from its participation as a member of the Health Authority by giving not less than sixty (60) days written notice thereof to the other PARTIES.

- C. Subject to the provisions contained in subsections 4.D and 4.E below, any party hereto may withdraw from its participation as a member of the Health Authority by giving twelve (12) months' written notice thereof to the other PARTIES.
- D. This Agreement cannot be terminated until all forms of indebtedness incurred by the Health Authority have been paid, adequate provision for such payment shall have been made, or the Health Authority's assets have been exhausted pursuant to Welfare and Institutions Code section 14087.38, subdivision (u).
- E. In the event this Agreement is terminated, any property acquired by the Health Authority, including but not limited to money, shall be divided and distributed between the PARTIES in proportion to the contributions made, including contributions made as provided in Section 10 below, unless otherwise required by law.

5. **POWERS AND DUTIES OF HEALTH AUTHORITY.**

The Health Authority shall have the powers common to the PARTIES to this Agreement to:

- A. Exercise those powers enumerated in the Act as the same now exists or may hereinafter be amended.
- B. Do all acts necessary or convenient to the exercise of the foregoing and to accomplish the purposes of this Agreement, including but not necessarily limited to the following:
  - 1. to make and execute all contracts, agreements and documents, including, without limitation, agreements with any of the PARTIES, other local governments, agencies or departments, the State of California, the United States of America, or agencies thereof, or any entity, person or corporation of any kind or nature whatsoever;
  - 2. to employ agents, servants and employees;
  - 3. to acquire, lease, hold and dispose of property, both real and personal;
  - 4. to acquire, construct, maintain, manage, operate and lease

- buildings, works and improvements;
5. to accept gifts;
  6. to sue and be sued in its own name;
  7. to apply for and receive any available federal, state and/or local grants, loans or other aids;
  8. to employ legal counsel;
  9. to employ consultants;
  10. to adopt a budget;
  11. to incur debts, liabilities and obligations;
  12. to establish a treasury for the deposit and disbursement of funds and monies, according to the policies and procedures set forth in this Agreement;
  13. to invest any money held in the treasury that is not required for immediate necessities of the Health Authority, as the Health Authority determines is advisable, in the same manner and upon the same conditions as local agencies pursuant to section 53601 of the Government Code;
  14. acquire by eminent domain, or otherwise, except as limited under section 6508 of the Act, and to hold or dispose of any property;
  15. issue bonds and other forms of indebtedness to the extent, and on the terms, provided by the Act;
  16. adopt rules, regulations, policies, bylaws and procedures governing the operation of the Authority;
  17. enter into agreements under the Act; and
  18. borrow funds from the COUNTIES, and the COUNTIES may lend the Health Authority funds or issue revenue anticipation notes to obtain funds, to commence operations.

6. **GOVERNING BODY OF THE HEALTH AUTHORITY/COMMISSION.**

- A. **Governing Body.** In order to effectuate the purposes of this Agreement as set forth herein, the Health Authority shall be governed by the Health Authority Commission (hereinafter referred to as the "Commission"), and all of the powers of the Health Authority shall be exercised by the

Commission.

B. Membership. Members of the Commission shall be appointed by the Boards of Supervisors to represent the interests of the COUNTIES, the general public, beneficiaries, physicians, hospitals, clinics, and other nonphysician health care providers. The Commission shall consist of seventeen (17) voting members, six (6) of whom shall be appointed by the Board of Supervisors of Fresno County, three (3) of whom shall be appointed by the Board of Supervisors of Kings County, three (3) of whom shall be appointed by the Board of Supervisors of Madera County and five (5) of whom shall be appointed as set forth in subsections 6.B.4 and 6.B.5 below. The Commission shall be generally representative of the diverse skills, backgrounds, interests and demography of persons residing in the three Counties, as follows:

1. Each member of the Commission shall have a commitment to a health care system which seeks to improve access to high quality health care for all persons, regardless of their economic circumstances, delivers high quality care and is financially viable. Members of the Commission shall likewise have an abiding commitment to, and interest in, a quality publicly assisted health care delivery system.
2. The seventeen (17) voting members shall include and shall be appointed as follows:
  - a. Fresno County Appointees. The Commission members from Fresno County shall be the following:
    - i) One member of the Fresno County Board of Supervisors;
    - ii) The Director of the Department of Public Health or Director of the Department of Social Services of Fresno County, as designated by the Fresno County Board of Supervisors; and

- iii) Four (4) persons appointed by the Board of Supervisors of Fresno County who are representative of the interests of physician providers of Medi-Cal covered health care services, health care consumers, community representatives or community clinics.
- b. Kings County Appointees. The Commission members from Kings County shall be the following:
- i) One member of the Kings County Board of Supervisors;
  - ii) The Director of the Department of Public Health or Director of the Department of Social Services of Kings County, as designated by the Kings County Board of Supervisors; and
  - iii) One person appointed by the Board of Supervisors of Kings County who is representative of the interests of physician providers of Medi-Cal covered health care services, health care consumers, community representatives or community clinics.
- c. Madera County Appointees. The Commission members from Madera County shall be the following:
- i) One member of the Madera County Board of Supervisors;
  - ii) The Director of the Department of Public Health or Director of the Department of Social Services of Madera County, as designated by the Madera County Board of Supervisors; and
  - iii) One person appointed by the Board of Supervisors of Madera County who is representative of the interests

of physician providers of Medi-Cal covered health care services, health care consumers, community representatives or community clinics.

- d. Commission Appointees. The Commission shall appoint three (3) persons who are representative of the interests of health care consumers, providers of pharmacy services or other health care services, or other person with the commitment as stated in subsection 6.B.1 above. One (1) of the appointees under this subsection shall be a resident of Fresno County, one (1) of the appointees shall be a resident of Kings County, and one (1) of the appointees shall be a resident of Madera County.
  - e. Designated Members. One (1) Commission member shall be a representative of the Children's Hospital Central California (hereinafter referred to as the "Hospital"), and one (1) Commission member shall be a representative of the Community Regional Medical Center (hereinafter referred to as the "Medical Center"). The designation of these two (2) Commission members shall be made by the Hospital and Medical Center respectively, but each designation is subject to confirmation by the Commission.
3. Commission members designated for appointment by a County Board of Supervisors shall be appointed by majority vote of the Board of Supervisors of the respective County. Any Commission member so appointed may be removed from office by a majority vote of the Board of Supervisors of the County appointing that member.



4. Appointments to be made by the Commission shall be nominated, selected, replaced or removed, as may be necessary, in accordance with this Agreement and with the bylaws adopted by a majority of the voting members of the Commission.
5. Terms of Office. The terms of office of each of the Commission members shall be as follows:
  - a. County Officials. Terms for Commission members serving pursuant to subsections 6.B.2.a.i and 6.B.2.a.ii, subsections 6.B.2.b.i and 6.B.2.b.ii, and subsections 6.B.2.c.i and 6.B.2.c.ii shall be coterminous with their County positions unless the appointing Board of Supervisors replaces such member on its own motion.
  - b. Other Appointees. Except as provided in subsection 6.B.6 below as to the initial terms of office, all Commission members other than those described in subsection 6.B.5.a above shall serve terms of three (3) years.
6. Staggering of Terms of Office/Initial Terms of Office. Initial terms of Commission members, other than those members described in subsection 6.B.5.a, shall be for one (1), two (2) or three (3) year terms in order to establish a staggering of the terms of members. Once the initial term is fulfilled, the appointing party shall make succeeding appointments for a full three (3) year term. At the conclusion of any term, a member may be reappointed to a subsequent three (3) year term. Initial terms shall be staggered as follows:
  - a. The initial terms of office of the one regional representative from the Hospital and the one regional representative from

the Medical Center selected pursuant to subsection 6.B.2.e above shall be three (3) years. Such three (3) year terms shall be identified in the appointments made by the Hospital and Medical Center respectively and as confirmed by the Commission.

- b. Two (2) of the members to be appointed by the Board of Supervisors of Fresno County pursuant to subsection 6.B.2.a.iii above and one member to be appointed by the Commission under subsection 6.B.2.d above shall be appointed for an initial term of one (1) year each. Each such one-year term shall be identified in the appointment.
- c. One member to be appointed by the Board of Supervisors of Fresno County under subsection 6.B.2.a.iii above, one (1) member to be appointed by the Board of Supervisors of Madera County under subsection 6.B.2.c.iii above and one (1) member to be appointed by the Commission pursuant to section 6.B.2.d above shall be appointed for an initial term of two (2) years each. Each such two (2) year term shall be identified in the appointment.
- d. One member to be appointed by the Board of Supervisors of Fresno County under subsection 6.B.2.a.iii above, one member to be appointed by the Board of Supervisors of Kings County under subsection 6.B.2.b.iii above and one (1) member to be appointed by the Commission pursuant to section 6.B.2.d above shall be appointed for an initial term of three (3) years each. Each such three (3) year term shall be identified in the appointment.

7. Alternate Members. There shall be one (1) person appointed as an alternate member for each regular member, for a total of seventeen (17) alternate members, to attend and participate in meetings of the Commission in the event of the absence of any of the members appointed as provided in subsection 6.B.2, above. The qualifications, representation of interests or organizations, appointment, and terms of the alternate members shall be the same as the regular members for which they stand as alternates. When attending a meeting in place of a regular member, an alternate member shall be entitled to participate in the same manner and under the same standards as the regular member, to the extent that the alternate member is not otherwise disqualified from participating in discussion and voting on an item due to a conflict of interest. However, the alternate members appointed for those regular members who sit as the Chairperson and Vice Chairperson shall participate as ordinary members and shall not act as Chairperson or Vice Chairperson.
- C. Reimbursement. The Commission may provide for a stipend and reimbursement of reasonable expenses incurred in connection with a member's service on the Commission.
- D. Quorum and Transaction of Business. Nine (9) members of the Commission shall constitute a quorum. Each member of the Commission shall be entitled to one vote. A vote of a majority of the members present with at least a quorum in attendance shall be required to take action, except for adjournment of a meeting which shall require only a majority of those present. No proxy or absentee voting shall be permitted.

- E. Meetings. The Commission shall establish the time and place for its regular meetings. The date, hour and location of regular meetings shall be fixed by resolution of the Commission. The Commission shall hold at least one (1) regular meeting each quarter of every calendar year. Special meetings and adjourned meetings may be held as required or permitted by law.
  - F. Ralph M. Brown Act. Except as expressly set forth in Welfare and Institutions Code section 14087.38, all meetings of the Commission, including, without limitation, regular, special and adjourned meetings, shall be called, noticed, held and conducted in accordance with the provisions of the Ralph M. Brown Act (commencing with section 54950 of the California Government Code).
  - G. Public Records Act. Except as expressly set forth in Welfare and Institutions Code section 14087.38, all records of the Health Authority shall be kept and provided to the public in accordance with the provisions of the California Public Records Act (commencing with section 6250 of the California Government Code).
  - H. Rules. The Commission may adopt, from time to time, such rules, bylaws and regulations for the conduct of its meetings and affairs as it may deem necessary, including, without limitation, the designation of a person to record and transcribe the minutes of each public meeting of the Commission.
7. **OFFICERS AND EMPLOYEES.**
- A. Chairperson and Vice Chairperson. The Commission shall select a chairperson and a vice chairperson from among its members at its first meeting, and annually thereafter. The term of the chairperson and vice chairperson shall be one (1) year. In the event the Chairperson or Vice Chairperson so elected resigns from such office or ceases to be a

member of the Commission, the resulting vacancy shall be filled at the next regular meeting of the Commission. In the absence or inability of the Chairperson to act, the Vice Chairperson shall act as Chairperson. The Chairperson, or in the Chairperson's absence, the Vice Chairperson, shall preside at and conduct all meetings of the Commission. In the absence of, or the inability of the Chairperson and Vice Chairperson to Act, the Commission may appoint a temporary Chairperson to conduct a meeting.

B. Chief Administrator. The Commission shall employ, by contract or otherwise, a Chief Administrator of the Health Authority to direct the day-to-day operations of the Health Authority. Serving at the will of the Commission and subject to its policies, rules, regulations and instructions, the Chief Administrator shall have the powers described in this Agreement and those delegated and assigned by the Commission. At the inception of this Agreement, the Director of the Fresno County Department of Public Health shall act as the Health Authority's Chief Administrator and shall serve until replaced by the Commission. The Chief Administrator shall have the following powers and all those other powers necessarily inherent therein:

1. to appoint, remove and transfer employees of the Health Authority, including management level officers, except for the Chief Financial Officer, Chief Medical Officer, and Attorney of the Health Authority and such others as the Commission may designate;
2. to enforce all orders, rules and regulations adopted by the Commission relating to the regulation, operation or control of funds, facilities, properties and apparatus of the Health Authority;

3. to enter into contracts or authorize other expenditures whenever the Commission shall have approved and authorized any work, improvement or task and shall have budgeted or appropriated the necessary money therefor;
  4. to have custody of and accountability for all property of the Health Authority except money.
- C. Treasurer. The Commission may employ, by contract or otherwise, a Chief Financial Officer who shall be and shall act as the Treasurer of the Health Authority. The Treasurer shall have the custody of the Health Authority money and disburse Health Authority funds pursuant to the accounting procedures developed in accordance with the provisions of this Agreement, the Act, and with those procedures established by the Commission. The Treasurer shall assume the duties described in section 6505.5 of the Government Code, namely: receive and receipt for all money of the Health Authority and place in the Treasury of the Treasurer to the credit of the Health Authority; be responsible upon an official bond as prescribed by the Commission for the safekeeping and disbursement of all Health Authority money so held; pay, when due, out of money of the Health Authority so held, all sums payable, only upon warrants of the officers performing the functions of the Auditor-Controller who has been designated by the Health Authority or Commission; verify and report in writing on the first day of July, October, January and April of each year to the Health Authority and to the PARTIES the amount of money held for the Health Authority, the amount of receipts since the last report, and the amount paid out since the last report; and perform such other duties as are set forth in this Agreement or specified by the Commission. KINGS, through its Finance Department, shall serve as depository and processor of financial claims for the Health Authority pending the establishment of a

claims-processing system for the Health Authority under the control of the Chief Financial Officer and the selection by the Commission of a separate financial institution as the Health Authority depository.

- D. Auditor-Controller. The Chief Financial Officer shall be the Auditor-Controller of the Health Authority. The Auditor-Controller shall draw warrants to pay demands against the Health Authority when such demands have been approved by the Commission or by any other person authorized to so approve such by this Agreement or by resolution of the Commission. The Auditor-Controller shall perform such duties as are set forth in this Agreement and such other duties as are specified by the Commission.

There shall be strict accountability of all funds and reporting of all receipts and disbursements. The Auditor-Controller shall establish and maintain such procedures, funds and accounts as may be required by sound accounting practices. The books and records of the Health Authority in the hands of the Auditor-Controller shall be open to inspection at all reasonable times by representatives of the PARTIES.

The Auditor-Controller, with the approval of the Commission, shall contract with an independent certified public accountant or firm or certified public accountants to make an annual audit of the accounts and records of the Health Authority, and a complete written report of such audit shall be filed as public records annually, within six (6) months of the end of the fiscal year under examination, with each of the PARTIES. Such annual audit and written report shall comply with the requirements of section 6505 of the Government Code. The cost of the annual audit, including contracts with, or employment of such independent certified public accountants in making an audit pursuant to this Agreement shall be a charge against funds of the Health Authority available for such purpose. The

Commission, by unanimous vote, may replace the annual audit with a special audit covering a two (2) year period.

- E. Chief Medical Officer. The Commission shall employ, by contract or otherwise, a Chief Medical Officer who shall be responsible for medical-related matters including development and implementation of medical policy for the Health Authority and review of medical care rendered by providers to clients of the Health Authority.
- F. Employees and Consultants. Subject to the availability of funds, the Commission may employ such employees, consultants, advisors and independent contractors as are deemed necessary and desirable in implementing and carrying out the purposes of this Agreement.
- G. Attorney. The Commission shall employ, by contract or otherwise, a General Counsel to the Health Authority. At the inception of this Agreement, the Office of County Counsel of Madera County shall serve as counsel to the Health Authority unless replaced by the Commission. The Commission may employ by contract or otherwise specialty counsel.

8. **REIMBURSEMENT.**

Officers and employees of the PARTIES (excepting members of the Commission) designated in this Agreement to provide services to the Health Authority shall be reimbursed by the Health Authority for their actual costs of providing such services. In addition, additional services provided by officers and employees of the PARTIES pursuant to contracts with the Health Authority shall be reimbursed as provided by the contracts. All reimbursements by the Health Authority shall be made after receiving an itemized billing for services rendered.

9. **FISCAL YEAR.**

The fiscal year of the Health Authority shall be the period commencing July 1 of each year and ending on and including the following June 30.



10. **CONTRIBUTIONS BY THE PARTIES.**

The PARTIES may provide contributions in the form of public funds and/or in-kind services, equipment, furnishings, office space and other kinds of property which may be reasonably necessary for the Health Authority to accomplish the purposes of this Agreement. In addition, the PARTIES may provide salary and benefit services to the employees of the Health Authority. Repayment by the Health Authority to the PARTIES for the value of such funds and/or services shall be as set forth in separate agreements between the PARTY or PARTIES and the Health Authority.

11. **ADVISORY COUNCILS/COMMITTEES.**

The Health Authority Commission may establish such advisory councils or committees as it deems necessary for the exercise of its powers. Such councils or committees shall be comprised of persons possessing the commitment set forth in subsection 6.B.1 above.

12. **LIABILITIES.**

The Health Authority shall provide a single Medi-Cal managed care system for the three (3) COUNTIES and shall account for all funds collected or disbursed for such system. To the extent permitted by law, it is the intent of the PARTIES that the liabilities of the Medi-Cal managed care plan shall not become a liability of any other health care plan provided by the Health Authority or of any other health care plan provided by the PARTIES or any of them.

The debts, liabilities and obligations of the Health Authority shall be the debts, liabilities and obligations of the Health Authority alone and not of the PARTIES or of the State. In addition, the PARTIES shall not be liable for any act or omission of the Health Authority.

13. **NOTICES.**

Notices required or permitted hereunder shall be sufficiently given if made in writing and delivered either personally or upon deposit into the U.S. Mail, first-class, postage prepaid to:

**MADERA COUNTY**

Public Health Director  
Madera County  
Public Health Department  
14215 Road 28  
Madera, CA 93638

**FRESNO COUNTY**

Director, County of Fresno  
Department of Public Health  
P.O. Box 11867  
Fresno, CA 93775

**KINGS COUNTY**

Kings County Administrative Officer  
Kings County Government Center  
Administration Building  
1400 West Lacey Boulevard  
Hanford, CA 93230

14. **OTHER AGREEMENTS NOT PROHIBITED.**

Other Agreements by and between the PARTIES or any other entity are neither prohibited nor modified in any manner by execution of this Agreement.

15. **SEVERABILITY.**

If any section, clause or phrase of this Agreement or the application thereof to any party or any other person or circumstances is for any reason held to be invalid by a court of competent jurisdiction, it shall be deemed severable and the remainder of this Agreement or the application of such provisions to the other party or to other persons or circumstances shall not be affected thereby.

16. **NONASSIGNABILITY.**

The rights, titles and interests of any party to this Agreement shall not be assignable or transferrable without the written consent of the Board of Supervisors of the PARTIES.

17. **MISCELLANEOUS.**

A. **Section Headings.** The section headings herein are for convenience of the PARTIES only, and shall not be deemed to govern, limit, modify or in any manner affect the scope, meaning or intent of the provisions or language of this Agreement.

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- B. Laws of California. This Agreement is made in the State of California, under the Constitution and laws of such State, and shall be construed and enforced in accordance with the laws of such State.
- C. Construction of Language. It is the intention of the PARTIES hereto that if any provision of this Agreement is capable of two (2) constructions, one (1) of which would render the provision void and the other of which would render the provision valid, then the provision shall have the meaning which renders it valid.
- D. Cooperation. The PARTIES recognize the necessity and hereby agree to cooperate with each other in carrying out the purposes of this Agreement, including cooperation in matters relating to the public, accounting, litigation, public relations and the like.
- E. Successors. This Agreement shall be binding upon and shall inure to the benefit of the successors of the PARTIES hereto.
- F. Amendments. This Agreement may be amended only by the PARTIES' execution of written amendments hereto.
- G. Publication Rights. Each party to this Agreement shall have the right to duplicate, at its own expenses, any and all documents and reports created or acquired, in the joint exercise of powers hereunder by the Commission or any other party hereto pursuant to this Agreement.
- H. Counterparts. This Agreement may be executed simultaneously in any number of counterparts, each of which shall be deemed an original but all of which together shall constitute the same instrument.

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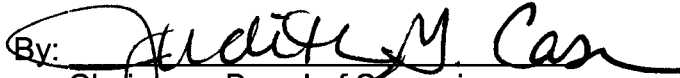
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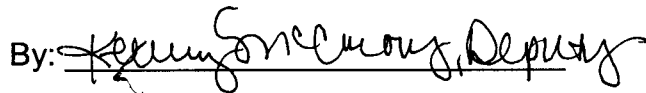
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IN WITNESS WHEREOF, the PARTIES hereto have caused this Second Amended and Restated Agreement to be executed and attested to by their proper officers thereunto duly authorized as of the date first written above.

By:   
Chairman, Board of Supervisors

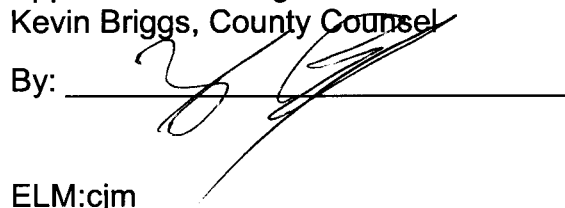
Date: 9/14/10

ATTEST:  
Bernice E. Seidel, Clerk  
Board of Supervisors

By: 

Date: 9/14/10

Approved as to Legal Form:  
Kevin Briggs, County Counsel

By: 

ELM:cjm