

**Grant Agreement Between**  
**Michigan Department of Community Health**  
**hereinafter referred to as the "Department"**

**and**

CA NAME

ADDRESS

CITY, MI ZIP

Federal I.D.#: \_\_\_\_\_

hereinafter referred to as the "Contractor"

**for**

**Substance Use Disorder Services**

**Part I**

1. **Period of Agreement:** This agreement shall commence on October 1, 2007 and continue through September 30, 2008. This agreement is in full force and effect for the period specified.
2. **Program Budget and Agreement Amount**

**A. Agreement Amount**

The total amount of this agreement is \$ \_\_\_\_\_. The Department under the terms of this agreement will provide funding not to exceed \$ \_\_\_\_\_.  
The federal funding provided by the Department is \$ \_\_\_\_\_, as follows:

Federal Program Title	Catalog of Federal Domestic Assistance (CFDA) Title	CFDA #	Federal Agency Name	Federal Grant Award Number	Amount
SAPT Block Grant	Block Grant for Prevention and Treatment of Substance Abuse	93.959	Department of Health and Human Services	08 B1 MI SAPT	\$0

Federal Program Title	Catalog of Federal Domestic Assistance (CFDA) Title	CFDA #	Federal Agency Name	Federal Grant Award Number	Amount
Infrastructure Program for Substance Abuse Prevention	Strategic Prevention Framework State Incentive Grants	93.243	Department of Health and Human Services	5 U79 SP11196-01	\$0
Total FY 2008 Federal Funding					\$0

The grant agreement is designated as a:

☒ subrecipient relationship; or

☐ vendor relationship.

**B. Equipment Purchases and Title**

Any contractor equipment purchases supported in whole or in part through this agreement must be listed in the supporting Equipment Inventory Schedule. Equipment means tangible, non-expendable, personal property having useful life of more than one (1) year and an acquisition cost of \$5,000 or more per unit. Title to items having a unit acquisition cost of less than \$5,000 shall vest with the Contractor upon acquisition. The Department reserves the right to retain or transfer the title to all items of equipment having a unit acquisition cost of \$5,000 or more, to the extent that the Department's proportionate interest in such equipment supports such retention or transfer of title.

Item 2.B  
is not  
applicable.

**C. Deviation Allowance**

A deviation allowance modifying an established budget category by \$10,000 or 15%, whichever is greater, is permissible without prior written approval of the Department. Any modification or deviations in excess of this provision, including any adjustment to the total amount of this agreement, must be made in writing and executed by all parties to this agreement before the modifications can be implemented. This deviation allowance does not authorize new categories, subcontracts, equipment items or positions not shown in the attached Program Budget Summary and supporting detail schedules.

Item 2.C  
is not  
applicable.

3. **Purpose:** The focus of the program is to provide for the administration and coordination of substance abuse services within the designated coordinating agency region, consisting of \_\_\_\_\_ County(ies).
4. **Statement of Work:** The Contractor agrees to undertake, perform and complete the services described in Attachment A, which is part of this agreement through reference.
5. **Financial Requirements:** The financial requirements shall be followed as described in Part II of this agreement and Attachments B and D. which are part of this agreement through reference.

6. **Performance/Progress Report Requirements:** The progress reporting methods, as applicable, shall be followed as described in Attachment C, which is part of this agreement through reference.

7. **General Provisions:** The Contractor agrees to comply with the General Provisions outlined in Part II, which is part of this agreement through reference. The Contractor also agrees to comply with the requirements described in Attachment E: Other Requirements, which is part of this agreement through reference.

8. **Administration of the Agreement:**

The person acting for the Department in administering this agreement (hereinafter referred to as the Contract Manager) is:

Mark Steinberg, Manager  
ODCP, Substance Abuse Contract Management Section  
Lewis Cass Building, 5<sup>th</sup> floor, Lansing, MI  
(517) 335-0180  
[SteinbergM@michigan.gov](mailto:SteinbergM@michigan.gov)

---

Name	Location/Building	Title	Telephone No.	Email Address
------	-------------------	-------	---------------	---------------

9. **Contractor's Financial Contact for the Agreement:**

The person acting for the Contractor on the financial reporting for this agreement is:

---

Name	Title
------	-------

---

E-Mail Address	Telephone No.
----------------	---------------

10. **Special Conditions:**

- A. This agreement is valid upon approval by the State Administrative Board as appropriate and approval and execution by the Department.
- B. This agreement is conditionally approved subject to and contingent upon the availability of funds.
- C. The Department will not assume any responsibility or liability for costs incurred by the Contractor prior to the signing of this agreement.
- D. The Contractor is required by PA 533 of 2004 to receive payments by electronic funds transfer.

**11. Special Certification:**

The individual or officer signing this agreement certifies by his or her signature that he or she is authorized to sign this agreement on behalf of the responsible governing board, official or Contractor.

**12. Signature Section:**

**For the CONTRACTOR**

---

Name	<i>(Please print)</i>	Title
------	-----------------------	-------

---

Signature	Date
-----------	------

**For the MICHIGAN DEPARTMENT OF COMMUNITY HEALTH**

---

Nick Lyon, Deputy Director, Operations Administration	Date
---	------

## **Part II**

### **General Provisions**

#### **I. Responsibilities - Contractor**

The Contractor in accordance with the general purposes and objectives of this agreement will:

##### **A. Publication Rights**

1. Where activities supported by this agreement produce books, films, or other such copyrightable materials issued by the Contractor, the Contractor may copyright such but shall acknowledge that the Department reserves a royalty-free, non-exclusive and irrevocable license to reproduce, publish and use such materials and to authorize others to reproduce and use such materials. This cannot include service recipient information or personal identification data.
2. Any copyrighted materials or modifications bearing acknowledgment of the Department's name must be approved by the Department prior to reproduction and use of such materials.
3. The Contractor shall give recognition to the Department in any and all publications papers and presentations arising from the program and service contract herein; the Department will do likewise.

##### **B. Fees**

Make reasonable efforts to collect 1<sup>st</sup> and 3<sup>rd</sup> party fees, where applicable, and report these as outlined by the Department's fiscal procedures. Any underrecoveries of otherwise available fees resulting from failure to bill for eligible services will be excluded from reimbursable expenditures.

##### **C. Program Operation**

Provide the necessary administrative, professional, and technical staff for operation of the program.

##### **D. Reporting**

Utilize all report forms and reporting formats required by the Department at the effective date of this agreement, and provide the Department with timely review and commentary on any new report forms and reporting formats proposed for issuance thereafter.

##### **E. Record Maintenance/Retention**

Maintain adequate program and fiscal records and files, including source documentation to support program activities and all expenditures made under the terms of this agreement, as required. Assure that all terms of the agreement will be appropriately adhered to and that records and detailed documentation for the project or program identified in this agreement will be maintained for a period of not less than three (3) years

from the date of termination, the date of submission of the final expenditure report or until litigation and audit findings have been resolved.

**F. Authorized Access**

Permit upon reasonable notification and at reasonable times, access by authorized representatives of the Department, Federal Grantor Agency, Comptroller General of the United States and State Auditor General, or any of their duly authorized representatives, to records, files and documentation related to this agreement, to the extent authorized by applicable state or federal law, rule or regulation.

**G. Audits**

This section only applies to Contractors designated as subrecipients. Contractors designated as vendors are exempt from the provisions of this section.

**1. Required Audit or Notification Letter**

Contractors must submit to the Department either a Single Audit, Financial Statement Audit, or Audit Status Notification Letter as described below. If submitting a Single Audit or Financial Statement Audit, Contractors must also submit a Corrective Action Plan for any audit findings that impact MDCH-funded programs, and management letter (if issued) with a response.

**a. Single Audit**

Contractors that expend \$500,000 or more in federal awards during the Contractor's fiscal year must submit to the Department a Single Audit prepared consistent with the Single Audit Act Amendments of 1996, and Office of Management and Budget (OMB) Circular A-133, "Audits of States, Local Governments, and Non-Profit Organizations," as revised.

The Contractor must comply with all requirements in the MDCH Substance Abuse Prevention and Treatment Audit Guidelines, current edition, as issued by the MDCH Office of Audit.

**b. Financial Statement Audit**

Contractors exempt from the Single Audit requirements that receive \$500,000 or more in **total funding** from the Department in State and Federal grant funding must submit to the Department a Financial Statement Audit prepared in accordance with generally accepted auditing standards (GAAS). Contractors exempt from the Single Audit requirements that receive less than \$500,000 of total Department grant funding must submit to the Department a Financial Statement Audit prepared in accordance with

GAAS if the audit includes disclosures that may negatively impact MDCH-funded programs including, but not limited to fraud, going concern uncertainties, financial statement misstatements, and violations of contract and grant provisions.

c. Audit Status Notification Letter

Contractors exempt from both the Single Audit and Financial Statement Audit requirements (a. and b. above) must submit an Audit Status Notification Letter that certifies these exemptions. The template Audit Status Notification Letter and further instructions are available at <http://www.michigan.gov/mdch> by selecting Inside Community Health – MDCH Audit.

2. Due Date and Where to Send

The required audit and any other required submissions (i.e. Corrective Action Plan and management letter with a response), or audit Status Notification Letter must be submitted to the Department within nine months after the end of the Contractor's fiscal year to:

Michigan Department of Community Health  
Office of Audit  
Quality Assurance and Review Section  
P.O. Box 30479\*  
Lansing, Michigan 48909-7979

**\*For Express Delivery:**  
Capital Commons Center  
400 S. Pine Street  
Lansing, Michigan 48933

Alternatives to paper filing may be viewed at <http://www.michigan.gov/mdch> by selecting Inside Community Health – MDCH Audit.

3. Penalty

a. Delinquent Single Audit or Financial Statement Audit

If the Contractor does not submit the required Single Audit reporting package, management letter (if issued) with a response, and Corrective Action Plan; or the Financial Statement Audit and management letter (if issued) with a response within nine months after the end of the Contractor's fiscal year and an extension has not been approved by the cognizant or oversight agency for audit, the Department may withhold from the current funding an

amount equal to five percent of the audit year's grant funding (not to exceed \$200,000) until the required filing is received by the Department. The Department may retain the amount withheld if the Contractor is more than 120 days delinquent in meeting the filing requirements and an extension has not been approved by the cognizant or oversight agency for audit. The Department may terminate the current grant if the Contractor is more than 180 days delinquent in meeting the filing requirements and an extension has not been approved by the cognizant or oversight agency for audit.

b. Delinquent Audit Status Notification Letter

Failure to submit the Audit Status Notification Letter, when required, may result in withholding from the current funding an amount equal to one percent of the audit year's grant funding until the Audit Status Notification Letter is received.

4. Other Audits

The Department or federal agencies may also conduct or arrange for "agreed upon procedures" or additional audits to meet their needs.

**H. Subrecipient/Vendor Monitoring**

The Contractor must ensure that each of its **subrecipients** comply with the Single Audit Act requirements. The Contractor must issue management decisions on audit findings of their subrecipients as required by OMB Circular A-133.

The Contractor must also develop a subrecipient monitoring plan that addresses "during the award monitoring" of **subrecipients** to provide reasonable assurance that the subrecipient administers Federal awards in compliance with laws, regulations, and the provisions of contracts, and that performance goals are achieved. The subrecipient monitoring plan should include a risk-based assessment to determine the level of oversight, and monitoring activities such as reviewing financial and performance reports, performing site visits, and maintaining regular contact with subrecipients.

The Contractor must establish requirements to ensure compliance for **for-profit subrecipients** as required by OMB Circular A-133, Section .210(e)

The Contractor must ensure that transactions with **vendors** comply with laws, regulations, and provisions of contracts or grant agreements in compliance with OMB Circular A-133, Section .210(f).

**I. Notification of Modifications**

Provide timely notification to the Department, in writing, of any action by its governing board or any other funding source that would require or result in



significant modification in the provision of services, funding or compliance with operational procedures.

**J. Software Compliance**

The Contractor must ensure software compliance and compatibility with the Department's data systems for services provided under this agreement including, but not limited to: stored data, databases, and interfaces for the production of work products and reports. All required data under this agreement shall be provided in an accurate and timely manner without interruption, failure or errors due to the inaccuracy of the Contractor's business operations for processing date/time data.

**K. Human Subjects**

The Contractor agrees that prior to the initiation of the research, the Contractor will submit institutional Review Board (IRB) application material for all research involving human subjects, which is conducted in programs sponsored by the Department or in programs which receive funding from or through the State of Michigan, to the Department's IRB for review and approval, or the IRB application and approval materials for acceptance of the review of another IRB. All such research must be approved by a federally assured IRB, but the Department's IRB can only accept the review and approval of another institution's IRB under a formally-approved interdepartmental agreement. The manner of the review will be agreed upon between the Department's IRB Chairperson and the Contractor's IRB Chairperson or Executive Officer(s).

**II. Responsibilities - Department**

The Department in accordance with the general purposes and objectives of this agreement will:

**A. Reimbursement**

Provide reimbursement in accordance with the terms and conditions of this agreement based upon appropriate reports, records, and documentation maintained by the Contractor.

**B. Report Forms**

Provide any report forms and reporting formats required by the Department at the effective date of this agreement, and provide to the Contractor any new report forms and reporting formats proposed for issuance thereafter at least ninety (90) days prior to their required usage in order to afford the Contractor an opportunity to review and offer comment.

### **III. Assurances**

The following assurances are hereby given to the Department:

#### **A. Compliance with Applicable Laws**

The Contractor will comply with applicable federal and state laws, guidelines, rules and regulations in carrying out the terms of this agreement. The Contractor will also comply with all applicable general administrative requirements such as OMB Circulars covering cost principles, grant/agreement principles, and audits in carrying out the terms of this agreement.

#### **B. Anti-Lobbying Act**

The Contractor will comply with the Anti-Lobbying Act, 31 USC 1352 as revised by the Lobbying Disclosure Act of 1995, 2 USC 1601 et seq, and Section 503 of the Departments of Labor, Health and Human Services, and Education, and Related Agencies section of the FY 1997 Omnibus Consolidated Appropriations Act (Public Law 104-208). Further, the Contractor shall require that the language of this assurance be included in the award documents of all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

#### **C. Non-Discrimination**

1. In the performance of any contract or purchase order resulting herefrom, the Contractor agrees not to discriminate against any employee or applicant for employment or service delivery and access, with respect to their hire, tenure, terms, conditions or privileges of employment, programs and services provided or any matter directly or indirectly related to employment, because of race, color, religion, national origin, ancestry, age, sex, height, weight, marital status, physical or mental disability unrelated to the individual's ability to perform the duties of the particular job or position or to receive services. The Contractor further agrees that every subcontract entered into for the performance of any contract or purchase order resulting herefrom will contain a provision requiring non-discrimination in employment, service delivery and access, as herein specified binding upon each subcontractor. This covenant is required pursuant to the Elliot-Larsen Civil Rights Act, 1976 PA 453, as amended, MCL 37.2201 et seq., and the Persons with Disabilities Civil Rights Act, 1976 PA 220, as amended, MCL 37.1101 et seq., and any breach thereof may be regarded as a material breach of the contract or purchase order.
2. Additionally, assurance is given to the Department that proactive efforts will be made to identify and encourage the participation of minority owned and women owned businesses, and businesses

owned by persons with disabilities in contract solicitations. The Contractor shall incorporate language in all contracts awarded: (1) prohibiting discrimination against minority owned and women owned businesses and businesses owned by persons with disabilities in subcontracting; and (2) making discrimination a material breach of contract.

**D. Debarment and Suspension**

Assurance is hereby given to the Department that the Contractor will comply with Federal Regulation, 45 CFR Part 76 and certifies to the best of its knowledge and belief that it, its employees and its subcontractors:

1. Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any federal department or contractor;
2. Have not within a three-year period preceding this agreement been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (federal, state, or local) transaction or contract under a public transaction; violation of federal or state antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
3. Are not presently indicted or otherwise criminally or civilly charged by a government entity (federal, state or local) with commission of any of the offenses enumerated in section 2, and;
4. Have not within a three-year period preceding this agreement had one or more public transactions (federal, state or local) terminated for cause or default.

**E. Federal Requirement: Pro-Children Act**

1. Assurance is hereby given to the Department that the Contractor will comply with Public Law 103-227, also known as the Pro-Children Act of 1994, 20 USC 6081 et seq, which requires that smoking not be permitted in any portion of any indoor facility owned or leased or contracted by and used routinely or regularly for the provision of health, day care, early childhood development services, education or library services to children under the age of 18, if the services are funded by federal programs either directly or through state or local governments, by federal grant, contract, loan or loan guarantee. The law also applies to children's services that are provided in indoor facilities that are constructed, operated, or maintained with such federal funds. The law does not apply to children's services provided in private residences; portions of facilities used for inpatient drug or alcohol treatment; service providers whose sole source of applicable federal funds is

Medicare or Medicaid; or facilities where Women, Infants, and Children (WIC) coupons are redeemed. Failure to comply with the provisions of the law may result in the imposition of a civil monetary penalty of up to \$1,000 for each violation and/or the imposition of an administrative compliance order on the responsible entity. The Contractor also assures that this language will be included in any subawards which contain provisions for children's services.

2. The Contractor also assures, in addition to compliance with Public Law 103-227, any service or activity funded in whole or in part through this agreement will be delivered in a smoke-free facility or environment. Smoking shall not be permitted anywhere in the facility, or those parts of the facility under the control of the Contractor. If activities or services are delivered in facilities or areas that are not under the control of the Contractor (e.g., a mall, restaurant or private work site), the activities or services shall be smoke-free.

**F. Hatch Political Activity Act and Intergovernmental Personnel Act**

The Contractor will comply with the Hatch Political Activity Act, 5 USC 1501-1508, and the Intergovernmental Personnel Act of 1970, as amended by Title VI of the Civil Service Reform Act, Public Law 95-454, 42 USC 4728. Federal funds cannot be used for partisan political purposes of any kind by any person or organization involved in the administration of federally-assisted programs.

**G. Subcontracts**

Assure for any subcontracted service, activity or product:

1. That a written subcontract is executed by all affected parties prior to the initiation of any new subcontract activity. Exceptions to this policy may be granted by the Department upon written request within 30 days of execution of the agreement.
2. That any executed subcontract to this agreement shall require the subcontractor to comply with all applicable terms and conditions of this agreement. In the event of a conflict between this agreement and the provisions of the subcontract, the provisions of this agreement shall prevail.

A conflict between this agreement and a subcontract, however, shall not be deemed to exist where the subcontract:

- a. Contains additional non-conflicting provisions not set forth in this agreement;
- b. Restates provisions of this agreement to afford the Contractor the same or substantially the same rights and privileges as the Department; or

- c. Requires the subcontractor to perform duties and/or services in less time than that afforded the Contractor in this agreement.
3. That the subcontract does not affect the Contractor's accountability to the Department for the subcontracted activity.
4. That any billing or request for reimbursement for subcontract costs is supported by a valid subcontract and adequate source documentation on costs and services.
5. That the Contractor will submit a copy of the executed subcontract if requested by the Department.

#### **H. Procurement**

Assure that all purchase transactions, whether negotiated or advertised, shall be conducted openly and competitively in accordance with the principles and requirements of OMB Circular A-102 as revised, implemented through applicable portions of the associated "Common Rule" as promulgated by responsible federal contractor(s), or OMB Circular A-110 as amended, as applicable, and that records sufficient to document the significant history of all purchases are maintained for a minimum of three years after the end of the agreement period.

#### **I. Health Insurance Portability and Accountability Act**

To the extent that this act is pertinent to the services that the Contractor provides to the Department under this agreement, the Contractor assures that it is in compliance with the Health Insurance Portability and Accountability Act (HIPAA) requirements including the following:

1. The Contractor must not share any protected health data and information provided by the Department that falls within HIPAA requirements except to a subcontractor as appropriate under this agreement.
2. The Contractor must require the subcontractor not to share any protected health data and information from the Department that falls under HIPAA requirements in the terms and conditions of the subcontract.
3. The Contractor must only use the protected health data and information for the purposes of this agreement.
4. The Contractor must have written policies and procedures addressing the use of protected health data and information that falls under the HIPAA requirements. The policies and procedures must meet all applicable federal and state requirements including the HIPAA regulations. These policies and procedures must include restricting access to the protected health data and information by the Contractor's employees.

5. The Contractor must have a policy and procedure to report to the Department unauthorized use or disclosure of protected health data and information that falls under the HIPAA requirements of which the Contractor becomes aware.
6. Failure to comply with any of these contractual requirements may result in the termination of this agreement in accordance with Part II, Section V. Agreement Termination.
7. In accordance with HIPAA requirements, the Contractor is liable for any claim, loss or damage relating to unauthorized use or disclosure of protected health data and information received by the Contractor from the Department or any other source.

#### **IV. Financial Requirements**

##### **A. Operating Advance**

The Department will not issue an operating advance under this agreement.

##### **B. Reimbursement Method**

The Department will make prepayments equal to the Contractor's prepayment schedule that has been approved by the Department and the Contractor. The prepayments will be monthly, paid up to the total Department allocation as agreed to in the approved budget.

Prepayments may be adjusted quarterly based upon expenditure reports. Expenditure reporting procedures are described in Attachment B to this agreement.

##### **C. Revenue and Expenditure Report Submission**

Revenue and Expenditure Reports (RERs) shall be prepared as indicated in Attachment B, and submitted to:

Michigan Department of Community Health  
Bureau of Finance  
Accounting Division, Expenditure Operations Section  
P.O. Box 30720  
Lansing, Michigan 48909

RERs must be submitted on a quarterly basis, no later than the last day of the month following the end of each fiscal quarter. RERs must reflect total actual program expenditures, regardless of the source of funds. Attachment B contains the RER form and instructions.

Failure to meet financial reporting responsibilities as identified in this agreement may result in withholding future payments.

**D. Reimbursement Mechanism**

All contractors must sign up through the on-line vendor registration process to receive all State of Michigan payments as Electronic Funds Transfers (EFT)/Direct Deposits, as mandated by PA 533 of 2004. Vendor registration information is available through the Department of Management and Budget's web site:

- <http://www.cpexpress.state.mi.us/>

**E. Final Obligations and Financial Status Report Requirements**

1. Preliminary Close-out Report

A Preliminary Close-out Report, based on annual guidelines, must be submitted by the due date using the format provided by the Department's Accounting Division. The Contractor must provide an estimate of total expenditures for the entire agreement period. The information on the report will be used to record the Department's year-end accounts payables and receivables for this agreement.

2. Final RER

The final RER is due as stated in Attachment C to this agreement. The final RER must be clearly marked "Final". Final RERs not received by the due date may result in the loss of funding requested on the Preliminary Close-out Report and may result in the potential reduction in the subsequent year's agreement amount.

**F. Unobligated Funds**

Any unobligated balance of funds held by the Contractor at the end of the agreement period will be returned to the Department or treated in accordance with instructions provided by the Department.

**V. Agreement Termination**

The Department may cancel this agreement without further liability or penalty to the Department for any of the following reasons:

- A.** This agreement may be terminated by either party by giving thirty (30) days written notice to the other party stating the reasons for termination and the effective date.
- B.** This agreement may be terminated on thirty (30) days prior written notice upon the failure of either party to carry out the terms and conditions of this agreement, provided the alleged defaulting party is given notice of the alleged breach and fails to cure the default within the thirty (30) day period.
- C.** This agreement may be terminated immediately if the Contractor or an official of the Contractor or an owner is convicted of any activity referenced in Section III.D. of this agreement during the term of this agreement or any extension thereof.

**VI. Final Reporting Upon Termination**

Should this agreement be terminated by either party, within thirty (30) days after the termination, the Contractor shall provide the Department with all financial, performance and other reports required as a condition of this agreement. The Department will make payments to the Contractor for allowable reimbursable costs not covered by previous payments or other state or federal programs. The Contractor shall immediately refund to the Department any funds not authorized for use and any payments or funds advanced to the Contractor in excess of allowable reimbursable expenditures. Any dispute arising as a result of this agreement shall be resolved in the State of Michigan.

**VII. Severability**

If any provision of this agreement or any provision of any document attached to or incorporated by reference is waived or held to be invalid, such waiver or invalidity shall not affect other provisions of this agreement.

**VIII. Amendments**

Any changes to this agreement will be valid only if made in writing and accepted by all parties to this agreement. Any change proposed by the Contractor which would affect the Department funding of any project, in whole or in part in Part I, Section 2.C. of the agreement, must be submitted in writing to the Department for approval immediately upon determining the need for such change.

**IX. Liability**

- A.** All liability to third parties, loss, or damage as a result of claims, demands, costs, or judgments arising out of activities, such as direct service delivery, to be carried out by the Contractor in the performance of this agreement shall be the responsibility of the Contractor, and not the responsibility of the Department, if the liability, loss, or damage is caused by, or arises out of, the actions or failure to act on the part of the Contractor, any subcontractor, anyone directly or indirectly employed by the Contractor, provided that nothing herein shall be construed as a waiver of any governmental immunity that has been provided to the Contractor or its employees by statute or court decisions.
- B.** All liability to third parties, loss, or damage as a result of claims, demands, costs, or judgments arising out of activities, such as the provision of policy and procedural direction, to be carried out by the Department in the performance of this agreement shall be the responsibility of the Department, and not the responsibility of the Contractor, if the liability, loss, or damage is caused by, or arises out of, the action or failure to act on the part of any Department employee or agent, provided that nothing herein shall be construed as a waiver of any governmental immunity by the State, its agencies (the Department) or employees as provided by statute or court decisions.
- C.** In the event that liability to third parties, loss, or damage arises as a result of activities conducted jointly by the Contractor and the Department in



fulfillment of their responsibilities under this agreement, such liability, loss, or damage shall be borne by the Contractor and the Department in relation to each party's responsibilities under these joint activities, provided that nothing herein shall be construed as a waiver of any governmental immunity by the Contractor, the State, its agencies (the Department) or their employees, respectively, as provided by statute or court decisions.

**X. Conflict of Interest**

The Contractor and the Department are subject to the provisions of 1968 PA 317, as amended, MCL 15.321 et seq, MSA 4.1700(51) et seq, and 1973 PA 196, as amended, MCL 15.341 et seq, MSA 4.1700 (71) et seq.

**XI. State of Michigan Agreement**

This is a State of Michigan Agreement and is governed by the laws of Michigan. Any dispute arising as a result of this agreement shall be resolved in the State of Michigan.

**XII. Confidentiality**

Both the Department and the Contractor shall assure that medical services to and information contained in medical records of persons served under this agreement, or other such recorded information required to be held confidential by federal or state law, rule or regulation, in connection with the provision of services or other activity under this agreement shall be privileged communication, shall be held confidential, and shall not be divulged without the written consent of either the patient or a person responsible for the patient, except as may be otherwise required by applicable law or regulation. Such information may be disclosed in summary, statistical, or other form, which does not directly or indirectly identify particular individuals.