

MEMORANDUM OF UNDERSTANDING
BETWEEN
THE COUNTY OF ORANGE AND
ORANGE COUNTY IN-HOME SUPPORTIVE SERVICES PUBLIC AUTHORITY
FOR THE PROVISION OF IN-HOME SUPPORTIVE SERVICES

This Memorandum of Understanding (MOU) is entered into by and between the County of Orange, acting through its Social Services Agency (SSA), hereinafter referred to as “COUNTY,” and the Orange County In-Home Supportive Services Public Authority, hereinafter referred to as “AUTHORITY.” This MOU establishes the duties and specific guidelines for the provision of In-Home Supportive Services.

COUNTY and AUTHORITY may be referred to individually as “Party” and collectively as “the Parties.”

1. This MOU is authorized and provided for pursuant to California Welfare and Institutions Code (WIC) Section 12301.6 and Title 1, Division 7, Section 1-7-1 et seq. of the Codified Ordinances of the County of Orange.
2. This MOU sets forth the procedures authorized by both the COUNTY’s SSA Director and the AUTHORITY, for their respective employees to follow in providing services.
3. This non-financial MOU is a legally binding agreement based on the promises of the Parties.

TABLE OF CONTENTS

1.	TERM	3
2.	PURPOSE	3
3.	SEPARATE ENTITIES	3
4.	DEFINITIONS	3
5.	POPULATION TO BE SERVED	4
6.	AUTHORITY RESPONSIBILITIES	4
7.	COUNTY RESPONSIBILITIES	7
8.	AUDITOR-CONTROLLER RESPONSIBILITIES	16
9.	TREASURER-TAX COLLECTOR RESPONSIBILITIES	21
10.	FISCAL PROVISIONS	22
11.	FACILITIES	25
12.	USE OF COUNTY PROPERTY	25
13.	NON-DISCRIMINATION	26
14.	SUBCONTRACTS	29
15.	CONFIDENTIALITY	30
16.	EQUIPMENT	31
17.	RECORDS, SECURITY, INSPECTIONS AND AUDITS	32
18.	PUBLICITY, LITERATURE, ADVERTISEMENTS AND SOCIAL MEDIA	35
19.	INDEMNIFICATION	36
20.	AUTHORITY INSURANCE	36
21.	SECURITY	40
22.	NOTIFICATION OF INCIDENTS, CLAIMS, OR SUITS	43
23.	RECORDS	43
24.	PERSONNEL DISCLOSURE	44
25.	CHILD AND DEPENDENT ADULT/ELDER ABUSE REPORTING	47
26.	NOTICE TO EMPLOYEES REGARDING THE SAFELY SURRENDERED BABY LAW	47
27.	NOTICES	47
28.	RESOLUTION OF CONFLICTS	48
29.	CONFLICT OF INTEREST	48
30.	POLITICAL ACTIVITY	49
31.	TERMINATION	49
32.	SIGNATURE IN COUNTERPARTS	50
33.	GENERAL PROVISIONS	51

1. TERM

The term of this MOU shall commence on July 1, 2019, and end on June 30, 2020, unless earlier terminated pursuant to the provisions of Paragraph 31 of this MOU; however, the Parties shall be obligated to perform such duties as would normally extend beyond this term, including, but not limited to, obligations with respect to indemnification, audits, reporting, accounting, and confidentiality.

2. PURPOSE

The purpose of this MOU is to establish the duties and specific guidelines for the administration of In-Home Supportive Services (IHSS).

3. SEPARATE ENTITIES

AUTHORITY is a public entity separate from COUNTY and is a corporate public body exercising public and essential governmental functions, and is employer of record for IHSS providers as specified in Subparagraph 6.2, as that function is defined and limited by law. The Orange County Board of Supervisors is the Governing Body of AUTHORITY. Any and all contracts, leases, or other agreements of any nature, including collective bargaining agreements between AUTHORITY and third parties other than COUNTY, shall contain an express provision advising the third party that AUTHORITY is a separate governmental entity and that such agreement does not bind COUNTY.

4. DEFINITIONS

4.1 IHSS CLIENT – IHSS eligible individuals who have been assessed and determined to meet IHSS eligibility criteria.

4.2 IHSS Individual Provider (IP) – Home Care workers hired by the IHSS CLIENTS who have met State mandated requirements for Provider Enrollment.

4.3 Provider Enrollment - Process by which newly hired Provider completes State mandated requirements necessary to become eligible IHSS providers.

4.4 IHSS Public Authority Registry – IHSS Home-Care Registry that recruits and

maintains a list of eligible providers to refer to IHSS recipients.

- 4.5 IHSS Home Care Provider – the individual paid to care for the IHSS recipient.
- 4.6 Administrative Liaison – Provides oversight of program and AUTHORITY Executive Director as delegated by the Orange County Board of Supervisors.
- 4.7 Provider Enrollment Orientation – A State mandated requirement for applicant IHSS provider to view the State created IHSS video.
- 4.8 Case Management, Information, and Payrolling System (CMIPS) – State created database that provides functions for case management for IHSS CLIENTS, payroll for IHSS Providers, reporting, and customer support.
- 4.9 IHSS Advisory Committee – The IHSS Advisory Committee was created by State legislation and provides ongoing advice and recommendations regarding IHSS to: The County of Orange Board of Supervisors, any administrative body in the County that is related to the delivery and administration of IHSS, and the governing body and administrative agency of the Orange County IHSS Public Authority.

5. POPULATION TO BE SERVED

CONTRACTOR shall provide services to individuals eligible for IHSS services including the aged, blind, and disabled. The population to be served as defined in this Paragraph shall hereinafter be referred to as “CLIENTS.”

6. AUTHORITY RESPONSIBILITIES

AUTHORITY shall have the following responsibilities:

- 6.1 Comply with WIC Section 12300 et seq. and Title 1, Division 7, Section 1-7-1 et seq. of the Codified Ordinances of the County of Orange.
- 6.2 Act as the employer of record for IHSS Individual Providers (IPs) serving the CLIENTS, for the purposes of collective bargaining only.
- 6.3 Provide assistance to IHSS recipients in finding IPs through the establishment and maintenance of an IHSS Public Authority Registry.

- 6.4 Investigate qualifications and background of potential IHSS Public Authority Registry providers as permitted by law.
- 6.5 Maintain Department of Justice (DOJ) records, including criminal background check records, in accordance with DOJ policies and procedures.
- 6.6 Contract for IHSS service delivery and other services, as needed. AUTHORITY shall be authorized to enter into contracts for services essential to carry out the mandated functions of AUTHORITY and shall comply with the policies and procedures contained in COUNTY's Contract Policy Manual. Where Board of Supervisors approval is required for contracts, AUTHORITY shall submit such contracts for Governing Body approval.
- 6.7 Maintain all required records, according to State and federal law.
- 6.8 Assure compliance with all applicable federal, State, and local laws, regulations, and codes.
- 6.9 Conduct IHSS Program Provider Enrollment on behalf of the Orange County IHSS Program in accordance with instructions received from the California Department of Social Services (CDSS) and SSA. This includes, but may not be limited to:
 - 6.9.1 Distribute Provider Enrollment forms to providers to complete.
 - 6.9.2 Review Provider Enrollment forms submitted by providers for completeness and correctness.
 - 6.9.3 Review and copy IP identification.
 - 6.9.4 Conduct required Provider Orientation.
 - 6.9.5 Obtain signed Provider Enrollment Agreement from providers who attend orientation.
 - 6.9.6 Distribute instructions and forms for the implementation of the Federal Labor Standards Act (FLSA).
 - 6.9.7 Review CDSS required forms in order for Providers to be eligible for

- overtime, travel time, and waiting time pay.
- 6.9.8 Distribute instructions and forms required for IHSS providers to be fingerprinted and undergo criminal background check by DOJ; and
- 6.9.9 Enter data into Case Management, Information, and Payrolling System (CMIPS) as required.
- 6.10 Prepare Provider Enrollment documents for imaging.
- 6.11 Provide adequate administrative, supervisory, and support personnel to carry out the provisions of this MOU.
- 6.12 Provide COUNTY with information needed in preparing the COUNTY's billing to the CDSS for State and federal share of AUTHORITY costs. This information will be provided within five (5) business days of the request.
- 6.13 Submit monthly reports regarding implementation of provider enrollment activities on a form approved by COUNTY by the fifteenth (15th) business day following the month of service delivery.
- 6.14 Assist COUNTY in developing and submitting to the CDSS and the California Department of Health Services (CDHS) reports and claims required for CDSS and CDHS approval of AUTHORITY budget.
- 6.15 Perform all services required under this MOU within the standards of the Performance Measures according to CDSS guidelines and approved by the Governing Body.
- 6.16 Provide staff support to the IHSS Advisory Committee.
- 6.17 Hire staff as approved in the AUTHORITY's budget following AUTHORITY's Personnel Rules developed and maintained by COUNTY's County Executive Office/Human Resource Services (CEO/HRS). AUTHORITY's Executive Director shall have the authority to employ and terminate AUTHORITY staff.
- 6.18 Provide other functions related to the delivery of IHSS services to existing providers as directed by the Governing Body.

- 6.19 Provide training for both IHSS service providers and recipients.
- 6.20 Participate in the COUNTY's County Safety Representative Program, including designating a County Safety Representative to work with the COUNTY in coordinating and implementing its Safety Program.

7. COUNTY RESPONSIBILITIES

COUNTY shall have the following responsibilities:

- 7.1 Authorize services for an IHSS recipient as specified in WIC Section 12300 et seq.
- 7.2 Determine the need for IHSS, the level and quality of services required, and the eligibility of individuals to be served as required by CDSS.
- 7.3 Provide initial assessment and reassessment of continuing need for services by the recipient.
- 7.4 Terminate the recipient's participation in the IHSS program at any time, based on regulatory requirements.
- 7.5 Provide orientation to all appropriate COUNTY staff regarding AUTHORITY's role, responsibilities, and contract agreements.
- 7.6 Provide oversight to the implementation of the IHSS Program Provider Enrollment requirements per CDSS' guidelines.
- 7.7 Refer all appropriate IHSS recipients and providers to AUTHORITY for AUTHORITY services.
- 7.8 Provide a liaison from SSA to AUTHORITY.
- 7.9 Evaluate the effectiveness, quantity, and quality of provider enrollment services provided by AUTHORITY.
- 7.10 Authorize the SSA Director, acting as the designee of the Governing Body, to hire and supervise AUTHORITY's Executive Director and act on behalf of the Governing Body. The Executive Director's contract is subject to Governing Body approval.

- 7.11 Designate the SSA Director to provide for the general oversight and supervision of AUTHORITY and its Executive Director. The SSA Director will also have the authority to adjust line item budgets within AUTHORITY'S annual budget provided the total budget amount is not increased as a result thereof.
- 7.12 Provide Direction and services to AUTHORITY staff, including, but not limited to:
- 7.12.1 Developing, monitoring, and adjusting the AUTHORITY's budget, including financial claims and support documents required by the State and MOU;
 - 7.12.2 Submitting required financial claims and support documents to the State, including budget information and documentation of fiscal claims;
 - 7.12.3 Providing other fiscal services to AUTHORITY, including purchasing services and submitting a temporary cash loan request to Auditor-Controller General Accounting for Fund 590 when cash is insufficient to process payments;
 - 7.12.4 Assisting in developing Request for Proposals (RFPs) and drafting contracts on behalf of AUTHORITY;
 - 7.12.5 Assisting AUTHORITY regarding development, maintenance, and operations of a Registry, provider screening, referral system, recipient and provider training, and support services;
 - 7.12.6 Assisting AUTHORITY regarding the implementation of the MOU and the services agreed to in the MOU, subject to all conditions;
 - 7.12.7 Providing an administrative liaison to Governing Body for AUTHORITY;
 - 7.12.8 Providing real estate services, including locating office space and negotiating lease terms and conditions consistent with COUNTY standards;
 - 7.12.9 At the request of AUTHORITY's Executive Director, assist with

employee recruitment, classification, salary structure, employee benefits, and employment and labor relations issues; and

7.12.10 Assisting with information technology (IT) services, including development of specifications, costs comparisons, and installation of IT equipment at AUTHORITY's facilities.

7.13 CEO/HRS shall provide the following:

7.13.1 Representation for collective bargaining with IHSS providers' employee organization; and

7.13.2 Review and maintenance of AUTHORITY's Personnel Rules.

7.14 County Counsel shall provide:

7.14.1.1 Lead consultation services related to AUTHORITY's contracts, board memos, and resolutions;

7.14.1.2 Lead legal representation in proceedings; and

7.14.1.3 On-going legal advice regarding the operation of AUTHORITY.

7.15 CEO/Risk Management shall provide:

7.15.1 As requested in writing from the AUTHORITY and with the AUTHORITY's assistance, risk analysis of exposure to loss and consultation on AUTHORITY's insurance coverage; and

7.15.2 Subject to the approval of the AUTHORITY's Executive Director, obtain a policy or policies of insurance on behalf of the AUTHORITY as follows:

7.15.2.1 COMMERCIAL INSURANCE

Policy Purchase and Maintenance:

CEO/Risk Management will purchase and maintain commercial insurance policies, and shall facilitate the reporting of all claims thereunder, as mutually agreed to by the AUTHORITY and the COUNTY. Such

commercial insurance coverage may include the following coverage:

- 7.15.2.1.1 Liability (including Public Officials) naming the County of Orange, its elected and appointed officials, officers, agents and employees as Additional Insureds. Such coverage shall be primary and non-contributory and any insurance or self-insurance maintained by the County of Orange shall be excess and non-contributing;
- 7.15.2.1.2 Automobile Liability including coverage for owned, non-owned and hired vehicles.
- 7.15.2.1.3 Crime Coverage;
- 7.15.2.1.4 Personal Property (e.g. equipment, furniture);
- 7.15.2.1.5 Rental Interruption; and
- 7.15.2.1.6 Other coverages as directed and approved by the AUTHORITY Executive Director.

Changes in Coverage as Requested and Approved by the AUTHORITY:

The addition or deletion of policies or increases or decreases in existing policy coverage may be requested by the AUTHORITY in writing, addressed to the COUNTY's Director of Risk Management, no fewer than thirty (30) calendar days in advance of the desired policy effective date. Requests for additions and increases to policies must be approved by the Director of Risk Management, subject to the availability of such additions and/or increases under the current insurance program (e.g., CSAC EIA) used by Risk Management to obtain insurance on behalf of the

AUTHORITY.

Changes in Coverage – COUNTY Initiated

The COUNTY will provide at least thirty (30) days' notice of its intent to modify any coverage that is purchased on behalf of the AUTHORITY. Such changes will not be made without the approval of the AUTHORITY unless the change is required under law or ordinance. Should changes be recommended by COUNTY, the COUNTY will provide as much advance notice to the AUTHORITY as is practical and will notify the AUTHORITY in writing of the need, the reason, and the anticipated cost difference that the change may cause. If the changes are recommended by the COUNTY, they will be made on the approval of the AUTHORITY.

Changes in Coverage – Market-Driven

The COUNTY will make every effort to notify the AUTHORITY of premium changes, changes in coverage or policy cancellation by the insurer within ten (10) working days following the receipt of notification of said change.

Changes in Coverage or Schedules

Changes in the names or the number of AUTHORITY's employees, personal property inventories or inventory valuations and/or the number and type of motor vehicles that are covered by these policies will be communicated by the AUTHORITY in advance to the County's Director of Risk Management as soon as practical, but no later than fifteen (15) days preceding the change.

7.15.2.2 WORKERS' COMPENSATION INSURANCE

Persons Covered:

The COUNTY agrees to provide workers' compensation insurance coverage on behalf of the AUTHORITY to all regular, limited term, and extra-help employees of the AUTHORITY. CEO/Risk Management shall process and handle all claims thereunder, as mutually agreed to by the AUTHORITY and the COUNTY. Volunteers, independent contractors, temporary help, and IHSS providers are not covered by this insurance.

Insurance Coverage

Workers' compensation insurance will be provided in the manner selected by the COUNTY consistent with state law. Currently it is provided through a combination of self-insurance and excess coverage through the purchase of a commercial policy and it is administered by a third party administrator (TPA). Coverage will be provided to the AUTHORITY's employees in the same manner as it is provided to the COUNTY's employees, as authorized by the Orange County Board of Supervisors.

Benefit Coordination

Risk Management will provide coordination of workers' compensation benefits with other benefits as provided to COUNTY agencies and departments, including payroll information (e.g., applicable salary supplemental and/or leave balances).

Safety and Loss Prevention Program

A Safety and Loss Prevention Program is required of all entities

that are self-insured for workers' compensation. The COUNTY will provide all services to the AUTHORITY that are provided to COUNTY agencies and departments to support their respective programs. These services may include but are not limited to: building and workplace safety inspections; workplace safety evaluations, workstation ergonomic evaluations; support and guidance for updating, policies and procedures that relate to safety; provision of safety training classes; creation of periodic reports on safety statistics of the AUTHORITY staff; and serving as the liaison with Cal/OSHA. The AUTHORITY shall designate a safety representative who will carry out all of the duties and responsibilities that are assigned per the COUNTY's County Safety Representative Program.

7.15.2.3 COST CALCULATION AND BILLING

The County's Property and Casualty Risk Internal Service Fund and the Workers' Compensation Internal Service Fund are self-balancing funds. All costs are allocated among all the funds' participants according to State Controller guidelines. The AUTHORITY will be billed the actual cost of all commercial insurance policies secured in its behalf, a prorated share of workers' compensation charges, and allocated administrative costs, self-insurance charges and a prorated share of other commercial insurance policies not secured on its behalf. Administrative costs include charged overhead and costs of salaries, employee benefits, and supplies of the Risk Management staff. The AUTHORITY is responsible for the

payment of all deductibles associated with insurance coverage provided on the AUTHORITY's behalf by the COUNTY. In no event will the COUNTY be financially responsible for the payment of any insurance coverage (including premiums and deductibles), liabilities of the AUTHORITY, whether or not covered by insurance or County services provided herein.

Billing Schedule:

Billing will be submitted to the AUTHORITY as follows:

7.15.2.3.1 Commercial insurance policies purchased in behalf of the AUTHORITY – upon receipt of the premium invoice from the insurance authority, broker, or carrier.

7.15.2.3.2 Share of workers' compensation charges and allocated administrative costs – annually, semi-annually, or quarterly, as determined by the CEO/Risk Management each fiscal year.

AUTHORITY shall pay all invoices within thirty (30) days of receipt from the COUNTY.

7.15.2.4 SERVICE CANCELLATION

Any or all of the services provided by the CEO/Risk Management can be cancelled by either Party with one-hundred eighty (180) days' notice or, if earlier, the expiration or termination of this MOU.

The COUNTY and the AUTHORITY may determine separately or mutually to transfer or replace commercial insurance policies.

In the event the AUTHORITY no longer participates in the

COUNTY's self-insurance program or excess Workers' Compensation program, both Parties agree to an orderly transfer of claims and funding. The COUNTY will elect, at its sole and exclusive option, a mechanism for the transfer of workers' compensation claims that provides continuous benefits for covered employees and full cost recovery for the COUNTY. Alternatives may include, but are not limited to:

7.15.2.4.1 Option 1: The AUTHORITY will transfer funds sufficient to cover all reserves that are projected by the TPA to be necessary to make future payments on all existing claims that have been accepted from covered AUTHORITY employees. This transfer will be made concurrent with the discontinuation of the COUNTY provided workers' compensation insurance coverage. At the sole expense of the AUTHORITY, the COUNTY may agree to continue its administration of ongoing, but not new claims. This will include the services of the TPA. All new claims filed on or after the effective date of cancellation will be administered by the AUTHORITY's designated claims administrator, regardless of the nature of the disability or injury of the date on which the disability or injury occurred.

7.15.2.4.2 Option 2: The responsibility for administering all existing and future claims in their entirety will be transferred to the AUTHORITY's designated workers' compensation insurer. The AUTHORITY

agrees that it will assume complete financial and administrative responsibility for all open claims.

- 7.16 Auditor-Controller Satellite Accounting shall:
- 7.16.1 Review payroll data from AUTHORITY.
 - 7.16.2 Initiate electronic payment into AUTHORITY's bank account, as requested by AUTHORITY's Executive Director, or designee, and as authorized by the Auditor-Controller, and in accordance with AUTHORITY's annual budget.
 - 7.16.3 Assist with the claiming of costs to the State or any other entity as may be required.
 - 7.16.4 Process payment requests for invoices related to Medical, Dental, and Life Insurance premiums payable by AUTHORITY.
 - 7.16.5 Process journal vouchers (JV) to record expenditures in AUTHORITY'S Fund (Fund 590).
 - 7.16.6 Initiate the recording of revenue to the AUTHORITY's Fund after claims are submitted.
 - 7.16.7 AUTHORITY may request additional services from other COUNTY departments/units, and/or additional services from COUNTY departments/units listed above, subject to approval of COUNTY. AUTHORITY shall reimburse COUNTY for such additional services in accordance with Paragraph 10, below.

8. AUDITOR-CONTROLLER RESPONSIBILITIES

8.1 Scope of Services

The services described below to be provided to the Authority by the County of Orange Auditor-Controller are intended to be the same type of services as provided to County departments and agencies as of July 1, 2019. Additional

services are not included and will be charged to AUTHORITY in accordance with Subparagraph 8.4.

8.1.1 Claims and Disbursing Services

The County of Orange Auditor-Controller shall serve as the Auditor-Controller for AUTHORITY with respect to auditing and payment of claims. Any late fees or interest resulting from untimely transmittal documentation from the AUTHORITY will be the responsibility of the AUTHORITY. Normal vendor claims and trust payments will be paid for AUTHORITY by the Claims and Disbursing Section of the Auditor-Controller in accordance with their normal procedures for auditing and allowing claims for County departments and agencies. AUTHORITY shall use the CAPS+ Finance and Purchasing System to process and authorize purchase order contracts in a manner consistent with the County's decentralized purchasing program. For other contracts, AUTHORITY shall generally comply with the County's Contract Policy Manual. Where Board of Supervisors approval is required for contracts, AUTHORITY shall submit such contracts for Board approval, since the Board of Supervisors is the governing body of AUTHORITY. Items that would normally require County department head approval will be approved by the Executive Director of AUTHORITY. AUTHORITY shall continue to process employee reimbursement claims in a manner consistent with the County's existing procedures.

8.1.2 Check Writing Services

The Check Writing Unit will process payments and release/mail checks for payment of accounts payable and trust payments for AUTHORITY, including follow-up and processing of checks returned due to bad addresses or other reasons.

8.1.3 General Accounting Services

The General Accounting Section will include services provided by the General Accounting Unit, including maintenance of accounting records for AUTHORITY's expenditures, encumbrances, revenues, and balance sheet accounts through the accounting system, approve and/or input of transactions affecting AUTHORITY's financial records to the accounting system, and provision of standard reports and on-line reports as normally provided to other County departments and agencies through the CAPS+ Finance and Purchasing System. Any additional reports or system modifications required by AUTHORITY will be charged at incremental cost, including system and labor costs in accordance with Subparagraph 8.4.

8.1.4 Cost, Revenue, and Budget Services

The Cost, Revenue, and Budget Unit of the Auditor-Controller will include AUTHORITY's annual budget in the County's Recommended and Adopted Budget and ensure that AUTHORITY's budget is balanced, in the same manner as services provided to County departments and agencies.

8.1.5 Financial Reporting

The Financial Reporting and Mandated Costs Unit of the Auditor-Controller prepares the County's Comprehensive Annual Financial Report (CAFR) and Single Audit Report. Since AUTHORITY is governed by the County of Orange Board of Supervisors and the Board of Supervisors also appoints the management and determines the budget of AUTHORITY, it will be included in the County's CAFR and Single Audit Reports in accordance with standards issued by the Governmental Accounting Standards Board, and will be charged a share of the cost of

preparing and auditing those reports, which includes the cost of Financial Reporting staff and the cost of the contracted outside audit firm.

8.1.6 Information Technology

The Information Technology Section maintains CAPS+ in support of services identified in the preceding Subparagraphs 8.1.1 through 8.1.5. This includes all of the CAPS+ Finance and Purchasing System and the Performance Budgeting System (PB), but excludes the CAPS+ HR and Payroll System since AUTHORITY employees are not County employees and are not utilizing County payroll and personnel systems.

8.2 Cost of Services

The estimated annual cost of each service to be provided to AUTHORITY by the County Auditor-Controller as detailed in Subparagraph 8.1 is as follows:

<u>Service Description</u>	<u>FY 2019-20 Estimated Annual Cost</u>
Claims	\$3,145.00
Check Writing	147.00
General Accounting	387.00
Cost, Revenue, and Budget	599.00
Financial Reporting	0.00
Information Technology	<u>1,824.00</u>
TOTAL	\$6,102.00

These amounts are estimates only. All costs billed will be based on the Countywide Cost Allocation Plan (CWCAP), approved by the State, for the prior fiscal year. For example, the FY 2019-20 billing will be based on the FY 2018-19 CWCAP using FY 2016-17 costs. In the event the MOU is terminated, the COUNTY will compute a final adjustment within a year from which services are last received from the County. The adjustment is needed to reflect the actual costs of services provided since the CWCAP costs are two (2) years in arrears. This adjustment will be invoiced or refunded to AUTHORITY as applicable. If an audit or review identifies that a transaction would result in an adjustment to

AUTHORITY, then the adjustment should be provided to AUTHORITY regardless of the number of days after which the services were received from the County. Written notice of estimated annual cost shall be given to AUTHORITY on or before February 15 for the following fiscal year.

8.3 Payment Process

Payment for Auditor-Controller services shall be made via annual JV charging the IHSS Public Authority Fund for the total amount specified in Subparagraph 8.2.

8.4 Additional Accounting Assistance

8.4.1 If AUTHORITY requests additional professional accounting assistance from the Auditor-Controller over and above the standard accounting systems and procedures training and accounting systems orientation support provided to County departments and agencies, AUTHORITY shall pay for the total additional time at an hourly rate calculated based on the current year's rates published in the CEO Budget Policy and Instruction Manual. For example, the rate of \$102.89 per hour for FY 2019-20 billing will be based on the FY 2019-20 CEO Budget Policy and Instruction Manual. The billing will be performed at the completion of such additional services.

8.4.2 If AUTHORITY requests additional accounting or budgetary reports from the Auditor-Controller in addition to the standard reports provided to all County departments and agencies, the costs of such additional reports will be charged to AUTHORITY at the actual cost of designing, programming, preparing, producing, and distributing such additional reports, including all related systems costs. Written notice of annual hourly rate shall be given to AUTHORITY on or before February 15 for the following fiscal year.

9. TREASURER-TAX COLLECTOR RESPONSIBILITIES

Treasurer-Tax Collector, as Treasurer of the IHSS Public Authority shall:

- 9.1 Provide investment services for all monies on deposit with the Treasurer-Tax Collector in accordance with the Orange County Treasurer Investment Policy Statement and post interest earnings on a monthly or quarterly basis;
- 9.2 Provide fund accounting services; and
- 9.3 Provide banking services, as mutually agreed upon by AUTHORITY's Executive Director and Treasurer-Tax Collector.

9.4 Scope of Service

Treasurer-Tax Collector shall provide the following services as needed:

9.4.1 Banking Services

- 9.4.1.1 Bank Relationship Management
- 9.4.1.2 Cash Management Services
- 9.4.1.3 Merchant Card Services Management
- 9.4.1.4 Armored Car Services

9.4.2 Investment Services

- 9.4.2.1 Investment of all monies and provide an Investment Policy Statement (IPS) to be approved annually by the Authority.
- 9.4.2.2 Monthly and quarterly reporting of investments as required by the IPS.

9.4.3 Fund Accounting and Bank Reconciliation Services.

9.5 Cost of Services:

- 9.5.1 Direct pass-through of actual costs for banking, merchant card, and armored car services.
- 9.5.2 Monthly basis point charge for investment services, estimated monthly and reconciled annually, initially estimated at six (6) basis points of invested balances.

9.5.3 Fund Accounting and Bank reconciliation charges will be billed based on the CWCAP approved by the State for the prior fiscal year and based on actual staff time spent on IHSS activities.

<u>Service Description</u>	<u>FY 2018-19 Est. Cost</u>
Banking costs	\$ 0.00
Investment Administrative Fee	\$250.00
Fund Acct/Bank Reconciliation costs	<u>\$ 50.00</u>
Total estimated costs	\$300.00

9.6 Payment Process

Payment for Treasurer-Tax Collector services shall be made via annual JV charging the IHSS Public Authority Fund for one-fourth (1/4th) of the total amount. Note that the investment administrative fee is reconciled to actual costs on an annual basis, with any adjustment by JV at that time.

10. FISCAL PROVISIONS

10.1 Funding

It is anticipated that AUTHORITY will be funded by State, federal, and County monies based on the State-established IHSS cost sharing structure. This MOU contemplates that all payments to IHSS providers for hourly IHSS services will be issued by the State of California directly to the providers, or as otherwise permitted by law, and all workers' compensation coverage for IPs shall be provided through the State of California. COUNTY will be billed by the State of California for COUNTY share of the IHSS services according to the cost sharing structure.

10.1.1 COUNTY's total financial obligation under this MOU shall be determined annually during COUNTY's annual budget process.

10.1.2 The County Executive Officer, or his/her designee, acting in concert with SSA, shall provide a recommendation as to the sufficiency and level of

IHSS funding, including, but not limited to, the level of State and County funds available to fund IHSS, including the amount and estimated duration of County General Funds to be available for allocation to IHSS.

10.1.3 AUTHORITY agrees that any funds appropriated by the State for wage increases for IHSS providers shall be used exclusively for that purpose.

10.2 Billing and Compensation for County Services

AUTHORITY shall compensate COUNTY (through preliminary estimate and final actual billing for full cost recovery) for all services provided to AUTHORITY by COUNTY departments or units as set forth in this MOU, and at the rates or in the amounts as charged by COUNTY departments or units to each other unless otherwise established in this MOU. Computation of charges and billing rates will be in the same manner as those charges and billing rates are computed for the same or similar services to COUNTY Departments and other COUNTY funds and special districts. The method for computation shall be governed by all applicable State and federal laws and regulations, and in accordance with standard COUNTY policies and procedures for service charges and billings, as they currently exist or may be hereafter amended.

10.2.1 AUTHORITY shall compensate COUNTY for all services provided by COUNTY to AUTHORITY within fifteen (15) calendar days of receipt of COUNTY JV or other billing. Billing may be through invoice, manual or automated JV or any other fund transfer method mutually agreed upon and used in the normal course of business by COUNTY department providing the service to AUTHORITY.

10.2.2 All COUNTY departments providing services, space, supplies and equipment to AUTHORITY under this MOU shall submit payment demands or JV for such services to AUTHORITY on at least a quarterly basis, with the exception of the last quarter of each fiscal year. Estimated

costs for the last quarter shall be submitted by June 17, 2019, and followed-up with actual cost information by July 15, 2019.

10.2.3 All payment demands or JV for services shall be limited to the maximum budgeted amount set forth for the applicable department in the annual budget adopted for AUTHORITY by its Governing Body.

10.2.4 AUTHORITY's Executive Director shall review and approve all payment demands and JV for payment for services or goods provided, within fifteen (15) calendar days of receipt of the payment demands or JV. Until such time as AUTHORITY retains independent accounting services, approved payment demands shall be submitted to SSA/Financial Services for processing the payment from AUTHORITY's account.

10.2.5 AUTHORITY shall pay any insurance premiums within fifteen (15) calendar days of receipt of an invoice, regardless of whether the insurance was procured through COUNTY's CEO/Risk Management or independently by AUTHORITY.

10.3 Availability of Funds

10.3.1 Payment for all services provided under this MOU is contingent upon the availability of County, State, and federal funds for the purpose of providing IHSS.

10.3.2 AUTHORITY shall receive funding for administrative expenses through SSA and, until such time as AUTHORITY retains independent accounting services, such funding will be processed by SSA/Financial Services through a separate account on behalf of AUTHORITY.

10.3.3 Operating funds for AUTHORITY shall be advanced in a manner mutually agreed upon between AUTHORITY's Executive Director and COUNTY's SSA Director, or his/her designee, and in accordance with COUNTY policy.

11. FACILITIES

11.1 It is mutually understood that AUTHORITY will provide services at the following facilities:

Central Office: Orange County IHSS Public Authority
1505 E. Warner Ave.
Santa Ana, CA 92705

11.2 AUTHORITY and COUNTY may mutually agree in writing to add, change, modify, or delete facility location(s) as necessary to best serve the needs of COUNTY and clients to be served under this MOU.

11.3 Home based services will be provided in the IHSS recipient's home.

12. USE OF COUNTY PROPERTY

12.1 AUTHORITY shall be co-located with COUNTY staff, at a COUNTY facility, to provide services under this MOU.

12.2 AUTHORITY is responsible for any costs associated with Fair Employment and Housing Act and Americans with Disabilities Act accommodations for its own employees at COUNTY facilities. COUNTY, may, in its sole discretion and on a case-by-case basis, provide for such accommodations at no cost to AUTHORITY.

12.3 COUNTY intends to permit AUTHORITY the use of computer equipment provided by COUNTY. Said computer equipment shall be used solely by employees of AUTHORITY while performing their assigned duties pursuant to this MOU and for the purposes of performing their assigned duties pursuant to this MOU. All computer equipment shall remain the property of COUNTY. AUTHORITY shall ensure that each of its employees, volunteers, consultants, or agents that have access to COUNTY facilities and/or data contained in COUNTY's Computer Information System completes information security and computer usage training provided by COUNTY, signs and adheres to the

provisions in Exhibit A to this MOU and signs and adheres to any subsequent agreements required by federal or State laws or regulations. AUTHORITY's failure to have all AUTHORITY employees that have access to COUNTY's facilities and/or data execute the agreements and/or complete the training shall constitute a breach of this MOU.

13. NON-DISCRIMINATION

13.1 In the performance of this MOU, AUTHORITY agrees that it shall not engage nor employ any unlawful discriminatory practices in the admission of clients, provision of services or benefits, assignment of accommodations, treatment, evaluation, employment of personnel, or in any other respect, on the basis of race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, marital status, sex, gender, gender identity, gender expression, age, sexual orientation, military and veteran status, or any other protected group, in accordance with the requirements of all applicable federal or State laws.

13.2 AUTHORITY shall furnish any and all information requested by COUNTY and shall permit COUNTY access, during business hours, to books, records, and accounts in order to ascertain AUTHORITY's compliance with Paragraph 13 et seq.

13.3 Non-Discrimination in Employment

All solicitations or advertisements for employees placed by or on behalf of AUTHORITY shall state that all qualified applicants will receive consideration for employment without regard to race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, marital status, sex, gender, gender identity, gender expression, age, sexual orientation, military and veteran status, or any other protected group, in accordance with the requirements of all applicable federal or State laws. Notices

describing the provisions of the equal opportunity clause shall be posted in a conspicuous place for employees and job applicants.

13.3.1 AUTHORITY shall refer any and all employees desirous of filing a formal discrimination complaint to:

California Department of Fair Employment

2218 Kausen Drive, Suite 100

Elk Grove, CA 95758

Telephone: (800) 884-1684

(800) 700-2320 (TTY)

13.4 Non-Discrimination in Service Delivery

13.4.1 AUTHORITY shall comply with Titles VI and VII of the Civil Rights Act of 1964, as amended; Section 504 of the Rehabilitation Act of 1973, as amended; the Age Discrimination Act of 1975, as amended; the Food Stamp Act of 1977, as amended, and in particular 7 Code of Federal Regulations (CFR) section 272.6; Title II of the Americans with Disabilities Act of 1990; California Civil Code Section 51 et seq., as amended; California Government Code (CGC) Sections 11135-11139.5, as amended; CGC Section 12940 (c), (h), (i), and (j); CGC Section 4450; Title 22, California Code of Regulations (CCR) Sections 98000-98413; the Dymally-Alatorre Bilingual Services Act (CGC Section 7290-7299.8); Section 1808 of the Removal of Barriers to Interethnic Adoption Act of 1996; and other applicable federal and State laws, as well as their implementing regulations (including Title 45 CFR Parts 80, 84, and 91; Title 7 CFR Part 15; and Title 28 CFR Part 42), and any other law pertaining to Equal Employment Opportunity, Affirmative Action, and Nondiscrimination, as each may now exist or be hereafter amended. AUTHORITY shall not implement any administrative methods or

procedures which would have a discriminatory effect or which would violate the California Department of Social Services (CDSS), Manual of Policies and Procedures (MPP) Division 21, Chapter 21-100. If there are any violations of this Paragraph, CDSS shall have the right to invoke fiscal sanctions or other legal remedies in accordance with California Welfare and Institutions Code (WIC) Section 10605, or CGC Sections 11135-11139.5, or any other laws, or the issue may be referred to the appropriate federal agency for further compliance action and enforcement of Subparagraph 13 et seq.

13.4.2 AUTHORITY shall provide any and all clients desirous of filing a formal complaint any and all information as appropriate:

13.4.2.1 Pamphlet: “Your Rights Under California Welfare Programs”
(PUB13)

13.4.2.2 Discrimination Complaint Form

13.4.2.3 Civil Rights Contacts

County Civil Rights Contact

Orange County Social Services Agency

Program Integrity

Attn: Civil Rights Coordinator

P.O. Box 22001

Santa Ana, CA 92702-2001

Telephone: (714) 438-8877

State Civil Rights Contact

California Department of Social Services

Civil Rights Bureau

P.O. Box 944243, M.S. 15-70

Sacramento, CA 94244-2430

Federal Civil Rights Contact

U.S. Department of Health and Human Services

Office of Civil Rights

50 U.N. Plaza, Room 322

San Francisco, CA 94102

14. SUBCONTRACTS

14.1 AUTHORITY shall not subcontract for services under this MOU without the prior written consent of COUNTY. If COUNTY consents in writing to a subcontract, in no event shall the subcontract alter, in any way, any legal responsibility of AUTHORITY to COUNTY. All subcontracts must be in writing and copies of same shall be provided to COUNTY, AUTHORITY shall include in each subcontract any provision COUNTY may require.

14.2 Subcontracts of \$50,000 or less

AUTHORITY shall develop a standard form Purchase Order, subject to prior written approval of COUNTY, to be utilized for the purchase of services by AUTHORITY when the cumulative total cost of the services to be provided by any organization is anticipated to be fifty thousand dollars (\$50,000) or less during the term of this MOU. The basis for costs incurred by any such Purchase Order(s) shall be the actual cost of providing services or the usual and customary charges established by the organization(s) providing the services.

14.3 Subcontracts in excess of \$50,000

AUTHORITY shall develop and submit for approval to COUNTY a system for the procurement of subcontracts with any organization in which the total cumulative cost of services provided by any single organization is anticipated to exceed fifty thousand dollars (\$50,000) during the term of this MOU. AUTHORITY's proposed procurement system shall take into consideration such factors as: degree of price competition; pricing policies and techniques;

experience and quality of service; methods of evaluating subcontractor responsibility; relationship of subcontractor to AUTHORITY planning, award, and post-award management of subcontracts, including internal audit procedures and monitoring of subcontractor's performance until completion of services.

14.4 Upon COUNTY's approval of AUTHORITY's proposed procurement system, AUTHORITY shall comply with such procurement system in obtaining subcontracts with a total cost in excess of fifty thousand dollars (\$50,000) during the term of this MOU.

14.5 AUTHORITY and its subcontractor(s) shall establish and maintain accurate and complete financial records related to services provided under the terms of this MOU. Such records may be subject to the satisfaction of COUNTY, and to the examination and audit by COUNTY or designee, for a period of five (5) years, or until any pending audit is completed.

15. CONFIDENTIALITY

15.1 COUNTY and AUTHORITY agree to maintain confidentiality of all records pursuant to WIC Sections 827 and 10850-10853, the CDSS MPP, Division 19-000, and all other provisions of law, and regulations promulgated thereunder relating to privacy and confidentiality, as each may now exist or be hereafter amended.

15.2 All records and information concerning any and all persons referred to AUTHORITY by COUNTY or COUNTY's designee shall be considered and kept confidential by AUTHORITY and AUTHORITY's employees, agents, subcontractors, and all other individuals performing services under this MOU. AUTHORITY shall require all of its employees, agents, subcontractors, and all other individuals performing services under this MOU to sign an agreement with AUTHORITY before commencing the provision of any such services, agreeing to maintain confidentiality pursuant to State and federal law and the terms of this

MOU.

15.3 AUTHORITY shall inform all of its employees, agents, subcontractors, and all other individuals performing services under this MOU of this provision and that any person violating the provisions of said California state law may be guilty of a crime.

15.4 AUTHORITY agrees that any and all subcontracts entered into shall be subject to the confidentiality requirements of this MOU.

16. EQUIPMENT

16.1 All items purchased with funds provided under this MOU, or which are furnished to AUTHORITY by COUNTY, which have a single unit cost of at least five thousand dollars (\$5,000.00), including sales tax, shall be considered Capital Equipment. Title to all Capital Equipment shall, upon purchase, vest and remain in COUNTY. The use of such items of Capital Equipment is limited to the performance of this MOU. Upon the termination of this MOU, AUTHORITY shall immediately return any items of Capital Equipment to COUNTY or its representatives, or dispose of them in accordance with the directions of COUNTY.

16.2 AUTHORITY further agrees to the following:

16.2.1 To maintain all items of Capital Equipment in good working order and condition, normal wear and tear excepted.

16.2.2 To label all items of Capital Equipment, do periodic inventories as required by COUNTY, and to maintain an inventory list showing where and how the Capital Equipment is being used, in accordance with procedures developed by COUNTY. All such lists shall be submitted to COUNTY within ten (10) business days of any request therefor.

16.2.3 To report in writing to COUNTY immediately after discovery, the loss or theft of any items of Capital Equipment. For stolen items, the local law

enforcement agency must be contacted and a copy of the police report submitted to COUNTY.

16.2.4 To purchase a policy or policies of insurance covering loss or damage to any and all Capital Equipment purchased under this MOU, in the amount of the full replacement value thereof, providing protection against the classification of fire, extended coverage, vandalism, malicious mischief and special extended perils (all risks) covering the parties' interests as they appear.

16.3 The purchase of any Capital Equipment by AUTHORITY shall be requested in writing, shall require the prior written approval of COUNTY, and shall fulfill the provisions of this MOU which are appropriate and directly related to AUTHORITY's service or activity under the terms of the MOU. COUNTY may refuse reimbursement for any costs resulting from Capital Equipment purchased which are incurred by AUTHORITY, if prior written approval has not been obtained from COUNTY.

16.4 No personal computers and/or personal electronic devices, such as tablets, smart phones, and laptop computers, or any component thereof, may be purchased with funds provided under this MOU, regardless of purchase price, without prior written approval of COUNTY. Any such purchase shall be in accordance with computer specifications provided by COUNTY, be subject to the same inventory control conditions specified in Subparagraphs 16.1 to 16.4 and, at the sole discretion of COUNTY, become the property of COUNTY upon termination of this MOU.

17. RECORDS, SECURITY, INSPECTIONS AND AUDITS

17.1 Financial Records

17.2 AUTHORITY shall prepare and maintain accurate and complete financial records related to services provided under the terms of this MOU. Such records may be

subject to the satisfaction of COUNTY, and to the examination and audit by COUNTY, or designee, for a period of five (5) years, or until any pending audit is completed.

17.3 AUTHORITY shall establish and maintain reasonable accounting, internal control, and financial reporting standards in conformity with generally accepted accounting principles established by the American Institute of Certified Public Accountants and to the satisfaction of COUNTY.

17.4 Client Records

17.5 AUTHORITY shall prepare and maintain accurate and complete records of clients served and dates and type of services provided under the terms of this MOU, in a form acceptable to COUNTY.

17.6 AUTHORITY shall keep all COUNTY data provided to AUTHORITY during the term(s) of this MOU for a minimum of five (5) years from the date of final payment under this MOU, or until all pending COUNTY, State, and federal audits are completed, whichever is later. These records shall be stored in Orange County, unless AUTHORITY requests and COUNTY provides written approval for the right to store the records in another county. Notwithstanding anything to the contrary, upon termination of this MOU, AUTHORITY shall relinquish control with respect to COUNTY data to COUNTY, in accordance with Paragraph 31.

17.7 COUNTY may refuse payment for a claim if client records are determined by COUNTY to be incomplete or inaccurate. In the event client records are determined to be incomplete or inaccurate after payment has been made, COUNTY may treat such payment as an overpayment within the provisions of this MOU.

17.8 Public Records

17.9 To the extent permissible under the law, all records, including but not limited

to, reports, audits, notices, claims, statements, and correspondence, required by this MOU, may be subject to public disclosure. COUNTY will not be liable for any such disclosure.

17.10 Inspections and Audits

17.11 Authorized representatives of the County, State, and Federal Governments shall have the right to inspect and audit all aspects of operations under this MOU.

17.12 AUTHORITY shall cooperate fully in any inspections or auditing conducted by COUNTY or other governmental agency.

17.13 Inspections by COUNTY may be accomplished by, but not limited to, the following means: field reviews, audit of claims, and review of records.

17.14 COUNTY shall notify AUTHORITY in writing within thirty (30) calendar days upon identifying any potential audit exceptions encountered during any inspection or auditing review.

17.15 The U.S. Department of Health and Human Services, Comptroller General of the United States, Director of CDSS, State Auditor-General, COUNTY, COUNTY's Auditor-Controller and Internal Audit Department, or any of their authorized representatives, shall have access to any books, documents, papers, and records, including medical records, of AUTHORITY which any of them may determine to be pertinent to this MOU. Further, all the above mentioned persons have the right at all reasonable times to inspect or otherwise evaluate the work performed or being performed under this MOU and the premises in which it is being performed.

17.16 AUTHORITY shall make its books and records available within the borders of Orange County within ten (10) days of receipt of written demand by COUNTY.

17.17 In the event AUTHORITY does not make available its books and financial records within the borders of Orange County, AUTHORITY agrees to pay all necessary and reasonable expenses incurred by COUNTY, or COUNTY's

designee, necessary to obtain AUTHORITY's books and records.

17.18 AUTHORITY shall pay to COUNTY the full amount of COUNTY's liability to the State or Federal Government, or any agency thereof resulting from any disallowances or other audit exceptions, to the extent that such liability is attributable to AUTHORITY's failure to perform under this MOU.

17.19 Evaluation Studies

17.20 AUTHORITY shall participate, as requested by COUNTY, in research and/or evaluative studies designed to show the effectiveness and/or efficiency of AUTHORITY's services or provide information about AUTHORITY's project.

18. PUBLICITY, LITERATURE, ADVERTISEMENTS AND SOCIAL MEDIA

18.1 COUNTY owns All rights to the name, logos, and symbols of COUNTY. The use and/or reproduction of COUNTY's name, logos, or symbols for any purpose, including commercial advertisement, promotional purposes, announcements, displays, or press releases, without COUNTY's prior written consent is expressly prohibited.

18.2 AUTHORITY may develop and publish information related to this MOU where all of the following conditions are satisfied:

18.2.1 COUNTY provides its written approval of the content and publication of the information at least thirty (30) days prior to AUTHORITY publishing the information, unless a different timeframe for approval is agreed upon by COUNTY;

18.2.2 Unless directed otherwise by COUNTY, the information includes a statement that the program, wholly or in part, is funded through County, State and Federal Government funds;

18.2.3 The information does not give the appearance that the COUNTY, its officers, employees, or agencies endorse:

18.2.3.1 any commercial product or service; and,

18.2.3.2 any product or service provided by AUTHORITY, unless approved in writing by COUNTY; and,

18.2.4 If AUTHORITY uses social media (such as Facebook, Twitter, YouTube or other publicly available social media sites) to publish information related to this MOU, AUTHORITY shall develop social media policies and procedures and have them available to the COUNTY. AUTHORITY shall comply with COUNTY Social Media Use Policy and Procedures as they pertain to any social media developed in support of the services described within this MOU. The policy is available on the Internet at <http://www.ocgov.com/gov/ceo/cio/govpolicies>.

19. INDEMNIFICATION

19.1 AUTHORITY agrees to indemnify, defend with counsel approved in writing by COUNTY, and hold U.S. Department of Health and Human Services, the State, COUNTY, and their elected and appointed officials, officers, employees, agents, and those special districts and agencies which COUNTY's Board of Supervisors acts as the governing Board ('COUNTY INDEMNITEES') harmless from any claims, demands, or liability of any kind or nature, including, but not limited to, personal injury or property damage, arising from or related to the services, products, or other performance provided by AUTHORITY, pursuant to this MOU. If judgment is entered against AUTHORITY and COUNTY by a court of competent jurisdiction because of the concurrent active negligence of COUNTY or COUNTY INDEMNITEES, AUTHORITY and COUNTY agree that liability will be apportioned as determined by the court. Neither party shall request a jury apportionment.

20. AUTHORITY INSURANCE

20.1 Prior to the provision of services under this MOU, AUTHORITY agrees to purchase all required insurance at AUTHORITY's expense, including all

endorsements required herein, necessary to satisfy COUNTY that the insurance provisions of this MOU have been complied with. AUTHORITY agrees to keep such insurance coverage, Certificates of Insurance and endorsements on deposit with COUNTY during the entire term of this MOU. In addition, all subcontractors performing work on behalf of AUTHORITY pursuant to this MOU shall obtain insurance subject to the same terms and conditions as set forth herein for AUTHORITY.

20.2 AUTHORITY shall ensure that all subcontractors performing work on behalf of AUTHORITY pursuant to this MOU shall be covered under AUTHORITY's insurance as an Additional Insured or maintain insurance subject to the same terms and conditions as set forth herein for AUTHORITY. AUTHORITY shall not allow subcontractors to work if subcontractors have less than the level of coverage required by COUNTY from AUTHORITY under this MOU. It is the obligation of AUTHORITY to provide notice of the insurance requirements to every subcontractor and to receive proof of insurance prior to allowing any subcontractor to begin work. Such proof of insurance must be maintained by AUTHORITY through the entirety of this MOU for inspection by COUNTY representative(s) at any reasonable time.

20.3 If AUTHORITY fails to maintain insurance acceptable to COUNTY for the full term of this MOU, COUNTY may terminate this MOU.

20.4 Qualified Insurer:

20.4.1 The policy or policies of insurance required herein must be issued by an insurer with a minimum rating of A- (Secure A.M. Best's Rating) and VIII (Financial Size Category as determined by the most current edition of the Best's Key Rating Guide/Property-Casualty/United States or ambest.com). It is preferred, but not mandatory, that the insurer be licensed to do business in the state of California (California Admitted

Carrier).

- 20.5 If the Insurance carrier does not have an A.M. Best Rating of A-/VIII, the CEO/Office of Risk Management retains the right to approve or reject a carrier after a review of the company's performance and financial rating.
- 20.6 The policy or policies of insurance maintained by AUTHORITY shall provide the minimum limits and coverage as set forth below:

<u>Coverage</u>	<u>Minimum Limits</u>
Commercial General Liability	\$1,000,000 per occurrence \$2,000,000 aggregate
Automobile Liability including coverage for owned, non-owned and hired vehicles	\$1,000,000 per occurrence
Workers' Compensation	Statutory
Employer's Liability Insurance	\$1,000,000 per occurrence
Network Security & Privacy Liability	\$1,000,000 per claims made

20.7 Required Coverage Forms

20.7.1 Commercial General Liability coverage shall be written on Insurance Services Office (ISO) form CG 00 01 or a substitute form providing liability coverage at least as broad.

20.7.2 Business Auto Liability coverage shall be written on ISO form CA 00 01, CA 00 05, CA 0012, CA 00 20 or a substitute form providing coverage at least as broad.

20.8 Required Endorsements

20.8.1 Commercial General Liability policy shall contain the following endorsements, which shall accompany the Certificate of Insurance:

20.8.1.1 An Additional Insured endorsement using ISO form CG 20 26 04 13, or a form at least as broad, naming the County of Orange, its elected and appointed officials, officers, agents and employees as Additional Insured or provide blanket coverage, which will state AS REQUIRED BY WRITTEN CONTRACT.

20.8.1.2 A primary non-contributing endorsement using ISO form CG 20 01 04 13, or a form at least as broad, evidencing that AUTHORITY's insurance is primary and any insurance or self-insurance maintained by the County of Orange shall be excess and non-contributing.

20.9 The Workers' Compensation policy shall contain a waiver of subrogation endorsement waiving all rights of subrogation against the County of Orange, its elected and appointed officials, officers, agents and employees or provide blanket coverage, which will state AS REQUIRED BY WRITTEN CONTRACT.

20.10 All insurance policies required by this MOU shall waive all rights of subrogation against the County of Orange, its elected and appointed officials, officers, agents and employees when acting within the scope of their appointment or employment.

20.11 AUTHORITY shall notify COUNTY in writing within thirty (30) days of any policy cancellation and ten (10) days for non-payment of premium and provide a copy of the cancellation notice to COUNTY. Failure to provide written notice of cancellation may constitute a material breach of the contract, upon which the COUNTY may suspend or terminate this MOU.

20.12 If AUTHORITY's Network Security and Privacy Liability policy is/ a "claims made" policy, AUTHORITY shall agree to maintain coverage for two (2) years

following completion of this MOU.

- 20.13 The Commercial General Liability policy shall contain a severability of interests clause also known as a “separation of insured” clause (standard in the ISO CG 0001 policy).
- 20.14 Insurance certificates should be mailed to COUNTY at the address indicated in Paragraph 27 of this MOU.
- 20.15 Failure of AUTHORITY to provide the insurance certificates and endorsements within seven (7) days of notification by CEO/County Procurement Office or COUNTY, will result in a breach of this MOU.
- 20.16 COUNTY expressly retains the right to require AUTHORITY to increase or decrease insurance of any of the above insurance types throughout the term of this MOU. Any increase or decrease in insurance will be as deemed by County of Orange Director of Risk Management as appropriate to adequately protect COUNTY.
- 20.17 COUNTY shall notify AUTHORITY in writing of changes in the insurance requirements. If AUTHORITY does not deposit copies of acceptable certificates of insurance and endorsements with COUNTY incorporating such changes within thirty (30) days of receipt of such notice, this MOU may be in breach without further notice to AUTHORITY, and COUNTY shall be entitled to all legal remedies.
- 20.18 The procuring of such required policy or policies of insurance shall not be construed to limit AUTHORITY’s liability hereunder nor to fulfill the indemnification provisions and requirements of this MOU, nor act in any way to reduce the policy coverage and limits available from the insurer.
21. SECURITY
- 21.1 Security Requirements
- 21.1.1 AUTHORITY agrees to maintain the confidentiality of all COUNTY and

COUNTY-related records and information pursuant to all statutory laws relating to privacy and confidentiality that currently exists or exists at any time during the term of this MOU. AUTHORITY represents and warrants that it has implemented and will maintain during the term of this MOU administrative, physical, and technical safeguards to reasonably protect private and confidential client information, to protect against anticipated threats to the security or integrity of COUNTY data, and to protect against unauthorized physical or electronic access to or use of COUNTY data. Such safeguards and controls shall include at a minimum:

- 21.1.1.1 Storage of confidential paper files that ensures records are secured, handled, transported, and destroyed in a manner that prevents unauthorized access.
- 21.1.1.2 Control of access to physical and electronic records to ensure COUNTY data is accessed only by individuals with a need to know for the delivery of MOU services.
- 21.1.1.3 Control to prevent unauthorized access and to prevent AUTHORITY employees from providing COUNTY data to unauthorized individuals.
- 21.1.1.4 Firewall protection.
- 21.1.1.5 Use of encryption methods of electronic COUNTY data while in transit from AUTHORITY networks to external networks, when applicable.
- 21.1.1.6 Measures to securely store all COUNTY data, including, but not be limited to, encryption at rest and multiple levels of authentication and measures to ensure COUNTY data shall not be altered or corrupted without COUNTY's prior written consent. AUTHORITY further represents and warrants that it

has implemented and will maintain during the term of this MOU administrative, technical, and physical safeguards and controls consistent with State and federal security requirements.

21.2 Security Breach Notification

21.2.1 AUTHORITY shall have policies and procedures in place for the effective management of Security Breaches, as defined below. In the event of any actual, attempted, suspected, threatened, or reasonably foreseeable circumstance AUTHORITY experiences or learns of that either compromises or could reasonably be expected to comprise COUNTY data through unauthorized use, disclosure, or acquisition of COUNTY data ("Security Breach"), AUTHORITY shall immediately notify COUNTY of its discovery. After such notification, AUTHORITY shall, at its own expense, immediately:

21.2.1.1 Investigate to determine the nature and extent of the Security Breach.

21.2.1.2 Contain the incident by taking necessary action, including, but not limited to, attempting to recover records, revoking access, and/or correcting weaknesses in security.

21.2.1.3 Report to COUNTY the nature of the Security Breach, the COUNTY data used or disclosed, the person who made the unauthorized use or received the unauthorized disclosure, what AUTHORITY has done or will do to mitigate any harmful effect of the unauthorized use or disclosure, and the corrective action AUTHORITY has taken or will take to prevent future similar unauthorized use or disclosure.

21.2.2 The COUNTY, at its sole discretion and on a case-by-case basis, will

determine what actions are necessary in response to the Security Breach and who will perform these actions. Actions may include, but are not limited to: notifications; investigation and remediation costs, including notification of all whose personal information was disclosed; outside investigation; forensics; counsel; crisis management; and credit monitoring. In the event COUNTY determines AUTHORITY will conduct additional action(s), AUTHORITY shall bear the costs. In the event COUNTY conducts additional actions(s) arising out of or in connection with a Security Breach, AUTHORITY shall reimburse COUNTY for costs associated to legally required actions.

22. NOTIFICATION OF INCIDENTS, CLAIMS, OR SUITS

AUTHORITY shall report to COUNTY, in writing within twenty-four (24) hours of occurrence, the following:

- 22.1 Any accident or incident relating to services performed under this MOU that involves injury or property damage which may result in the filing of a claim or lawsuit against AUTHORITY and/or COUNTY.
- 22.2 Any third party claim or lawsuit filed against AUTHORITY arising from or relating to services performed by AUTHORITY under this MOU.
- 22.3 Any injury to an employee of AUTHORITY that occurs on COUNTY property.
- 22.4 Any loss, disappearance, destruction, misuse, or theft of any kind whatsoever of COUNTY property, monies, or securities entrusted to AUTHORITY under the term of this MOU.

23. RECORDS

23.1 Client Records

23.1.1 AUTHORITY shall prepare and maintain accurate and complete records of clients served and dates and type of services provided under the terms of this MOU in a form acceptable to COUNTY.

23.1.2 AUTHORITY shall keep all COUNTY data provided to AUTHORITY during the term(s) of this for a minimum of five (5) years from the date of final payment under this MOU or until all pending COUNTY, State, and federal audits are completed, whichever is later. These records shall be stored in Orange County, unless AUTHORITY requests and COUNTY provides written approval for the right to store the records in another county. Notwithstanding anything to the contrary, upon termination of this MOU, AUTHORITY shall relinquish control with respect to COUNTY data to COUNTY in accordance with Subparagraph 31.4.

23.2 Public Records

To the extent permissible under the law, all records, including, but not limited to, reports, audits, notices, claims, statements, and correspondence, required by this MOU may be subject to public disclosure. COUNTY will not be liable for any such disclosure.

24. PERSONNEL DISCLOSURE

24.1 This Paragraph 24 applies to all of AUTHORITY's personnel providing services through this MOU, paid and unpaid (herein referred to as "Personnel").

24.2 AUTHORITY shall make available to COUNTY a current list of all Personnel providing services hereunder, including résumés and job applications. Changes to the list will be immediately provided to COUNTY in writing, along with a copy of a résumé and/or job application. The list shall include:

24.2.1 Names and dates of birth of all Personnel by title, whose direct services are required to provide the programs described herein;

24.2.2 A brief description of the functions of each position and the hours each person works each week, or for part-time Personnel, each day or month, as appropriate;

24.2.3 The professional degree, if applicable, and experience required for each

position; and

24.2.4 The language skill, if applicable, for all Personnel.

- 24.3 Where authorized by law, and in a manner consistent with California Government Code §12952, AUTHORITY shall require prospective Personnel to provide detailed information regarding the conviction of a crime, by any court, for offenses other than minor traffic offenses. Information discovered subsequent to the hiring or promotion of any prospective Personnel shall be cause for termination from the performance of services under this MOU.
- 24.4 Where authorized by law, AUTHORITY shall conduct, at no cost to COUNTY, a clearance on the following public websites of the names and dates of birth for all Personnel who will have direct, interactive contact with clients served through this MOU: U.S. Department of Justice National Sex Offender Website (www.nsopw.gov) and Megan's Law Sex Offender Registry (www.meganslaw.ca.gov).
- 24.5 Where authorized by law, AUTHORITY shall conduct, at no cost to COUNTY, a criminal record background check on all Personnel who will have direct, interactive contact with clients served through this MOU. Background checks conducted through the California Department of Justice shall include a check of the California Central Child Abuse Index, when applicable. Candidates will satisfy background checks consistent with this Paragraph and their performance of services under this MOU.
- 24.6 AUTHORITY shall ensure that clearances and background checks described in Subparagraphs 24.4 and 24.5 are completed prior to AUTHORITY's Personnel providing services under this MOU.
- 24.7 In the event a record is revealed through the processes described in Subparagraphs 24.4 and 24.5, COUNTY will be available to consult with AUTHORITY on appropriateness of Personnel providing services through this MOU.

- 24.8 AUTHORITY warrants that all Personnel assigned by AUTHORITY to provide services under this MOU have satisfactory past work records and/or reference checks indicating their ability to perform the required duties and accept the kind of responsibility anticipated under this MOU. AUTHORITY shall maintain records of background investigations and reference checks undertaken and coordinated by AUTHORITY for Personnel assigned to provide services under this MOU, for a minimum of five (5) years from the date of final payment under this MOU, or until all pending COUNTY, State, and federal audits are completed, whichever is later, in compliance with all applicable laws.
- 24.9 AUTHORITY shall immediately notify COUNTY concerning the arrest and/or subsequent conviction, for offenses, other than minor traffic offenses, of any Personnel performing services under this MOU, when such information becomes known to AUTHORITY. COUNTY, in its sole discretion, may determine whether such Personnel may continue to provide services under this MOU and shall provide notice of such determination to AUTHORITY in writing. AUTHORITY's failure to comply with COUNTY's decision shall be deemed a material breach of this MOU.
- 24.10 COUNTY has the right to approve or disapprove all of AUTHORITY's Personnel performing work hereunder, and any proposed changes in AUTHORITY's Personnel.
- 24.11 COUNTY shall have the right to require AUTHORITY to remove any Personnel from the performance of services under this MOU. At the request of COUNTY, AUTHORITY shall immediately replace said Personnel.
- 24.12 AUTHORITY shall notify COUNTY immediately when Personnel is terminated for cause from working on this MOU.
- 24.13 Disqualification, if any, of AUTHORITY Personnel, pursuant to this Paragraph 24, shall not relieve AUTHORITY of its obligation to complete all work in

accordance with the terms and conditions of this MOU.

25. CHILD AND DEPENDENT ADULT/ELDER ABUSE REPORTING

AUTHORITY shall establish a procedure acceptable to COUNTY to ensure that all employees, agents, subcontractors, and all other individuals performing services under this MOU report child abuse or neglect to one of the agencies specified in Penal Code Section 11165.9 and dependent adult or elder abuse as defined in Section 15610.07 of the WIC to one of the agencies specified in WIC Section 15630. AUTHORITY shall require such employees, agents, subcontractors, and all other individuals performing services under this MOU to sign a statement acknowledging the child abuse reporting requirements set forth in Sections 11166 and 11166.05 of the Penal Code and the dependent adult and elder abuse reporting requirements, as set forth in Section 15630 of the WIC, and shall comply with the provisions of these code sections, as they now exist or as they may hereafter be amended.

26. NOTICE TO EMPLOYEES REGARDING THE SAFELY SURRENDERED BABY LAW

AUTHORITY shall notify and provide to its employees, a fact sheet regarding the Safely Surrendered Baby Law, its implementation in Orange County, and where and how to safely surrender a baby. The fact sheet is available on the Internet at www.babysafe.ca.gov for printing purposes. The information shall be posted in all reception areas where clients are served.

27. NOTICES

All notices, requests, claims correspondence, reports, statements authorized or required by this MOU, and/or other communications shall be addressed as follows:

COUNTY: County of Orange Social Services Agency
 Contracts and Procurement Services
 500 N. State College, Suite 100
 Orange, CA 92868

AUTHORITY: Orange County IHSS Public Authority
Attn: Executive Director
1505 E. Warner Ave.
Santa Ana, CA 92705

All notices shall be deemed effective when in writing and deposited in the United States mail, first class, postage prepaid and addressed as above. Any communications, including notices, requests, claims, correspondence, reports, and/or statements authorized or required by this MOU, addressed in any other fashion shall be deemed not given. The Parties each may designate by written notice from time to time, in the manner aforesaid, any change in the address to which notices must be sent.

28. RESOLUTION OF CONFLICTS

For resolution of conflicts between COUNTY and AUTHORITY in regards to the provisions of this MOU, the following shall apply:

- Step 1: Conference between the CalWORKs recipient's Case Manager and the AUTHORITY Director of Corps-Member Development.
- Step 2: Conference between the COUNTY Welfare-To-Work Program Manager and/or Deputy Director or designee, and the AUTHORITY Director of Corps-Member Development.
- Step 3: Conference between the COUNTY Director of Family Self-Sufficiency or designee and the Executive Director of AUTHORITY.

Nothing in this Paragraph limits the rights of the parties under Paragraph 31.

29. CONFLICT OF INTEREST

AUTHORITY shall exercise reasonable care and diligence to prevent any actions or conditions that could result in a conflict with the best interests of the County. This obligation shall apply to AUTHORITY; the AUTHORITY's employees, agents, and subcontractors associated with accomplishing work and services hereunder. AUTHORITY's efforts shall include, but not be limited to establishing precautions to

prevent its employees, agents, and subcontractors from providing or offering gifts, entertainment, payments, loans or other considerations which could be deemed to influence or appear to influence County staff or elected officers from acting in the best interests of the County.

30. POLITICAL ACTIVITY

AUTHORITY agrees that the funds provided herein shall not be used to promote, directly or indirectly, any political party, political candidate, or political activity, except as permitted by law.

31. TERMINATION

31.1 COUNTY may terminate this MOU without penalty, immediately with cause or after thirty (30) days' written notice without cause, unless otherwise specified. Notice shall be deemed served on the date of mailing. Cause shall include, but not limited to, any breach of this MOU, any partial misrepresentation whether negligent or willful, fraud on the part of AUTHORITY, discontinuance of the services for reasons within AUTHORITY's reasonable control, and repeated or continued violations of County ordinances unrelated to performance under this MOU that, in the reasonable opinion of COUNTY, indicate a willful or reckless disregard for County laws and regulations. Exercise by COUNTY of the right to terminate this MOU shall relieve COUNTY of all further obligations under this MOU.

31.2 For ninety (90) calendar days prior to the expiration date of this MOU, or upon notice of termination of this MOU ("Transition Period"), AUTHORITY agrees to cooperate with COUNTY in the orderly transfer of service responsibilities, case records, and pertinent documents. The AUTHORITY shall also assist COUNTY in the orderly transfer of AUTHORITY's Capital Equipment and fixed assets to COUNTY or other entity. Capital Equipment shall be defined as any equipment with a single unit cost of at least five thousand dollars (\$5,000),

including sales tax. The Transition Period may be modified as agreed upon in writing by the Parties. During the Transition Period, service and data access shall continue to be made available to COUNTY without alteration. AUTHORITY also shall assist COUNTY in extracting and/or transitioning all data in the format determined by COUNTY.

31.3 In the event of termination of this MOU, cessation of business by AUTHORITY, or any other event preventing AUTHORITY from continuing to provide services, AUTHORITY shall not withhold the COUNTY data or refuse for any reason, to promptly provide to COUNTY the COUNTY data if requested to do so on such media as reasonably requested by COUNTY, even if COUNTY is then or is alleged to be in breach of this MOU.

31.4 The obligations under this MOU utilize COUNTY resources, for which funding, or portions of funding, may be contingent upon the State and/or federal budget; receipt of funds from and/or obligation of funds by the State and/or Federal Government; and inclusion of sufficient funding for the services hereunder in the budget approved by the COUNTY's Board of Supervisors for each fiscal year covered by this MOU. If such approval, funding, or appropriations are not forthcoming, or are otherwise limited, COUNTY may terminate, reduce, or modify this MOU without penalty.

31.5 If any term, covenant, condition, or provision of this MOU or the application thereof is held invalid, void, or enforceable, the remainder of the provisions in this MOU shall remain in full force and effect and shall in no way be affected, impaired, or invalidated thereby.

32. SIGNATURE IN COUNTERPARTS

The Parties agree that separate copies of this MOU may be signed by each of the Parties, and this MOU will have the same force and effect as if the original had been signed by all Parties. AUTHORITY represents and warrants that the person executing this MOU

on behalf of and for AUTHORITY is an authorized agent who has actual authority to bind AUTHORITY to each and every term, condition and obligation of this MOU and that all requirements of AUTHORITY have been fulfilled to provide such actual authority.

33. GENERAL PROVISIONS

33.1 Nothing herein contained shall be construed as creating the relationship of employer and employee, or principal and agent, between COUNTY and any participant participating in this program, or any of AUTHORITY's agents or employees.

33.2 This MOU represents the entire understanding of the Parties with respect to the subject matter. No change, modification, extension, termination or waiver of this MOU, or any of the understandings herein contained, shall be valid unless made in writing and signed by duly authorized representatives of the Parties hereto.

33.3 This MOU has been negotiated and executed in the State of California and shall be governed by and construed under the laws of the State of California. In the event of any legal action to enforce or interpret this MOU, the sole and exclusive venue shall be a court of competent jurisdiction located in Orange County, California, and the Parties hereto agree to and do hereby submit to the jurisdiction of such court, notwithstanding Code of Civil Procedure Section 394. Furthermore, the Parties specifically agree to waive any and all rights to request that an action be transferred for trial to another county.

33.4 AUTHORITY warrants that it and its Personnel, described in Paragraph 24 of this MOU, who are subject to individual registration and/or licensing requirements, have all necessary licenses and permits required by the laws of the United States, State of California, County of Orange, and all other appropriate governmental agencies to perform the services described in this MOU, and agrees to maintain, and require its Personnel to maintain, these licenses and permits in effect for the

duration of this MOU. OCCC must notify COUNTY within one (1) business day of any change in license or permit status (e.g., becoming expired, inactive, etc.).

- 33.5 In the performance of this MOU, AUTHORITY shall comply with all applicable laws and regulations of the United States, State of California, County of Orange, and County of Orange Social Services Agency, and all administrative regulations, rules, and policies adopted thereunder, as each and all may now exist or be hereafter amended.
- 33.6 In the performance of this MOU, AUTHORITY may neither delegate its duties or obligations nor assign its rights, either in whole or in part, without the prior written consent of COUNTY. Any attempted delegation or assignment without prior written consent shall be void.
- 33.7 The various headings, numbers, and organization herein are for the purpose of convenience only and shall not limit or otherwise affect the meaning of this MOU.

WHEREFORE, the Parties hereto have executed the Memorandum of Understanding in the County of Orange, California.

By: _____

Debra J. Baetz, Director

County of Orange

Social Services Agency

Dated: _____

By: _____

Name

Title

Company Name

Dated: _____

Approved As To Form

SSA Counsel

County of Orange, California

By: _____

Deputy

Dated: _____