

1 CONTRACT FOR PROVISION OF
2 IN-CUSTODY SUBSTANCE USE DISORDER TREATMENT SERVICES
3 BETWEEN
4 COUNTY OF ORANGE
5 AND
6 PHOENIX HOUSE
7 JULY 1, 2020 THROUGH JUNE 30, 2023
8

9 THIS CONTRACT entered into this 1st day of July 2020, is by and between the COUNTY OF
10 ORANGE, a political subdivision of State of California (COUNTY), and PHOENIX HOUSE, a
11 California nonprofit corporation (CONTRACTOR). COUNTY and CONTRACTOR may sometimes be
12 referred to herein individually as "Party" or collectively as "Parties." This Contract shall be
13 administered by the Director of the COUNTY's Health Care Agency or an authorized designee
14 ("ADMINISTRATOR").
15

16 WITNESSETH:
17

18 WHEREAS, COUNTY wishes to contract with CONTRACTOR for the provision of In-Custody
19 Substance Use Disorder Treatment Services described herein to the residents of Orange County; and

20 WHEREAS, CONTRACTOR is agreeable to the rendering of such services on the terms and
21 conditions hereinafter set forth:

22 NOW, THEREFORE, in consideration of the mutual covenants, benefits, and promises contained
23 herein, COUNTY and CONTRACTOR do hereby agree as follows:

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REFERENCED CONTRACT PROVISIONS

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Term: July 1, 2020 through June 30, 2023
Period One: July 1, 2020 through June 30, 2021
Period Two: July 1, 2021 through June 30, 2022
Period Three: July 1, 2022 through June 30, 2023

Maximum Obligation:

Period One Amount Not to Exceed:	\$ 999,863
Period Two Amount Not to Exceed:	\$ 999,863
Period Three Amount Not to Exceed:	<u>\$ 999,863</u>
TOTAL AMOUNT NOT TO EXCEED:	\$2,999,589

Basis for Reimbursement: Actual Cost

Payment Method: Monthly in Arrears

CONTRACTOR DUNS Number: 22-2268070

CONTRACTOR TAX ID Number: 070231878

Notices to COUNTY and CONTRACTOR:

COUNTY: County of Orange
Health Care Agency
Contract Services
405 West 5th Street, Suite 600
Santa Ana, CA 92701-4637

CONTRACTOR: Phoenix House
1207 East Fruit Street
Santa Ana, CA 92701

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I. ACRONYMS

The following standard definitions are for reference purposes only and may or may not apply in their entirety throughout this Contract:

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4	A. AB 109	Assembly Bill 109, 2011 Public Safety Realignment
5	B. AIDS	Acquired Immune Deficiency Syndrome
6	C. ARRA	American Recovery and Reinvestment Act of 2009
7	D. ASAM PPC	American Society of Addiction Medicine Patient Placement Criteria
8	E. ASI	Addiction Severity Index
9	F. ASRS	Alcohol and Drug Programs Reporting System
10	G. BHS	Behavioral Health Services
11	H. CalOMS	California Outcomes Measurement System
12	I. CalWORKs	California Work Opportunity and Responsibility for Kids
13	J. CAP	Corrective Action Plan
14	K. CCC	California Civil Code
15	L. CCR	California Code of Regulations
16	M. CESI	Client Evaluation of Self at Intake
17	N. CEST	Client Evaluation of Self and Treatment
18	O. CFDA	Catalog of Federal Domestic Assistance
19	P. CFR	Code of Federal Regulations
20	Q. CHPP	COUNTY HIPAA Policies and Procedures
21	R. CHS	Correctional Health Services
22	S. COI	Certificate of Insurance
23	T. CPA	Certified Public Accountant
24	U. CSW	Clinical Social Worker
25	V. DHCS	California Department of Health Care Services
26	W. D/MC	Drug/Medi-Cal
27	X. DPFS	Drug Program Fiscal Systems
28	Y. DRS	Designated Record Set
29	Z. EEOC	Equal Employment Opportunity Commission
30	AA.EHR	Electronic Health Records
31	AB.EOC	Equal Opportunity Clause
32	AC.ePHI	Electronic Protected Health Information
33	AD.EPSDT	Early and Periodic Screening, Diagnosis, and Treatment
34	AF. FFS	Fee For Service
35	AG.FSP	Full Service Partnership
36	AH.FTE	Full Time Equivalent
37	AI. GAAP	Generally Accepted Accounting Principles

1	AJ. HCA	County of Orange Health Care Agency
2	AK.HHS	Federal Health and Human Services Agency
3	AL.HIPAA	Health Insurance Portability and Accountability Act of 1996, Public
4		Law 104-191
5	AM.HITECH	Health Information Technology for Economic and Clinical Health
6		Act, Public Law 111-005
7	AN.HIV	Human Immunodeficiency Virus
8	AO.HSC	California Health and Safety Code
9	AP. IRIS	Integrated Records and Information System
10	AQ.ITC	Indigent Trauma Care
11	AR.LCSW	Licensed Clinical Social Worker
12	AS. MAT	Medication Assisted Treatment
13	AT.MFT	Marriage and Family Therapist
14	AU.MH	Mental Health
15	AV.MHP	Mental Health Plan
16	AW.MHS	Mental Health Specialist
17	AX.MHSA	Mental Health Services Act
18	AZ.MSN	Medical Safety Net
19	BA.NIH	National Institutes of Health
20	BB.NPI	National Provider Identifier
21	BC.NPPES	National Plan and Provider Enumeration System
22	BD.OCR	Federal Office for Civil Rights
23	BE. OIG	Federal Office of Inspector General
24	BF. OMB	Federal Office of Management and Budget
25	BG.OPM	Federal Office of Personnel Management
26	BH.P&P	Policy and Procedure
27	BI. PA DSS	Payment Application Data Security Standard
28	BJ. PATH	Projects for Assistance in Transition from Homelessness
29	BK.PC	California Penal Code
30	BL. PCI DSS	Payment Card Industry Data Security Standards
31	BM.PCS	Post-Release Community Supervision
32	BN.PHI	Protected Health Information
33	BO.PII	Personally Identifiable Information
34	BP. PRA	California Public Records Act
35	BQ.PSC	Professional Services Contract System
36	BR. SAPTBG	Substance Abuse Prevention and Treatment Block Grant
37	BS. SIR	Self-Insured Retention

1	BT. SMA	Statewide Maximum Allowable (rate)
2	BU. SOW	Scope of Work
3	BV. SUD	Substance Use Disorder
4	BW. UMDAP	Uniform Method of Determining Ability to Pay
5	BX. UOS	Units of Service
6	BY. USC	United States Code
7	BZ. WIC	Women, Infants and Children

8

9 **II. ALTERATION OF TERMS**

10 A. This Contract, together with Exhibits A, B, and C, attached hereto and incorporated herein, fully
 11 expresses the complete understanding of COUNTY and CONTRACTOR with respect to the subject
 12 matter of this Contract.

13 B. Unless otherwise expressly stated in this Contract, no addition to, or alteration of the terms of
 14 this Contract or any Exhibits, whether written or verbal, made by the Parties, their officers, employees
 15 or agents shall be valid unless made in the form of a written amendment to this Contract, which has been
 16 formally approved and executed by both Parties.

17

18 **III. ASSIGNMENT OF DEBTS**

19 Unless this Contract is followed without interruption by another Contract between the Parties hereto
 20 for the same services and substantially the same scope, at the termination of this Contract,
 21 CONTRACTOR shall assign to COUNTY any debts owing to CONTRACTOR by or on behalf of
 22 persons receiving services pursuant to this Contract. CONTRACTOR shall immediately notify by mail
 23 each of the respective Parties, specifying the date of assignment, the County of Orange as assignee, and
 24 the address to which payments are to be sent. Payments received by CONTRACTOR from or on behalf
 25 of said persons, shall be immediately given to COUNTY.

26

27 **IV. COMPLIANCE**

28 A. COMPLIANCE PROGRAM - ADMINISTRATOR has established a Compliance Program for
 29 the purpose of ensuring adherence to all rules and regulations related to federal and state health care
 30 programs.

31 1. ADMINISTRATOR shall provide CONTRACTOR with a copy of the policies and
 32 procedures relating to ADMINISTRATOR's Compliance Program, Code of Conduct and access to
 33 General Compliance and Annual Provider Trainings.

34 2. CONTRACTOR has the option to provide ADMINISTRATOR with proof of its own
 35 compliance program, code of conduct and any compliance related policies and procedures.
 36 CONTRACTOR's compliance program, code of conduct and any related policies and procedures shall
 37 be verified by ADMINISTRATOR's Compliance Department to ensure they include all required

1 elements by ADMINISTRATOR's Compliance Officer as described in this Compliance Paragraph to
2 this Contract. These elements include:

- 3 a. Designation of a Compliance Officer and/or compliance staff.
- 4 b. Written standards, policies and/or procedures.
- 5 c. Compliance related training and/or education program and proof of completion.
- 6 d. Communication methods for reporting concerns to the Compliance Officer.
- 7 e. Methodology for conducting internal monitoring and auditing.
- 8 f. Methodology for detecting and correcting offenses.
- 9 g. Methodology/Procedure for enforcing disciplinary standards.

10 3. If CONTRACTOR does not provide proof of its own compliance program to
11 ADMINISTRATOR, CONTRACTOR shall internally comply with ADMINISTRATOR's Compliance
12 Program and Code of Conduct, the CONTRACTOR shall submit to the ADMINISTRATOR within
13 thirty (30) calendar days of execution of this Contract a signed acknowledgement that CONTRACTOR
14 will internally comply with ADMINISTRATOR's Compliance Program and Code of Conduct.
15 CONTRACTOR shall have as many Covered Individuals it determines necessary complete
16 ADMINISTRATOR's annual compliance training to ensure proper compliance.

17 4. If CONTRACTOR elects to have its own compliance program, code of conduct and any
18 Compliance related policies and procedures reviewed by ADMINISTRATOR, then CONTRACTOR
19 shall submit a copy of its compliance program, code of conduct and all relevant policies and procedures
20 to ADMINISTRATOR within thirty (30) calendar days of execution of this Contract.
21 ADMINISTRATOR's Compliance Officer, or designee, shall review said documents within a
22 reasonable time, which shall not exceed forty-five (45) calendar days, and determine if contractor's
23 proposed compliance program and code of conduct contain all required elements to the
24 ADMINISTRATOR's satisfaction as consistent with the HCA's Compliance Program and Code of
25 Conduct. ADMINISTRATOR shall inform CONTRACTOR of any missing required elements and
26 CONTRACTOR shall revise its compliance program and code of conduct to meet
27 ADMINISTRATOR's required elements within thirty (30) calendar days after ADMINISTRATOR's
28 Compliance Officer's determination and resubmit the same for review by the ADMINISTRATOR.

29 5. Upon written confirmation from ADMINISTRATOR's compliance officer that the
30 CONTRACTOR's compliance program, code of conduct and any compliance related policies and
31 procedures contain all required elements, CONTRACTOR shall ensure that all Covered Individuals
32 relative to this Contract are made aware of CONTRACTOR's compliance program, code of conduct, related
33 policies and procedures and contact information for the ADMINISTRATOR's Compliance Program.

34 B. SANCTION SCREENING – CONTRACTOR shall screen all Covered Individuals employed or
35 retained to provide services related to this Contract monthly to ensure that they are not designated as
36 Ineligible Persons, as pursuant to this Contract. Screening shall be conducted against the General
37 Services Administration's Excluded Parties List System or System for Award Management, the Health

1 and Human Services/Office of Inspector General List of Excluded Individuals/Entities, and the
2 California Medi-Cal Suspended and Ineligible Provider List, the Social Security Administration's Death
3 Master File at date of employment, and/or any other list or system as identified by ADMINISTRATOR.

4 1. For purposes of this Compliance Paragraph, Covered Individuals includes all employees,
5 interns, volunteers, contractors, subcontractors, agents, and other persons who provide health care items
6 or services or who perform billing or coding functions on behalf of ADMINISTRATOR.
7 CONTRACTOR shall ensure that all Covered Individuals relative to this Contract are made aware of
8 ADMINISTRATOR's Compliance Program, Code of Conduct and related policies and procedures (or
9 CONTRACTOR's own compliance program, code of conduct and related policies and procedures if
10 CONTRACTOR has elected to use its own).

11 2. An Ineligible Person shall be any individual or entity who:

12 a. is currently excluded, suspended, debarred or otherwise ineligible to participate in
13 federal and state health care programs; or

14 b. has been convicted of a criminal offense related to the provision of health care items or
15 services and has not been reinstated in the federal and state health care programs after a period of
16 exclusion, suspension, debarment, or ineligibility.

17 3. CONTRACTOR shall screen prospective Covered Individuals prior to hire or engagement.
18 CONTRACTOR shall not hire or engage any Ineligible Person to provide services relative to this
19 Contract.

20 4. CONTRACTOR shall screen all current Covered Individuals and subcontractors monthly to
21 ensure that they have not become Ineligible Persons. CONTRACTOR shall also request that its
22 subcontractors use their best efforts to verify that they are eligible to participate in all federal and State
23 of California health programs and have not been excluded or debarred from participation in any federal
24 or state health care programs, and to further represent to CONTRACTOR that they do not have any
25 Ineligible Person in their employ or under contract.

26 5. Covered Individuals shall be required to disclose to CONTRACTOR immediately any
27 debarment, exclusion or other event that makes the Covered Individual an Ineligible Person.
28 CONTRACTOR shall notify ADMINISTRATOR immediately if a Covered Individual providing
29 services directly relative to this Contract becomes debarred, excluded or otherwise becomes an
30 Ineligible Person.

31 6. CONTRACTOR acknowledges that Ineligible Persons are precluded from providing
32 federal and state funded health care services by contract with COUNTY in the event that they are
33 currently sanctioned or excluded by a federal or state law enforcement regulatory or licensing agency.
34 If CONTRACTOR becomes aware that a Covered Individual has become an Ineligible Person,
35 CONTRACTOR shall remove such individual from responsibility for, or involvement with, COUNTY
36 business operations related to this Contract.

37 //

1 7. CONTRACTOR shall notify ADMINISTRATOR immediately if a Covered Individual or
2 entity is currently excluded, suspended or debarred, or is identified as such after being sanction
3 screened. Such individual or entity shall be immediately removed from participating in any activity
4 associated with this Contract. ADMINISTRATOR will determine appropriate repayment from, or
5 sanction(s) to CONTRACTOR for services provided by ineligible person or individual.
6 CONTRACTOR shall promptly return any overpayments within forty-five (45) business days after the
7 overpayment is verified by ADMINISTRATOR.

8 C. GENERAL COMPLIANCE TRAINING - ADMINISTRATOR shall make General
9 Compliance Training available to Covered Individuals.

10 1. CONTRACTORS that have acknowledged to comply with ADMINISTRATOR's
11 Compliance Program shall use its best efforts to encourage completion by all Covered Individuals;
12 provided, however, that at a minimum CONTRACTOR shall assign at least one (1) designated
13 representative to complete the General Compliance Training when offered.

14 2. Such training will be made available to Covered Individuals within thirty (30) calendar
15 days of employment or engagement.

16 3. Such training will be made available to each Covered Individual annually.

17 4. ADMINISTRATOR will track training completion while CONTRACTOR shall provide
18 copies of training certification upon request.

19 5. Each Covered Individual attending a group training shall certify, in writing, attendance at
20 compliance training. ADMINISTRATOR shall provide instruction on group training completion while
21 CONTRACTOR shall retain the training certifications. Upon written request by ADMINISTRATOR,
22 CONTRACTOR shall provide copies of the certifications.

23 D. SPECIALIZED PROVIDER TRAINING - ADMINISTRATOR shall make Specialized
24 Provider Training, where appropriate, available to Covered Individuals.

25 1. CONTRACTOR shall ensure completion of Specialized Provider Training by all Covered
26 Individuals relative to this Contract. This includes compliance with federal and state healthcare
27 program regulations and procedures or instructions otherwise communicated by regulatory agencies;
28 including the Centers for Medicare and Medicaid Services or their agents.

29 2. Such training will be made available to Covered Individuals within thirty (30) calendar
30 days of employment or engagement.

31 3. Such training will be made available to each Covered Individual annually.

32 4. ADMINISTRATOR will track online completion of training while CONTRACTOR shall
33 provide copies of the certifications upon request.

34 5. Each Covered Individual attending a group training shall certify, in writing, attendance at
35 compliance training. ADMINISTRATOR shall provide instructions on completing the training in a
36 group setting while CONTRACTOR shall retain the certifications. Upon written request by
37 ADMINISTRATOR, CONTRACTOR shall provide copies of the certifications.

1 E. MEDI-CAL BILLING, CODING, AND DOCUMENTATION COMPLIANCE STANDARDS

2 1. CONTRACTOR shall take reasonable precaution to ensure that the coding of health care
3 claims, billings and/or invoices for same are prepared and submitted in an accurate and timely manner
4 and are consistent with federal, state and county laws and regulations. This includes compliance with
5 federal and state health care program regulations and procedures or instructions otherwise
6 communicated by regulatory agencies including the Centers for Medicare and Medicaid Services or
7 their agents.

8 2. CONTRACTOR shall not submit any false, fraudulent, inaccurate and/or fictitious claims
9 for payment or reimbursement of any kind.

10 3. CONTRACTOR shall bill only for those eligible services actually rendered which are also
11 fully documented. When such services are coded, CONTRACTOR shall use proper billing codes which
12 accurately describes the services provided and must ensure compliance with all billing and
13 documentation requirements.

14 4. CONTRACTOR shall act promptly to investigate and correct any problems or errors in
15 coding of claims and billing, if and when, any such problems or errors are identified.

16 5. CONTRACTOR shall promptly return any overpayments within forty-five (45) business
17 days after the overpayment is verified by the ADMINISTRATOR.

18 6. CONTRACTOR shall meet the HCA MHP Quality Management Program Standards and
19 participate in the quality improvement activities developed in the implementation of the Quality
20 Management Program.

21 7. CONTRACTOR shall comply with the provisions of the ADMINISTRATOR's Cultural
22 Competency Plan submitted and approved by the state. ADMINISTRATOR shall update the Cultural
23 Competency Plan and submit the updates to the State for review and approval annually. (CCR, Title 9,
24 §1810.410.subds.(c)-(d).

25 F. Failure to comply with the obligations stated in this Compliance Paragraph shall constitute a
26 breach of the Contract on the part of CONTRACTOR and grounds for COUNTY to terminate the
27 Contract. Unless the circumstances require a sooner period of cure, CONTRACTOR shall have thirty
28 (30) calendar days from the date of the written notice of default to cure any defaults grounded on this
29 Compliance Paragraph prior to ADMINISTRATOR's right to terminate this Contract on the basis of
30 such default.

31
32 **V. CONFIDENTIALITY**

33 A. CONTRACTOR shall maintain the confidentiality of all records, including billings and any
34 audio and/or video recordings, in accordance with all applicable federal, state and county codes and
35 regulations, as they now exist or may hereafter be amended or changed.

36 1. CONTRACTOR acknowledges and agrees that all persons served pursuant to this Contract
37 are Clients of the Orange County Mental Health services system, and therefore it may be necessary for

1 authorized staff of ADMINISTRATOR to audit Client files, or to exchange information regarding
2 specific Clients with COUNTY or other providers of related services contracting with COUNTY.

3 2. CONTRACTOR acknowledges and agrees that it shall be responsible for obtaining written
4 consents for the release of information from all persons served by CONTRACTOR pursuant to this
5 Contract. Such consents shall be obtained by CONTRACTOR in accordance with CCC, Division 1,
6 Part 2.6, relating to confidentiality of medical information.

7 3. In the event of a collaborative service Contract between Mental Health services providers,
8 CONTRACTOR acknowledges and agrees that it is responsible for obtaining releases of information,
9 from the collaborative agency, for Clients receiving services through the collaborative Contract.

10 B. Prior to providing any services pursuant to this Contract, all members of the Board of Directors
11 or its designee or authorized agent, employees, consultants, subcontractors, volunteers and interns of the
12 CONTRACTOR shall agree, in writing, with CONTRACTOR to maintain the confidentiality of any and
13 all information and records which may be obtained in the course of providing such services. This
14 Contract shall specify that it is effective irrespective of all subsequent resignations or terminations of
15 CONTRACTOR members of the Board of Directors or its designee or authorized agent, employees,
16 consultants, subcontractors, volunteers and interns.

17 18 **VI. CONFLICT OF INTEREST**

19 CONTRACTOR shall exercise reasonable care and diligence to prevent any actions or conditions
20 that could result in a conflict with COUNTY interests. In addition to CONTRACTOR, this obligation
21 shall apply to CONTRACTOR's employees, agents, and subcontractors associated with the provision of
22 goods and services provided under this Contract. CONTRACTOR's efforts shall include, but not be
23 limited to establishing rules and procedures preventing its employees, agents, and subcontractors from
24 providing or offering gifts, entertainment, payments, loans or other considerations which could be
25 deemed to influence or appear to influence COUNTY staff or elected officers in the performance of
26 their duties.

27 28 **VII. COST REPORT**

29 A. CONTRACTOR shall submit separate Cost Reports for Period One, Period Two and Period
30 Three, or for a portion thereof, to COUNTY no later than sixty (60) calendar days following the period
31 for which they are prepared or termination of this Contract.

32 CONTRACTOR shall prepare the Cost Report in accordance with all applicable federal, state and
33 COUNTY requirements, GAAP and the Special Provisions Paragraph of this Contract.
34 CONTRACTOR shall allocate direct and indirect costs to and between programs, cost centers, services,
35 and funding sources in accordance with such requirements and consistent with prudent business
36 practice, which costs and allocations shall be supported by source documentation maintained by
37 CONTRACTOR, and available at any time to ADMINISTRATOR upon reasonable notice.

1 1. If CONTRACTOR fails to submit an accurate and complete Cost Report within the time
2 period specified above, ADMINISTRATOR shall have sole discretion to impose one or both of the
3 following:

4 a. CONTRACTOR may be assessed a late penalty of five-hundred dollars (\$500) for each
5 business day after the above specified due date that the accurate and complete Cost Report is not
6 submitted. Imposition of the late penalty shall be at the sole discretion of the ADMINISTRATOR. The
7 late penalty shall be assessed separately on each outstanding Cost Report due COUNTY by
8 CONTRACTOR.

9 b. ADMINISTRATOR may withhold or delay any or all payments due CONTRACTOR
10 pursuant to any or all Contracts between COUNTY and CONTRACTOR until such time that the
11 accurate and complete Cost Report is delivered to ADMINISTRATOR.

12 2. CONTRACTOR may request, in advance and in writing, an extension of the due date of the
13 Cost Report setting forth good cause for justification of the request. Approval of such requests shall be
14 at the sole discretion of ADMINISTRATOR and shall not be unreasonably denied.

15 3. In the event that CONTRACTOR does not submit an accurate and complete Cost Report
16 within one hundred and eighty (180) calendar days following the termination of this Contract, and
17 CONTRACTOR has not entered into a subsequent or new Contract for any other services with
18 COUNTY, then all amounts paid to CONTRACTOR by COUNTY during the term of the Contract shall
19 be immediately reimbursed to COUNTY.

20 B. The individual and/or consolidated Cost Report prepared for each period shall be the final
21 financial and statistical report submitted by CONTRACTOR to COUNTY, and shall serve as the basis
22 for final settlement to CONTRACTOR for that period. CONTRACTOR shall document that costs are
23 reasonable and allowable and directly or indirectly related to the services to be provided hereunder. The
24 Cost Report shall be the final financial record for subsequent audits, if any.

25 C. Final settlement shall be based upon the actual and reimbursable costs for services hereunder,
26 less applicable revenues and any late penalty, not to exceed COUNTY's Maximum Obligation as set
27 forth in the Referenced Contract Provisions of this Contract. CONTRACTOR shall not claim
28 expenditures to COUNTY which are not reimbursable pursuant to applicable federal, state and
29 COUNTY laws, regulations and requirements. Any payment made by COUNTY to CONTRACTOR,
30 which is subsequently determined to have been for an unreimbursable expenditure or service, shall be
31 repaid by CONTRACTOR to COUNTY in cash, or other authorized form of payment, within thirty (30)
32 calendar days of submission of the Cost Report or COUNTY may elect to reduce any amount owed
33 CONTRACTOR by an amount not to exceed the reimbursement due COUNTY.

34 D. If the Cost Report indicates the actual and reimbursable costs of services provided pursuant to
35 this Contract, less applicable revenues and late penalty, are lower than the aggregate of interim monthly
36 payments to CONTRACTOR, CONTRACTOR shall remit the difference to COUNTY. Such
37 reimbursement shall be made, in cash, or other authorized form of payment, with the submission of the

1 Cost Report. If such reimbursement is not made by CONTRACTOR within thirty (30) calendar days
2 after submission of the Cost Report, COUNTY may, in addition to any other remedies, reduce any
3 amount owed CONTRACTOR by an amount not to exceed the reimbursement due COUNTY.

4 E. If the Cost Report indicates the actual and reimbursable costs of services provided pursuant to
5 this Contract, less applicable revenues and late penalty, are higher than the aggregate of interim monthly
6 payments to CONTRACTOR, COUNTY shall pay CONTRACTOR the difference, provided such
7 payment does not exceed the Maximum Obligation of COUNTY.

8 F. All Cost Reports shall contain the following attestation, which may be typed directly on or
9 attached to the Cost Report:

10
11 "I HEREBY CERTIFY that I have executed the accompanying Cost Report and
12 supporting documentation prepared by _____ for the cost report period
13 beginning _____ and ending _____ and that, to the best of my
14 knowledge and belief, costs reimbursed through this Contract are reasonable and
15 allowable and directly or indirectly related to the services provided and that this Cost
16 Report is a true, correct, and complete statement from the books and records of
17 (provider name) in accordance with applicable instructions, except as noted. I also
18 hereby certify that I have the authority to execute the accompanying Cost Report.

19
20 Signed _____
21 Name _____
22 Title _____
23 Date _____"

24
25 **VIII. DELEGATION, ASSIGNMENT, AND SUBCONTRACTS**

26 A. CONTRACTOR may not delegate the obligations hereunder, either in whole or in part, without
27 prior written consent of COUNTY. CONTRACTOR shall provide written notification of
28 CONTRACTOR's intent to delegate the obligations hereunder, either in whole or part, to
29 ADMINISTRATOR not less than sixty (60) calendar days prior to the effective date of the delegation.
30 Any attempted assignment or delegation in derogation of this paragraph shall be void.

31 B. CONTRACTOR agrees that if there is a change or transfer in ownership of CONTRACTOR's
32 business prior to completion of this Contract, and COUNTY agrees to an assignment of the Contract, the
33 new owners shall be required under the terms of sale or other instruments of transfer to assume
34 CONTRACTOR's duties and obligations contained in this Contract and complete them to the
35 satisfaction of COUNTY. CONTRACTOR may not assign the rights hereunder, either in whole or in
36 part, without the prior written consent of COUNTY.

37 //

1 1. If CONTRACTOR is a nonprofit organization, any change from a nonprofit corporation to
2 any other corporate structure of CONTRACTOR, including a change in more than fifty percent (50%)
3 of the composition of the Board of Directors within a two (2) month period of time, shall be deemed an
4 assignment for purposes of this paragraph, unless CONTRACTOR is transitioning from a community
5 clinic/health center to a Federally Qualified Health Center and has been so designated by the Federal
6 Government. Any attempted assignment or delegation in derogation of this subparagraph shall be void.

7 2. If CONTRACTOR is a for-profit organization, any change in the business structure,
8 including but not limited to, the sale or transfer of more than ten percent (10%) of the assets or stocks of
9 CONTRACTOR, change to another corporate structure, including a change to a sole proprietorship, or a
10 change in fifty percent (50%) or more of Board of Directors or any governing body of CONTRACTOR
11 at one time shall be deemed an assignment pursuant to this paragraph. Any attempted assignment or
12 delegation in derogation of this subparagraph shall be void.

13 3. If CONTRACTOR is a governmental organization, any change to another structure,
14 including a change in more than fifty percent (50%) of the composition of its governing body (i.e. Board
15 of Supervisors, City Council, School Board) within a two (2) month period of time, shall be deemed an
16 assignment for purposes of this paragraph. Any attempted assignment or delegation in derogation of
17 this subparagraph shall be void.

18 4. Whether CONTRACTOR is a nonprofit, for-profit, or a governmental organization,
19 CONTRACTOR shall provide written notification of CONTRACTOR's intent to assign the obligations
20 hereunder, either in whole or part, to ADMINISTRATOR not less than sixty (60) calendar days prior to
21 the effective date of the assignment.

22 5. Whether CONTRACTOR is a nonprofit, for-profit, or a governmental organization,
23 CONTRACTOR shall provide written notification within thirty (30) calendar days to
24 ADMINISTRATOR when there is change of less than fifty percent (50%) of Board of Directors or any
25 governing body of CONTRACTOR at one time.

26 6. COUNTY reserves the right to immediately terminate the Contract in the event COUNTY
27 determines, in its sole discretion, that the assignee is not qualified or is otherwise unacceptable to
28 COUNTY for the provision of services under the Contract.

29 C. CONTRACTOR's obligations undertaken pursuant to this Contract may be carried out by
30 means of subcontracts, provided such subcontractors are approved in advance by ADMINISTRATOR,
31 meet the requirements of this Contract as they relate to the service or activity under subcontract, include
32 any provisions that ADMINISTRATOR may require, and are authorized in writing by
33 ADMINISTRATOR prior to the beginning of service delivery.

34 1. After approval of the subcontractor, ADMINISTRATOR may revoke the approval of the
35 subcontractor upon five (5) calendar days' written notice to CONTRACTOR if the subcontractor
36 subsequently fails to meet the requirements of this Contract or any provisions that ADMINISTRATOR
37 has required. ADMINISTRATOR may disallow subcontractor expenses reported by CONTRACTOR.

1 2. No subcontract shall terminate or alter the responsibilities of CONTRACTOR to COUNTY
2 pursuant to this Contract.

3 3. ADMINISTRATOR may disallow, from payments otherwise due CONTRACTOR,
4 amounts claimed for subcontracts not approved in accordance with this paragraph.

5 4. This provision shall not be applicable to service Contracts usually and customarily entered
6 into by CONTRACTOR to obtain or arrange for supplies, technical support, and professional services
7 provided by consultants.

8 D. CONTRACTOR shall notify COUNTY in writing of any change in the CONTRACTOR's
9 status with respect to name changes that do not require an assignment of the Contract. CONTRACTOR
10 is also obligated to notify COUNTY in writing if the CONTRACTOR becomes a party to any litigation
11 against COUNTY, or a party to litigation that may reasonably affect the CONTRACTOR's performance
12 under the Contract, as well as any potential conflicts of interest between CONTRACTOR and County
13 that may arise prior to or during the period of Contract performance. While CONTRACTOR will be
14 required to provide this information without prompting from COUNTY any time there is a change in
15 CONTRACTOR's name, conflict of interest or litigation status, CONTRACTOR must also provide an
16 update to COUNTY of its status in these areas whenever requested by COUNTY.

17 18 **IX. DISPUTE RESOLUTIONS**

19 A. The Parties shall deal in good faith and attempt to resolve potential disputes informally. If the
20 dispute concerning a question of fact arising under the terms of this Contract is not disposed of in a
21 reasonable period of time by the CONTRACTOR and the ADMINISTRATOR, such matter shall be
22 brought to the attention of the COUNTY Purchasing Agency by way of the following process:

23 1. CONTRACTOR shall submit to the COUNTY Purchasing Agency a written demand for a
24 final decision regarding the disposition of any dispute between the Parties arising under, related to, or
25 involving this Contract, unless COUNTY, on its own initiative, has already rendered such a final
26 decision.

27 2. CONTRACTOR's written demand shall be fully supported by factual information, and, if
28 such demand involves a cost adjustment to the Contract, CONTRACTOR shall include with the demand
29 a written statement signed by an authorized representative indicating that the demand is made in good
30 faith, that the supporting data are accurate and complete, and that the amount requested accurately
31 reflects the Contract adjustment for which CONTRACTOR believes COUNTY is liable.

32 B. Pending the final resolution of any dispute arising under, related to, or involving this Contract,
33 CONTRACTOR agrees to proceed diligently with the performance of services secured via this Contract,
34 including the delivery of goods and/or provision of services. CONTRACTOR's failure to proceed
35 diligently shall be considered a material breach of this Contract.

36 C. Any final decision of COUNTY shall be expressly identified as such, shall be in writing, and
37 shall be signed by a COUNTY Deputy Purchasing Agent or designee. If COUNTY fails to render a

1 decision within ninety (90) calendar days after receipt of CONTRACTOR's demand, it shall be deemed
2 a final decision adverse to CONTRACTOR's contentions.

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

10 11 **X. EMPLOYEE ELIGIBILITY VERIFICATION**

12 CONTRACTOR attests that it shall fully comply with all federal and state statutes and regulations
13 regarding the employment of aliens and others and to ensure that employees, subcontractors, and
14 consultants performing work under this Contract meet the citizenship or alien status requirements set
15 forth in federal statutes and regulations. CONTRACTOR shall obtain, from all employees,
16 subcontractors, and consultants performing work hereunder, all verification and other documentation of
17 employment eligibility status required by federal or state statutes and regulations including, but not
18 limited to, the Immigration Reform and Control Act of 1986, 8 USC §1324 et seq., as they currently
19 exist and as they may be hereafter amended. CONTRACTOR shall retain all such documentation for all
20 covered employees, subcontractors, and consultants for the period prescribed by the law.

21 22 **XI. EQUIPMENT**

23 A. Unless otherwise specified in writing by ADMINISTRATOR, Equipment is defined as all
24 property of a Relatively Permanent nature with significant value, purchased in whole or in part by
25 ADMINISTRATOR to assist in performing the services described in this Contract. "Relatively
26 Permanent" is defined as having a useful life of one (1) year or longer. Equipment which costs \$5,000
27 or over, including freight charges, sales taxes, and other taxes, and installation costs are defined as
28 Capital Assets. Equipment which costs between \$600 and \$5,000, including freight charges, sales taxes
29 and other taxes, and installation costs, or electronic equipment that costs less than \$600 but may
30 contained PHI or PII, are defined as Controlled Equipment. Controlled Equipment includes, but is not
31 limited to phones, tablets, audio/visual equipment, computer equipment, and lab equipment. The cost of
32 Equipment purchased, in whole or in part, with funds paid pursuant to this Contract shall be depreciated
33 according to GAAP.

34 B. CONTRACTOR shall obtain ADMINISTRATOR's written approval prior to purchase of any
35 Equipment with funds paid pursuant to this Contract. Upon delivery of Equipment, CONTRACTOR
36 shall forward to ADMINISTRATOR, copies of the purchase order, receipt, and other supporting
37 documentation, which includes delivery date, unit price, tax, shipping and serial numbers.

1 CONTRACTOR shall request an applicable asset tag for said Equipment and shall include each
2 purchased asset in an Equipment inventory.

3 C. Upon ADMINISTRATOR's prior written approval, CONTRACTOR may expense to
4 COUNTY the cost of the approved Equipment purchased by CONTRACTOR. To "expense," in
5 relation to Equipment, means to charge the proportionate cost of Equipment in the fiscal year in which it
6 is purchased. Title of expensed Equipment shall be vested with COUNTY.

7 D. CONTRACTOR shall maintain an inventory of all Equipment purchased in whole or in part
8 with funds paid through this Contract, including date of purchase, purchase price, serial number, model
9 and type of Equipment. Such inventory shall be available for review by ADMINISTRATOR, and shall
10 include the original purchase date and price, useful life, and balance of depreciated Equipment cost, if
11 any.

12 E. CONTRACTOR shall cooperate with ADMINISTRATOR in conducting periodic physical
13 inventories of all Equipment. Upon demand by ADMINISTRATOR, CONTRACTOR shall return any
14 or all Equipment to COUNTY.

15 F. CONTRACTOR must report any loss or theft of Equipment in accordance with the procedure
16 approved by ADMINISTRATOR and the Notices Paragraph of this Contract. In addition,
17 CONTRACTOR must complete and submit to ADMINISTRATOR a notification form when items of
18 Equipment are moved from one location to another or returned to COUNTY as surplus.

19 G. Unless this Contract is followed without interruption by another Contract between the Parties
20 for substantially the same type and scope of services, at the termination of this Contract for
21 any cause, CONTRACTOR shall return to COUNTY all Equipment purchased with funds paid through
22 this Contract.

23 H. CONTRACTOR shall maintain and administer a sound business program for ensuring the
24 proper use, maintenance, repair, protection, insurance, and preservation of COUNTY Equipment.

25 26 **XII. FACILITIES, PAYMENTS AND SERVICES**

27 A. CONTRACTOR agrees to provide the services, staffing, facilities, and supplies in accordance
28 with this Contract. COUNTY shall compensate, and authorize, when applicable, said services.
29 CONTRACTOR shall operate continuously throughout the term of this Contract with at least the
30 minimum number and type of staff which meet applicable federal and state requirements, and which are
31 necessary for the provision of the services hereunder.

32 B. In the event that CONTRACTOR is unable to provide the services, staffing, facilities, or
33 supplies as required, ADMINISTRATOR may, at its sole discretion, reduce the Maximum Obligation
34 for the appropriate Period as well as the Total Maximum Obligation. The reduction to the Maximum
35 Obligation for the appropriate Period as well as the Total Maximum Obligation shall be in an amount
36 proportionate to the number of days in which CONTRACTOR was determined to be unable to provide
37 services, staffing, facilities or supplies.

1 **XIII. INDEMNIFICATION AND INSURANCE**

2 A. CONTRACTOR agrees to indemnify, defend with counsel approved in writing by COUNTY,
3 and hold COUNTY, its elected and appointed officials, officers, employees, agents and those special
4 districts and agencies for which COUNTY's Board of Supervisors acts as the governing Board
5 ("COUNTY INDEMNITEES") harmless from any claims, demands or liability of any kind or nature,
6 including but not limited to personal injury or property damage, arising from or related to the services,
7 products or other performance provided by CONTRACTOR pursuant to this Contract. If judgment is
8 entered against CONTRACTOR and COUNTY by a court of competent jurisdiction because of the
9 concurrent active negligence of COUNTY or COUNTY INDEMNITEES, CONTRACTOR and
10 COUNTY agree that liability will be apportioned as determined by the court. Neither Party shall
11 request a jury apportionment.

12 B. Prior to the provision of services under this Contract, CONTRACTOR agrees to purchase all
13 required insurance at CONTRACTOR's expense, including all endorsements required herein, necessary
14 to satisfy COUNTY that the insurance provisions of this Contract have been complied with.
15 CONTRACTOR agrees to keep such insurance coverage, Certificates of Insurance, and endorsements
16 on deposit with COUNTY during the entire term of this Contract. In addition, all subcontractors
17 performing work on behalf of CONTRACTOR pursuant to this Contract shall obtain insurance subject
18 to the same terms and conditions as set forth herein for CONTRACTOR.

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

28 D. All SIRs shall be clearly stated on the COI. Any SIR in an amount in excess of fifty thousand
29 dollars (\$50,000) shall specifically be approved by the CEO/Office of Risk Management upon review of
30 CONTRACTOR's current audited financial report. If CONTRACTOR's SIR is approved,
31 CONTRACTOR, in addition to, and without limitation of, any other indemnity provision(s) in this
32 Contract, agrees to all of the following:

33 1. In addition to the duty to indemnify and hold the COUNTY harmless against any and all
34 liability, claim, demand or suit resulting from CONTRACTOR's, its agents, employee's or
35 subcontractor's performance of this Contract, CONTRACTOR shall defend the COUNTY at its sole
36 cost and expense with counsel approved by Board of Supervisors against same; and

37 //

2. CONTRACTOR’s duty to defend, as stated above, shall be absolute and irrespective of any duty to indemnify or hold harmless; and

3. The provisions of California Civil Code Section 2860 shall apply to any and all actions to which the duty to defend stated above applies, and the CONTRACTOR’s SIR provision shall be interpreted as though the CONTRACTOR was an insurer and the COUNTY was the insured.

E. If CONTRACTOR fails to maintain insurance acceptable to the COUNTY for the full term of this Contract, the COUNTY may terminate this Contract.

F. QUALIFIED INSURER

1. The policy or policies of insurance 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).

2. 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 ratings.

G. The policy or policies of insurance maintained by CONTRACTOR 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 (4 passengers or less)	\$1,000,000 per occurrence
Workers' Compensation	Statutory
Employers' Liability Insurance	\$1,000,000 per occurrence
Network Security & Privacy Liability	\$1,000,000 per claims -made
Professional Liability Insurance	\$1,000,000 per claims -made \$1,000,000 aggregate

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1 Sexual Misconduct Liability \$1,000,000 per occurrence

2
3 H. REQUIRED COVERAGE FORMS

4 1. The Commercial General Liability coverage shall be written on ISO form CG 00 01, or a
5 substitute form providing liability coverage at least as broad.

6 2. The Business Automobile Liability coverage shall be written on ISO form CA 00 01,
7 CA 00 05, CA 00 12, CA 00 20, or a substitute form providing coverage at least as broad.

8 I. REQUIRED ENDORSEMENTS

9 1. The Commercial General Liability policy shall contain the following endorsements, which
10 shall accompany the COI:

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

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

18 2. The Network Security and Privacy Liability policy shall contain the following
19 endorsements which shall accompany the COI:

20 a. An Additional Insured endorsement naming the *County of Orange, its elected and*
21 *appointed officials, officers, agents and employees* as Additional Insureds for its vicarious liability.

22 b. A primary and non-contributing endorsement evidencing that the Contractor's
23 insurance is primary and any insurance or self-insurance maintained by the County of Orange shall be
24 excess and non-contributing.

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

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

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

35 M. CONTRACTOR shall notify COUNTY in writing within thirty (30) days of any policy
36 cancellation and within ten (10) days for non-payment of premium and provide a copy of the
37 cancellation notice to COUNTY. Failure to provide written notice of cancellation shall constitute a

1 breach of CONTRACTOR's obligation hereunder and ground for COUNTY to suspend or terminate
2 this Contract.

3 N. If CONTRACTOR's Professional Liability, Technology Errors & Omissions and/or Network
4 Security & Privacy Liability are "Claims -Made" policies, CONTRACTOR shall agree to maintain
5 coverage for two (2) years following the completion of the Contract.

6 O. The Commercial General Liability policy shall contain a "severability of interests" clause also
7 known as a "separation of insureds" clause (standard in the ISO CG 0001 policy).

8 P. Insurance certificates should be forwarded to the agency/department address listed on the
9 solicitation.

10 Q. If the Contractor fails to provide the insurance certificates and endorsements within seven (7)
11 days of notification by CEO/Purchasing or the agency/department purchasing division, award may be
12 made to the next qualified vendor.

13 R. COUNTY expressly retains the right to require CONTRACTOR to increase or decrease
14 insurance of any of the above insurance types throughout the term of this Contract. Any increase or
15 decrease in insurance will be as deemed by County of Orange Risk Manager as appropriate to
16 adequately protect COUNTY.

17 S. COUNTY shall notify CONTRACTOR in writing of changes in the insurance requirements. If
18 CONTRACTOR does not deposit copies of acceptable Certificate of Insurance and endorsements with
19 COUNTY incorporating such changes within thirty (30) calendar days of receipt of such notice,
20 this Contract may be in breach without further notice to CONTRACTOR, and COUNTY shall be
21 entitled to all legal remedies.

22 T. The procuring of such required policy or policies of insurance shall not be construed to limit
23 CONTRACTOR's liability hereunder nor to fulfill the indemnification provisions and requirements of
24 this Contract, nor act in any way to reduce the policy coverage and limits available from the insurer.

25 U. SUBMISSION OF INSURANCE DOCUMENTS

26 1. The COI and endorsements shall be provided to COUNTY as follows:

27 a. Prior to the start date of this Contract.

28 b. No later than the expiration date for each policy.

29 c. Within thirty (30) calendar days upon receipt of written notice by COUNTY regarding
30 changes to any of the insurance requirements as set forth in the Coverage Subparagraph above.

31 2. The COI and endorsements shall be provided to the COUNTY at the address as specified in
32 the Referenced Contract Provisions of this Contract.

33 3. If CONTRACTOR fails to submit the COI and endorsements that meet the insurance
34 provisions stipulated in this Contract by the above specified due dates, ADMINISTRATOR shall have
35 sole discretion to impose one or both of the following:

36 a. ADMINISTRATOR may withhold or delay any or all payments due CONTRACTOR
37 pursuant to any and all Contracts between COUNTY and CONTRACTOR until such time that the

1 required COI and endorsements that meet the insurance provisions stipulated in this Contract are
2 submitted to ADMINISTRATOR.

3 b. CONTRACTOR may be assessed a penalty of one hundred dollars (\$100) for each late
4 COI or endorsement for each business day, pursuant to any and all Contracts between COUNTY and
5 CONTRACTOR, until such time that the required COI and endorsements that meet the insurance
6 provisions stipulated in this Contract are submitted to ADMINISTRATOR.

7 c. If CONTRACTOR is assessed a late penalty, the amount shall be deducted from
8 CONTRACTOR's monthly invoice.

9 4. In no cases shall assurances by CONTRACTOR, its employees, agents, including any
10 insurance agent, be construed as adequate evidence of insurance. COUNTY will only accept valid COIs
11 and endorsements, or in the interim, an insurance binder as adequate evidence of insurance coverage.
12

13 **XIV. INSPECTIONS AND AUDITS**

14 A. ADMINISTRATOR, any authorized representative of COUNTY, any authorized representative
15 of the State of California, the Secretary of the United States Department of Health and Human Services,
16 the Comptroller General of the United States, or any other of their authorized representatives, shall to
17 the extent permissible under applicable law have access to any books, documents, and records, including
18 but not limited to, financial statements, general ledgers, relevant accounting systems, medical and Client
19 records, of CONTRACTOR that are directly pertinent to this Contract, for the purpose of responding to
20 a beneficiary complaint or conducting an audit, review, evaluation, or examination, or making
21 transcripts during the periods of retention set forth in the Records Management and Maintenance
22 Paragraph of this Contract. Such persons may at all reasonable times inspect or otherwise evaluate the
23 services provided pursuant to this Contract, and the premises in which they are provided.

24 B. CONTRACTOR shall actively participate and cooperate with any person specified in
25 Subparagraph A. above in any evaluation or monitoring of the services provided pursuant to this
26 Contract, and shall provide the above-mentioned persons adequate office space to conduct such
27 evaluation or monitoring.

28 **C. AUDIT RESPONSE**

29 1. Following an audit report, in the event of non-compliance with applicable laws and
30 regulations governing funds provided through this Contract, COUNTY may terminate this Contract as
31 provided for in the Termination Paragraph or direct CONTRACTOR to immediately implement
32 appropriate corrective action. A CAP shall be submitted to ADMINISTRATOR in writing within thirty
33 (30) calendar days after receiving notice from ADMINISTRATOR.

34 2. If the audit reveals that money is payable from one Party to the other, that is,
35 reimbursement by CONTRACTOR to COUNTY, or payment of sums due from COUNTY to
36 CONTRACTOR, said funds shall be due and payable from one Party to the other within sixty (60)
37 calendar days of receipt of the audit results. If reimbursement is due from CONTRACTOR to

1 COUNTY, and such reimbursement is not received within said sixty (60) calendar days, COUNTY may,
 2 in addition to any other remedies provided by law, reduce any amount owed CONTRACTOR by an
 3 amount not to exceed the reimbursement due COUNTY.

4 D. CONTRACTOR shall retain a licensed certified public accountant, who will prepare and file
 5 with ADMINISTRATOR, an annual, independent, organization-wide audit of related expenditures as
 6 may be required during the term of this Contract.

7 E. CONTRACTOR shall forward to ADMINISTRATOR a copy of any audit report within
 8 fourteen (14) calendar days of receipt. Such audit shall include, but not be limited to, management,
 9 financial, programmatic or any other type of audit of CONTRACTOR's operations, whether or not the
 10 cost of such operation or audit is reimbursed in whole or in part through this Contract.

11 **XV. LICENSES AND LAWS**

13 A. CONTRACTOR, its officers, agents, employees, affiliates, and subcontractors shall, throughout
 14 the term of this Contract, maintain all necessary licenses, permits, approvals, certificates, accreditations,
 15 waivers, and exemptions necessary for the provision of the services hereunder and required by the laws,
 16 regulations and requirements of the United States, the State of California, COUNTY, and all other
 17 applicable governmental agencies. CONTRACTOR shall notify ADMINISTRATOR immediately and
 18 in writing of its inability to obtain or maintain, irrespective of the pendency of any hearings or appeals,
 19 permits, licenses, approvals, certificates, accreditations, waivers and exemptions. Said inability shall be
 20 cause for termination of this Contract.

21 B. CONTRACTOR shall comply with all applicable governmental laws, regulations, and
 22 requirements as they exist now or may be hereafter amended or changed. These laws, regulations, and
 23 requirements shall include, but not be limited to, the following:

- 24 1. ARRA of 2009.
- 25 2. Trafficking Victims Protection Act of 2000.
- 26 3. WIC, Division 5, Community Mental Health Services.
- 27 4. WIC, Division 6, Admissions and Judicial Commitments.
- 28 5. WIC, Division 7, Mental Institutions.
- 29 6. HSC, §§1250 et seq., Health Facilities.
- 30 7. PC, §§11164-11174.3, Child Abuse and Neglect Reporting Act.
- 31 8. CCR, Title 9, Rehabilitative and Developmental Services.
- 32 9. CCR, Title 17, Public Health.
- 33 10. CCR, Title 22, Social Security.
- 34 11. CFR, Title 42, Public Health.
- 35 12. CFR, Title 45, Public Welfare.
- 36 13. USC Title 42. Public Health and Welfare.
- 37 14. Federal Social Security Act, Title XVIII and Title XIX Medicare and Medicaid.

- 1 15. 42 USC §12101 et seq., Americans with Disabilities Act of 1990.
- 2 16. 42 USC §1857, et seq., Clean Air Act.
- 3 17. 33 USC 84, §308 and §§1251 et seq., the Federal Water Pollution Control Act.
- 4 18. 31 USC 7501.70, Federal Single Audit Act of 1984.
- 5 19. Policies and procedures set forth in Mental Health Services Act.
- 6 20. Policies and procedures set forth in DHCS Letters.
- 7 21. HIPAA privacy rule, as it may exist now, or be hereafter amended, and if applicable.
- 8 22. 31 USC 7501 – 7507, as well as its implementing regulations under 2 CFR Part 200,
- 9 Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal
- 10 Awards.
- 11 23. 42 CFR, Section 438, Managed Care Regulations

XVI. LITERATURE, ADVERTISEMENTS, AND SOCIAL MEDIA

14 A. Any written information or literature, including educational or promotional materials,
15 distributed by CONTRACTOR to any person or organization for purposes directly or indirectly related
16 to this Contract must be approved at least thirty (30) days in advance and in writing by
17 ADMINISTRATOR before distribution. For the purposes of this Contract, distribution of written
18 materials shall include, but not be limited to, pamphlets, brochures, flyers, newspaper or magazine ads,
19 and electronic media such as the Internet.

20 B. Any advertisement through radio, television broadcast, or the Internet, for educational or
21 promotional purposes, made by CONTRACTOR for purposes directly or indirectly related to this
22 Contract must be approved in advance at least thirty (30) days and in writing by ADMINISTRATOR.

23 C. If CONTRACTOR uses social media (such as Facebook, Twitter, YouTube or other publicly
24 available social media sites) in support of the services described within this Contract, CONTRACTOR
25 shall develop social media policies and procedures and have them available to ADMINISTRATOR
26 upon reasonable notice. CONTRACTOR shall inform ADMINISTRATOR of all forms of social media
27 used to either directly or indirectly support the services described within this Contract. CONTRACTOR
28 shall comply with COUNTY Social Media Use Policy and Procedures as they pertain to any social
29 media developed in support of the services described within this Contract. CONTRACTOR shall also
30 include any required funding statement information on social media when required by
31 ADMINISTRATOR.

32 D. Any information as described in Subparagraphs A. and B. above shall not imply endorsement
33 by COUNTY, unless ADMINISTRATOR consents thereto in writing.

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XVII. MAXIMUM OBLIGATION

A. The Total Maximum Obligation of COUNTY for services provided in accordance with this Contract, and the separate Maximum Obligations for each period under this Contract, are as specified in the Referenced Contract Provisions of this Contract, except as allowed for in Subparagraph B. below.

B. ADMINISTRATOR may amend the Maximum Obligation by an amount not to exceed ten percent (10%) of Period One funding for this Contract.

XVIII. MINIMUM WAGE LAWS

A. Pursuant to the United States of America Fair Labor Standards Act of 1938, as amended, and State of California Labor Code, §1178.5, CONTRACTOR shall pay no less than the greater of the federal or California Minimum Wage to all its Covered Individuals (as defined within the “Compliance” paragraph of this Contract) that directly or indirectly provide services pursuant to this Contract, in any manner whatsoever. CONTRACTOR shall require and verify that all of its Covered Individuals providing services pursuant to this Contract be paid no less than the greater of the federal or California Minimum Wage.

B. CONTRACTOR shall comply and verify that its Covered Individuals comply with all other federal and State of California laws for minimum wage, overtime pay, record keeping, and child labor standards pursuant to providing services pursuant to this Contract.

C. Notwithstanding the minimum wage requirements provided for in this clause, CONTRACTOR, where applicable, shall comply with the prevailing wage and related requirements, as provided for in accordance with the provisions of Article 2 of Chapter 1, Part 7, Division 2 of the Labor Code of the State of California (§§1770, et seq.), as it now exists or may hereafter be amended.

XIX. NONDISCRIMINATION

A. EMPLOYMENT

1. During the term of this Contract, CONTRACTOR and its Covered Individuals (as defined in the “Compliance” paragraph of this Contract) shall not unlawfully discriminate against any employee or applicant for employment because of his/her 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, or military and veteran status. Additionally, during the term of this Contract, CONTRACTOR and its Covered Individuals shall require in its subcontracts that subcontractors shall not unlawfully discriminate against any employee or applicant for employment because of his/her 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, or military and veteran status.

2. CONTRACTOR and its Covered Individuals shall not discriminate against employees or applicants for employment in the areas of employment, promotion, demotion or transfer; recruitment or

1 recruitment advertising, layoff or termination; rate of pay or other forms of compensation; and selection
2 for training, including apprenticeship.

3 3. CONTRACTOR shall not discriminate between employees with spouses and employees
4 with domestic partners, or discriminate between domestic partners and spouses of those employees, in
5 the provision of benefits.

6 4. CONTRACTOR shall post in conspicuous places, available to employees and applicants for
7 employment, notices from ADMINISTRATOR and/or the United States Equal Employment
8 Opportunity Commission setting forth the provisions of the EOC.

9 5. All solicitations or advertisements for employees placed by or on behalf of
10 CONTRACTOR and/or subcontractor shall state that all qualified applicants will receive consideration
11 for employment without regard to race, religious creed, color, national origin, ancestry, physical
12 disability, mental disability, medical condition, genetic information, marital status, sex, gender, gender
13 identity, gender expression, age, sexual orientation, or military and veteran status. Such requirements
14 shall be deemed fulfilled by use of the term EOE.

15 6. Each labor union or representative of workers with which CONTRACTOR and/or
16 subcontractor has a collective bargaining Contract or other contract or understanding must post a notice
17 advising the labor union or workers' representative of the commitments under this Nondiscrimination
18 Paragraph and shall post copies of the notice in conspicuous places, available to employees and
19 applicants for employment.

20 B. SERVICES, BENEFITS AND FACILITIES – CONTRACTOR and/or subcontractor shall not
21 discriminate in the provision of services, the allocation of benefits, or in the accommodation in facilities
22 on the basis of race, religious creed, color, national origin, ancestry, physical disability, mental
23 disability, medical condition, genetic information, marital status, sex, gender, gender identity, gender
24 expression, age, sexual orientation, or military and veteran status in accordance with Title IX of the
25 Education Amendments of 1972 as they relate to 20 USC §1681 - §1688; Title VI of the Civil Rights
26 Act of 1964 (42 USC §2000d); the Age Discrimination Act of 1975 (42 USC §6101); Title 9, Division
27 4, Chapter 6, Article 1 (§10800, et seq.) of the CCR; and Title II of the Genetic Information
28 Nondiscrimination Act of 2008, 42 USC 2000ff, et seq. as applicable, and all other pertinent rules and
29 regulations promulgated pursuant thereto, and as otherwise provided by state law and regulations, as all
30 may now exist or be hereafter amended or changed. For the purpose of this Nondiscrimination
31 paragraph, discrimination includes, but is not limited to the following based on one or more of the
32 factors identified above:

- 33 1. Denying a Client or potential Client any service, benefit, or accommodation.
- 34 2. Providing any service or benefit to a Client which is different or is provided in a different
35 manner or at a different time from that provided to other Clients.
- 36 3. Restricting a Client in any way in the enjoyment of any advantage or privilege enjoyed by
37 others receiving any service and/or benefit.

1 4. Treating a Client differently from others in satisfying any admission requirement or
2 condition, or eligibility requirement or condition, which individuals must meet in order to be provided
3 any service and/or benefit.

4 5. Assignment of times or places for the provision of services.

5 C. COMPLAINT PROCESS – CONTRACTOR shall establish procedures for advising all Clients
6 through a written statement that CONTRACTOR’s and/or subcontractor’s Clients may file all
7 complaints alleging discrimination in the delivery of services with CONTRACTOR, subcontractor, and
8 ADMINISTRATOR.

9 1. Whenever possible, problems shall be resolved at the point of service. CONTRACTOR
10 shall establish an internal informal problem resolution process for Clients not able to resolve such
11 problems at the point of service. Clients may initiate a grievance or complaint directly with
12 CONTRACTOR either orally or in writing.

13 a. COUNTY shall establish a formal resolution and grievance process in the event
14 informal processes do not yield a resolution.

15 b. Throughout the problem resolution and grievance process, Client rights shall be
16 maintained, including access to the COUNTY’s Patients’ Rights Office at any point in the process.
17 Clients shall be informed of their right to access the COUNTY’s Patients’ Rights Office at any time.

18 2. Within the time limits procedurally imposed, the complainant shall be notified in writing as
19 to the findings regarding the alleged complaint and, if not satisfied with the decision, has the right to
20 request a State Fair Hearing.

21 D. PERSONS WITH DISABILITIES – CONTRACTOR and/or subcontractor agree to comply
22 with the provisions of §504 of the Rehabilitation Act of 1973, as amended, (29 USC 794 et seq., as
23 implemented in 45 CFR 84.1 et seq.), and the Americans with Disabilities Act of 1990 as amended (42
24 USC 12101 et seq.; as implemented in 29 CFR 1630), as applicable, pertaining to the prohibition of
25 discrimination against qualified persons with disabilities in all programs or activities, and if applicable,
26 as implemented in Title 45, CFR, §84.1 et seq., as they exist now or may be hereafter amended together
27 with succeeding legislation.

28 E. RETALIATION – Neither CONTRACTOR nor subcontractor, nor its employees or agents shall
29 intimidate, coerce or take adverse action against any person for the purpose of interfering with rights
30 secured by federal or state laws, or because such person has filed a complaint, certified, assisted or
31 otherwise participated in an investigation, proceeding, hearing or any other activity undertaken to
32 enforce rights secured by federal or state law.

33 F. In the event of non-compliance with this paragraph or as otherwise provided by federal and
34 state law, this Contract may be canceled, terminated or suspended in whole or in part and
35 CONTRACTOR or subcontractor may be declared ineligible for further contracts involving federal,
36 state or COUNTY funds.

37 //

XX. NOTICES

A. Unless otherwise specified, all notices, claims, correspondence, reports and/or statements authorized or required by this Contract shall be effective:

1. When written and deposited in the United States mail, first class postage prepaid and addressed as specified in the Referenced Contract Provisions of this Contract or as otherwise directed by ADMINISTRATOR;

2. When faxed, transmission confirmed;

3. When sent by Email; or

4. When accepted by U.S. Postal Service Express Mail, Federal Express, United Parcel Service, or any other expedited delivery service.

B. Termination Notices shall be addressed as specified in the Referenced Contract Provisions of this Contract or as otherwise directed by ADMINISTRATOR and shall be effective when faxed, transmission confirmed, or when accepted by U.S. Postal Service Express Mail, Federal Express, United Parcel Service, or any other expedited delivery service.

C. CONTRACTOR shall notify ADMINISTRATOR, in writing, within twenty-four (24) hours of becoming aware of any occurrence of a serious nature, which may expose COUNTY to liability. Such occurrences shall include, but not be limited to, accidents, injuries, or acts of negligence, or loss or damage to any COUNTY property in possession of CONTRACTOR.

D. For purposes of this Contract, any notice to be provided by COUNTY may be given by ADMINISTRATOR.

XXI. NOTIFICATION OF DEATH

A. Upon becoming aware of the death of any person served pursuant to this Contract, CONTRACTOR shall immediately notify ADMINISTRATOR.

B. All Notifications of Death provided to ADMINISTRATOR by CONTRACTOR shall contain the name of the deceased, the date and time of death, the nature and circumstances of the death, and the name(s) of CONTRACTOR's officers or employees with knowledge of the incident.

1. TELEPHONE NOTIFICATION – CONTRACTOR shall notify ADMINISTRATOR by telephone immediately upon becoming aware of the death due to non-terminal illness of any person served pursuant to this Contract; notice need only be given during normal business hours.

2. WRITTEN NOTIFICATION

a. NON-TERMINAL ILLNESS – CONTRACTOR shall hand deliver, fax, and/or send via encrypted email to ADMINISTRATOR a written report within sixteen (16) hours after becoming aware of the death due to non-terminal illness of any person served pursuant to this Contract.

b. TERMINAL ILLNESS – CONTRACTOR shall notify ADMINISTRATOR by written report hand delivered, faxed, sent via encrypted email, within forty-eight (48) hours of becoming aware of the death due to terminal illness of any person served pursuant to this Contract.

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1 c. When notification via encrypted email is not possible or practical CONTRACTOR may
2 hand deliver or fax to a known number said notification.

3 C. If there are any questions regarding the cause of death of any person served pursuant to this
4 Contract who was diagnosed with a terminal illness, or if there are any unusual circumstances related to
5 the death, CONTRACTOR shall immediately notify ADMINISTRATOR in accordance with this
6 Notification of Death Paragraph.

7
8 **XXII. NOTIFICATION OF PUBLIC EVENTS AND MEETINGS**

9 A. CONTRACTOR shall notify ADMINISTRATOR of any public event or meeting funded in
10 whole or in part by the COUNTY, except for those events or meetings that are intended solely to serve
11 Clients or occur in the normal course of business.

12 B. CONTRACTOR shall notify ADMINISTRATOR at least thirty (30) business days in advance
13 of any applicable public event or meeting. The notification must include the date, time, duration,
14 location and purpose of the public event or meeting. Any promotional materials or event related flyers
15 must be approved by ADMINISTRATOR prior to distribution.

16
17 **XXIII. RECORDS MANAGEMENT AND MAINTENANCE**

18 A. CONTRACTOR, its officers, agents, employees and subcontractors shall, throughout the term
19 of this Contract, prepare, maintain and manage records appropriate to the services provided and in
20 accordance with this Contract and all applicable requirements.

21 1. CONTRACTOR shall maintain records that are adequate to substantiate the services for
22 which claims are submitted for reimbursement under this Contract and the charges thereto. Such
23 records shall include, but not be limited to, individual patient charts and utilization review records.

24 2. CONTRACTOR shall keep and maintain records of each service rendered to each MSN
25 Patient, the identity of the MSN Patient to whom the service was rendered, the date the service was
26 rendered, and such additional information as ADMINISTRATOR or DHCS may require.

27 3. CONTRACTOR shall maintain books, records, documents, accounting procedures and
28 practices, and other evidence sufficient to reflect properly all direct and indirect cost of whatever nature
29 claimed to have been incurred in the performance of this Contract and in accordance with Medicare
30 principles of reimbursement and GAAP.

31 4. CONTRACTOR shall ensure the maintenance of medical records required by §70747
32 through and including §70751 of the CCR, as they exist now or may hereafter be amended, the medical
33 necessity of the service, and the quality of care provided. Records shall be maintained in accordance
34 with §51476 of Title 22 of the CCR, as it exists now or may hereafter be amended.

35 B. CONTRACTOR shall implement and maintain administrative, technical and physical
36 safeguards to ensure the privacy of PHI and prevent the intentional or unintentional use or disclosure of
37 PHI in violation of the HIPAA, federal and state regulations. CONTRACTOR shall mitigate to the

1 extent practicable, the known harmful effect of any use or disclosure of PHI made in violation of federal
2 or state regulations and/or COUNTY policies.

3 C. CONTRACTOR's participant, client, and/or patient records shall be maintained in a secure
4 manner. CONTRACTOR shall maintain participant, client, and/or patient records and must establish
5 and implement written record management procedures.

6 D. CONTRACTOR shall retain all financial records for a minimum of ten (10) years from the
7 termination of the contract, unless a longer period is required due to legal proceedings such as litigations
8 and/or settlement of claims.

9 E. CONTRACTOR shall retain all client and/or patient medical records for ten (10) years
10 following discharge of the participant, client and/or patient.

11 F. CONTRACTOR shall make records pertaining to the costs of services, participant fees, charges,
12 billings, and revenues available at one (1) location within the limits of the County of Orange. If
13 CONTRACTOR is unable to meet the record location criteria above, ADMINISTRATOR may provide
14 written approval to CONTRACTOR to maintain records in a single location, identified by
15 CONTRACTOR.

16 G. CONTRACTOR shall notify ADMINISTRATOR of any PRA requests related to, or arising out
17 of, this Contract, within forty-eight (48) hours. CONTRACTOR shall provide ADMINISTRATOR all
18 information that is requested by the PRA request.

19 H. CONTRACTOR shall ensure all HIPAA DRS requirements are met. HIPAA requires that
20 clients, participants and/or patients be provided the right to access or receive a copy of their DRS and/or
21 request addendum to their records. Title 45 CFR §164.501, defines DRS as a group of records
22 maintained by or for a covered entity that is:

23 1. The medical records and billing records about individuals maintained by or for a covered
24 health care provider;

25 2. The enrollment, payment, claims adjudication, and case or medical management record
26 systems maintained by or for a health plan; or

27 3. Used, in whole or in part, by or for the covered entity to make decisions about individuals.

28 I. CONTRACTOR may retain client, and/or patient documentation electronically in accordance
29 with the terms of this Contract and common business practices. If documentation is retained
30 electronically, CONTRACTOR shall, in the event of an audit or site visit:

31 1. Have documents readily available within twenty-four (24) hour notice of a scheduled audit
32 or site visit.

33 2. Provide auditor or other authorized individuals access to documents via a computer
34 terminal.

35 3. Provide auditor or other authorized individuals a hardcopy printout of documents, if
36 requested.

37 //

1 J. CONTRACTOR shall ensure compliance with requirements pertaining to the privacy and
2 security of PII and/or PHI. CONTRACTOR shall, upon discovery of a Breach of privacy and/or
3 security of PII and/or PHI by CONTRACTOR, notify federal and/or state authorities as required by law
4 or regulation, and copy ADMINISTRATOR on such notifications.

5 K. CONTRACTOR may be required to pay any costs associated with a Breach of privacy and/or
6 security of PII and/or PHI, including but not limited to the costs of notification. CONTRACTOR shall
7 pay any and all such costs arising out of a Breach of privacy and/or security of PII and/or PHI.

8
9 **XXIV. RESEARCH AND PUBLICATION**

10 CONTRACTOR shall not utilize information and/or data received from COUNTY, or arising out
11 of, or developed, as a result of this Contract for the purpose of personal or professional research, or for
12 publication.

13
14 **XXV. SEVERABILITY**

15 If a court of competent jurisdiction declares any provision of this Contract or application thereof to
16 any person or circumstances to be invalid or if any provision of this Contract contravenes any federal,
17 state or county statute, ordinance, or regulation, the remaining provisions of this Contract or the
18 application thereof shall remain valid, and the remaining provisions of this Contract shall remain in full
19 force and effect, and to that extent the provisions of this Contract are severable.

20
21 **XXVI. SPECIAL PROVISIONS**

22 A. CONTRACTOR shall not use the funds provided by means of this Contract for the following
23 purposes:

- 24 1. Making cash payments to intended recipients of services through this Contract.
- 25 2. Lobbying any governmental agency or official. CONTRACTOR shall file all certifications
26 and reports in compliance with this requirement pursuant to Title 31, USC, §1352 (e.g., limitation on
27 use of appropriated funds to influence certain federal contracting and financial transactions).
- 28 3. Fundraising.
- 29 4. Purchase of gifts, meals, entertainment, awards, or other personal expenses for
30 CONTRACTOR's staff, volunteers, interns, consultants, subcontractors, and members of the Board of
31 Directors or governing body.
- 32 5. Reimbursement of CONTRACTOR's members of the Board of Directors or governing
33 body for expenses or services.
- 34 6. Making personal loans to CONTRACTOR's staff, volunteers, interns, consultants,
35 subcontractors, and members of the Board of Directors or governing body, or its designee or authorized
36 agent, or making salary advances or giving bonuses to CONTRACTOR's staff.

37 //

1 7. Paying an individual salary or compensation for services at a rate in excess of the current
2 Level I of the Executive Salary Schedule as published by the OPM. The OPM Executive Salary
3 Schedule may be found at www.opm.gov.

4 8. Severance pay for separating employees.

5 9. Paying rent and/or lease costs for a facility prior to the facility meeting all required building
6 codes and obtaining all necessary building permits for any associated construction.

7 10. Supplanting current funding for existing services.

8 B. Unless otherwise specified in advance and in writing by ADMINISTRATOR, CONTRACTOR
9 shall not use the funds provided by means of this Contract for the following purposes:

10 1. Funding travel or training (excluding mileage or parking).

11 2. Making phone calls outside of the local area unless documented to be directly for the
12 purpose of Client care.

13 3. Payment for grant writing, consultants, certified public accounting, or legal services.

14 4. Purchase of artwork or other items that are for decorative purposes and do not directly
15 contribute to the quality of services to be provided pursuant to this Contract.

16 5. Purchasing or improving land, including constructing or permanently improving any
17 building or facility, except for tenant improvements.

18 6. Providing inpatient hospital services or purchasing major medical equipment.

19 7. Satisfying any expenditure of non-federal funds as a condition for the receipt of federal
20 funds (matching).

21 8. Purchase of gifts, meals, entertainment, awards, or other personal expenses for
22 CONTRACTOR's Clients.

23
24 **XXVII. STATUS OF CONTRACTOR**

25 CONTRACTOR is, and shall at all times be deemed to be, an independent contractor and shall be
26 wholly responsible for the manner in which it performs the services required of it by the terms of this
27 Contract. CONTRACTOR is entirely responsible for compensating staff, subcontractors, and
28 consultants employed by CONTRACTOR. This Contract shall not be construed as creating the
29 relationship of employer and employee, or principal and agent, between COUNTY and CONTRACTOR
30 or any of CONTRACTOR's employees, agents, consultants, volunteers, interns, or subcontractors.
31 CONTRACTOR assumes exclusively the responsibility for the acts of its employees, agents,
32 consultants, volunteers, interns, or subcontractors as they relate to the services to be provided during the
33 course and scope of their employment. CONTRACTOR, its agents, employees, consultants, volunteers,
34 interns, or subcontractors, shall not be entitled to any rights or privileges of COUNTY's employees and
35 shall not be considered in any manner to be COUNTY's employees.

36 //

37 //

XXVIII. TERM

A. The term of this Contract shall commence as specified in the Referenced Contract Provisions of this Contract or the execution date, whichever is later. This Contract shall terminate as specified in the Referenced Contract Provisions of this Contract unless otherwise sooner terminated as provided in this Contract. CONTRACTOR shall be obligated to perform such duties as would normally extend beyond this term, including but not limited to, obligations with respect to confidentiality, indemnification, audits, reporting, and accounting.

B. Any administrative duty or obligation to be performed pursuant to this Contract on a weekend or holiday may be performed on the next regular business day.

XXIX. TERMINATION

A. CONTRACTOR shall be responsible for meeting all programmatic and administrative contracted objectives and requirements as indicated in this Contract. CONTRACTOR shall be subject to the issuance of a CAP for the failure to perform to the level of contracted objectives, continuing to not meet goals and expectations, and/or for non-compliance. If CAPs are not completed within timeframe as determined by ADMINISTRATOR notice, payments may be reduced or withheld until CAP is resolved and/or the Contract could be terminated.

B. COUNTY may terminate this Contract immediately, upon written notice, on the occurrence of any of the following events:

1. The loss by CONTRACTOR of legal capacity.
2. Cessation of services.
3. The delegation or assignment of CONTRACTOR’s services, operation or administration to another entity without the prior written consent of COUNTY.
4. The neglect by any physician or licensed person employed by CONTRACTOR of any duty required pursuant to this Contract.
5. The loss of accreditation or any license required by the Licenses and Laws Paragraph of this Contract.
6. The continued incapacity of any physician or licensed person to perform duties required pursuant to this Contract.
7. Unethical conduct or malpractice by any physician or licensed person providing services pursuant to this Contract; provided, however, COUNTY may waive this option if CONTRACTOR removes such physician or licensed person from serving persons treated or assisted pursuant to this Contract.

C. CONTINGENT FUNDING

1. Any obligation of COUNTY under this Contract is contingent upon the following:
 - a. The continued availability of federal, state and county funds for reimbursement of COUNTY’s expenditures, and

1 b. Inclusion of sufficient funding for the services hereunder in the applicable budget(s)
2 approved by the Board of Supervisors.

3 2. In the event such funding is subsequently reduced or terminated, COUNTY may suspend,
4 terminate or renegotiate this Contract upon thirty (30) calendar days' written notice given
5 CONTRACTOR. If COUNTY elects to renegotiate this Contract due to reduced or terminated funding,
6 CONTRACTOR shall not be obligated to accept the renegotiated terms.

7 D. In the event this Contract is suspended or terminated prior to the completion of the term as
8 specified in the Referenced Contract Provisions of this Contract, ADMINISTRATOR may, at its
9 sole discretion, reduce the Not To Exceed Amount of this Contract to be consistent with the reduced
10 term of the Contract.

11 E. In the event this Contract is terminated CONTRACTOR shall do the following:

12 1. Comply with termination instructions provided by ADMINISTRATOR in a manner which
13 is consistent with recognized standards of quality care and prudent business practice.

14 2. Obtain immediate clarification from ADMINISTRATOR of any unsettled issues of contract
15 performance during the remaining contract term.

16 3. Until the date of termination, continue to provide the same level of service required by this
17 Contract.

18 4. If Clients are to be transferred to another facility for services, furnish ADMINISTRATOR,
19 upon request, all Client information and records deemed necessary by ADMINISTRATOR to effect an
20 orderly transfer.

21 5. Assist ADMINISTRATOR in effecting the transfer of Clients in a manner consistent with
22 Client's best interests.

23 6. If records are to be transferred to COUNTY, pack and label such records in accordance
24 with directions provided by ADMINISTRATOR.

25 7. Return to COUNTY, in the manner indicated by ADMINISTRATOR, any equipment and
26 supplies purchased with funds provided by COUNTY.

27 8. To the extent services are terminated, cancel outstanding commitments covering the
28 procurement of materials, supplies, equipment, and miscellaneous items, as well as outstanding
29 commitments which relate to personal services. With respect to these canceled commitments,
30 CONTRACTOR shall submit a written plan for settlement of all outstanding liabilities and all claims
31 arising out of such cancellation of commitment which shall be subject to written approval of
32 ADMINISTRATOR.

33 9. Provide written notice of termination of services to each Client being served under this
34 Contract, within fifteen (15) calendar days of receipt of termination notice. A copy of the notice of
35 termination of services must also be provided to ADMINISTRATOR within the fifteen (15) calendars
36 day period.

37 //

1 F. COUNTY may terminate this Contract, without cause, upon thirty (30) calendar days' written
2 notice. The rights and remedies of COUNTY provided in this Termination Paragraph shall not be
3 exclusive, and are in addition to any other rights and remedies provided by law or under this Contract.

4
5 **XXX. THIRD PARTY BENEFICIARY**

6 Neither Party hereto intends that this Contract shall create rights hereunder in third parties
7 including, but not limited to, any subcontractors or any Clients provided services pursuant to this
8 Contract.

9
10 **XXXI. WAIVER OF DEFAULT OR BREACH**

11 Waiver by COUNTY of any default by CONTRACTOR shall not be considered a waiver of any
12 subsequent default. Waiver by COUNTY of any breach by CONTRACTOR of any provision of this
13 Contract shall not be considered a waiver of any subsequent breach. Waiver by COUNTY of any
14 default or any breach by CONTRACTOR shall not be considered a modification of the terms of this
15 Contract.

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1 IN WITNESS WHEREOF, the Parties have executed this Contract, in the County of Orange, State
2 of California.

3
4 PHOENIX HOUSE

5 DocuSigned by:
6 BY: Shawna Morris _____ DATED: 3/20/2020
7 3FF11E27A21F426...

8
9 TITLE: President and CEO

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12
13
14 COUNTY OF ORANGE

15
16
17 BY: _____ DATED: _____
18 HEALTH CARE AGENCY

19
20
21
22 APPROVED AS TO FORM
23 OFFICE OF THE COUNTY COUNSEL
24 ORANGE COUNTY, CALIFORNIA

25
26 DocuSigned by:
27 BY: Brittany McLean _____ DATED: 3/20/2020
28 9713A4081D4343D...
29 DEPUTY

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32
33
34 If the contracting party is a corporation, two (2) signatures are required: one (1) signature by the Chairman of the Board, the
35 President or any Vice President; and one (1) signature by the Secretary, any Assistant Secretary, the Chief Financial Officer
36 or any Assistant Treasurer. If the contract is signed by one (1) authorized individual only, a copy of the corporate resolution
37 or by-laws whereby the board of directors has empowered said authorized individual to act on its behalf by his or her
signature alone is required by ADMINISTRATOR.

1 EXHIBIT A
 2 TO CONTRACT FOR PROVISION OF
 3 IN-CUSTODY SUBSTANCE USE DISORDER TREATMENT SERVICES
 4 BETWEEN
 5 COUNTY OF ORANGE
 6 AND
 7 PHOENIX HOUSE
 8 JULY 1, 2020 THROUGH JUNE 30, 2023
 9

10 **I. COMMON TERMS AND DEFINITIONS**

11 A. The parties agree to the following terms and definitions, and to those terms and definitions
 12 which, for convenience, are set forth elsewhere in the Agreement.

13 1. Active and On-going Case Load means documentation, by CONTRACTOR, of completion
 14 of the entry and evaluation documents into IRIS, and documentation that the clients are receiving
 15 services at a level and frequency and duration that is consistent with each client’s level of impairment
 16 and treatment goals and consistent with individualized, solution-focused, evidence-based practices.

17 2. Admission means documentation, by CONTRACTOR, of completion of the entry and
 18 evaluation documents into IRIS.

19 3. Alcohol and Drug Abuse Unit of Service means a face-to-face contact which results in a
 20 record of a therapeutic experience in a Client’s chart.

21 4. Best Practices means a term that is often used inter-changeably with “evidence-based
 22 practice” and is best defined as an “umbrella” term for three levels of practice, measured in relation to
 23 Recovery-consistent mental health practices where the Recovery process is supported with scientific
 24 intervention that best meets the needs of the client at this time.

25 a. EBP means evidence-based practices and refers to the interventions utilized for which
 26 there is consistent scientific evidence showing they improved client outcomes and meets the following
 27 criteria: it has been replicated in more than one geographic or practice setting with consistent results; it
 28 is recognized in scientific journals by one or more published articles; it has been documented and put
 29 into manual forms; it produces specific outcomes when adhering to the fidelity of the model.

30 b. Promising Practices means that experts believe the practices are likely to be raised to
 31 the next level when scientific studies can be conducted and is supported by some body of evidence,
 32 (evaluation studies or expert consensus in reviewing outcome data); it has been endorsed by recognized
 33 bodies of advocacy organizations and finally, produces specific outcomes.

34 c. Emerging Practices means that the practice(s) seems like a logical approach to
 35 addressing a specific behavior which is becoming distinct, recognizable among clients and clinicians in
 36 practice, or innovators in academia or policy makers; and at least one recognized expert, group of
 37 //

1 researchers or other credible individuals have endorsed the practice as worthy of attention based on
2 outcomes; and finally, it produces specific outcomes.

3 5. Cal-Learn means a CalWORKs program that serves pregnant and custodial/parenting teen
4 parents under the age of nineteen (19) years of age who have not obtained a high school diploma or
5 equivalent, and are receiving CalWORKs.

6 6. CalOMS means California Outcomes Measurement System and is a statewide Client-based
7 data collection and outcomes measurement system as required by the state to effectively manage and
8 improve the provision of alcohol and other drug services at the state, COUNTY, and provider levels.

9 7. CalWORKs Child Welfare Behavioral Health Services means therapeutic interventions to
10 protect children's welfare and to promote their healthy development in their family home. There are two
11 types of Child Welfare Behavioral Health Services:

12 a. Mutual Client/Family Maintenance means services provided to families who are
13 receiving CalWORKs funding and FM services through the Social Services Agency's Children and
14 Family Services Program. These families may be voluntarily receiving FM services or the children may
15 remain in their home under the supervision of the Juvenile Court.

16 b. Mutual Client/Family Reunification means services with a mandated goal ordered by
17 the Juvenile Court. FR services are limited to parents of children who are receiving CalWORKs
18 funding when their children are placed in the custody of the Juvenile Court.

19 8. CalWORKs Team means the COUNTY unit responsible for outreach, screening, referral
20 and network coordination for Clients enrolled in the Behavioral Health CalWORKs Services program.

21 9. Case Management Linkage Brokerage means a process of identification, assessment of
22 need, planning, coordination and linking, monitoring and continuous evaluation of client and of
23 available resources and advocacy through a process of casework activities in order to achieve the best
24 possible resolution to individual needs in the most effective way possible.

25 10. CAT means Crisis Assessment Team and provides 24 hour mobile response services to any
26 adult who has a psychiatric emergency. This program assists law enforcement, social service agencies,
27 and families in providing crisis intervention services for the mentally ill. CAT is a multidisciplinary
28 program that conducts risk assessments, initiates involuntary hospitalizations, and provides case
29 management, linkage, follow ups for individuals evaluated.

30 11. CESI and CEST mean Client Evaluation of Self at Intake and Client Evaluation of Self and
31 Treatment. They are self-administered survey instruments designed to assess Clients' motivation for
32 change, engagement in treatment, social and peer support, and other psychosocial indicators of progress
33 in recovery.

34 12. Client means an individual, referred by COUNTY or enrolled in a CONTRACTOR's
35 program for services under the Agreement.

36 13. CSU means Crisis Stabilization Unit and refers to a psychiatric crisis stabilization program
37 that operates 24 hours a day that serves Orange County residents, aged 18 and older, who are

1 | experiencing a psychiatric crisis and need immediate evaluation. Clients receive a thorough psychiatric
2 | evaluation, crisis stabilization treatment, and referral to the appropriate level of continuing care. As a
3 | designated outpatient facility, the CSU may evaluate and treat clients for no longer than 23 hours.

4 | 14. CSW means Clinical Social Worker and refers to an individual who meets the minimum
5 | professional and licensure requirements set forth in Title 9, CCR, Section 625, and has two (2) years of
6 | post-Master's clinical experience in a mental health setting.

7 | 15. DATAR means Drug Abuse Treatment Access Report and is the Department of Health
8 | Care Services system to collect data on substance use disorder treatment capacity and waiting lists.

9 | 16. Diagnosis means the definition of the nature of the Client's disorder. When formulating the
10 | Diagnosis of a client, CONTRACTOR shall use the diagnostic codes as specified in the most current
11 | edition of the DSM published by the American Psychiatric Association. DSM diagnoses will be
12 | recorded on all IRIS documents, as appropriate.

13 | 17. DSH means Direct Service Hours and refers to a measure in hours and parts of hours that a
14 | clinician spends providing Client services. DSH credit is obtained for providing mental health, case
15 | management, medication support and crisis intervention service to any Client open in IRIS which
16 | includes both billable and non-billable services.

17 | 18. Engagement means the process by which a trusting relationship between worker and
18 | Client(s) is established with the goal to link the individual(s) to the appropriate services. Engagement of
19 | Client(s) is the objective of a successful outreach.

20 | 19. Face-to-Face means an encounter between Client and provider where they are both
21 | physically present.

22 | 20. Intake means the initial face-to-face meeting between a Client and CONTRACTOR's staff
23 | and includes an evaluation to determine if the client meets program criteria and is willing to seek
24 | services.

25 | 21. Intern means an individual enrolled in an accredited graduate program accumulating
26 | clinically supervised work experience hours as part of field work, internship, or practicum requirements.
27 | Acceptable graduate programs include all programs that assist the student in meeting the educational
28 | requirements in becoming a licensed MFT, a licensed CSW, a licensed PCC, or a licensed Clinical
29 | Psychologist.

30 | 22. IRIS means Integrated Records Information System and refers to a collection of
31 | applications and databases that serve the needs of programs within COUNTY's Health Care Agency and
32 | includes functionality such as registration and scheduling, laboratory information system, billing and
33 | reporting capabilities, compliance with regulatory requirements, electronic medical records and other
34 | relevant applications.

35 | 23. Licensed Mental Health Professional means licensed physicians, licensed psychologist,
36 | licensed clinical social workers, licensed marriage and family therapists, registered nurses, licensed
37 | vocational nurses, and licensed psychiatric technicians.

1 24. Linkage means to assist an individual to connect with a referral.

2 25. Medical Necessity means the requirements as defined in the COUNTY MHP Medical
3 Necessity for Medi-Cal reimbursed Specialty Mental Health Services that includes Diagnosis,
4 Impairment Criteria and Intervention Related Criteria.

5 26. Mental Health Rehabilitation Specialist means an individual who has a Bachelor's Degree
6 and at least four years of experience in a mental health setting as a specialist in the fields of physical
7 restoration, social adjustment or vocational adjustment.

8 27. Mental Health Services means interventions designed to provide the maximum reduction of
9 mental disability and restoration or maintenance of functioning consistent with the requirements for
10 learning, development and enhanced self-sufficiency. Services shall include:

11 a. Assessment means a service activity designed to evaluate the current status of a
12 Client's mental or behavioral health. Assessment includes but is not limited to one or more of the
13 following: mental status determination, analysis of the Client's clinical history, analysis of relevant
14 cultural issues and history, diagnosis, and the use of testing procedures.

15 b. Collateral means a significant support person in a beneficiary's life and is used to
16 define services provided to them with the intent of improving or maintaining the mental health status of
17 the client.

18 c. Co-Occurring Integrated Treatment Model means, in evidence-based integrated
19 treatment programs, clients who receive a combined treatment for mental illness and substance use
20 disorders from the same practitioner or treatment team.

21 d. Crisis Intervention means a service, lasting less than twenty-four (24) hours, to or on
22 behalf of a Client, for a condition that requires more timely response than a regularly scheduled visit.
23 Service activities include, but are not limited to one or more of the following: assessment, collateral and
24 therapy.

25 e. Rehabilitation means a service activity which includes, but is not limited to, assistance
26 in improving, maintaining, or restoring a Client's or group of Clients' functional skills which includes,
27 but not limited to, daily living skills, social and leisure skills, grooming and personal hygiene skills,
28 meal preparation skills, and support resources and/or medication education.

29 f. Targeted Case Management means services that assist a Client to access needed
30 medical, educational, social, prevocational, vocational, rehabilitative, or other community services. The
31 service activities may include, but are not limited to, communication, coordination, and referral;
32 monitoring service delivery to ensure Client access to service(s) and the service delivery system;
33 monitoring of the Client's progress; and plan development.

34 g. Therapy means a service activity that is a therapeutic intervention that focuses
35 primarily on symptom reduction as a means to improve functional impairments. Therapy may be
36 delivered to an individual or group of beneficiaries and may include family therapy at which the Client
37 is present.

1 28. Mental Health Specialist refers to an individual who has a Bachelor's Degree and four years
2 of experience in a mental health setting and who performs individual and group case management
3 studies.

4 29. Mental Health Unit of Service means one (1) minute of contact with the Client which
5 results in a record of a therapeutic experience in a Client's chart.

6 30. Mental Health Worker means an individual who assists in planning, developing and
7 evaluating mental health services for client; provide liaison between client and service providers; and
8 has obtained a Bachelor's degree in a behavioral science field such as psychology, counseling, or social
9 work, or has two (2) years of experience providing client related services to client experiencing mental
10 health, drug abuse or alcohol disorders. Education in a behavioral science field such as psychology,
11 counseling, or social work may be substituted for up to one year of the experience requirement.

12 31. MFT means Marriage and Family Therapist and refers to an individual who meets the
13 minimum professional and licensure requirements set forth in CCR, Title 9, Section 626.

14 32. MORS means Milestones of Recovery Scale and refers to a recovery scale that provides the
15 means of assigning client to their appropriate level of care and replaces the diagnostic and acuity of
16 illness-based tools. The scale is used to create a map of the system by determining which milestone(s)
17 or level of recovery (based on the MORS) are the target groups for different programs across the
18 continuum of programs and services offered by COUNTY.

19 33. PCC means Professional Clinical Counselor and refers to an individual who meets the
20 minimum professional and licensure requirements set forth in CCR, Title 9.

21 34. NPI means National Provider Identifier and refers to the standard unique health identifier
22 that was adopted by the Secretary of Health and Human Services under HIPAA. All HIPAA covered
23 healthcare providers, individuals and organizations must obtain an NPI for use to identify themselves in
24 HIPAA standard transactions. The NPI is assigned for life.

25 35. NPP means Notice of Privacy Practices and refers to a document that notifies individuals of
26 uses and disclosures of PHI that may be made by or on behalf of the health plan or health care provider as
27 set forth in HIPAA.

28 36. Outreach means the outreach to potential Clients to link them to appropriate services and
29 may include activities that involve educating the community about the services offered and requirements
30 for participation in the programs.

31 37. PHI means Protected Health Information and refers to individually identifiable health
32 information usually transmitted by electronic media, maintained in any medium as defined in the
33 regulations, or for an entity such as a health plan, transmitted or maintained in any other medium. It is
34 created or received by a covered entity and relates to the past, present, or future physical or mental
35 health or condition of an individual, provision of health care to an individual, or the past, present, or
36 future payment for health care provided to an individual.

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1 38. Pre-Licensed Therapist means a person who has obtained a Master’s Degree in Social Work
2 or MFT and is registered with the BBS as an Associate Clinical Social Worker or MFT Intern acquiring
3 hours for licensing. An individual’s registration is subject to regulations adopted by the BBS.

4 39. Program Director means an individual who has complete responsibility for the day to day
5 function of the program. The Program Director is the highest level of decision making at a local
6 program level.

7 40. Recovery means a process of change through which individuals improve their health and
8 wellness, live a self-directed life, and strive to reach their full potential, and identifies four major
9 dimensions to support recovery in life:

10 a. Health: Overcoming or managing one’s disease(s) as well as living in a physically and
11 emotionally healthy way;

12 b. Home: A stable and safe place to live;

13 c. Purpose: Meaningful daily activities, such as a job, school, volunteerism, family
14 caretaking, or creative endeavors, and the independence, income and resources to participate in society;
15 and

16 d. Community: Relationships and social networks that provides support, friendship, love,
17 and hope.

18 41. Referral means to send an individual to another person or place for services, help, advice,
19 etc.

20 42. SUD means substance use disorder and refers to a condition in which the use of one or
21 more substances leads to a clinically significant impairment or distress per the DSM-5.

22 43. Supervisory Review means ongoing clinical case reviews in accordance with procedures
23 developed by ADMINISTRATOR, to determine the appropriateness of diagnosis and treatment and to
24 monitor compliance to the minimum ADMINISTRATOR and Medi-Cal charting standards.
25 Supervisory review is conducted by the program/clinic director or designee.

26 44. Therapeutic Activity means activities such as individual counseling, groups, and self-help
27 groups. These activities shall incorporate best practices and evidence-based approaches.

28 45. Token means the security device which allows an individual user to access the COUNTY’s
29 computer based IRIS.

30 46. WRAP means Wellness Recovery Action Plan and refers to a client self-help technique for
31 monitoring and responding to symptoms to achieve the highest possible level of wellness, stability, and
32 quality of life.

33 B. CONTRACTOR and ADMINISTRATOR may mutually agree, in writing, to modify the
34 Common Terms and Definitions Paragraph of this Exhibit A to the Agreement.

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II. BUDGET

A. COUNTY shall pay CONTRACTOR in accordance with the Payments Paragraph in this Exhibit A to the Agreement and the following budget, which are set forth for informational purposes only and may be adjusted by mutual agreement, in advance and in writing, by ADMINISTRATOR and CONTRACTOR.

ADMINISTRATIVE COSTS

Indirect Costs	\$ 272,691
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SUBTOTAL ADMINISTRATIVE COST	\$ 272,691
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PROGRAM COST

Salaries	\$2,087,316
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Benefits	459,210
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Services and Supplies	<u>180,372</u>
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SUBTOTAL PROGRAM COST	\$2,726,898
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TOTAL COST	\$2,999,589
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REVENUE

MENTAL HEALTH SERVICES ACT	\$2,999,589
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TOTAL REVENUE	\$2,999,589
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TOTAL MAXIMUM OBLIGATION	\$2,999,589
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B. CONTRACTOR and ADMINISTRATOR mutually agree that the Total Budget identified in Subparagraph II.A. of this Exhibit A to the Agreement includes Indirect Costs not to exceed fifteen (15%) of Direct Costs, and which may include operating income estimated at two percent (2%). Final settlement paid to CONTRACTOR shall include Indirect Costs and such Indirect Costs may include operating income.

C. In the event CONTRACTOR collects fees and insurance, including Medicare, for services provided pursuant to the Agreement, CONTRACTOR may make written application to ADMINISTRATOR to retain such revenues; provided, however, the application must specify that the fees and insurance will be utilized exclusively to provide behavioral health services. ADMINISTRATOR may, at its sole discretion, approve any such retention of revenues. Approval by ADMINISTRATOR shall be in writing to CONTRACTOR and will specify the amount of said revenues

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1 to be retained and the quantity of services to be provided by CONTRACTOR. Fees received from
2 private resources on behalf of Medi-Cal Clients shall not be eligible for retention by CONTRACTOR.

3 D. BUDGET/STAFFING MODIFICATIONS – CONTRACTOR may request to shift funds
4 between programs, or between budgeted line items within a program, for the purpose of meeting
5 specific program needs or for providing continuity of care to its Clients, by utilizing a Budget/Staffing
6 Modification Request form provided by ADMINISTRATOR. CONTRACTOR shall submit a properly
7 completed Budget/Staffing Modification Request to ADMINISTRATOR for consideration, in advance,
8 which will include a justification narrative specifying the purpose of the request, the amount of said
9 funds to be shifted, and the sustaining annual impact of the shift as may be applicable to the current
10 contract period and/or future contract periods. CONTRACTOR shall obtain written approval of any
11 Budget/Staffing Modification Request(s) from ADMINISTRATOR prior to implementation by
12 CONTRACTOR. Failure of CONTRACTOR to obtain written approval from ADMINISTRATOR for
13 any proposed Budget/Staffing Modification Request(s) may result in disallowance of those costs.

14 E. FINANCIAL RECORDS – CONTRACTOR shall prepare and maintain accurate and complete
15 financial records of its cost and operating expenses. Such records will reflect the actual cost of the type
16 of service for which payment is claimed. Any apportionment of or distribution of costs, including
17 indirect costs, to or between programs or cost centers of CONTRACTOR shall be documented, and will
18 be made in accordance with GAAP and Medicare regulations. If applicable, the Client's eligibility
19 determination and fee charged to and collected from Clients, together with a record of all billings
20 rendered and revenues received from any source, on behalf of Client treated pursuant to the Agreement,
21 must be reflected in CONTRACTOR's financial records.

22 F. CONTRACTOR and ADMINISTRATOR may mutually agree, in writing, to modify the
23 Budget Paragraph of this Exhibit A to the Agreement.

24 25 **III. PAYMENTS**

26 A. BASIS FOR REIMBURSEMENT – COUNTY shall pay CONTRACTOR for the actual costs
27 of providing the services described hereunder, less revenues which are actually received by
28 CONTRACTOR; provided, however, that CONTRACTOR's costs are allowable pursuant to COUNTY,
29 state, and federal regulations. Non-compliance will require the completion of CAP by CONTRACTOR.
30 If CAPs are not completed within timeframes approved by ADMINISTRATOR, payments may be
31 reduced accordingly. Furthermore, if CONTRACTOR is ineligible to provide services due to
32 non-compliance with licensure and/or certification standards of the state or COUNTY,
33 ADMINISTRATOR may elect to reduce COUNTY's maximum obligation proportionate to the length
34 of time that CONTRACTOR is ineligible to provide services.

35 B. PAYMENT METHOD – COUNTY shall pay CONTRACTOR monthly in arrears the actual
36 cost of the services, less revenues that are actually received by CONTRACTOR provided, however, that
37 the total of such payments shall not exceed the COUNTY's Maximum Obligation. CONTRACTOR's

1 invoice shall be on a form approved or provided by ADMINISTRATOR and shall provide such
2 information as is required by ADMINISTRATOR. Invoices are due by the twentieth (20th) calendar
3 day of each month. Invoices received after the due date may not be paid within the same month.
4 Payments to CONTRACTOR should be released by COUNTY no later than thirty (30) calendar days
5 after receipt of the correctly completed invoice form.

6 C. All payments are interim payments only, and subject to final settlement in accordance with the
7 Cost Report Paragraph of the Agreement for which CONTRACTOR shall be reimbursed for the actual
8 cost of providing the services, which may include Indirect Administrative Costs, as identified in
9 Subparagraph II.A. of this Exhibit A to the Agreement; provided, however, the total of such payment
10 does not exceed the Maximum Obligation for each period as stated in the Referenced Contract
11 Provisions of the Agreement and provided further, CONTRACTOR's costs are reimbursable pursuant to
12 COUNTY, state, and/or federal regulations. ADMINISTRATOR may, at its discretion, pay
13 supplemental invoices for any month for which the provisional amount specified above has not been
14 fully paid.

15 D. All invoices to COUNTY shall be supported, at CONTRACTOR's facility, by source
16 documentation including, but not limited to, ledgers, books, vouchers, journals, time sheets, payrolls,
17 appointment schedules, schedules for allocating costs, invoices, bank statements, canceled checks,
18 receipts, receiving records, and records of services provided.

19 E. In support of the monthly invoice, CONTRACTOR shall submit an Expenditure and Revenue
20 Report as specified in the Reports Paragraph of this Exhibit A to the Agreement. ADMINISTRATOR
21 may use the Expenditure and Revenue Report to determine payment to CONTRACTOR.

22 F. ADMINISTRATOR may withhold or delay any payment if CONTRACTOR fails to comply
23 with any provision of the Agreement.

24 G. COUNTY shall not reimburse CONTRACTOR for services provided beyond the expiration
25 and/or termination of the Agreement, except as may otherwise be provided under the Agreement, or
26 specifically agreed upon in a subsequent Agreement.

27 H. CONTRACTOR and ADMINISTRATOR may mutually agree, in writing, to modify the
28 Payments Paragraph of this Exhibit A to the Agreement.

29 30 **IV. REPORTS**

31 A. CONTRACTOR shall maintain records and make statistical reports as required by
32 ADMINISTRATOR and the DHCS on forms provided by either agency.

33 **B. FISCAL**

34 1. CONTRACTOR shall submit monthly Expenditure and Revenue Reports to
35 ADMINISTRATOR. These reports will be on a form acceptable to, or provided by,
36 ADMINISTRATOR and will report actual costs and revenues for CONTRACTOR's program described
37 in the Services Paragraph of Exhibit A to the Agreement. Such reports will also include actual

1 productivity as defined by ADMINISTRATOR. The reports will be received by ADMINISTRATOR
 2 no later than the twentieth (20th) calendar day of the month following the report month.
 3 CONTRACTOR must request in writing any extensions to the due date of the monthly required reports.
 4 If an extension is approved by ADMINISTRATOR, the total extension will not exceed more than five
 5 (5) calendar days.

6 2. CONTRACTOR shall submit monthly Year-End Projection Reports to
 7 ADMINISTRATOR. These reports will be on a form acceptable to, or provided by,
 8 ADMINISTRATOR and will report anticipated year-end actual costs and revenues for
 9 CONTRACTOR's program described in the Services Paragraph of this Exhibit A to the Agreement.
 10 Such reports will include actual monthly costs and revenue to date and anticipated monthly costs and
 11 revenue to the end of the fiscal year. Year-End Projection Reports will be submitted in conjunction with
 12 the Monthly Expenditure and Revenue Reports.

13 C. STAFFING – CONTRACTOR shall submit monthly Staffing Reports to ADMINISTRATOR.
 14 These reports will be on a form acceptable to, or provided by, ADMINISTRATOR and will, at a
 15 minimum, report the actual FTEs of the positions stipulated in the Staffing Paragraph of this Exhibit A
 16 to the Agreement and will include the employees' names, licensure status, monthly salary, hire and/or
 17 termination date and any other pertinent information as may be required by ADMINISTRATOR. The
 18 reports will be received by ADMINISTRATOR no later than twentieth (20th) calendar days following
 19 the end of the month being reported. If an extension is approved by ADMINISTRATOR, the total
 20 extension will not exceed more than five (5) calendar days.

21 D. PROGRAMMATIC – CONTRACTOR shall provide the following Program Reports in support
 22 of In-Custody SUD services at the request of ADMINISTRATOR. These reports shall be on a form
 23 approved or provided by ADMINISTRATOR.

24 I. ADDITIONAL REPORTS – Upon ADMINISTRATOR's request, CONTRACTOR shall make
 25 such additional reports as required by ADMINISTRATOR concerning CONTRACTOR's activities as
 26 they affect the services hereunder. ADMINISTRATOR shall be specific as to the nature of information
 27 requested and allow up to thirty (30) calendar days for CONTRACTOR to respond.

28 J. CONTRACTOR and ADMINISTRATOR may mutually agree, in writing, to modify the
 29 Reports Paragraph of this Exhibit A to the Agreement.

30 31 **V. SERVICES**

32 **A. FACILITY**

33 1. FACILITY LOCATION – CONTRACTOR shall maintain facilities which meet the
 34 minimum requirements for Behavioral Health Outpatient Services for exclusive use by COUNTY at the
 35 following locations, or any other location approved, in advance, in writing, by ADMINISTRATOR:

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Phoenix House
1207 East Fruit Street
Santa Ana, CA 92701

2. CONTRACTOR agrees that most services will occur in Theo Lacy jail.

3. FACILITY STANDARDS – The facilities shall meet the following standards:

a. The facility shall include space to support the services identified within the Agreement.

b. CONTRACTOR shall maintain regularly scheduled service hours, from 8:00 a.m. until 5:00 p.m., Monday through Friday, with the provision of at least one day per week for early morning or evening hours (before 8:00 a.m. and after 5:00 p.m.) or weekends, when necessary to accommodate Clients unable to participate during normal business hours.

c. CONTRACTOR shall maintain a holiday schedule consistent with COUNTY’s holiday schedule, unless otherwise authorized, in advance and in writing, by ADMINISTRATOR.

B. INDIVIDUALS TO BE SERVED

1. CONTRACTOR shall provide services to adult male and female inmates with substance abuse disorders who have at least sixty (60) days of their sentence remaining.

2. CONTRACTOR agrees that inmates may also voluntarily request In-Custody services. Inmates will be assessed and referred to the program by HCA personnel.

3. CONTRACTOR agrees that inmates admitted into the program must agree to follow all guidelines and commit to participate in the Post-Release Continuing Care continuum of services.

4. CONTRACTOR agrees that inmates with certain specific charges (e.g. violent offences, major drug sales, sex offences, history of narcotics in jail, etc.) may be excluded from the treatment program.

C. PROGRAM SERVICES

1. The Orange County Sheriff’s Department (OCSD) has established, within the Orange County Jail System, sixth-four (64) beds for In-Custody Substance Use Disorder treatment programs for male and female inmates. CONTRACTOR shall provide services in three service components:

a. In-Custody Substance Use Disorder Treatment Services;

b. Post-Release Continuing Care Services; and

c. Case Management Services

2. In-Custody Substance Use Disorder Treatment Services

a. CONTRACTOR shall provide an In-Custody, modified therapeutic community phased program with a length of stay of a minimum of sixty (60) days that also incorporates self-help concepts.

b. CONTRACTOR shall provide an In-Custody program that will be housed within the Orange County Jail System.

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1 c. CONTRACTOR shall ensure that program participants are housed together in the
2 housing units dedicated to these services. Inmates will receive intensive substance abuse recovery
3 services for at least sixty (60) days of their remaining sentence, prior to being released in the community.

4 d. CONTRACTOR shall provide In-Custody programming that includes but is not limited
5 to the following services:

- 6 1) Substance abuse evaluation/inmate assessment
- 7 2) Program Orientation
- 8 3) Self-Help Meetings
- 9 4) Individual counseling
- 10 5) Medication-assisted treatment (MAT), if appropriate
- 11 6) Process groups
- 12 7) Substance abuse education groups
- 13 8) Relapse prevention
- 14 9) Recreational activities
- 15 10) Pre-release Continuing Care and discharge planning

16 e. CONTRACTOR shall provide structured activities at least six and one-half (6 ½) days
17 per week. A day means not less than eight (8) hours.

18 f. CONTRACTOR agrees that sanctions will be imposed on participants to address
19 participant's violation of program rules and that all sanctions must be pre-approved by HCA and OCSD.

20 g. CONTRACTOR agrees that incentives will be offered to participants and that
21 incentives must be pre-approved by OCSD.

22 2. Post-Release Continuing Care and Case Management Services

23 a. CONTRACTOR agrees that prior to release from the Theo Lacy Branch Jail,
24 participants will be linked to a Post-Release Continuing Care Case Management team.

25 b. CONTRACTOR agrees to ensure that the Case Management Team will provide linkage
26 to on-going services and will provide interim services to clients while they are attempting to link to
27 ongoing treatment.

28 c. CONTRACTOR agrees that linkage to ongoing treatment will be based on an ASAM
29 level screening so that clients will be linked to the appropriate level of care.

30 d. CONTRACTOR agrees that transportation services will be provided for all participants
31 to Post-Release Continuing Care services immediately upon release from jail.

32 e. CONTRACTOR agrees that transportation services will continue until clients are fully
33 linked to their ongoing provider.

34 D. PERFORMANCE OUTCOME MEASURES

35 1. CONTRACTOR agrees that annually the percentage of Clients who complete the program
36 by meeting treatment planning goals and remaining in the program until their release should exceed
37 75%.

1 2. CONTRACTOR agrees that annually 95% of clients will link to ongoing services within
2 ten (10) days of release who are working with the post release case management team.

3 3. CONTRACTOR agrees to provide a annual recidivism rate study comparing the re-arrest
4 rates of clients who have gone through the program to the general population who are released from jail.

5 4. CONTRACTOR shall have and post at the location where services are provided, written
6 procedures for obtaining medical or psychiatric evaluation and emergency services.

7 E. CONTRACTOR shall not engage in, or permit any of its employees or subcontractors, to
8 conduct research activity on COUNTY Clients without obtaining prior written authorization from
9 ADMINISTRATOR.

10 F. CONTRACTOR shall develop all requested and required program specific policies and
11 procedures (P&Ps) and guidelines, and provide to ADMINISTRATOR for review, input, and approval
12 prior to training staff on said P&Ps. All P&Ps and program guidelines will be reviewed bi-annually at a
13 minimum for updates.

14 G. CONTRACTOR shall provide initial and on-going training and staff development, as requested
15 by ADMINISTRATOR.

16 H. CONTRACTOR shall not conduct any proselytizing activities, regardless of funding sources,
17 with respect to any individual(s) who have been referred to CONTRACTOR by ADMINISTRATOR
18 under the terms of the Agreement. Further, CONTRACTOR agrees that the funds provided hereunder
19 will not be used to promote, directly or indirectly, any religion, religious creed or cult, denomination or
20 sectarian institution, or religious belief.

21 I. CONTRACTOR shall provide effective Administrative management of the budget, staffing,
22 recording, and reporting portion of the Agreement with the COUNTY, including but not limited to the
23 following. If administrative responsibilities are delegated to subcontractors, the CONTRACTOR must
24 ensure that any subcontractor(s) possess the qualifications and capacity to perform all delegated
25 responsibilities.

26 1. Designate the responsible position(s) in your organization for managing the funds allocated
27 to this program;

28 2. Maximize the use of the allocated funds;

29 3. Ensure timely and accurate reporting of monthly expenditures;

30 4. Maintain appropriate staffing levels;

31 5. Request budget and/or staffing modifications to the Agreement;

32 6. Effectively communicate and monitor the program for its success;

33 7. Track and report expenditures electronically;

34 8. Maintain electronic and telephone communication between key staff and the Contract and
35 Program Administrators; and

36 9. Act quickly to identify and solve problems.

37 J. CONTRACTOR shall coordinate with COUNTY, other providers, and community resources.

1 K. CONTRACTOR shall establish a Good Neighbor Policy, which shall be reviewed and approved
2 by ADMINISTRATOR. The policy shall include, but not be limited to, staff training to deal with
3 neighbor complaints and staff contact information available to neighboring residents

4 Q. CONTRACTOR and ADMINISTRATOR may mutually agree, in writing, to modify the
5 Services Paragraph of this Exhibit A to the Agreement.

6 7 **VI. STAFFING**

8 A. CONTRACTOR shall establish a written Code of Conduct for employees, volunteers, interns,
9 and members of the Board of Directors which will include, but not be limited to, standards related to the
10 use of drugs and/or alcohol; staff-Client relationships; prohibition of sexual contact with Clients; and
11 conflict of interest. Prior to providing any services pursuant to the Agreement, all members of the
12 Board of Directors, employees, volunteers, and interns will agree in writing to maintain the standards set
13 forth in the Code of Conduct.

14 B. CONTRACTOR shall make its best effort to provide services pursuant to the Agreement in a
15 manner that is culturally and linguistically appropriate for the population(s) served. CONTRACTOR
16 shall maintain documents of such efforts which may include; but not limited to: records of participation
17 in COUNTY-sponsored or other applicable training; recruitment and hiring policies and procedures;
18 copies of literature in multiple languages and formats, as appropriate; and descriptions of measures
19 taken to enhance accessibility for, and sensitivity to, individuals who are physically challenged.

20 C. CONTRACTOR shall include bilingual/bicultural services to meet the needs of threshold
21 languages as determined by COUNTY. Whenever possible, bilingual/bicultural staff should be retained.
22 CONTRACTOR shall work with the COUNTY or other interpreters for other languages as needed.
23 Direct capacity to conduct culturally and linguistically appropriate engagement and to serve Clients in
24 other languages and ASL is highly desirable. CONTRACTOR shall draw upon cultural strengths and
25 utilize service delivery and assistance in a manner that is trusted by, and familiar to, many of
26 COUNTY's ethnically and culturally diverse populations. Cultural and linguistic appropriateness shall
27 be a continuous focus in the development of the programming, recruitment, and hiring of staff that speak
28 the same language and have the same cultural background of the Clients to be serviced. This inclusion
29 of COUNTY's multiple cultures will assist in maximizing access to services. CONTRACTOR shall
30 provide education and training to staff to address cultural and linguistic needs of population served. All
31 clinical vacancies occurring at a time when bilingual and bicultural composition of the clinical staffing
32 does not meet the above requirement must be filled with bilingual and bicultural staff unless
33 ADMINISTRATOR consents, in writing, to the filling of those positions with non-bilingual staff.
34 Salary savings resulting from such vacant positions may not be used to cover costs other than salaries
35 and employee benefits unless otherwise authorized in writing, in advance, by ADMINISTRATOR.

36 D. CONTRACTOR shall notify ADMINISTRATOR, in writing, within seventy-two (72) hours, of
37 any staffing vacancies or filling of vacant positions that occur during the term of the Agreement.

1 E. CONTRACTOR shall notify ADMINISTRATOR, in writing, at least seven (7) calendar days in
 2 advance, of any new staffing changes; including promotions, temporary FTE changes and internal or
 3 external temporary staffing assignment requests that occur during the term of the Agreement.

4 F. CONTRACTOR agrees that all personnel assigned to the performance of the services will be
 5 closely evaluated and must be approved in advance by COUNTY and OCSD prior to beginning
 6 services. At the discretion of the COUNTY, personnel requiring advance approval and OCSD clearance
 7 include but are not limited to the following:

- 8 1. Licensed or Licensed waived clinicians
- 9 2. Registered or Credentialed Substance Use Counselors
- 10 3. Clinical Lead
- 11 4. Program Manager/Director
- 12 5. Medical Director
- 13 6. Peer Employees (for Case Management Team)

14 G. CONTRACTOR shall, at a minimum, provide the following staffing pattern expressed in FTEs
 15 continuously throughout the term of the Agreement. One (1) FTE will be equal to an average of forty
 16 (40) hours work per week.

PROGRAM	<u>FTEs</u>
Program Director	1.00
Program Administrator	0.50
Quality Assurance Specialist	0.50
Medical Director	0.05
In-Custody Nurse	0.10
In-Custody Licensed Clinician Lead	1.00
In-Custody Licensed Clinician (For Men)	1.00
In-Custody Licensed Clinician (For Women)	1.00
In-Custody Licensed Counselor (For Men)	1.00
In-Custody Licensed Counselor (For Women)	1.00
In-Custody Admissions Counselor	0.80
Post Release Case Manager	1.00
Post Release Case Manager (Peer)	1.00
In-Custody and Post Release Driver	0.50
SUBTOTAL PROGRAM	14.45
TOTAL FTEs	14.45

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1 H. WORKLOAD STANDARDS

2 1. All program staff having direct contact with Clients shall, within the first (1st) year of
3 employment, be trained in infectious disease recognition, crisis intervention and to recognize physical
4 and psychiatric symptoms that require appropriate referrals to other agencies. CONTRACTOR shall
5 provide ongoing training in topics related to alcohol and drug use on a yearly basis.

6 2. Staffing levels and qualifications shall meet the requirements of as stated in CCR Title 9,
7 Division 1, Chapter 3, Article 8; Title 9; Division 4, Chapter 8 and/or the State of California Health and
8 Human Services Agency's Department of Health Care Services, Alcohol and/or Other Drug
9 Certification Standards for Outpatient Services.

10 3. All clinical staff providing treatment services shall be either licensed, registered interns,
11 such as Associate Clinical Social Workers (ACSW), Associate Marriage and Family Therapists
12 (AMFT), Associate Professional Clinical Counselor, and/or certified in accordance with state DHCS
13 requirements and professional guidelines, as applicable.

14 4. Child Welfare Behavioral Health Services In-Office Counseling shall be provided by staff
15 who are either licensed (LCSW, LMFT or psychologist) or registered interns, such as ACSW or AMFT,
16 or possess a Master's Degree in either psychology, sociology, social work, or related field with one (1)
17 to two (2) years' experience in the human services fields.

18 5. Domestic Violence Counseling shall be provided by staff who are either licensed (LCSW,
19 LMFT or psychologist) or registered interns, such as ACSW or AMFT, or possess a Master's Degree in
20 either psychology, sociology, social work, or related field with one (1) to two (2) years' experience in
21 the human services fields.

22 6. CONTRACTOR shall provide clinical supervision for all registered/waivered employees,
23 interns and volunteers as required by the respective governing licensing board such as the Board of
24 Behavioral Sciences (BBS). For BBS, a least one unit of supervision is required for the first 10 hours of
25 psychotherapy/counseling in any week; one (1) additional unit of supervision is required for 10+ hours
26 of psychotherapy/counseling in a given week; after required hours have been accrued, staff must
27 continue to receive required supervision until a license is issued. Clinical supervision shall be provided
28 by a qualified Licensed Mental Health Professionals (LMHP) within the same legal entity and be
29 documented for all registered/waivered employees, interns and volunteers.

30 7. CONTRACTOR may augment the above paid staff with volunteers or interns upon written
31 approval of ADMINISTRATOR.

32 a. CONTRACTOR shall provide supervision to volunteers as specified in the respective
33 job descriptions or work contracts.

34 b. An intern is an individual enrolled in an accredited graduate program accumulating
35 clinically supervised work experience hours as part of field work, internship, or practicum requirements.
36 Acceptable graduate programs include all programs that assist the student in meeting the educational
37 requirements in becoming a LMFT, a LCSW, LPCC, or a licensed Clinical Psychologist.

1 c. Volunteer and student intern services shall not comprise more than twenty percent
2 (20%) of total services provided.

3 8. All CONTRACTOR staff must have an initial Department of Justice live scan prior to hire,
4 and updated annual criminal checks through the internet, utilizing Megan’s Law, Orange County
5 //
6 Sheriff’s, and Orange County Superior Courts. Staff may be hired temporarily pending live scan results
7 as long as all the internet checks have been completed and are acceptable.

8 9. CONTRACTOR shall maintain personnel files for each staff member, including the
9 management and other administrative positions, which will include, but not be limited to, an application
10 for employment, qualifications for the position, documentation of bicultural/bilingual capabilities (if
11 applicable), pay rate and evaluations justifying pay increases.

12 10. CONTRACTOR shall provide pre-employment screening of any staff person providing any
13 service pursuant to the Agreement.

14 a. All staff, prior to hiring, shall meet the following requirements:

15 1. No person shall have been convicted of a sex offense for which the person is required
16 to register as a sex offender under California Penal Code section 290.

17 2. No person shall have been convicted of an arson offense – Violation of Penal Code
18 sections 451, 451.1, 452, 452.1, 453, 454, or 455;

19 3. No person shall have been convicted of any violent felony as defined in Penal Code
20 section 667.5, which involve doing bodily harm to another person, for which the staff member was
21 convicted within five years prior to employment;

22 4. No person shall be on parole or probation;

23 5. No person shall participate in the criminal activities of a criminal street gang and/or
24 prison gang; and

25 6. No person shall have prior employment history of improper conduct, including but not
26 limited to, forging or falsifying documents or drug tests, sexual assault or sexual harassment, or
27 inappropriate behavior with staff or Clients at another treatment facility.

28 b. Exceptions to staffing requirements set forth above may be requested if CONTRACTOR
29 deems the decision will benefit the program. Requests for exceptions shall be submitted in writing and
30 approved in advance by ADMINISTRATOR.

31 I. CONTRACTOR shall ensure that all staff, including interns and volunteers, are trained and
32 have a clear understanding of all P&Ps. CONTRACTOR shall provide signature confirmation of the
33 P&P training for each staff member and place in their personnel files.

34 J. CONTRACTOR shall ensure that all staff completes the COUNTY’s Annual Provider Training,
35 Annual Compliance Training, and Annual Cultural Competency Training.

36 K. CONTRACTOR shall ensure compliance with ADMINISTRATOR Standards of Care
37 practices, P&Ps, documentation standards and any state regulatory requirements.

1 L. COUNTY shall provide, or cause to be provided, training and ongoing consultation to
2 CONTRACTOR's staff to assist CONTRACTOR in ensuring compliance with ADMINISTRATOR
3 Standards of Care practices, P&Ps, documentation standards and any state regulatory requirements.

4 M. TOKENS – ADMINISTRATOR shall provide CONTRACTOR the necessary number of
5 Tokens for appropriate individual staff to access the IRIS at no cost to the CONTRACTOR.

6 1. CONTRACTOR recognizes Tokens are assigned to a specific individual staff member with
7 a unique password. Tokens and passwords will not be shared with anyone.

8 2. CONTRACTOR shall maintain an inventory of the Tokens, by serial number and the staff
9 member to whom each is assigned.

10 3. CONTRACTOR shall indicate in the monthly staffing report, the serial number of the
11 Token for each staff member assigned a Token.

12 4. CONTRACTOR shall return to ADMINISTRATOR all Tokens under the following
13 conditions:

- 14 a. Each staff member who no longer supports the Agreement;
- 15 b. Each staff member who no longer requires access to the IRIS;
- 16 c. Each staff member who leaves employment of CONTRACTOR; or
- 17 d. Token is malfunctioning.
- 18 e. Termination of this Agreement.

19 5. ADMINISTRATOR shall issue Tokens for CONTRACTOR's staff members who require
20 access to the IRIS upon initial training or as a replacement for malfunctioning Tokens.

21 6. CONTRACTOR shall reimburse the ADMINISTRATOR for Tokens lost, stolen, or
22 damaged through acts of negligence.

23 N. CONTRACTOR and ADMINISTRATOR may mutually agree, in writing, to modify the
24 Staffing Paragraph of this Exhibit A to the Agreement.

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1 EXHIBIT B
2 TO CONTRACT FOR PROVISION OF
3 IN-CUSTODY SUBSTANCE USE DISORDER TREATMENT SERVICES
4 BETWEEN
5 COUNTY OF ORANGE
6 AND
7 PHOENIX HOUSE
8 JULY 1, 2020 THROUGH JUNE 30, 2023
9

10 **I. BUSINESS ASSOCIATE CONTRACT**

11 **A. GENERAL PROVISIONS AND RECITALS**

12 1. The parties agree that the terms used, but not otherwise defined in the Common Terms and
13 Definitions Paragraph of Exhibit A, B, and C to the Contract or in subparagraph B below, shall have the
14 same meaning given to such terms under HIPAA, the HITECH Act, and their implementing regulations
15 at 45 CFR Parts 160 and 164 HIPAA regulations as they may exist now or be hereafter amended.

16 2. The parties agree that a business associate relationship under HIPAA, the HITECH Act,
17 and the HIPAA regulations between the CONTRACTOR and COUNTY arises to the extent that
18 CONTRACTOR performs, or delegates to subcontractors to perform, functions or activities on behalf of
19 COUNTY pursuant to, and as set forth in, the Contract that are described in the definition of “Business
20 Associate” in 45 CFR § 160.103.

21 3. The COUNTY wishes to disclose to CONTRACTOR certain information pursuant to the
22 terms of the Contract, some of which may constitute PHI, as defined below in Subparagraph B.10, to be
23 used or disclosed in the course of providing services and activities pursuant to, and as set forth, in the
24 Contract.

25 4. The parties intend to protect the privacy and provide for the security of PHI that may be
26 created, received, maintained, transmitted, used, or disclosed pursuant to the Contract in compliance
27 with the applicable standards, implementation specifications, and requirements of HIPAA, the HITECH
28 Act, and the HIPAA regulations as they may exist now or be hereafter amended.

29 5. The parties understand and acknowledge that HIPAA, the HITECH Act, and the HIPAA
30 regulations do not pre-empt any state statutes, rules, or regulations that are not otherwise pre-empted by
31 other Federal law(s) and impose more stringent requirements with respect to privacy of PHI.

32 6. The parties understand that the HIPAA Privacy and Security rules, as defined below in
33 Subparagraphs B.9 and B.14, apply to the CONTRACTOR in the same manner as they apply to the
34 covered entity (COUNTY). CONTRACTOR agrees therefore to be in compliance at all times with the
35 terms of this Business Associate Contract, as it exists now or be hereafter updated with notice to
36 CONTRACTOR, and the applicable standards, implementation specifications, and requirements of the
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1 Privacy and the Security rules, as they may exist now or be hereafter amended, with respect to PHI and
2 electronic PHI created, received, maintained, transmitted, used, or disclosed pursuant to the Contract.

3 B. DEFINITIONS

4 1. "Administrative Safeguards" are administrative actions, and policies and procedures, to
5 manage the selection, development, implementation, and maintenance of security measures to protect
6 electronic PHI and to manage the conduct of CONTRACTOR's workforce in relation to the protection
7 of that information.

8 2. "Breach" means the acquisition, access, use, or disclosure of PHI in a manner not permitted
9 under the HIPAA Privacy Rule which compromises the security or privacy of the PHI.

10 a. Breach excludes:

11 1) Any unintentional acquisition, access, or use of PHI by a workforce member or
12 person acting under the authority of CONTRACTOR or COUNTY, if such acquisition, access, or use
13 was made in good faith and within the scope of authority and does not result in further use or disclosure
14 in a manner not permitted under the Privacy Rule.

15 2) Any inadvertent disclosure by a person who is authorized to access PHI at
16 CONTRACTOR to another person authorized to access PHI at the CONTRACTOR, or organized health
17 care arrangement in which COUNTY participates, and the information received as a result of such
18 disclosure is not further used or disclosed in a manner not permitted under the HIPAA Privacy Rule.

19 3) A disclosure of PHI where CONTRACTOR or COUNTY has a good faith belief
20 that an unauthorized person to whom the disclosure was made would not reasonably have been able to
21 retain such information.

22 b. Except as provided in paragraph (a) of this definition, an acquisition, access, use, or
23 disclosure of PHI in a manner not permitted under the HIPAA Privacy Rule is presumed to be a breach
24 unless CONTRACTOR demonstrates that there is a low probability that the PHI has been compromised
25 based on a risk assessment of at least the following factors:

26 1) The nature and extent of the PHI involved, including the types of identifiers and the
27 likelihood of re-identification;

28 2) The unauthorized person who used the PHI or to whom the disclosure was made;

29 3) Whether the PHI was actually acquired or viewed; and

30 4) The extent to which the risk to the PHI has been mitigated.

31 3. "Data Aggregation" shall have the meaning given to such term under the HIPAA Privacy
32 Rule in 45 CFR § 164.501.

33 4. "DRS" shall have the meaning given to such term under the HIPAA Privacy Rule in 45
34 CFR § 164.501.

35 5. "Disclosure" shall have the meaning given to such term under the HIPAA regulations in 45
36 CFR § 160.103.

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1 6. "Health Care Operations" shall have the meaning given to such term under the HIPAA
2 Privacy Rule in 45 CFR § 164.501.

3 7. "Individual" shall have the meaning given to such term under the HIPAA Privacy Rule in
4 45 CFR § 160.103 and shall include a person who qualifies as a personal representative in accordance
5 with 45 CFR § 164.502(g).

6 8. "Physical Safeguards" are physical measures, policies, and procedures to protect
7 CONTRACTOR's electronic information systems and related buildings and equipment, from natural
8 and environmental hazards, and unauthorized intrusion.

9 9. "The HIPAA Privacy Rule" shall mean the Standards for Privacy of Individually
10 Identifiable Health Information at 45 CFR Part 160 and Part 164, Subparts A and E.

11 10. "PHI" shall have the meaning given to such term under the HIPAA regulations in 45 CFR §
12 160.103.

13 11. "Required by Law" shall have the meaning given to such term under the HIPAA Privacy
14 Rule in 45 CFR § 164.103.

15 12. "Secretary" shall mean the Secretary of the Department of Health and Human Services or
16 his or her designee.

17 13. "Security Incident" means attempted or successful unauthorized access, use, disclosure,
18 modification, or destruction of information or interference with system operations in an information
19 system. "Security incident" does not include trivial incidents that occur on a daily basis, such as scans,
20 "pings", or unsuccessful attempts to penetrate computer networks or servers maintained by
21 CONTRACTOR.

22 14. "The HIPAA Security Rule" shall mean the Security Standards for the Protection of
23 electronic PHI at 45 CFR Part 160, Part 162, and Part 164, Subparts A and C.

24 15. "Subcontractor" shall have the meaning given to such term under the HIPAA regulations in
25 45 CFR § 160.103.

26 16. "Technical safeguards" means the technology and the policy and procedures for its use that
27 protect electronic PHI and control access to it.

28 17. "Unsecured PHI" or "PHI that is unsecured" means PHI that is not rendered unusable,
29 unreadable, or indecipherable to unauthorized individuals through the use of a technology or
30 methodology specified by the Secretary of Health and Human Services in the guidance issued on the
31 HHS Web site.

32 18. "Use" shall have the meaning given to such term under the HIPAA regulations in 45 CFR §
33 160.103.

34 C. OBLIGATIONS AND ACTIVITIES OF CONTRACTOR AS BUSINESS ASSOCIATE:

35 1. CONTRACTOR agrees not to use or further disclose PHI COUNTY discloses to
36 CONTRACTOR other than as permitted or required by this Business Associate Contract or as required
37 by law.

1 2. CONTRACTOR agrees to use appropriate safeguards, as provided for in this Business
2 Associate Contract and the Contract, to prevent use or disclosure of PHI COUNTY discloses to
3 CONTRACTOR or CONTRACTOR creates, receives, maintains, or transmits on behalf of COUNTY
4 other than as provided for by this Business Associate Contract.

5 3. CONTRACTOR agrees to comply with the HIPAA Security Rule at Subpart C of 45 CFR
6 Part 164 with respect to electronic PHI COUNTY discloses to CONTRACTOR or CONTRACTOR
7 creates, receives, maintains, or transmits on behalf of COUNTY.

8 4. CONTRACTOR agrees to mitigate, to the extent practicable, any harmful effect that is
9 known to CONTRACTOR of a Use or Disclosure of PHI by CONTRACTOR in violation of the
10 requirements of this Business Associate Contract.

11 5. CONTRACTOR agrees to report to COUNTY immediately any Use or Disclosure of PHI
12 not provided for by this Business Associate Contract of which CONTRACTOR becomes aware.
13 CONTRACTOR must report Breaches of Unsecured PHI in accordance with subparagraph E below and
14 as required by 45 CFR § 164.410.

15 6. CONTRACTOR agrees to ensure that any Subcontractors that create, receive, maintain, or
16 transmit PHI on behalf of CONTRACTOR agree to the same restrictions and conditions that apply
17 through this Business Associate Contract to CONTRACTOR with respect to such information.

18 7. CONTRACTOR agrees to provide access, within fifteen (15) calendar days of receipt of a
19 written request by COUNTY, to PHI in a DRS, to COUNTY or, as directed by COUNTY, to an
20 Individual in order to meet the requirements under 45 CFR § 164.524. If CONTRACTOR maintains an
21 EHR with PHI, and an individual requests a copy of such information in an electronic format,
22 CONTRACTOR shall provide such information in an electronic format.

23 8. CONTRACTOR agrees to make any amendment(s) to PHI in a DRS that COUNTY directs
24 or agrees to pursuant to 45 CFR § 164.526 at the request of COUNTY or an Individual, within thirty
25 (30) calendar days of receipt of said request by COUNTY. CONTRACTOR agrees to notify COUNTY
26 in writing no later than ten (10) calendar days after said amendment is completed.

27 9. CONTRACTOR agrees to make internal practices, books, and records, including P&Ps,
28 relating to the use and disclosure of PHI received from, or created or received by CONTRACTOR on
29 behalf of, COUNTY available to COUNTY and the Secretary in a time and manner as determined by
30 COUNTY or as designated by the Secretary for purposes of the Secretary determining COUNTY's
31 compliance with the HIPAA Privacy Rule.

32 10. CONTRACTOR agrees to document any Disclosures of PHI COUNTY discloses to
33 CONTRACTOR or CONTRACTOR creates, receives, maintains, or transmits on behalf of COUNTY,
34 and to make information related to such Disclosures available as would be required for COUNTY to
35 respond to a request by an Individual for an accounting of Disclosures of PHI in accordance with 45
36 CFR § 164.528.

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1 11. CONTRACTOR agrees to provide COUNTY or an Individual, as directed by COUNTY, in
2 a time and manner to be determined by COUNTY, that information collected in accordance with the
3 Contract, in order to permit COUNTY to respond to a request by an Individual for an accounting of
4 Disclosures of PHI in accordance with 45 CFR § 164.528.

5 12. CONTRACTOR agrees that to the extent CONTRACTOR carries out COUNTY's
6 obligation under the HIPAA Privacy and/or Security rules CONTRACTOR will comply with the
7 requirements of 45 CFR Part 164 that apply to COUNTY in the performance of such obligation.

8 13. If CONTRACTOR receives Social Security data from COUNTY provided to COUNTY by
9 a state agency, upon request by COUNTY, CONTRACTOR shall provide COUNTY with a list of all
10 employees, subcontractors, and agents who have access to the Social Security data, including
11 employees, agents, subcontractors, and agents of its subcontractors.

12 14. CONTRACTOR will notify COUNTY if CONTRACTOR is named as a defendant in a
13 criminal proceeding for a violation of HIPAA. COUNTY may terminate the Contract, if
14 CONTRACTOR is found guilty of a criminal violation in connection with HIPAA. COUNTY may
15 terminate the Contract, if a finding or stipulation that CONTRACTOR has violated any standard or
16 requirement of the privacy or security provisions of HIPAA, or other security or privacy laws are made
17 in any administrative or civil proceeding in which CONTRACTOR is a party or has been joined.
18 COUNTY will consider the nature and seriousness of the violation in deciding whether or not to
19 terminate the Contract.

20 15. CONTRACTOR shall make itself and any subcontractors, employees or agents assisting
21 CONTRACTOR in the performance of its obligations under the Contract, available to COUNTY at no
22 cost to COUNTY to testify as witnesses, or otherwise, in the event of litigation or administrative
23 proceedings being commenced against COUNTY, its directors, officers or employees based upon
24 claimed violation of HIPAA, the HIPAA regulations or other laws relating to security and privacy,
25 which involves inactions or actions by CONTRACTOR, except where CONTRACTOR or its
26 subcontractor, employee, or agent is a named adverse party.

27 16. The Parties acknowledge that federal and state laws relating to electronic data security and
28 privacy are rapidly evolving and that amendment of this Business Associate Contract may be required to
29 provide for procedures to ensure compliance with such developments. The Parties specifically agree to
30 take such action as is necessary to implement the standards and requirements of HIPAA, the HITECH
31 Act, the HIPAA regulations and other applicable laws relating to the security or privacy of PHI. Upon
32 COUNTY's request, CONTRACTOR agrees to promptly enter into negotiations with COUNTY
33 concerning an amendment to this Business Associate Contract embodying written assurances consistent
34 with the standards and requirements of HIPAA, the HITECH Act, the HIPAA regulations or other
35 applicable laws. COUNTY may terminate the Contract upon thirty (30) days written notice in the event:

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1 a. CONTRACTOR does not promptly enter into negotiations to amend this Business
2 Associate Contract when requested by COUNTY pursuant to this subparagraph C; or

3 b. CONTRACTOR does not enter into an amendment providing assurances regarding the
4 safeguarding of PHI that COUNTY deems are necessary to satisfy the standards and requirements of
5 HIPAA, the HITECH Act, and the HIPAA regulations.

6 17. CONTRACTOR shall work with COUNTY upon notification by CONTRACTOR to
7 COUNTY of a Breach to properly determine if any Breach exclusions exist as defined in Subparagraph
8 B.2.a above.

9 D. SECURITY RULE

10 1. CONTRACTOR shall comply with the requirements of 45 CFR § 164.306 and establish
11 and maintain appropriate Administrative, Physical and Technical Safeguards in accordance with 45 CFR
12 § 164.308, § 164.310, and § 164.312, with respect to electronic PHI COUNTY discloses to
13 CONTRACTOR or CONTRACTOR creates, receives, maintains, or transmits on behalf of COUNTY.
14 CONTRACTOR shall develop and maintain a written information privacy and security program that
15 includes Administrative, Physical, and Technical Safeguards appropriate to the size and complexity of
16 CONTRACTOR’s operations and the nature and scope of its activities.

17 2. CONTRACTOR shall implement reasonable and appropriate policies and procedures to
18 comply with the standards, implementation specifications and other requirements of 45 CFR Part 164,
19 Subpart C, in compliance with 45 CFR § 164.316. CONTRACTOR will provide COUNTY with its
20 current and updated policies upon request.

21 3. CONTRACTOR shall ensure the continuous security of all computerized data systems
22 containing electronic PHI COUNTY discloses to CONTRACTOR or CONTRACTOR creates, receives,
23 maintains, or transmits on behalf of COUNTY. CONTRACTOR shall protect paper documents
24 containing PHI COUNTY discloses to CONTRACTOR or CONTRACTOR creates, receives,
25 maintains, or transmits on behalf of COUNTY. These steps shall include, at a minimum:

26 a. Complying with all of the data system security precautions listed under subparagraphs
27 E, below;

28 b. Achieving and maintaining compliance with the HIPAA Security Rule, as necessary in
29 conducting operations on behalf of COUNTY;

30 c. Providing a level and scope of security that is at least comparable to the level and scope
31 of security established by the OMB in OMB Circular No. A-130, Appendix III - Security of Federal
32 Automated Information Systems, which sets forth guidelines for automated information systems in
33 Federal agencies;

34 4. CONTRACTOR shall ensure that any subcontractors that create, receive, maintain, or
35 transmit ePHI on behalf of CONTRACTOR agree through a contract with CONTRACTOR to the same
36 restrictions and requirements contained in this subparagraph D of this Business Associate Contract.

37 //

1 5. CONTRACTOR shall report to COUNTY immediately any Security Incident of which it
2 becomes aware. CONTRACTOR shall report Breaches of Unsecured PHI in accordance with
3 subparagraph E below and as required by 45 CFR § 164.410.

4 6. CONTRACTOR shall designate a Security Officer to oversee its data security program who
5 shall be responsible for carrying out the requirements of this paragraph and for communicating on
6 security matters with COUNTY.

7 E. DATA SECURITY REQUIREMENTS

8 1. Personal Controls

9 a. Employee Training. All workforce members who assist in the performance of
10 functions or activities on behalf of COUNTY in connection with Contract, or access or disclose PHI
11 COUNTY discloses to CONTRACTOR or CONTRACTOR creates, receives, maintains, or transmits on
12 behalf of COUNTY, must complete information privacy and security training, at least annually, at
13 CONTRACTOR's expense. Each workforce member who receives information privacy and security
14 training must sign a certification, indicating the member's name and the date on which the training was
15 completed. These certifications must be retained for a period of six (6) years following the termination
16 of Contract.

17 b. Employee Discipline. Appropriate sanctions must be applied against workforce
18 members who fail to comply with any provisions of CONTRACTOR's privacy P&Ps, including
19 termination of employment where appropriate.

20 c. Confidentiality Statement. All persons that will be working with PHI COUNTY
21 discloses to CONTRACTOR or CONTRACTOR creates, receives, maintains, or transmits on behalf of
22 COUNTY must sign a confidentiality statement that includes, at a minimum, General Use, Security and
23 Privacy Safeguards, Unacceptable Use, and Enforcement Policies. The statement must be signed by the
24 workforce member prior to access to such PHI. The statement must be renewed annually. The
25 CONTRACTOR shall retain each person's written confidentiality statement for COUNTY inspection
26 for a period of six (6) years following the termination of the Contract.

27 d. Background Check. Before a member of the workforce may access PHI COUNTY
28 discloses to CONTRACTOR or CONTRACTOR creates, receives, maintains, or transmits on behalf of
29 COUNTY, a background screening of that worker must be conducted. The screening should be
30 commensurate with the risk and magnitude of harm the employee could cause, with more thorough
31 screening being done for those employees who are authorized to bypass significant technical and
32 operational security controls. The CONTRACTOR shall retain each workforce member's background
33 check documentation for a period of three (3) years.

34 2. Technical Security Controls

35 a. Workstation/Laptop encryption. All workstations and laptops that store PHI COUNTY
36 discloses to CONTRACTOR or CONTRACTOR creates, receives, maintains, or transmits on behalf of
37 COUNTY either directly or temporarily must be encrypted using a FIPS 140-2 certified algorithm which

1 is 128bit or higher, such as AES. The encryption solution must be full disk unless approved by the
2 COUNTY.

3 b. Server Security. Servers containing unencrypted PHI COUNTY discloses to
4 CONTRACTOR or CONTRACTOR creates, receives, maintains, or transmits on behalf of COUNTY
5 must have sufficient administrative, physical, and technical controls in place to protect that data, based
6 upon a risk assessment/system security review.

7 c. Minimum Necessary. Only the minimum necessary amount of PHI COUNTY discloses
8 to CONTRACTOR or CONTRACTOR creates, receives, maintains, or transmits on behalf of COUNTY
9 required to perform necessary business functions may be copied, downloaded, or exported.

10 d. Removable media devices. All electronic files that contain PHI COUNTY discloses to
11 CONTRACTOR or CONTRACTOR creates, receives, maintains, or transmits on behalf of COUNTY
12 must be encrypted when stored on any removable media or portable device (i.e. USB thumb drives,
13 floppies, CD/DVD, Blackberry, backup tapes etc.). Encryption must be a FIPS 140-2 certified
14 algorithm which is 128bit or higher, such as AES. Such PHI shall not be considered "removed from the
15 premises" if it is only being transported from one of CONTRACTOR's locations to another of
16 CONTRACTOR's locations.

17 e. Antivirus software. All workstations, laptops and other systems that process and/or
18 store PHI COUNTY discloses to CONTRACTOR or CONTRACTOR creates, receives, maintains, or
19 transmits on behalf of COUNTY must have installed and actively use comprehensive anti-virus software
20 solution with automatic updates scheduled at least daily.

21 f. Patch Management. All workstations, laptops and other systems that process and/or
22 store PHI COUNTY discloses to CONTRACTOR or CONTRACTOR creates, receives, maintains, or
23 transmits on behalf of COUNTY must have critical security patches applied, with system reboot if
24 necessary. There must be a documented patch management process which determines installation
25 timeframe based on risk assessment and vendor recommendations. At a maximum, all applicable
26 patches must be installed within thirty (30) calendar or business days of vendor release. Applications
27 and systems that cannot be patched due to operational reasons must have compensatory controls
28 implemented to minimize risk, where possible.

29 g. User IDs and Password Controls. All users must be issued a unique user name for
30 accessing PHI COUNTY discloses to CONTRACTOR or CONTRACTOR creates, receives, maintains,
31 or transmits on behalf of COUNTY. Username must be promptly disabled, deleted, or the password
32 changed upon the transfer or termination of an employee with knowledge of the password, at maximum
33 within twenty-four (24) hours. Passwords are not to be shared. Passwords must be at least eight
34 characters and must be a non-dictionary word. Passwords must not be stored in readable format on the
35 computer. Passwords must be changed every ninety (90) days, preferably every sixty (60) days.
36 Passwords must be changed if revealed or compromised. Passwords must be composed of characters
37 from at least three (3) of the following four (4) groups from the standard keyboard:

- 1) Upper case letters (A-Z)
- 2) Lower case letters (a-z)
- 3) Arabic numerals (0-9)
- 4) Non-alphanumeric characters (punctuation symbols)

5 h. Data Destruction. When no longer needed, all PHI COUNTY discloses to
6 CONTRACTOR or CONTRACTOR creates, receives, maintains, or transmits on behalf of COUNTY
7 must be wiped using the Gutmann or DoD 5220.22-M (7 Pass) standard, or by degaussing. Media may
8 also be physically destroyed in accordance with NIST Special Publication 800-88. Other methods
9 require prior written permission by COUNTY.

10 i. System Timeout. The system providing access to PHI COUNTY discloses to
11 CONTRACTOR or CONTRACTOR creates, receives, maintains, or transmits on behalf of COUNTY
12 must provide an automatic timeout, requiring re-authentication of the user session after no more than
13 twenty (20) minutes of inactivity.

14 j. Warning Banners. All systems providing access to PHI COUNTY discloses to
15 CONTRACTOR or CONTRACTOR creates, receives, maintains, or transmits on behalf of COUNTY
16 must display a warning banner stating that data is confidential, systems are logged, and system use is for
17 business purposes only by authorized users. User must be directed to log off the system if they do not
18 agree with these requirements.

19 k. System Logging. The system must maintain an automated audit trail which can
20 identify the user or system process which initiates a request for PHI COUNTY discloses to
21 CONTRACTOR or CONTRACTOR creates, receives, maintains, or transmits on behalf of COUNTY,
22 or which alters such PHI. The audit trail must be date and time stamped, must log both successful and
23 failed accesses, must be read only, and must be restricted to authorized users. If such PHI is stored in a
24 database, database logging functionality must be enabled. Audit trail data must be archived for at least 3
25 years after occurrence.

26 l. Access Controls. The system providing access to PHI COUNTY discloses to
27 CONTRACTOR or CONTRACTOR creates, receives, maintains, or transmits on behalf of COUNTY
28 must use role based access controls for all user authentications, enforcing the principle of least privilege.

29 m. Transmission encryption. All data transmissions of PHI COUNTY discloses to
30 CONTRACTOR or CONTRACTOR creates, receives, maintains, or transmits on behalf of COUNTY
31 outside the secure internal network must be encrypted using a FIPS 140-2 certified algorithm which is
32 128bit or higher, such as AES. Encryption can be end to end at the network level, or the data files
33 containing PHI can be encrypted. This requirement pertains to any type of PHI in motion such as
34 website access, file transfer, and E-Mail.

35 n. Intrusion Detection. All systems involved in accessing, holding, transporting, and
36 protecting PHI COUNTY discloses to CONTRACTOR or CONTRACTOR creates, receives, maintains,
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1 or transmits on behalf of COUNTY that are accessible via the Internet must be protected by a
2 comprehensive intrusion detection and prevention solution.

3 3. Audit Controls

4 a. System Security Review. CONTRACTOR must ensure audit control mechanisms that
5 record and examine system activity are in place. All systems processing and/or storing PHI COUNTY
6 discloses to CONTRACTOR or CONTRACTOR creates, receives, maintains, or transmits on behalf of
7 COUNTY must have at least an annual system risk assessment/security review which provides
8 assurance that administrative, physical, and technical controls are functioning effectively and providing
9 adequate levels of protection. Reviews should include vulnerability scanning tools.

10 b. Log Reviews. All systems processing and/or storing PHI COUNTY discloses to
11 CONTRACTOR or CONTRACTOR creates, receives, maintains, or transmits on behalf of COUNTY
12 must have a routine procedure in place to review system logs for unauthorized access.

13 c. Change Control. All systems processing and/or storing PHI COUNTY discloses to
14 CONTRACTOR or CONTRACTOR creates, receives, maintains, or transmits on behalf of COUNTY
15 must have a documented change control procedure that ensures separation of duties and protects the
16 confidentiality, integrity and availability of data.

17 4. Business Continuity/Disaster Recovery Control

18 a. Emergency Mode Operation Plan. CONTRACTOR must establish a documented plan
19 to enable continuation of critical business processes and protection of the security of PHI COUNTY
20 discloses to CONTRACTOR or CONTRACTOR creates, receives, maintains, or transmits on behalf of
21 COUNTY kept in an electronic format in the event of an emergency. Emergency means any
22 circumstance or situation that causes normal computer operations to become unavailable for use in
23 performing the work required under this Contract for more than 24 hours.

24 b. Data Backup Plan. CONTRACTOR must have established documented procedures to
25 backup such PHI to maintain retrievable exact copies of the PHI. The plan must include a regular
26 schedule for making backups, storing backup offsite, an inventory of backup media, and an estimate of
27 the amount of time needed to restore DHCS PHI or PI should it be lost. At a minimum, the schedule
28 must be a weekly full backup and monthly offsite storage of DHCS data. BCP for contractor and
29 COUNTY (e.g. the application owner) must merge with the DRP.

30 5. Paper Document Controls

31 a. Supervision of Data. PHI COUNTY discloses to CONTRACTOR or CONTRACTOR
32 creates, receives, maintains, or transmits on behalf of COUNTY in paper form shall not be left
33 unattended at any time, unless it is locked in a file cabinet, file room, desk or office. Unattended means
34 that information is not being observed by an employee authorized to access the information. Such PHI
35 in paper form shall not be left unattended at any time in vehicles or planes and shall not be checked in
36 baggage on commercial airplanes.

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1 b. Escorting Visitors. Visitors to areas where PHI COUNTY discloses to
2 CONTRACTOR or CONTRACTOR creates, receives, maintains, or transmits on behalf of COUNTY is
3 contained shall be escorted and such PHI shall be kept out of sight while visitors are in the area.

4 c. Confidential Destruction. PHI COUNTY discloses to CONTRACTOR or
5 CONTRACTOR creates, receives, maintains, or transmits on behalf of COUNTY must be disposed of
6 through confidential means, such as cross cut shredding and pulverizing.

7 d. Removal of Data. PHI COUNTY discloses to CONTRACTOR or CONTRACTOR
8 creates, receives, maintains, or transmits on behalf of COUNTY must not be removed from the premises
9 of the CONTRACTOR except with express written permission of COUNTY.

10 e. Faxing. Faxes containing PHI COUNTY discloses to CONTRACTOR or
11 CONTRACTOR creates, receives, maintains, or transmits on behalf of COUNTY shall not be left
12 unattended and fax machines shall be in secure areas. Faxes shall contain a confidentiality statement
13 notifying persons receiving faxes in error to destroy them. Fax numbers shall be verified with the
14 intended recipient before sending the fax.

15 f. Mailing. Mailings containing PHI COUNTY discloses to CONTRACTOR or
16 CONTRACTOR creates, receives, maintains, or transmits on behalf of COUNTY shall be sealed and
17 secured from damage or inappropriate viewing of PHI to the extent possible. Mailings which include
18 five hundred (500) or more individually identifiable records containing PHI COUNTY discloses to
19 CONTRACTOR or CONTRACTOR creates, receives, maintains, or transmits on behalf of COUNTY in
20 a single package shall be sent using a tracked mailing method which includes verification of delivery
21 and receipt, unless the prior written permission of COUNTY to use another method is obtained.

22 F. BREACH DISCOVERY AND NOTIFICATION

23 1. Following the discovery of a Breach of Unsecured PHI, CONTRACTOR shall notify
24 COUNTY of such Breach, however both parties agree to a delay in the notification if so advised by a
25 law enforcement official pursuant to 45 CFR § 164.412.

26 a. A Breach shall be treated as discovered by CONTRACTOR as of the first day on which
27 such Breach is known to CONTRACTOR or, by exercising reasonable diligence, would have been
28 known to CONTRACTOR.

29 b. CONTRACTOR shall be deemed to have knowledge of a Breach, if the Breach is
30 known, or by exercising reasonable diligence would have known, to any person who is an employee,
31 officer, or other agent of CONTRACTOR, as determined by federal common law of agency.

32 2. CONTRACTOR shall provide the notification of the Breach immediately to the COUNTY
33 Privacy Officer. CONTRACTOR's notification may be oral, but shall be followed by written
34 notification within 24 hours of the oral notification.

35 3. CONTRACTOR's notification shall include, to the extent possible:

36 a. The identification of each Individual whose Unsecured PHI has been, or is reasonably
37 believed by CONTRACTOR to have been, accessed, acquired, used, or disclosed during the Breach;

1 b. Any other information that COUNTY is required to include in the notification to
2 Individual under 45 CFR §164.404 (c) at the time CONTRACTOR is required to notify COUNTY or
3 promptly thereafter as this information becomes available, even after the regulatory sixty (60) day
4 period set forth in 45 CFR § 164.410 (b) has elapsed, including:

5 1) A brief description of what happened, including the date of the Breach and the date
6 of the discovery of the Breach, if known;

7 2) A description of the types of Unsecured PHI that were involved in the Breach (such
8 as whether full name, social security number, date of birth, home address, account number, diagnosis,
9 disability code, or other types of information were involved);

10 3) Any steps Individuals should take to protect themselves from potential harm
11 resulting from the Breach;

12 4) A brief description of what CONTRACTOR is doing to investigate the Breach, to
13 mitigate harm to Individuals, and to protect against any future Breaches; and

14 5) Contact procedures for Individuals to ask questions or learn additional information,
15 which shall include a toll-free telephone number, an e-mail address, Web site, or postal address.

16 4. COUNTY may require CONTRACTOR to provide notice to the Individual as required in
17 45 CFR § 164.404, if it is reasonable to do so under the circumstances, at the sole discretion of the
18 COUNTY.

19 5. In the event that CONTRACTOR is responsible for a Breach of Unsecured PHI in violation
20 of the HIPAA Privacy Rule, CONTRACTOR shall have the burden of demonstrating that
21 CONTRACTOR made all notifications to COUNTY consistent with this subparagraph F and as required
22 by the Breach notification regulations, or, in the alternative, that the acquisition, access, use, or
23 disclosure of PHI did not constitute a Breach.

24 6. CONTRACTOR shall maintain documentation of all required notifications of a Breach or
25 its risk assessment under 45 CFR § 164.402 to demonstrate that a Breach did not occur.

26 7. CONTRACTOR shall provide to COUNTY all specific and pertinent information about the
27 Breach, including the information listed in Section E.3.b.(1)-(5) above, if not yet provided, to permit
28 COUNTY to meet its notification obligations under Subpart D of 45 CFR Part 164 as soon as
29 practicable, but in no event later than fifteen (15) calendar days after CONTRACTOR's initial report of
30 the Breach to COUNTY pursuant to Subparagraph F.2 above.

31 8. CONTRACTOR shall continue to provide all additional pertinent information about the
32 Breach to COUNTY as it may become available, in reporting increments of five (5) business days after
33 the last report to COUNTY. CONTRACTOR shall also respond in good faith to any reasonable
34 requests for further information, or follow-up information after report to COUNTY, when such request
35 is made by COUNTY.

36 9. If the Breach is the fault of CONTRACTOR, CONTRACTOR shall bear all expense or
37 other costs associated with the Breach and shall reimburse COUNTY for all expenses COUNTY incurs

1 in addressing the Breach and consequences thereof, including costs of investigation, notification,
2 remediation, documentation or other costs associated with addressing the Breach.

3 G. PERMITTED USES AND DISCLOSURES BY CONTRACTOR

4 1. CONTRACTOR may use or further disclose PHI COUNTY discloses to CONTRACTOR
5 as necessary to perform functions, activities, or services for, or on behalf of, COUNTY as specified in
6 the Contract, provided that such use or Disclosure would not violate the HIPAA Privacy Rule if done by
7 COUNTY except for the specific Uses and Disclosures set forth below.

8 a. CONTRACTOR may use PHI COUNTY discloses to CONTRACTOR, if necessary,
9 for the proper management and administration of CONTRACTOR.

10 b. CONTRACTOR may disclose PHI COUNTY discloses to CONTRACTOR for the
11 proper management and administration of CONTRACTOR or to carry out the legal responsibilities of
12 CONTRACTOR, if:

13 1) The Disclosure is required by law; or

14 2) CONTRACTOR obtains reasonable assurances from the person to whom the PHI
15 is disclosed that it will be held confidentially and used or further disclosed only as required by law or for
16 the purposes for which it was disclosed to the person and the person immediately notifies
17 CONTRACTOR of any instance of which it is aware in which the confidentiality of the information has
18 been breached.

19 c. CONTRACTOR may use or further disclose PHI COUNTY discloses to
20 CONTRACTOR to provide Data Aggregation services relating to the Health Care Operations of
21 CONTRACTOR.

22 2. CONTRACTOR may use PHI COUNTY discloses to CONTRACTOR, if necessary, to
23 carry out legal responsibilities of CONTRACTOR.

24 3. CONTRACTOR may use and disclose PHI COUNTY discloses to CONTRACTOR
25 consistent with the minimum necessary policies and procedures of COUNTY.

26 4. CONTRACTOR may use or disclose PHI COUNTY discloses to CONTRACTOR as
27 required by law.

28 H. PROHIBITED USES AND DISCLOSURES

29 1. CONTRACTOR shall not disclose PHI COUNTY discloses to CONTRACTOR or
30 CONTRACTOR creates, receives, maintains, or transmits on behalf of COUNTY about an individual to
31 a health plan for payment or health care operations purposes if the PHI pertains solely to a health care
32 item or service for which the health care provider involved has been paid out of pocket in full and the
33 individual requests such restriction, in accordance with 42 USC § 17935(a) and 45 CFR § 164.522(a).

34 2. CONTRACTOR shall not directly or indirectly receive remuneration in exchange for PHI
35 COUNTY discloses to CONTRACTOR or CONTRACTOR creates, receives, maintains, or transmits on
36 behalf of COUNTY, except with the prior written consent of COUNTY and as permitted by 42 USC §
37 17935(d)(2).

1 I. OBLIGATIONS OF COUNTY

2 1. COUNTY shall notify CONTRACTOR of any limitation(s) in COUNTY's notice of
3 privacy practices in accordance with 45 CFR § 164.520, to the extent that such limitation may affect
4 CONTRACTOR's Use or Disclosure of PHI.

5 2. COUNTY shall notify CONTRACTOR of any changes in, or revocation of, the permission
6 by an Individual to use or disclose his or her PHI, to the extent that such changes may affect
7 CONTRACTOR's Use or Disclosure of PHI.

8 3. COUNTY shall notify CONTRACTOR of any restriction to the Use or Disclosure of PHI
9 that COUNTY has agreed to in accordance with 45 CFR § 164.522, to the extent that such restriction
10 may affect CONTRACTOR's Use or Disclosure of PHI.

11 4. COUNTY shall not request CONTRACTOR to use or disclose PHI in any manner that
12 would not be permissible under the HIPAA Privacy Rule if done by COUNTY.

13 J. BUSINESS ASSOCIATE TERMINATION

14 1. Upon COUNTY's knowledge of a material Breach or violation by CONTRACTOR of the
15 requirements of this Business Associate Contract, COUNTY shall:

16 a. Provide an opportunity for CONTRACTOR to cure the material Breach or end the
17 violation within thirty (30) business days; or

18 b. Immediately terminate the Contract, if CONTRACTOR is unwilling or unable to cure
19 the material Breach or end the violation within (30) days, provided termination of the Contract is
20 feasible.

21 2. Upon termination of the Contract, CONTRACTOR shall either destroy or return to
22 COUNTY all PHI CONTRACTOR received from COUNTY or CONTRACTOR created, maintained,
23 or received on behalf of COUNTY in conformity with the HIPAA Privacy Rule.

24 a. This provision shall apply to all PHI that is in the possession of Subcontractors or
25 agents of CONTRACTOR.

26 b. CONTRACTOR shall retain no copies of the PHI.

27 c. In the event that CONTRACTOR determines that returning or destroying the PHI is not
28 feasible, CONTRACTOR shall provide to COUNTY notification of the conditions that make return or
29 destruction infeasible. Upon determination by COUNTY that return or destruction of PHI is infeasible,
30 CONTRACTOR shall extend the protections of this Business Associate Contract to such PHI and limit
31 further Uses and Disclosures of such PHI to those purposes that make the return or destruction
32 infeasible, for as long as CONTRACTOR maintains such PHI.

33 3. The obligations of this Business Associate Contract shall survive the termination of the
34 Contract.

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1 EXHIBIT C
2 TO CONTRACT FOR PROVISION OF
3 IN-CUSTODY SUBSTANCE USE DISORDER TREATMENT SERVICES
4 BETWEEN
5 COUNTY OF ORANGE
6 AND
7 PHOENIX HOUSE
8 JULY 1, 2020 THROUGH JUNE 30, 2023
9

10 **I. PERSONAL INFORMATION PRIVACY AND SECURITY CONTRACT**

11 Any reference to statutory, regulatory, or contractual language herein shall be to such language as in
12 effect or as amended.

13 A. DEFINITIONS

14 1. "Breach" shall have the meaning given to such term under the IEA and CMPPA. It shall
15 include a "PII loss" as that term is defined in the CMPPA.

16 2. "Breach of the security of the system" shall have the meaning given to such term under the
17 CIPA, Civil Code § 1798.29(d).

18 3. "CMPPA Contract" means the CMPPA Contract between the SSA and CHHS.

19 4. "DHCS PI" shall mean Personal Information, as defined below, accessed in a database
20 maintained by the COUNTY or DHCS, received by CONTRACTOR from the COUNTY or DHCS or
21 acquired or created by CONTRACTOR in connection with performing the functions, activities and
22 services specified in the Contract on behalf of the COUNTY.

23 5. "IEA" shall mean the Information Exchange Contract currently in effect between the SSA
24 and DHCS.

25 6. "Notice-triggering Personal Information" shall mean the personal information identified in
26 California Civil Code § 1798.29(e) whose unauthorized access may trigger notification requirements
27 under California Civil Code § 1709.29. For purposes of this provision, identity shall include, but not be
28 limited to, name, identifying number, symbol, or other identifying particular assigned to the individual,
29 such as a finger or
30 voice print, a photograph or a biometric identifier. Notice-triggering PI includes PI in electronic, paper
31 or any other medium.

32 7. "PII" shall have the meaning given to such term in the IEA and CMPPA.

33 8. "PI" shall have the meaning given to such term in California Civil Code § 1798.3(a).

34 9. "Required by law" means a mandate contained in law that compels an entity to make a use
35 or disclosure of PI or PII that is enforceable in a court of law. This includes, but is not limited to, court
36 orders and court-ordered warrants, subpoenas or summons issued by a court, grand jury, a governmental
37 or tribal inspector general, or an administrative body authorized to require the production of

1 information, and a civil or an authorized investigative demand. It also includes Medicare conditions of
2 participation with respect to health care providers participating in the program, and statutes or
3 regulations that require the production of information, including statutes or regulations that require such
4 information if payment is sought under a government program providing public benefits.

5 10. "Security Incident" means the attempted or successful unauthorized access, use, disclosure,
6 modification, or destruction of PI, or confidential data utilized in complying with this Contract; or
7 interference with system operations in an information system that processes, maintains or stores PI.

8 B. TERMS OF CONTRACT

9 1. Permitted Uses and Disclosures of DHCS PI and PII by CONTRACTOR. Except as
10 otherwise indicated in this Exhibit, CONTRACTOR may use or disclose DHCS PI only to perform
11 functions, activities, or services for or on behalf of the COUNTY pursuant to the terms of the Contract
12 provided that such use or disclosure would not violate the CIPA if done by the COUNTY.

13 2. Responsibilities of CONTRACTOR

14 CONTRACTOR agrees:

15 a. Nondisclosure. Not to use or disclose DHCS PI or PII other than as permitted or
16 required by this Personal Information Privacy and Security Contract or as required by applicable state
17 and federal law.

18 b. Safeguards. To implement appropriate and reasonable administrative, technical, and
19 physical safeguards to protect the security, confidentiality and integrity of DHCS PI and PII, to protect
20 against anticipated threats or hazards to the security or integrity of DHCS PI and PII, and to prevent use
21 or disclosure of DHCS PI or PII other than as provided for by this Personal Information Privacy and
22 Security Contract. CONTRACTOR shall develop and maintain a written information privacy and
23 security program that include administrative, technical and physical safeguards appropriate to the size
24 and complexity of CONTRACTOR's operations and the nature and scope of its activities, which
25 incorporate the requirements of subparagraph (c), below. CONTRACTOR will provide COUNTY with
26 its current policies upon request.

27 c. Security. CONTRACTOR shall ensure the continuous security of all computerized data
28 systems containing DHCS PI and PII. CONTRACTOR shall protect paper documents containing
29 DHCS PI and PII. These steps shall include, at a minimum:

30 1) Complying with all of the data system security precautions listed in subparagraph E
31 of the Business Associate Contract, Exhibit B to the Contract; and

32 2) Providing a level and scope of security that is at least comparable to the level and
33 scope of security established by the Office of Management and Budget in OMB Circular No. A-130,
34 Appendix III-Security of Federal Automated Information Systems, which sets forth guidelines for
35 automated information systems in Federal agencies.

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1 3) If the data obtained by CONTRACTOR from COUNTY includes PII,
2 CONTRACTOR shall also comply with the substantive privacy and security requirements in the
3 CMPPA Contract between the SSA and the CHHS and in the Contract between the SSA and DHCS,
4 known as the IEA. The specific sections of the IEA with substantive privacy and security requirements
5 to be complied with are sections E, F, and G, and in Attachment 4 to the IEA, Electronic Information
6 Exchange Security Requirements, Guidelines and Procedures for Federal, State and Local Agencies
7 Exchanging Electronic Information with the SSA. CONTRACTOR also agrees to ensure that any of
8 CONTRACTOR's agents or subcontractors, to whom CONTRACTOR provides DHCS PII agree to the
9 same requirements for privacy and security safeguards for confidential data that apply to
10 CONTRACTOR with respect to such information.

11 d. Mitigation of Harmful Effects. To mitigate, to the extent practicable, any harmful effect
12 that is known to CONTRACTOR of a use or disclosure of DHCS PI or PII by CONTRACTOR or its
13 subcontractors in violation of this Personal Information Privacy and Security Contract.

14 e. CONTRACTOR's Agents and Subcontractors. To impose the same restrictions and
15 conditions set forth in this Personal Information and Security Contract on any subcontractors or other
16 agents with whom CONTRACTOR subcontracts any activities under the Contract that involve the
17 disclosure of DHCS PI or PII to such subcontractors or other agents.

18 f. Availability of Information. To make DHCS PI and PII available to the DHCS and/or
19 COUNTY for purposes of oversight, inspection, amendment, and response to requests for records,
20 injunctions, judgments, and orders for production of DHCS PI and PII. If CONTRACTOR receives
21 DHCS PII, upon request by COUNTY and/or DHCS, CONTRACTOR shall provide COUNTY and/or
22 DHCS with a list of all employees, contractors and agents who have access to DHCS PII, including
23 employees, contractors and agents of its subcontractors and agents.

24 g. Cooperation with COUNTY. With respect to DHCS PI, to cooperate with and assist the
25 COUNTY to the extent necessary to ensure the DHCS's compliance with the applicable terms of the
26 CIPA including, but not limited to, accounting of disclosures of DHCS PI, correction of errors in DHCS
27 PI, production of DHCS PI, disclosure of a security Breach involving DHCS PI and notice of such
28 Breach to the affected individual(s).

29 h. Breaches and Security Incidents. During the term of the Contract, CONTRACTOR
30 agrees to implement reasonable systems for the discovery of any Breach of unsecured DHCS PI and PII
31 or security incident. CONTRACTOR agrees to give notification of any beach of unsecured DHCS PI
32 and PII or security incident in accordance with subparagraph F, of the Business Associate Contract,
33 Exhibit B to the Contract.

34 i. Designation of Individual Responsible for Security. CONTRACTOR shall designate an
35 individual, (e.g., Security Officer), to oversee its data security program who shall be responsible for
36 carrying out the requirements of this Personal Information Privacy and Security Contract and for
37 communicating on security matters with the COUNTY.