

1 AGREEMENT FOR PROVISION OF  
2 PRIMARY HIV MEDICAL CARE PHYSICIAN SERVICES  
3 BETWEEN  
4 COUNTY OF ORANGE  
5 AND

6 THE REGENTS OF THE UNIVERSITY OF CALIFORNIA, AS DESCRIBED IN ARTICLE IX,  
7 SECTION 9 OF THE CALIFORNIA CONSTITUTION, ON BEHALF OF UNIVERSITY OF  
8 CALIFORNIA, IRVINE MEDICAL CENTER (UCIMC) and UC IRVINE HEALTH PHYSICIANS &  
9 SURGEONS

10 JULY 1, 2020 THROUGH JUNE 30, 2023  
11

12 THIS AGREEMENT entered into this 1st day of July 2020 (effective date), is by and between the  
13 COUNTY OF ORANGE, a political subdivision of State of California (COUNTY), and THE REGENTS  
14 OF THE UNIVERSITY OF CALIFORNIA, as described in Article IX, Section 9 of the California  
15 Constitution, on behalf of UNIVERSITY OF CALIFORNIA, IRVINE MEDICAL CENTER (UCIMC)  
16 and UC IRVINE HEALTH PHYSICIANS & SURGEONS (collectively "CONTRACTOR"). COUNTY  
17 and CONTRACTOR may sometimes be referred to herein individually as "Party" or collectively as  
18 "Parties." This Agreement shall be administered by the County of Orange Health Care Agency  
19 ("ADMINISTRATOR").  
20

21 **W I T N E S S E T H:**  
22

23 WHEREAS, COUNTY wishes to contract with CONTRACTOR for the provision of Primary HIV  
24 Medical Care Physician Services described herein to the residents of Orange County; and

25 WHEREAS, CONTRACTOR who is uniquely qualified with board certified infectious disease  
26 specialist physicians with specific expertise in HIV, with direct linkages to the University of California,  
27 Irvine School of Medicine (UNIVERSITY), specialized consultative care in an academic medical center,  
28 and serves as the federally funded Pacific AIDS Education and Training Center co-located within the  
29 University; and

30 WHEREAS, COUNTY and CONTRACTOR have a Mutual Indemnification provision in this  
31 Agreement as services provided under this Agreement are done through collaboration of the Health Care  
32 Agency staff and University of California, Irvine Health Physicians & Surgeons at the 17<sup>th</sup> Street Clinic;  
33 and

34 WHEREAS, CONTRACTOR is agreeable to the rendering of such services on the terms and  
35 conditions hereinafter set forth;

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

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**REFERENCED CONTRACT PROVISIONS**

**Term:** July 1, 2020 through June 30, 2023

Period One means the period from July 1, 2020 through June 30, 2021

Period Two means the period from July 1, 2021 through June 30, 2022

Period Three means the period from July 1, 2022 through June 30, 2023

**Maximum Obligation:**

Period One Amount Not to Exceed: \$149,000

Period Two Amount Not to Exceed: \$149,000

Period Three Amount Not to Exceed: \$149,000

Total Amount Not to Exceed: \$447,000

**Basis for Reimbursement:** Negotiated Rate and Fee-for-Service

**Payment Method:** In Arrears

**CONTRACTOR DUNS Number:** 04-670-5849

**CONTRACTOR TAX ID Number:** 95-2226406

CFDA#	FAIN#	Program/Service Title	Federal Funding Agency	Federal Award Date	Amount	R&D Award (Y/N)
93.914	H89HA00019	HIV Emergency Relief Project Grants	HRSA-Ryan White Part A	1/27/2020	\$1,326,548	N
93.917	18-10880	Grants to States and Territories	CDPH – Ryan White Part B	3/12/2020	\$2,139,423	N
93.918	H76HA00146	Grants to Provide Outpatient Early Intervention Services with Respect to HIV	HRSA-Ryan White Part C	12/4/2019	\$167,872	N

1 **Notices to COUNTY and CONTRACTOR:**

2  
3  
4 COUNTY: County of Orange  
5 Health Care Agency  
6 Contract Services  
7 405 West 5th Street, Suite 600  
8 Santa Ana, CA 92701-4637  
9

10 CONTRACTOR: UC Irvine Health  
11 333 City Blvd. West, Suite 200  
12 Orange, CA 92868  
13 Attn: Nicole Lee Brown, Director, Contracting and Network Development  
14 E-mail: [nlbrown1@hs.uci.edu](mailto:nlbrown1@hs.uci.edu)

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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 Agreement:

1		
2		
3		
4	A. ARRA	American Recovery and Reinvestment Act
5	B. ASRS	Alcohol and Drug Programs Reporting System
6	C. CCC	California Civil Code
7	D. CCR	California Code of Regulations
8	E. CEO	County Executive Office
9	F. CFR	Code of Federal Regulations
10	G. CHPP	COUNTY HIPAA Policies and Procedures
11	H. CHS	Correctional Health Services
12	I. COI	Certificate of Insurance
13	J. D/MC	Drug/Medi-Cal
14	K. DHCS	Department of Health Care Services
15	L. DPFS	Drug Program Fiscal Systems
16	M. DRS	Designated Record Set
17	N. ePHI	Electronic Protected Health Information
18	O. GAAP	Generally Accepted Accounting Principles
19	P. HCA	Health Care Agency
20	Q. HHS	Health and Human Services
21	R. HIPAA	Health Insurance Portability and Accountability Act of 1996, Public
22		Law 104-191
23	S. HSC	California Health and Safety Code
24	T. ISO	Insurance Services Office
25	U. MHP	Mental Health Plan
26	V. OCJS	Orange County Jail System
27	W. OCPD	Orange County Probation Department
28	X. OCR	Office for Civil Rights
29	Y. OCSD	Orange County Sheriff's Department
30	Z. OIG	Office of Inspector General
31	AA. OMB	Office of Management and Budget
32	AB. OPM	Federal Office of Personnel Management
33	AC. PA DSS	Payment Application Data Security Standard
34	AD. PC	State of California Penal Code
35	AE. PCI DSS	Payment Card Industry Data Security Standard
36	AF. PHI	Protected Health Information
37	AG. PII	Personally Identifiable Information

1	AH. PRA	Public Record Act
2	AI. SIR	Self-Insured Retention
3	AJ. The HITECH Act	The Health Information Technology for Economic and Clinical Health
4		Act, Public Law 111-005
5	AK. USC	United States Code
6	AL. WIC	State of California Welfare and Institutions Code

## 7

### 8 **II. ALTERATION OF TERMS**

9 A. This Agreement, together with Exhibit A attached hereto and incorporated herein, fully expresses  
10 the complete understanding of COUNTY and CONTRACTOR with respect to the subject matter of this  
11 Agreement.

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

### 16

### 17 **III. ASSIGNMENT OF DEBTS**

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

### 25

### 26 **IV. COMPLIANCE**

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

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

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

37 //

1 by ADMINISTRATOR's Compliance Officer as described in this Compliance Paragraph to this  
2 Agreement. 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 thirty  
13 (30) calendar days of execution of this Agreement a signed acknowledgement that CONTRACTOR will  
14 internally comply with ADMINISTRATOR's Compliance Program and Code of Conduct.

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

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

32 B. SANCTION SCREENING – CONTRACTOR shall screen all Covered Individuals employed or  
33 retained to provide services related to this Agreement semi-annually to ensure that they are not designated  
34 as Ineligible Persons, as pursuant to this Agreement. Screening shall be conducted against the General  
35 Services Administration's Excluded Parties List System or System for Award Management, the Health  
36 and Human Services/Office of Inspector General List of Excluded Individuals/Entities, and the California

37 //



1 Medi-Cal Suspended and Ineligible Provider List, the Social Security Administration's Death Master File,  
2 and/or any other list or system as identified by the ADMINISTRATOR.

3 1. For purposes of this Compliance Paragraph, Covered Individuals includes all employees,  
4 interns, volunteers, contractors, subcontractors, agents, and other persons who provide health care items  
5 or services or who perform billing or coding functions on behalf of ADMINISTRATOR. Notwithstanding  
6 the above, this term does not include part-time or per-diem employees, contractors, subcontractors,  
7 agents, and other persons who are not reasonably expected to work more than one hundred sixty (160)  
8 hours per year; except that any such individuals shall become Covered Individuals at the point when they  
9 work more than one hundred sixty (160) hours during the calendar year. CONTRACTOR shall ensure  
10 that all Covered Individuals relative to this Agreement are made aware of ADMINISTRATOR's  
11 Compliance Program, Code of Conduct and related policies and procedures (or CONTRACTOR's own  
12 compliance program, code of conduct and related policies and procedures if CONTRACTOR has elected  
13 to use its own).

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

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

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

20 3. CONTRACTOR shall screen prospective Covered Individuals prior to hire or engagement.  
21 CONTRACTOR shall not hire or engage any Ineligible Person to provide services relative to this  
22 Agreement.

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

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

34 6. CONTRACTOR acknowledges that Ineligible Persons are precluded from providing federal  
35 and state funded health care services by contract with COUNTY in the event that they are currently  
36 sanctioned or excluded by a federal or state law enforcement regulatory or licensing agency. If  
37 CONTRACTOR becomes aware that a Covered Individual has become an Ineligible Person,

1 CONTRACTOR shall remove such individual from responsibility for, or involvement with, COUNTY  
2 business operations related to this Agreement.

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

10 C. GENERAL COMPLIANCE TRAINING – ADMINISTRATOR shall make General Compliance  
11 Training available to Covered Individuals.

12 1. CONTRACTORS that have acknowledged to comply with ADMINISTRATOR’s  
13 Compliance Program shall use its best efforts to encourage completion by all Covered Individuals;  
14 provided, however, that at a minimum CONTRACTOR shall assign at least one (1) designated  
15 representative to complete the General Compliance Training when offered. ADMINISTRATOR may  
16 waive this requirement upon approval of CONTRACTOR’s Compliance Program.

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

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

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

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

26 D. SPECIALIZED PROVIDER TRAINING – ADMINISTRATOR shall make Specialized Provider  
27 Training, where appropriate, available to Covered Individuals.

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

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

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

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

37 //

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

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

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

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

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

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

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

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

27  
28 **V. CONFIDENTIALITY**

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

32 1. CONTRACTOR acknowledges and agrees that all persons served pursuant to this Agreement  
33 are Clients of the Orange County HIV services system, and therefore it may be necessary for authorized  
34 staff of ADMINISTRATOR to audit Client files, or to exchange information regarding specific Clients  
35 with COUNTY or other providers of related services contracting with COUNTY.

36 2. CONTRACTOR acknowledges and agrees that it shall be responsible for obtaining written  
37 consents for the release of information from all persons served by CONTRACTOR pursuant to this

1 Agreement. Such consents shall be obtained by CONTRACTOR in accordance with CCC, Division 1,  
2 Part 2.6, relating to confidentiality of medical information.

3 3. In the event of a collaborative service agreement between HIV services providers,  
4 CONTRACTOR acknowledges and agrees that it is responsible for obtaining releases of information,  
5 from the collaborative agency, for Clients receiving services through the collaborative agreement.

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

13 C. As CONTRACTOR is a public institution, COUNTY understands and agrees that  
14 CONTRACTOR is subject to the provisions of the California Public Records Act. In the event  
15 CONTRACTOR receives a request to produce this Agreement, or identify any term, condition, or aspect  
16 of this Agreement, CONTRACTOR shall notify COUNTY no less than three (3) business days prior to  
17 releasing such information.

## 18 **VI. CONFLICT OF INTEREST**

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

## 27 **VII. DEBARMENT AND SUSPENSION CERTIFICATION**

28  
29 A. CONTRACTOR certifies that it and its principals:

30 1. Are not presently debarred, suspended, proposed for debarment, declared ineligible, or  
31 voluntarily excluded by any federal department or agency.

32 2. Have not within a three-year period preceding this Agreement been convicted of or had a  
33 civil judgment rendered against them for commission of fraud or a criminal offense in connection with  
34 obtaining, attempting to obtain, or performing a public (federal, state, or local) transaction or contract  
35 under a public transaction; violation of federal or state antitrust statutes or commission of embezzlement,  
36 theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen  
37 property.

1 3. Are not presently indicted for or otherwise criminally or civilly charged by a federal, state,  
2 or local governmental entity with commission of any of the offenses enumerated in Subparagraph A.2.  
3 above.

4 4. Have not within a three-year period preceding this Agreement had one or more public  
5 transactions (federal, state, or local) terminated for cause or default.

6 5. Shall not knowingly enter into any lower tier covered transaction with a person who is  
7 proposed for debarment under federal regulations (i.e., 48 CFR Part 9, Subpart 9.4), debarred, suspended,  
8 declared ineligible, or voluntarily excluded from participation in such transaction unless authorized by the  
9 State of California.

10 6. Shall include without modification, the clause titled "Certification Regarding Debarment,  
11 Suspension, Ineligibility, and Voluntary Exclusion Lower Tier Covered Transaction," (i.e., transactions  
12 with sub-grantees and/or contractors) and in all solicitations for lower tier covered transactions in  
13 accordance with 2 CFR Part 376.

14 B. The terms and definitions of this paragraph have the meanings set out in the Definitions and  
15 Coverage sections of the rules implementing 51 F.R. 6370.

16  
17 **VIII. DELEGATION, ASSIGNMENT AND SUBCONTRACTS**

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

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

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

35 2. If CONTRACTOR is a for-profit organization, any change in the business structure,  
36 including but not limited to, the sale or transfer of more than ten percent (10%) of the assets or stocks of  
37 CONTRACTOR, change to another corporate structure, including a change to a sole proprietorship, or a



1 change in fifty percent (50%) or more of Board of Directors or any governing body of CONTRACTOR  
2 at one time shall be deemed an assignment pursuant to this paragraph. Any attempted assignment or  
3 delegation in derogation of this subparagraph shall be void.

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

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

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

17 6. COUNTY reserves the right to immediately terminate the Agreement in the event COUNTY  
18 determines, in its sole discretion, that the assignee is not qualified or is otherwise unacceptable to  
19 COUNTY for the provision of services under the Agreement.

20 C. CONTRACTOR's obligations undertaken pursuant to this Agreement may be carried out by  
21 means of subcontracts, provided such subcontracts are approved in advance in writing by  
22 ADMINISTRATOR, meet the requirements of this Agreement as they relate to the service or activity  
23 under subcontract, include any provisions that ADMINISTRATOR may require.

24 1. After approval of a subcontract, ADMINISTRATOR may revoke the approval of a  
25 subcontract upon five (5) calendar days' written notice to CONTRACTOR if the subcontractor  
26 subsequently fails to meet the requirements of this Agreement or any provisions that ADMINISTRATOR  
27 has required. ADMINISTRATOR may disallow subcontractor expenses reported by CONTRACTOR.

28 2. No subcontract shall terminate or alter the responsibilities of CONTRACTOR to COUNTY  
29 pursuant to this Agreement.

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

32 4. This provision shall not be applicable to service agreements usually and customarily entered  
33 into by CONTRACTOR to obtain or arrange for supplies, technical support, and professional services  
34 provided by consultants.

35 D. CONTRACTOR shall notify COUNTY in writing of any change in the CONTRACTOR's status  
36 with respect to name changes that do not require an assignment of the Agreement. CONTRACTOR is  
37 also obligated to notify COUNTY in writing if the CONTRACTOR becomes a party to any litigation

1 against COUNTY, or a party to litigation that may reasonably affect the CONTRACTOR's performance  
 2 under the Contract, as well as any potential conflicts of interest between CONTRACTOR and County that  
 3 may arise prior to or during the period of Agreement performance. While CONTRACTOR will be  
 4 required to provide this information without prompting from COUNTY any time there is a change in  
 5 CONTRACTOR's name, conflict of interest or litigation status, CONTRACTOR must also provide an  
 6 update to COUNTY of its status in these areas whenever requested by COUNTY.

## 7 8 **IX. DISPUTE RESOLUTION**

9 A. The Parties shall deal in good faith and attempt to resolve potential disputes informally. If the  
 10 dispute concerning a question of fact arising under the terms of this Agreement is not disposed of in a  
 11 reasonable period of time by the CONTRACTOR and the ADMINISTRATOR, not to exceed 30 days  
 12 after written notice of such dispute is given by one party hereto to other party, such matter shall be brought  
 13 to the attention of the COUNTY Purchasing Agency by way of the following process:

14 1. CONTRACTOR shall submit to the COUNTY Purchasing Agency a written demand for a  
 15 final decision regarding the disposition of any dispute between the Parties arising under, related to, or  
 16 involving this Agreement, unless COUNTY, on its own initiative, has already rendered such a final  
 17 decision.

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

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

27 C. Any decision of COUNTY to agree to a negotiated settlement shall be expressly identified as  
 28 such, shall be in writing, and shall be signed by a COUNTY Deputy Purchasing Agent or designee. If  
 29 COUNTY fails to agree to a negotiated settlement within ninety (90) calendar days after receipt of  
 30 CONTRACTOR's demand, it shall be deemed a final decision adverse to CONTRACTOR's contentions.  
 31 If the dispute cannot be resolved pursuant to the procedures outlined above, the parties may pursue any  
 32 remedy available to them at law or in equity.

33 D. This Agreement has been negotiated and executed in the State of California and shall be governed  
 34 by and construed under the laws of the State of California. In the event of any legal action to enforce or  
 35 interpret this Agreement, the sole and exclusive venue shall be a court of competent jurisdiction located  
 36 in Orange County, California, and the Parties hereto agree to and do hereby submit to the jurisdiction of  
 37 //

1 such court, notwithstanding Code of Civil Procedure Section 394. Furthermore, the Parties specifically  
 2 agree to waive any and all rights to request that an action be transferred for adjudication to another county.  
 3

#### 4 **X. EMPLOYEE ELIGIBILITY VERIFICATION**

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

#### 14 **XI. EXPENDITURE AND REVENUE REPORT**

15 A. No later than sixty (60) calendar days following termination of this Agreement, CONTRACTOR  
 16 shall submit to ADMINISTRATOR, for informational purposes only, an Expenditure Report for the  
 17 preceding fiscal year, or portion thereof. Such report shall be prepared in accordance with the procedure  
 18 that is provided by ADMINISTRATOR and GAAP.

19 B. CONTRACTOR may be required to submit periodic Expenditure Reports throughout the term of  
 20 this Agreement.  
 21

#### 22 **XII. FACILITIES, PAYMENTS AND SERVICES**

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

28 B. In the event that CONTRACTOR is unable to provide the services, staffing, facilities, or supplies  
 29 as required, ADMINISTRATOR may, at its sole discretion, reduce the Maximum Obligation. The  
 30 reduction to the Maximum Obligation shall be in an amount proportionate to the number of days in which  
 31 CONTRACTOR was determined to be unable to provide services, staffing, facilities or supplies.  
 32

#### 33 **XIII. INDEMNIFICATION AND INSURANCE**

34 A. CONTRACTOR agrees to indemnify, defend with counsel approved in writing by COUNTY,  
 35 which approval shall not be unreasonable withheld and hold COUNTY, its elected and appointed officials,  
 36 officers, employees, agents and those special districts and agencies for which COUNTY's Board of  
 37 Supervisors acts as the governing Board ("COUNTY INDEMNITEES") harmless from any claims,



1 demands, including defense costs, or liability of any kind or nature, including but not limited to personal  
2 injury or property damage, arising from or related to the services, products or other performance provided  
3 by CONTRACTOR pursuant to this Agreement, but only in proportion to and to the extent such claims,  
4 demands, including defense costs, or liability are caused by or result from the negligent or intentional acts  
5 or omissions of CONTRACTOR, its officers, employees, or agents. If judgment is entered against  
6 CONTRACTOR and COUNTY by a court of competent jurisdiction because of the concurrent active  
7 negligence of COUNTY or COUNTY INDEMNITEES, CONTRACTOR and COUNTY agree that  
8 liability will be apportioned as determined by the court. Neither party shall request a jury apportionment.  
9 COUNTY agrees to indemnify, defend and hold CONTRACTOR, its officers, employees, agents,  
10 directors, members, shareholders and/or affiliates harmless from any claims, demands, including defense  
11 costs, or liability of any kind or nature, including but not limited to personal injury or property damage,  
12 arising from or related to the services, products or other performance provided by COUNTY pursuant to  
13 this Agreement, but only in proportion to and to the extent such claims, demands, including defense costs,  
14 or liability caused by or resulting from the negligent or intentional acts or omissions of COUNTY, its  
15 officers, employees, or agents. If judgement is entered against COUNTY and CONTRACTOR by a court  
16 of competent jurisdiction because of the concurrent active negligence of CONTRACTOR, COUNTY and  
17 CONTRACTOR agree that liability will be apportioned as determined by the court. Neither party shall  
18 request a jury apportionment.

19 B. Prior to the provision of services under this Agreement, CONTRACTOR agrees to purchase all  
20 required insurance or maintain a program of self-insurance at CONTRACTOR's expense, including all  
21 endorsements required herein, necessary to satisfy COUNTY that the insurance provisions of this  
22 Agreement have been complied with and to maintain such insurance coverage or a program of self-  
23 insurance during the entire term of this Agreement. CONTRACTOR agrees to keep such insurance  
24 coverage, Certificates of Insurance, and endorsements on deposit with COUNTY during the entire term  
25 of this Agreement. In addition, all subcontractors performing work on behalf of CONTRACTOR pursuant  
26 to this Agreement shall obtain insurance subject to the same terms and conditions as set forth herein for  
27 CONTRACTOR.

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

37 //

1 D. All SIRs shall be clearly stated on the COI. If CONTRACTOR is self-insured, CONTRACTOR,  
 2 in addition to, and without limitation of, any other indemnity provision(s) in this Agreement, agrees to all  
 3 of the following:

4 1. In addition to the duty to indemnify and hold the COUNTY harmless against any and all  
 5 liability, claim, demand or suit resulting from CONTRACTOR's, its agents, employee's or  
 6 subcontractor's performance of this Agreement, CONTRACTOR shall defend the COUNTY at its sole  
 7 cost and expense with counsel approved by Board of Supervisors against same; which shall not be  
 8 unreasonable withheld; and

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

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

14 E. If CONTRACTOR fails to maintain insurance, or a program of self-insurance, acceptable to  
 15 COUNTY for the full term of this Agreement, the COUNTY may terminate this Agreement.

16 F. QUALIFIED INSURER

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

22 2. If the insurance carrier does not have an A.M. Best Rating of A-/VIII, the CEO/Office of  
 23 Risk Management retains the right to approve or reject a carrier after a review of the company's  
 24 performance and financial ratings.

25 G. The policy or policies of insurance, or equivalent self-insurance maintained by CONTRACTOR  
 26 shall provide the minimum limits and coverage as set forth below:

<u>Coverage</u>	<u>Minimum Limits*</u>
Commercial General Liability	\$1,000,000 per occurrence \$2,000,000 aggregate
Automobile Liability including coverage for owned, non-owned and hired vehicles	\$1,000,000 per occurrence
Workers' Compensation	Statutory

1	Employers' Liability Insurance	\$1,000,000 per occurrence
2		
3	Network Security & Privacy Liability	\$1,000,000 per claims made
4		
5	Professional Liability Insurance	\$1,000,000 per claims made
6		\$3,000,000 aggregate
7		
8	Sexual Misconduct Liability	\$1,000,000 per occurrence
9		

#### 10 H. REQUIRED COVERAGE FORMS

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

13 2. The Business Auto Liability coverage shall be written on ISO form CA 00 01, CA 00 05, CA  
14 0012, CA 00 20, or a substitute form providing coverage at least as broad.

#### 15 I. REQUIRED ENDORSEMENTS

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

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

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

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

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

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

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

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

1 **AGREEMENT.**

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

5 M. CONTRACTOR will reasonable efforts to notify COUNTY in writing within thirty (30) days of  
6 any policy cancellation and within ten (10) days for non-payment of premium and provide a copy of the  
7 cancellation notice to COUNTY. Failure to provide written notice of cancellation shall constitute a breach  
8 of CONTRACTOR's obligation hereunder and ground for COUNTY to suspend or terminate this  
9 Agreement.

10 N. If CONTRACTOR's Professional Liability and Network Security and Privacy Liability policies  
11 are is "Claims -Made" policies, CONTRACTOR shall agree to maintain coverage for two (2) years  
12 following the completion of the Agreement.

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

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

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

20 R. COUNTY expressly retains the right to require CONTRACTOR to increase or decrease insurance  
21 of any of the above insurance types throughout the term of this Agreement. Any increase or decrease in  
22 insurance will be as deemed by County of Orange Risk Manager as appropriate to adequately protect  
23 COUNTY.

24 S. COUNTY shall notify CONTRACTOR in writing of changes in the insurance requirements. If  
25 CONTRACTOR does not deposit copies of acceptable Certificate of Insurance and endorsements with  
26 COUNTY incorporating such changes within thirty (30) calendar days of receipt of such notice,  
27 this Agreement may be in breach without further notice to CONTRACTOR, and COUNTY shall be  
28 entitled to all legal remedies.

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

32 **U. SUBMISSION OF INSURANCE DOCUMENTS**

- 33 1. The COI and endorsements shall be provided to COUNTY as follows:
- 34 a. Prior to the start date of this Agreement.
  - 35 b. No later than the expiration date for each policy.
  - 36 c. Within thirty (30) calendar days upon receipt of written notice by COUNTY regarding  
37 changes to any of the insurance requirements as set forth in the Coverage Subparagraph above.

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

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

6 a. ADMINISTRATOR may withhold or delay any or all payments due CONTRACTOR  
7 pursuant to any and all Agreements between COUNTY and CONTRACTOR until such time that the  
8 required COI and endorsements that meet the insurance provisions stipulated in this Agreement are  
9 submitted to ADMINISTRATOR.

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

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

16 4. In no cases shall assurances by CONTRACTOR, its employees, agents, including any  
17 insurance agent, be construed as adequate evidence of insurance. COUNTY will only accept valid COIs  
18 and endorsements, or in the interim, an insurance binder as adequate evidence of insurance coverage.  
19

20 **XIV. INSPECTIONS AND AUDITS**

21 A. ADMINISTRATOR, any authorized representative of COUNTY, any authorized representative  
22 of the State of California, the Secretary of the United States Department of Health and Human Services,  
23 the Comptroller General of the United States, or any other of their authorized representatives, shall have  
24 access to any books, documents, and records, including but not limited to, financial statements, general  
25 ledgers, relevant accounting systems, medical and client records (provided such disclosure is permitted  
26 under HIPAA, as defined in subject to Article XI, Paragraph D of this Agreement, and all other applicable  
27 privacy laws and regulations), of CONTRACTOR that are directly pertinent to this Agreement, for the  
28 purpose of responding to a beneficiary complaint or conducting an audit, review, evaluation, or  
29 examination, or making transcripts during the periods of retention set forth in the Records Management  
30 and Maintenance Paragraph of this Agreement. Such persons may at all reasonable times, upon prior  
31 written notice, inspect or otherwise evaluate the services provided pursuant to this Agreement, and the  
32 premises in which they are provided.

33 B. CONTRACTOR shall actively participate and cooperate with any person specified in  
34 Subparagraph A. above in any evaluation or monitoring of the services provided pursuant to this  
35 Agreement, and shall provide the above-mentioned persons adequate office space to conduct such  
36 evaluation or monitoring.

37 C. AUDIT RESPONSE



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

6 2. If the audit reveals that money is payable from one party to the other, that is, reimbursement  
 7 by CONTRACTOR to COUNTY, or payment of sums due from COUNTY to CONTRACTOR, said  
 8 funds shall be due and payable from one party to the other within sixty (60) calendar days of receipt of  
 9 the audit results. If reimbursement is due from CONTRACTOR to COUNTY, and such reimbursement  
 10 is not received within said sixty (60) calendar days, COUNTY may, in addition to any other remedies  
 11 provided by law, reduce any amount owed by CONTRACTOR by an amount not to exceed the  
 12 reimbursement due COUNTY.

13 3. COUNTY shall provide CONTRACTOR with at least fifteen (15) days' written prior notice  
 14 of such inspection or evaluation; provided, however, that the State of California, or duly authorized  
 15 representative, which may include COUNTY, shall be required to provide at least seventy-two (72) hours'  
 16 notice for its onsite inspections and evaluations. Unannounced inspections, evaluations, or requests for  
 17 information may be made in those situations where arrangement of an appointment beforehand is not  
 18 possible or is inappropriate due to the nature of the inspection or evaluation.

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

23 E. COUNTY shall provide CONTRACTOR with at least seventy-two (72) hours' notice of such  
 24 inspections or evaluations. Unannounced inspections, evaluations, or requests for information may be  
 25 made in those situations where arrangement of an appointment beforehand is not possible or is  
 26 inappropriate due to the nature of the inspection or evaluation.

27  
 28 **XV. LICENSES AND LAWS**

29 A. CONTRACTOR, its officers, agents, employees, affiliates, and subcontractors shall, throughout  
 30 the term of this Agreement, maintain all necessary licenses, permits, approvals, certificates, accreditations,  
 31 waivers, and exemptions necessary for the provision of the services hereunder and required by the laws,  
 32 regulations and requirements of the United States, the State of California, COUNTY, and all other  
 33 applicable governmental agencies. CONTRACTOR shall notify ADMINISTRATOR immediately and in  
 34 writing of its inability to obtain or maintain, irrespective of the pendency of any hearings or appeals,  
 35 permits, licenses, approvals, certificates, accreditations, waivers and exemptions. Said inability shall be  
 36 cause for termination of this Agreement..

37 **B. ENFORCEMENT OF CHILD SUPPORT OBLIGATIONS**

1 1. CONTRACTOR certifies it is in full compliance with all applicable federal and State  
2 reporting requirements regarding its employees and with all lawfully served Wage and Earnings  
3 Assignment Orders and Notices of Assignments and will continue to be in compliance throughout the  
4 term of the Agreement with the County of Orange. Failure to comply shall constitute a material breach of  
5 the Agreement and failure to cure such breach within sixty (60) calendar days of notice from the COUNTY  
6 shall constitute grounds for termination of the Agreement.

7 2. CONTRACTOR agrees to furnish to ADMINISTRATOR within thirty (30) calendar days of  
8 the award of this Agreement:

9 a. In the case of an individual CONTRACTOR, his/her name, date of birth, social security  
10 number, and residence address;

11 b. In the case of a CONTRACTOR doing business in a form other than as an individual,  
12 the name, date of birth, social security number, and residence address of each individual who owns an  
13 interest of ten percent (10%) or more in the contracting entity;

14 3. It is expressly understood that this data will be transmitted to governmental agencies charged  
15 with the establishment and enforcement of child support orders, or as permitted by federal and/or state  
16 statute

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

20 1. ARRA of 2009.

21 2. Code of Federal Regulations, Title 42, Public Health.

22 3. The Ryan White HIV/AIDS Treatment Extension Act of 2009 (Public Law 111-87, October  
23 30, 2009).

24 4. Title XXVI of the Public Health Services Act, as amended by the Ryan White HIV/AIDS  
25 Treatment Extension Act of 2009 (Public Law 111-87)

26 5. 31 USC 7501 – 7507, as well as its implementing regulations under 2 CFR Part 200, Uniform  
27 Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards

28 D. The Parties acknowledge that each is a Covered Entity, as defined by the Health Insurance  
29 Portability and Accountability Act, as amended, and the regulations promulgated thereunder (collectively  
30 “HIPAA”) and is responsible for complying with said regulations for purposes of safeguarding any  
31 Protected Health Information (PHI) generated by each party for its own purposes. Except as otherwise  
32 limited by said regulation or law, CONTRACTOR shall provide to COUNTY, and COUNTY may use or  
33 disclose PHI to perform functions, activities, or services for, or on behalf of, CONTRACTOR as specified  
34 in this Agreement, only if such use or disclosure would not violate the Privacy Rule if done by  
35 CONTRACTOR or the Minimum Necessary policies and procedures of CONTRACTOR as required  
36 and/or defined by HIPAA.

37 //

1 E. CONTRACTOR attests that all CONTRACTOR physicians providing services under this  
 2 Agreement are and will continue to be as long as this Agreement remains in effect, the holders of currently  
 3 valid licenses to practice medicine in the State of California and are members in good standing of the  
 4 medical staff of CONTRACTOR's facility.

5  
 6 **XVI. LITERATURE, ADVERTISEMENTS, AND SOCIAL MEDIA**

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

13 B. Both parties agree that they will not use the name(s), symbols, trademarks or service marks,  
 14 presently existing or later established, of the other party nor its employees in any advertisement, press  
 15 release or publicity with reference to this Agreement without the prior written approval of the other party's  
 16 authorized official. Requests for approval shall be made to ADMINISTRATOR or to CONTRACTOR's  
 17 signatory of this Agreement. CONTRACTOR may represent itself as a contracted provider of Public  
 18 Health Medical Services for the residents of Orange County as provided in Subparagraph A. above.  
 19 ADMINISTRATOR may include reference to Public Health Medical Services provided by  
 20 CONTRACTOR in informational materials relating to the continuum of care provided using federal, state  
 21 and county funds. Any advertisement through radio, television broadcast, or the internet, for educational  
 22 or promotional purposes, made by CONTRACTOR for purposes directly or indirectly related to this  
 23 Agreement must be approved in advance at least thirty (30) days and in writing by ADMINISTRATOR.

24 C. Any information as described in Subparagraphs A. and B. above shall not imply endorsement  
 25 by COUNTY, unless ADMINISTRATOR consents thereto in writing.

26  
 27 **XVII. MAXIMUM OBLIGATION**

28 A. The Maximum Obligation of COUNTY for services provided in accordance with this Agreement  
 29 is as specified in the Referenced Contract Provisions of this Agreement, except as allowed for in  
 30 Subparagraph B. below.

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

33  
 34 **XVIII. MINIMUM WAGE LAWS**

35 A. Pursuant to the United States of America Fair Labor Standards Act of 1938, as amended, and  
 36 State of California Labor Code, §1178.5, CONTRACTOR shall pay no less than the greater of the federal  
 37 or California Minimum Wage to all its employees that directly or indirectly provide services pursuant to



1 this Agreement, in any manner whatsoever. CONTRACTOR shall require and verify that all of its  
 2 Covered Individuals providing services pursuant to this Agreement be paid no less than the greater of the  
 3 federal or California Minimum Wage.

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

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

## 11 **XIX. NONDISCRIMINATION**

### 12 **A. EMPLOYMENT**

13 1. During the term of this Agreement, CONTRACTOR and its Covered Individuals (as defined  
 14 in the "Compliance" paragraph of this Agreement) shall not unlawfully discriminate against any employee  
 15 or applicant for employment because of his/her race, religious creed, color, national origin, ancestry,  
 16 physical disability, mental disability, medical condition, genetic information, marital status, sex, gender,  
 17 gender identity, gender expression, age, sexual orientation, or military and veteran status. Additionally,  
 18 during the term of this Agreement, CONTRACTOR and its Covered Individuals shall require in its  
 19 subcontracts that subcontractors shall not unlawfully discriminate against any employee or applicant for  
 20 employment because of his/her race, religious creed, color, national origin, ancestry, physical disability,  
 21 mental disability, medical condition, genetic information, marital status, sex, gender, gender identity,  
 22 gender expression, age, sexual orientation, or military and veteran status.

23 2. CONTRACTOR and its Covered Individuals shall not discriminate against employees or  
 24 applicants for employment in the areas of employment, promotion, demotion or transfer; recruitment or  
 25 recruitment advertising, layoff or termination; rate of pay or other forms of compensation; and selection  
 26 for training, including apprenticeship.

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

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

33 5. All solicitations or advertisements for employees placed by or on behalf of CONTRACTOR  
 34 and/or subcontractor shall state that all qualified applicants will receive consideration for employment  
 35 without regard to race, religious creed, color, national origin, ancestry, physical disability, mental  
 36 disability, medical condition, genetic information, marital status, sex, gender, gender identity, gender  
 37

1 expression, age, sexual orientation, or military and veteran status. Such requirements shall be deemed  
2 fulfilled by use of the term EOE.

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

8 B. SERVICES, BENEFITS, AND FACILITIES – CONTRACTOR shall not discriminate in the  
9 provision of services, the allocation of benefits, or in the accommodation in facilities on the basis of race,  
10 religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition,  
11 genetic information, marital status, sex, gender, gender identity, gender expression, age, sexual  
12 orientation, or military and veteran status in accordance with Title IX of the Education Amendments of  
13 1972 as they relate to 20 USC §1681 - §1688; Title VI of the Civil Rights Act of 1964 (42 USC §2000d);  
14 the Age Discrimination Act of 1975 (42 USC §6101); Title 9, Division 4, Chapter 6, Article 1 (§10800,  
15 et seq.) of the CCR; and Title II of the Genetic Information Nondiscrimination Act of 2008, 42 USC  
16 2000ff, et seq. as applicable, and all other pertinent rules and regulations promulgated pursuant thereto,  
17 and as otherwise provided by state law and regulations, as all may now exist or be hereafter amended or  
18 changed. For the purpose of this Nondiscrimination Paragraph, discrimination includes, but is not limited  
19 to the following based on one or more of the factors identified above:

20 1. Denying a Client or potential Client any service, benefit, or accommodation.

21 2. Providing any service or benefit to a Client which is different or is provided in a different  
22 manner or at a different time from that provided to other Clients.

23 3. Restricting a Client in any way in the enjoyment of any advantage or privilege enjoyed by  
24 others receiving any service or benefit.

25 4. Treating a Client differently from others in satisfying any admission requirement or  
26 condition, or eligibility requirement or condition, which individuals must meet in order to be provided  
27 any service or benefit.

28 C. PERSONS WITH DISABILITIES – CONTRACTOR agrees to comply with the provisions of  
29 §504 of the Rehabilitation Act of 1973, as amended, (29 USC 794 et seq., as implemented in 45 CFR 84.1  
30 et seq.), and the Americans with Disabilities Act of 1990 as amended (42 USC 12101, et seq.; as  
31 implemented in 29 CFR 1630), pertaining to the prohibition of discrimination against qualified persons  
32 with disabilities, as they exist now or may be hereafter amended together with succeeding legislation.

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

1 E. Upon a finding of discrimination by the United States Equal Employment Opportunity  
2 Commission, State Department of Fair Employment and Housing, or a court of competent jurisdiction,  
3 and after exhaustion of any and all appeals, this Agreement may be cancelled, terminated or suspended in  
4 whole or in part and CONTRACTOR may be declared ineligible for future contracts involving federal,  
5 state, or county funds.

6  
7 **XX. NOTICES**

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

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

13 2. When faxed, transmission confirmed;

14 3. When sent by Email; or

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

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

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

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

27  
28 **XXI. NOTIFICATION OF DEATH**

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

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

34 1. TELEPHONE NOTIFICATION – CONTRACTOR shall notify ADMINISTRATOR by  
35 telephone immediately upon becoming aware of the death due to non-terminal illness of any person served  
36 pursuant to this Agreement; provided, however, weekends and holidays shall not be included for purposes  
37 //

1 of computing the time within which to give telephone notice and, notwithstanding the time limit herein  
2 specified, notice need only be given during normal business hours.

3 2. WRITTEN NOTIFICATION

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

7 b. TERMINAL ILLNESS – CONTRACTOR shall notify ADMINISTRATOR by written  
8 report hand delivered, faxed, sent via encrypted email, and/or postmarked and sent via U.S. Mail within  
9 forty-eight (48) hours of becoming aware of the death due to terminal illness of any person served pursuant  
10 to this Agreement

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

15  
16 **XXII. NOTIFICATION OF PUBLIC EVENTS AND MEETINGS**

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

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

24  
25 **XXIII. RECORDS MANAGEMENT AND MAINTENANCE**

26 A. CONTRACTOR, its officers, agents, employees and subcontractors shall, throughout the term of  
27 this Agreement, prepare, maintain and manage records appropriate to the services provided and in  
28 accordance with this Agreement and all applicable requirements.

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

32 2. CONTRACTOR shall maintain books, records, documents, accounting procedures and  
33 practices, and other evidence sufficient to reflect properly all direct and indirect cost of whatever nature  
34 claimed to have been incurred in the performance of this Agreement and in accordance with Medicare  
35 principles of reimbursement and GAAP.

36 3. CONTRACTOR shall ensure the maintenance of medical records required by §70747  
37 through and including §70751 of the CCR, as they exist now or may hereafter be amended, the medical

1 necessity of the service, and the quality of care provided. Records shall be maintained in accordance with  
2 §51476 of Title 22 of the CCR, as it exists now or may hereafter be amended.

3 B. CONTRACTOR shall implement and maintain administrative, technical and physical safeguards  
4 to ensure the privacy of PHI and prevent the intentional or unintentional use or disclosure of PHI in  
5 violation of the HIPAA, federal and state regulations. CONTRACTOR shall mitigate to the extent  
6 practicable, the known harmful effect of any use or disclosure of PHI made in violation of federal or state  
7 regulations and/or COUNTY policies.

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

11 D. CONTRACTOR shall retain all financial records for a minimum of seven (7) years from the  
12 commencement of the contract, unless a longer period is required due to legal proceedings such as  
13 litigations and/or settlement of claims.

14 E. CONTRACTOR shall retain all client and/or patient medical records for seven (7) years  
15 following discharge of the participant, client and/or patient.

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

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

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

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

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

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

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

36 1. Have documents readily available within forty eight (48) hour notice of a scheduled audit or  
37 site visit.





**XXVII. SPECIAL PROVISIONS**

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

1. Making cash payments to intended recipients of services through this Agreement.
2. Lobbying any governmental agency or official. CONTRACTOR shall file all certifications and reports in compliance with this requirement pursuant to Title 31, USC, §1352 (e.g., limitation on use of appropriated funds to influence certain federal contracting and financial transactions).
3. Fundraising.
4. Purchase of gifts, meals, entertainment, awards, or other personal expenses for CONTRACTOR's staff, volunteers, interns, consultants, subcontractors, and members of the Board of Directors or governing body.
5. Reimbursement of CONTRACTOR's members of the Board of Directors or governing body for expenses or services.
6. Making personal loans to CONTRACTOR's staff, volunteers, interns, consultants, subcontractors, and members of the Board of Directors or governing body, or its designee or authorized agent, or making salary advances or giving bonuses to CONTRACTOR's staff.
7. Paying an individual salary or compensation for services at a rate in excess of the current Level I of the Executive Salary Schedule as published by the OPM. The OPM Executive Salary Schedule may be found at [www.opm.gov](http://www.opm.gov).
8. Severance pay for separating employees.
9. Paying rent and/or lease costs for a facility prior to the facility meeting all required building codes and obtaining all necessary building permits for any associated construction.
10. Purchasing or improving land, including constructing or permanently improving any building or facility, except for tenant improvements.
11. Satisfying any expenditure of non-federal funds as a condition for the receipt of federal funds (matching).
12. Contracting or subcontracting with any entity other than an individual or nonprofit entity, unless no nonprofit entity is able and willing to provide such services.
13. Supplanting current funding for existing services.
14. Payment of home mortgages; direct maintenance expense (tires, repairs, etc.) of a privately owned vehicle or any other cost associated with a vehicle, such as lease or loan payments, insurance, or license and registration fees; payment of local or state personal property taxes (for residential property, private automobiles, or any other personal property against which taxes may levied). This restriction does not apply to vehicles operated by organizations for program purposes.
15. To meet professional licensure or program licensure requirements.
16. Providing inpatient hospital services or purchasing major medical equipment.

//

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

- 3 1. Funding travel or training (excluding mileage or parking).
- 4 2. Making phone calls outside of the local area unless documented to be directly for the purpose  
5 of Client care.
- 6 3. Payment for grant writing, consultants, certified public accounting, or legal services.
- 7 4. Purchase of artwork or other items that are for decorative purposes and do not directly  
8 contribute to the quality of services to be provided pursuant to this Agreement.
- 9 5. Purchase of gifts, meals, entertainment, awards, or other personal expenses for  
10 CONTRACTOR's Clients.

11 C. To the greatest extent practicable, all equipment and products purchased with funds made  
12 available through this Agreement should be American-made.

13  
14 **XXVIII. STATUS OF CONTRACTOR**

15 Each party is, and shall at all times be deemed to be, an independent contractor and shall be wholly  
16 responsible for the manner in which it performs the services required of it by the terms of this Agreement.  
17 Each party is entirely responsible for compensating staff, subcontractors, and consultants employed by  
18 that party. This Agreement shall not be construed as creating the relationship of employer and employee,  
19 or principal and agent, between COUNTY and CONTRACTOR or any of either party's employees,  
20 agents, consultants, or subcontractors. Each party assumes exclusively the responsibility for the acts of  
21 its employees, agents, consultants, or subcontractors as they relate to the services to be provided during  
22 the course and scope of their employment. Each party, its agents, employees, consultants, or  
23 subcontractors, shall not be entitled to any rights or privileges of the other party's employees and shall  
24 not be considered in any manner to be employees of the other party.

25  
26 **XXIX. TERM**

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

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

35 //  
36 //  
37 //



**XXX. TERMINATION**

1  
2 A. Either Party may terminate this Agreement, without cause, upon ninety (90) calendar days'  
3 written notice given the other Party.

4 B. CONTRACTOR shall be responsible for meeting all programmatic and administrative contracted  
5 objectives and requirements as indicated in this Agreement. CONTRACTOR shall be subject to the  
6 issuance of a CAP for the failure to perform to the level of contracted objectives, continuing to not meet  
7 goals and expectations, and/or for non-compliance. In such an instance, ADMINISTRATOR shall notify  
8 CONTRACTOR in writing, of its need to implement a CAP. Such notice must be sent in accordance with  
9 the Notices section of this Agreement and must detail the nature of the deficiency. ADMINISTRATOR  
10 shall allow CONTRACTOR not less than thirty (30) calendar days from CONTRACTOR's receipt of  
11 ADMINISTRATOR's notice, to substantially cure the deficiency detailed in the CAP. If CAPs are not  
12 completed within timeframe as determined by ADMINISTRATOR notice, payments may be reduced or  
13 withheld until CAP is resolved and/or the Agreement could be terminated.

14 C. COUNTY may terminate this Agreement immediately, upon written notice, on the occurrence of  
15 any of the following events:

- 16 1. The loss by CONTRACTOR of legal capacity.
- 17 2. Cessation of services.
- 18 3. The delegation or assignment of CONTRACTOR's services, operation or administration to  
19 another entity without the prior written consent of COUNTY.
- 20 4. The neglect by any physician or licensed person employed by CONTRACTOR of any duty  
21 required pursuant to this Agreement.
- 22 5. The loss of accreditation or any license required by the Licenses and Laws Paragraph of this  
23 Agreement.
- 24 6. The continued incapacity of any physician or licensed person to perform duties required  
25 pursuant to this Agreement.
- 26 7. Unethical conduct or malpractice by any physician or licensed person providing services  
27 pursuant to this Agreement; provided, however, COUNTY may waive this option if CONTRACTOR  
28 removes such physician or licensed person from serving persons treated or assisted pursuant to this  
29 Agreement.

30 D. CONTINGENT FUNDING

- 31 1. Any obligation of COUNTY under this Agreement is contingent upon the following:
  - 32 a. The continued availability of federal, state and county funds for reimbursement of  
33 COUNTY's expenditures, and
  - 34 b. Inclusion of sufficient funding for the services hereunder in the applicable budget(s)  
35 approved by the Board of Supervisors.
- 36 2. In the event such funding is subsequently reduced or terminated, COUNTY may suspend,  
37 terminate or renegotiate this Agreement upon thirty (30) calendar days' written notice given

1 CONTRACTOR. If COUNTY elects to renegotiate this Agreement due to reduced or terminated funding,  
2 CONTRACTOR shall not be obligated to accept the renegotiated terms.

3 E. In the event this Agreement is suspended or terminated prior to the completion of the term as  
4 specified in the Referenced Contract Provisions of this Agreement, ADMINISTRATOR may, at its  
5 sole discretion, reduce the Not To Exceed Amount of this Agreement to be consistent with the reduced  
6 term of the Agreement.

7 F. In the event this Agreement is terminated CONTRACTOR shall do the following:

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

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

12 3. Until the date of termination, continue to provide the same level of service required by this  
13 Agreement.

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

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

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

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

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

29 9. Provide written notice of termination of services to each Client being served under this  
30 Agreement, within fifteen (15) calendar days of receipt of termination notice. A copy of the notice of  
31 termination of services must also be provided to ADMINISTRATOR within the fifteen (15) calendars  
32 day period.

33 G. Either Party may terminate this Agreement, without cause, upon thirty (30) calendar days' written  
34 notice.

35 //

36 //

37 //

**XXXI. THIRD PARTY BENEFICIARY**

Neither party hereto intends that this Agreement shall create rights hereunder for third parties including, but not limited to, any subcontractors or any clients provided services pursuant to this Agreement.

**XXXII. WAIVER OF DEFAULT OR BREACH**

Waiver by COUNTY of any default by CONTRACTOR shall not be considered a waiver of any subsequent default. Waiver by COUNTY of any breach by CONTRACTOR of any provision of this Agreement shall not be considered a waiver of any subsequent breach. Waiver by COUNTY of any default or any breach by CONTRACTOR shall not be considered a modification of the terms of this Agreement.

**XXXIII. THE REGENTS**

A. COUNTY acknowledges that the Regents of the University of California (“The Regents”) has entered into this Agreement solely on behalf of and with respect to the University of California, Irvine Medical Center (UCIMC) and UCI University Physicians & Surgeons, and not on behalf of or with respect to any other division, business or operating unit, enterprise, facility, group, plan, or program that is or may be owned, controlled, governed, or operated by, or affiliated with, The Regents, including, without limitation, any other university, campus, health system, medical center, hospital, clinic, medical group, physician, or health or medical plan or program (collectively, the “Excluded UC Affiliates”). In light of the foregoing, COUNTY further acknowledges and agrees that, notwithstanding any other provision contained in this Agreement:

1. All obligations of The Regents under this Agreement shall be limited to The Regents as and when acting solely on behalf of or with respect to the University of California, Irvine Medical Center (UCIMC) and UCI University Physicians & Surgeons, and shall in no way obligate, be binding on or restrict the business or operating activities of any of the Excluded UC Affiliates;

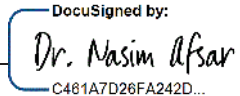
2. None of the Excluded UC Affiliates shall constitute or be deemed to constitute an affiliate of the Regents or of the University of California, Irvine Medical Center (UCIMC) and UCI University Physicians & Surgeons for any purpose under this Agreement; and

3. The University of California, Irvine Medical Center (UCIMC) and UCI University Physicians & Surgeons, through The Regents or otherwise, shall have the right to participate in, provide services under, contract as part of, and otherwise be involved in the management or operation of, any health or medical insurance or benefit plan, program, service or product that is sponsored or offered in whole or in part by The Regents on a system-wide basis.

//  
//  
//

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

3  
4 THE REGENTS OF THE UNIVERSITY OF CALIFORNIA, AS DESCRIBED IN ARTICLE IX,  
5 SECTION 9 OF THE CALIFORNIA CONSTITUTION, ON BEHALF OF UNIVERSITY OF  
6 CALIFORNIA, IRVINE MEDICAL CENTER (UCIMC) & UC IRVINE HEALTH PHYSICIANS  
7 AND SURGEONS

8  
9  
10 BY:  \_\_\_\_\_ DATED: 3/26/2020  
11 C481A7D26FA242D...

12  
13 TITLE: Chief Operating Officer, Amb Care

14  
15  
16 COUNTY OF ORANGE

17  
18  
19 BY: \_\_\_\_\_ DATED: \_\_\_\_\_  
20 HEALTH CARE AGENCY

21  
22  
23 **APPROVED AS TO FORM**

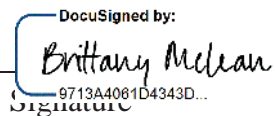
24 Office of the County Counsel  
25 Orange County, California

26  
27 Brittany McLean

Deputy County Counsel

28 Print Name

Title

29  
30  \_\_\_\_\_  
31 9713A4081D4343D...  
32 Signature

3/26/2020  
Date

33  
34  
35 If the contracting party is a corporation, two (2) signatures are required: one (1) signature by the Chairman of the Board, the President or any  
36 Vice President; and one (1) signature by the Secretary, any Assistant Secretary, the Chief Financial Officer or any Assistant Treasurer. If the  
37 contract is signed by one (1) authorized individual only, a copy of the corporate resolution 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 AGREEMENT FOR PROVISION OF  
3 PRIMARY HIV MEDICAL CARE PHYSICIAN SERVICES  
4 BETWEEN  
5 COUNTY OF ORANGE

6 AND  
7 THE REGENTS OF THE UNIVERSITY OF CALIFORNIA, AS DESCRIBED IN ARTICLE IX,  
8 SECTION 9 OF THE CALIFORNIA CONSTITUTION, ON BEHALF OF UNIVERSITY OF  
9 CALIFORNIA, IRVINE MEDICAL CENTER (UCIMC) and UC IRVINE HEALTH PHYSICIANS &  
10 SURGEONS

11 JULY 1, 2020 THROUGH JUNE 30, 2023

12  
13 **I. ASSURANCES**

14 In accordance with funding requirements under Title XXVI of the Public Health Services Act, as  
15 amended by the Ryan White HIV/AIDS Treatment Modernization Act of 2009, CONTRACTOR assures  
16 that it will:

17 A. Permit and cooperate with any official federal or state investigations undertaken regarding  
18 programs conducted under the Ryan White Act.

19 B. Notify COUNTY immediately, in writing, if CONTRACTOR or any of its principals is debarred,  
20 suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this  
21 transaction by any federal department or agency.

22 C. Catalog of Federal Domestic Assistance (CFDA) Information

23 1. This Agreement includes federal funds paid to CONTRACTOR. The CFDA number(s) and  
24 associated information for federal funds paid through this Agreement are specified below:

25  
26 a. CFDA Year: 2020-2023

27 CFDA#: 93.914

28 Program Title: HIV Emergency Relief Project Grant (B)

29 Federal Agency: Department of Health and Human Services

30 Award Name: HIV Emergency Relief Project Grants (B) (Ryan White Part A)

31 Amount: \$86,420 (estimated per year)

32  
33 b. CFDA Year: 2020-2023

34 CFDA#: 93.917

35 Program Title: Grants to States and Territories

36 Federal Agency: Department of Health and Human Services

37 Award Name: HIV Emergency Relief Project Grants (B) (Ryan White Part B)

1 Amount: \$37,250 (estimated per year)

2 c. CFDA Year: 2020-2023

3 CFDA#: 93.918

4 Program Title: Grants to Provide Outpatient Early Intervention Services with  
5 Respect to HIV

6 Federal Agency: Department of Health and Human Services

7 Award Name: Outpatient Early Intervention Services with  
8 Respect to HIV Disease Project Grants (B) (Ryan White Part  
9 C)

10 Amount: \$25,330 (estimated per year)

11  
12 2. CONTRACTOR may be required to have an audit conducted in accordance with  
13 31 USC7501 – 7507, as well as its implementing regulations under 2 CFR Part 200. CONTRACTOR  
14 shall be responsible for complying with any federal audit requirements within the reporting period  
15 specified by 31 USC 7501 – 7507, as well as its implementing regulations under 2 CFR Part 200.

16 3. ADMINISTRATOR may revise the CFDA information listed above, and shall notify  
17 CONTRACTOR in writing of said revisions.

18  
19 **II. CULTURAL COMPETENCY**

20 CONTRACTOR shall provide services pursuant to this Agreement in a manner that is culturally and  
21 linguistically appropriate for the population(s) served. CONTRACTOR shall maintain documentation of  
22 such efforts which may include, but not be limited to: records of participation in COUNTY- sponsored or  
23 other applicable training; recruitment and hiring policies and procedures; copies of literature in multiple  
24 languages and formats, as appropriate; and descriptions of measures taken to enhance accessibility for,  
25 and sensitivity to, persons who are physically challenged.

26  
27 **III. DEFINITIONS**

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

30 A. Fiscal Intermediary: The entity authorized by COUNTY to receive, process, and pay  
31 CONTRACTOR's claims for services provided.

32 B. Liaison (Hospitalist/Physician) Services: Enhanced coordination of physician care and improved  
33 communication with attending physicians.

34 C. Inpatient Services: All Medical Services including Critical Care, Non-Critical Care, and  
35 Isolation Services, which are provided by CONTRACTOR to patients receiving treatment that requires a  
36 hospital stay, excepting Physician Services, pursuant to the Agreement.

37 //



1 D. Medical Services: Any authorized service or exam deemed medically necessary to protect life or  
2 prevent significant disability, and/or to diagnose and treat illness or injuries which require treatment to  
3 prevent serious deterioration of health.

4 E. Outpatient Services: All Medical Services including emergency room, specialty, and diagnostic  
5 services, which are provided by CONTRACTOR to patients receiving treatment that does not require a  
6 hospital stay, excepting Physician Services, pursuant to the Agreement.

7 F. Physician Services: All Medical Services, which are provided by a licensed physician, including  
8 supervision of interns and residents.

9 G. Public Health Patients:

10 1. Persons referred to CONTRACTOR by ADMINISTRATOR, including those with a  
11 confirmed or suspected communicable disease, and adult mental health persons needing medical care.

12 2. Inpatient(s) with no other source of payment who, at the time CONTRACTOR proposes to  
13 discharge the person, ADMINISTRATOR determines public health considerations require that the  
14 patient remain in the hospital and denies approval of the discharge. COUNTY financial responsibility  
15 shall commence on the date ADMINISTRATOR denies approval of the discharge.

16 H. Prior Authorization Request (PA)/Treatment Authorization Request (TAR): A written or  
17 electronic request from ADMINISTRATOR to CONTRACTOR authorizing Medical Services for Public  
18 Health Patients.

19 I. Usual and Customary Charge: The amount which CONTRACTOR normally or usually charges  
20 the majority of its patients for a specified type of service, including the types of Medical Services provided  
21 hereunder.

22  
23 **IV. PAYMENTS**

24 A. COUNTY shall compensate CONTRACTOR for providing Liaison (Hospitalist/Physician)  
25 Services, in the amount of \$6,250 per quarter, not to exceed a total of \$25,000 per year as specified in the  
26 Referenced Contract Provisions of this Agreement. COUNTY shall reimburse CONTRACTOR for  
27 services, and CONTRACTOR shall be responsible for payment to physician for Liaison Services.  
28 COUNTY may withhold payment for Liaison Services if services are not provided in accordance with  
29 Subparagraph VII.B. of this Exhibit A of the Agreement.

30 B. COUNTY shall compensate CONTRACTOR for providing physician services provided as  
31 specified in the Services Paragraph of this Exhibit A to the Agreement, at the rate of \$155 per hour.  
32 CONTRACTOR shall submit monthly invoices for such services and shall include the number of hours  
33 of physician services provided each week and such supporting documentation as ADMINISTRATOR  
34 may require.

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**V. REPORTS**

A. CONTRACTOR shall maintain records and make statistical reports as required by ADMINISTRATOR on forms provided by either party.

B. ADMINISTRATOR may request reasonable reports of CONTRACTOR in order to determine the quality and nature of services provided hereunder. ADMINISTRATOR will be specific as to the nature of information requested, and allow thirty (30) calendar days for CONTRACTOR to respond.

**VI. SERVICES**

A. CONTRACTOR shall provide HIV Primary Care and Consultation Services not to exceed eight hundred (800) hours per year in a County-operated clinic. The first year shall be for the term from July 1, 2020 through June 30, 2021. The second year shall be for the term from July 1, 2021 through June 30, 2022. The third year shall be for the term from July 1, 2022 through June 30, 2023.

B. CONTRACTOR shall provide physicians with Board Certification in Infectious Disease, Internal Medicine, and HIV Specialist.

C. Primary Care and Consultation Services shall consist of licensed physician services and shall include medical consultations and/or examinations, preparation of comprehensive histories and maintenance of medical records and charts for patients, initiation of diagnosis, prescription and administration of treatment, and other such duties of a similar nature as directed by COUNTY Health Officer or designee.

D. CONTRACTOR shall be compensated for any physician hours provided in a County-operated clinic. All physician hours will be compensated in accordance with and at the rates specified in the Payments Paragraph of this Exhibit A to the Agreement.

E. CONTRACTOR shall provide physician services in accordance with a schedule established by ADMINISTRATOR.

F. CONTRACTOR shall provide a Liaison (Hospitalist/Physician) who shall coordinate care of all referred communicable disease patients with ADMINISTRATOR. If Liaison is unable to perform said Hospitalist/Physician services due to vacations, illnesses, and other planned and unplanned absences, CONTRACTOR shall give ADMINISTRATOR advanced notice and provide a back-up for said Liaison. Liaison and back-up liaison shall be physicians Board certified in pulmonary or infectious disease medicine, with five (5) years or more experience in the diagnosis and treatment of individuals with communicable diseases. The Liaison and back-up liaison shall persons mutually agreed upon by both parties. The Liaison shall perform the following duties, and such others as are deemed appropriate by ADMINISTRATOR:

1. Hospitalized Patients with Suspected or Confirmed HIV or Other Communicable Diseases

a. Coordinate and expedite the admissions process for Public Health Patients referred or transferred for hospitalization at UCIMC.

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- 1 b. Provide guidance to UCIMC Ward Teams and UCIMC’s Infectious Disease Team
- 2 regarding medical progress management and medical preparation of patient for discharge.
- 3 c. Coordinate discharge planning with CONTRACTOR’s and ADMINISTRATOR’s case
- 4 managers.
- 5 d. Conduct direct examinations of patients with difficult diagnostic or management
- 6 problems on an as-needed basis.
- 7 e. Counsel family members on an as-needed basis.
- 8 f. Develop and update Care Path Guidelines for inpatient diagnosis and management of
- 9 suspected or confirmed HIV or other communicable diseases.

10 2. Outpatient Referrals

- 11 a. Coordinate and expedite arrangements for timely outpatient clinic consultations with
- 12 various specialty clinics for Public Health Patients referred for complicated diagnostic or disease
- 13 management problems.
- 14 b. Review and update administrative systems for interdepartmental consultations on
- 15 outpatient referrals.

16 3. UCIMC/ADMINISTRATOR Conferences

- 17 a. Participate in ADMINISTRATOR’s HIV Clinic Risk Case Presentation meetings at a
- 18 minimum of four (4) times per year.

19 4. Additional Responsibilities

- 20 a. Assist ADMINISTRATOR’s HIV Clinic Medical Director with at least two (2) revisions
- 21 of guidelines and provision of HIV Clinic staff training.

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

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