

1 CONTRACT FOR PROVISION OF  
 2 HIV/STD TESTING, CARE, AND REFERRAL SERVICES  
 3 BETWEEN  
 4 COUNTY OF ORANGE  
 5 AND  
 6 ALIANZA TRANSLATINX  
 7 JULY 10, 2023 THROUGH JUNE 30, 2026

8  
 9 THIS CONTRACT entered into this 10th day of July, 2023, is by and between the COUNTY OF  
 10 ORANGE, a political subdivision of State of California (COUNTY), and ALIANZA TRANSLATINX, a  
 11 California Nonprofit Public Benefit Corporation (CONTRACTOR). COUNTY and CONTRACTOR  
 12 may sometimes be referred to herein individually as “Party” or collectively as “Parties.” The County of  
 13 Orange Health Care Agency (ADMINISTRATOR) shall administer this Contract.

14  
 15 **W I T N E S S E T H:**

16  
 17 WHEREAS, COUNTY wishes to contract with CONTRACTOR for the provision of HIV/STD  
 18 Testing, Care, and Referral Services as described herein; and

19 WHEREAS, COUNTY receives federal and state funding through the Ending the HIV Epidemic  
 20 (EHE) Initiative and the Sexually Transmitted Disease (STD) Program Management and Collaboration  
 21 Project to provide HIV/STD testing and HIV prevention and care services to people at risk for or living  
 22 with HIV; and

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

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

27 //  
 28 //  
 29 //  
 30 //  
 31 //  
 32 //  
 33 //  
 34 //  
 35 //  
 36 //  
 37 //

**TABLE OF CONTENTS**

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29  
30  
31  
32  
33  
34  
35  
36  
37

<b><u>PARAGRAPH</u></b>	<b><u>PAGE</u></b>
Title Page.....	1
Table of Contents .....	2
Referenced Contract Provisions .....	4
I. Acronyms .....	5
II. Alteration of Terms .....	7
III. Assignment of Debts.....	7
IV. Compliance .....	7
V. Confidentiality.....	12
VI. Conflict of Interest .....	12
VII. Cost Report.....	13
VIII. Debarment and Suspension Certification .....	15
IX. Delegation, Assignment and Subcontracts.....	15
X. Dispute Resolution.....	17
XI. Employee Eligibility Verification .....	18
XII. Equipment .....	18
XIII. Facilities, Payments and Services.....	19
XIV. Indemnification and Insurance .....	20
XV. Inspections and Audits.....	24
XVI. Licenses and Laws .....	25
XVII. Literature, Advertisements, and Social Media.....	27
XVIII. Maximum Obligation/Amount Not to Exceed.....	27
XIX. Minimum Wage Laws .....	28
XX. Nondiscrimination.....	28
XXI. Notices.....	30
XXII. Notification of Death .....	31
XXIII. Notification of Public Events and Meetings .....	31
XXIV. Records Management and Maintenance .....	32
XXV. Research and Publication.....	32
XXVI. Revenue.....	33
XXVII. Severability.....	33
XXVIII. Special Provisions .....	33
XXIX. Status of Contractor .....	34
XXX. Term .....	35
XXXI. Termination .....	35

**TABLE OF CONTENTS**

1		
2		
3	XXXII. Third Party Beneficiary .....	37
4	XXXIII. Waiver of Default or Breach.....	37
5	Signature Page .....	38

**EXHIBIT A**

**PAGE**

6		
7		
8	I. Assurances .....	1
9	II. Budget .....	1
10	III. Definitions .....	5
11	IV. Client Grievance Review and Resolution Policy .....	8
12	V. Payments .....	10
13	VI. Reports.....	10
14	VII. Services .....	14
15	VIII. Staffing .....	21

**EXHIBIT B**

16		
17		
18	I. Business Associate Contract.....	1

**EXHIBIT C**

19		
20		
21	I. Personal Information Privacy and Security Contract.....	1

22 //  
23 //  
24 //  
25 //  
26 //  
27 //  
28 //  
29 //  
30 //  
31 //  
32 //  
33 //  
34 //  
35 //  
36 //

**REFERENCED CONTRACT PROVISIONS**

**Term:** July 10, 2023 through June 30, 2026

Period One means the period from July 10, 2023 through June 30, 2024

Period Two means the period from July 1, 2024 through June 30, 2025

Period Three means the period from July 1, 2025 through June 30, 2026

**Aggregate Amount Not to Exceed:**

Period One Aggregate Amount Not to Exceed: \$ 1,692,845

Period Two Aggregate Amount Not to Exceed: 1,692,845

Period Three Aggregate Amount Not to Exceed: 1,692,845

**Total Aggregate Amount Not to Exceed:** \$ 5,078,535

**Basis for Reimbursement:** Actual Cost

**Payment Method:** Monthly in arrears

**UNIQUE ENTITY IDENTIFIER:** R9HKM5M1J5D5

**CONTRACTOR TAX ID:** 85-2605193

**Notices to COUNTY and CONTRACTOR:**

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

**CONTRACTOR:** Alianza Translatinx  
206 W. Fourth St., Suite 420  
Santa Ana, CA 92701  
Khloe Rios-Wyatt, CEO/President  
[krios-wyatt@alianzatranslatinx.org](mailto:krios-wyatt@alianzatranslatinx.org)

//

//

//

## I. ACRONYMS

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

1		
2		
3		
4	A. AIDS	Acquired Immune Deficiency Syndrome
5	B. ARIES	AIDS Regional Information and Evaluation System
6	C. ARRA	American Recovery and Reinvestment Act
7	D. ASRS	Alcohol and Drug Programs Reporting System
8	E. CAP	Corrective Action Plan
9	F. CEF	Client Encounter Form
10	G. CCC	California Civil Code
11	H. CCR	California Code of Regulations
12	I. CDC	Centers for Disease Control and Prevention
13	J. CFDA	Catalog of Federal Domestic Assistance
14	K. CDPH/OA	California Department of Public Health, Office of AIDS
15	L. CEO	County Executive Office
16	M. CFR	Code of Federal Regulations
17	N. CHPP	COUNTY HIPAA Policies and Procedures
18	O. CHS	Correctional Health Services
19	P. CIPA	California Information Practices Act
20	Q. CMPPA	Computer Matching and Privacy Protection Act
21	R. CLIA	Clinical Laboratory Improvement Act/Amendment
22	S. CMS	Center for Medicare and Medicaid Services
23	T. COI	Certificate of Insurance
24	U. CSI	Client and Services Information
25	V. DCR	Data Collection and Reporting
26	W. DD	Dually Diagnosed
27	X. D/MC	Drug/Medi-Cal
28	Y. DHCS	Department of Health Care Services
29	Z. DPFS	Drug Program Fiscal Systems
30	AA. DRS	Designated Record Set
31	AB. EHR	Electronic Health Records
32	AC. ePHI	Electronic Protected Health Information
33	AD. FDA	Food and Drug Administration
34	AE. FIPS	Federal Information Processing Standards
35	AF. FQHC	Federally Qualified Health Center
36	AG. FTE	Full Time Equivalent
37	AH. GAAP	Generally Accepted Accounting Principles

1	AI. HAB	Federal HIV/AIDS Bureau
2	AJ. HCA	Health Care Agency
3	AK. HHS	Health and Human Services
4	AL. HIPAA	Health Insurance Portability and Accountability Act of 1996, Public
5		Law 104-191
6	AM. HITECH Act	The Health Information Technology for Economic and
7		Clinical Health Act, Public Law 111-005
8	AN. HIV	Human Immunodeficiency Virus
9	AO. HCC	HIV Care Connect
10	AP. HRSA	Federal Health Resources and Services Administration
11	AQ. HSC	California Health and Safety Code
12	AR. ISO	Insurance Services Office
13	AS. ITP	Individualized Treatment Plan
14	AT. LGBTQI	Lesbian, Gay, Bisexual, Transgender, Questioning, and Intersex
15	AU. LTC	Linkage to Care
16	AV. LEO	Local Evaluation Online
17	AW. NICP	Newly Identified Confirmed HIV Positive
18	AX. NPDB	National Provider Data Bank
19	AY. NPI	National Provider Identifier
20	AZ. NPP	Notice of Privacy Practices
21	BA. MHP	Mental Health Plan
22	BB. OCJS	Orange County Jail System
23	BC. OCPD	Orange County Probation Department
24	BD. OCR	Office for Civil Rights
25	BE. OCSD	Orange County Sheriff's Department
26	BF. OIG	Office of Inspector General
27	BG. OMB	Office of Management and Budget
28	BH. OPM	Federal Office of Personnel Management
29	BI. P&P	Policy and Procedure
30	BJ. PA DSS	Payment Application Data Security Standard
31	BK. PC	State of California Penal Code
32	BL. PCI DSS	Payment Card Industry Data Security Standard
33	BM. PHI	Protected Health Information
34	BN. PII	Personally Identifiable Information
35	BO. PLWH	Person Living with HIV
36	BP. PRA	Public Record Act
37	BQ. PS	Partner Services

1	BR. QI	Quality Improvement
2	BS. QM	Quality Management
3	BT. RSR	Ryan White Services Report
4	BU. SIR	Self-Insured Retention
5	BV. The HITECH Act	The Health Information Technology for Economic and Clinical Health
6		Act, Public Law 111-005
7	BW. UOS	Units of Service
8	BX. USC	United States Code
9	BY. VMV	Verified Medical Visit
10	BZ. WIC	State of California Welfare and Institutions Code

## **II. ALTERATION OF TERMS**

13 A. This Contract, together with Exhibit(s) A, B, and C attached hereto and incorporated herein, fully  
14 expresses the complete understanding of COUNTY and CONTRACTOR with respect to the subject  
15 matter of this Contract.

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

## **III. ASSIGNMENT OF DEBTS**

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

## **IV. COMPLIANCE**

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

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

37 //

1           2. CONTRACTOR has the option to provide ADMINISTRATOR with proof of its own  
2 Compliance Program, Code of Conduct and any Compliance related policies and procedures.  
3 CONTRACTOR's Compliance Program, Code of Conduct and any related policies and procedures shall  
4 be verified by ADMINISTRATOR's Compliance Department to ensure they include all required elements  
5 by ADMINISTRATOR's Compliance Officer as described in this Paragraph IV (COMPLIANCE). These  
6 elements include:

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

14           3. If CONTRACTOR does not provide proof of its own Compliance program to  
15 ADMINISTRATOR, CONTRACTOR shall comply with ADMINISTRATOR's Compliance Program  
16 and Code of Conduct, CONTRACTOR shall submit to ADMINISTRATOR within thirty (30) calendar  
17 days of execution of this Contract a signed acknowledgement that CONTRACTOR shall comply with  
18 ADMINISTRATOR's Compliance Program and Code of Conduct.

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

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

36           B. SANCTION SCREENING – CONTRACTOR shall screen all Covered Individuals employed or  
37 retained to provide services related to this Contract semi-annually to ensure that they are not designated



1 as Ineligible Persons, as pursuant to this Contract. Screening shall be conducted against the General  
2 Services Administration's Excluded Parties List System or System for Award Management, the Health  
3 and Human Services/Office of Inspector General List of Excluded Individuals/Entities, and the California  
4 Medi-Cal Suspended and Ineligible Provider List and/or any other list or system as identified by  
5 ADMINISTRATOR.

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

17 2. An Ineligible Person shall be any individual or entity who:  
18 a. is currently excluded, suspended, debarred or otherwise ineligible to participate in federal  
19 and state health care programs; or  
20 b. has been convicted of a criminal offense related to the provision of health care items or  
21 services and has not been reinstated in the federal and state health care programs after a period of  
22 exclusion, suspension, debarment, or ineligibility.

23 3. CONTRACTOR shall screen prospective Covered Individuals prior to hire or engagement.  
24 CONTRACTOR shall not hire or engage any Ineligible Person to provide services relative to this  
25 Contract.

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

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

36 6. CONTRACTOR acknowledges that Ineligible Persons are precluded from providing federal  
37 and state funded health care services by contract with COUNTY in the event that they are currently

1 sanctioned or excluded by a federal or state law enforcement regulatory or licensing agency. If  
2 CONTRACTOR becomes aware that a Covered Individual has become an Ineligible Person,  
3 CONTRACTOR shall remove such individual from responsibility for, or involvement with, COUNTY  
4 business operations related to this Contract.

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

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

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

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

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

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

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

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

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

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

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

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

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. MEDICAL 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 ADMINISTRATOR.

21 6. CONTRACTOR shall meet the HCA Quality Management Program Standards and  
22 participate in the quality improvement activities developed in the implementation of the Quality  
23 Management Program, as applicable.

24 7. CONTRACTOR shall comply with the provisions of ADMINISTRATOR’s Cultural  
25 Competency Plan submitted and approved by the state. ADMINISTRATOR shall update the Cultural  
26 Competency Plan and submit the updates to the State for review and approval annually. (CCR, Title 9,  
27 §1810.410.subds. (c)- (d).

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

34 //  
35 //  
36 //  
37 //

## V. CONFIDENTIALITY

1  
2 A. CONTRACTOR shall maintain the confidentiality of all records, including billings and any audio  
3 and/or video recordings, in accordance with all applicable federal, state and county codes and regulations,  
4 as they now exist or may hereafter be amended or changed.

5 1. CONTRACTOR acknowledges and agrees that all persons served pursuant to this Contract  
6 are clients of the Orange County HIV services system, and therefore it may be necessary for authorized  
7 staff of ADMINISTRATOR to audit client files, or to exchange information regarding specific clients  
8 with COUNTY or other providers of related services contracting with COUNTY.

9 2. CONTRACTOR acknowledges and agrees that it shall be responsible for obtaining written  
10 consents for the release of information from all persons served by CONTRACTOR pursuant to this  
11 Contract. Such consents shall be obtained by CONTRACTOR in accordance with CCC, Division 1, Part  
12 2.6, relating to confidentiality of medical information.

13 3. In the event of a collaborative service contract between HIV services providers,  
14 CONTRACTOR acknowledges and agrees that it is responsible for obtaining releases of information,  
15 from the collaborative agency, for clients receiving services through the collaborative contract.

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

## VI. CONFLICT OF INTEREST

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

32 B. The Parties hereto acknowledge that CONTRACTOR may be affiliated with one or more  
33 organizations or professional practices located in Orange County. CONTRACTOR therefore warrants  
34 that he/she shall not violate any applicable law, rule or regulation of any governmental entity relating to  
35 conflict of interest. Except as specified in the Services Paragraph of the Contract, CONTRACTOR shall  
36 not knowingly undertake any act which unjustifiably results in any relative benefit to any organization or  
37 professional practice with which he/she is affiliated as a direct or indirect result, whether economic or

1 otherwise in nature, of the performance of duties and obligations required by the Contract, when compared  
2 to the result such act has on any other organization or professional practice.

3 C. CONTRACTOR shall annually submit an Outside Employment and/or Other Affiliation  
4 Statement to their supervisor.

## 6 **VII. COST REPORT**

7 A. CONTRACTOR shall submit separate Cost Reports for each Period or for a portion thereof, to  
8 COUNTY no later than sixty (60) calendar days following the period for which they are prepared or  
9 termination of this Contract. CONTRACTOR shall prepare the Cost Report in accordance with all  
10 applicable federal, state and COUNTY requirements, GAAP and the Special Provisions Paragraph of this  
11 Contract. CONTRACTOR shall allocate direct and indirect costs to and between programs, cost centers,  
12 services, and funding sources in accordance with such requirements and consistent with prudent business  
13 practice, which costs and allocations shall be supported by source documentation maintained by  
14 CONTRACTOR, and available at any time to ADMINISTRATOR upon reasonable notice.

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

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

22 b. ADMINISTRATOR may withhold or delay any or all payments due CONTRACTOR  
23 pursuant to any or all contracts between COUNTY and CONTRACTOR until such time that the accurate  
24 and complete Cost Report is delivered to ADMINISTRATOR.

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

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

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

1 C. Final settlement shall be based upon the actual and reimbursable costs for services hereunder, less  
 2 applicable revenues and any late penalty, not to exceed COUNTY's Amount Not to Exceed as set forth in  
 3 the Referenced Contract Provisions of this Contract. CONTRACTOR shall not claim expenditures to  
 4 COUNTY which are not reimbursable pursuant to applicable federal, state and COUNTY laws,  
 5 regulations and requirements. Any payment made by COUNTY to CONTRACTOR, which is  
 6 subsequently determined to have been for an unreimbursable expenditure or service, shall be repaid by  
 7 CONTRACTOR to COUNTY in cash, or other authorized form of payment, within thirty (30) calendar  
 8 days of submission of the Cost Report or COUNTY may elect to reduce any amount owed  
 9 CONTRACTOR by an amount not to exceed the reimbursement due COUNTY.

10 D. If the Cost Report indicates the actual and reimbursable costs of services provided pursuant to  
 11 this Contract, less applicable revenues and late penalty, are lower than the aggregate of interim monthly  
 12 payments to CONTRACTOR, CONTRACTOR shall remit the difference to COUNTY. Such  
 13 reimbursement shall be made, in cash, or other authorized form of payment, with the submission of the  
 14 Cost Report. If such reimbursement is not made by CONTRACTOR within thirty (30) calendar days after  
 15 submission of the Cost Report, COUNTY may, in addition to any other remedies, reduce any amount  
 16 owed CONTRACTOR by an amount not to exceed the reimbursement due COUNTY.

17 E. If the Cost Report indicates the actual and reimbursable costs of services provided pursuant to  
 18 this Contract, less applicable revenues and late penalty, are higher than the aggregate of interim monthly  
 19 payments to CONTRACTOR, COUNTY shall pay CONTRACTOR the difference, provided such  
 20 payment does not exceed the Aggregate Amount Not to Exceed of COUNTY.

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

23  
 24 "I HEREBY CERTIFY that I have executed the accompanying Cost Report and  
 25 supporting documentation prepared by \_\_\_\_\_ for the cost report period  
 26 beginning \_\_\_\_\_ and ending \_\_\_\_\_ and that, to the best of my knowledge  
 27 and belief, costs reimbursed through this Contract are reasonable and allowable and  
 28 directly or indirectly related to the services provided and that this Cost Report is a true,  
 29 correct, and complete statement from the books and records of (provider name) in  
 30 accordance with applicable instructions, except as noted. I also hereby certify that I  
 31 have the authority to execute the accompanying Cost Report.

32 Signed \_\_\_\_\_  
 33 Name \_\_\_\_\_  
 34 Title \_\_\_\_\_  
 35 Date \_\_\_\_\_"

36 //  
 37 //

## **VIII. DEBARMENT AND SUSPENSION CERTIFICATION**

### **A. CONTRACTOR certifies that it and its principals:**

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

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

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

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

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

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

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

## **IX. DELEGATION ASSIGNMENT, AND SUBCONTRACTS**

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

B. CONTRACTOR agrees that if there is a change or transfer of ownership of CONTRACTOR's business prior to the completion of the Contract, and COUNTY agrees to an assignment of the Contract, the new owners shall be required under the terms of sale or other instruments of transfer to assume CONTRACTOR's duties and obligations contained in the Contract and complete them to the satisfaction

//

1 of COUNTY. CONTRACTOR may not assign the rights here under, either in whole or in part, without  
2 the prior written consent of COUNTY.

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

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

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

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

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

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

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

36 1. After approval of a subcontractor, ADMINISTRATOR may revoke the approval of a  
37 subcontractor upon five (5) calendar days' written notice to CONTRACTOR if the subcontractor



1 subsequently fails to meet the requirements of the Contract or any provisions that ADMINISTRATOR  
2 has required. ADMINISTRATOR may disallow subcontractor expenses reported by CONTRACTOR.

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

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

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

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

## 19 20 **X. DISPUTE RESOLUTION**

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

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

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

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

37 //

1 C. Any final decision of COUNTY shall be expressly identified as such, shall be in writing, and shall  
2 be signed by a COUNTY Deputy Purchasing Agent or designee. If COUNTY does not render a decision  
3 within ninety (90) calendar days after receipt of CONTRACTOR's demand, it shall be deemed a final  
4 decision adverse to CONTRACTOR's contentions.

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

## 11 **XI. EMPLOYEE ELIGIBILITY VERIFICATION**

12 CONTRACTOR warrants that it shall fully comply with all federal and state statutes and regulations  
13 regarding the employment of aliens and others and to ensure that employees, subcontractors, and  
14 consultants performing work under this Contract meet the citizenship or alien status requirements set forth  
15 in federal statutes and regulations. CONTRACTOR shall obtain, from all employees, subcontractors, and  
16 consultants performing work hereunder, all verification and other documentation of employment  
17 eligibility status required by federal or state statutes and regulations including, but not limited to, the  
18 Immigration Reform and Control Act of 1986, 8 USC §1324 et seq., as they currently exist and as they  
19 may be hereafter amended. CONTRACTOR shall retain all such documentation for all covered  
20 employees, subcontractors, and consultants for the period prescribed by the law.  
21

## 22 **XII. EQUIPMENT**

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

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

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

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

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

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

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

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

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

### 24 25 **XIII. FACILITIES, PAYMENTS AND SERVICES**

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

31 B. In the event that CONTRACTOR is unable to provide the services, staffing, facilities, or supplies  
32 as required, ADMINISTRATOR may, at its sole discretion, reduce the Aggregate Amount Not to Exceed  
33 for the appropriate Period as well as the Total Aggregate Amount Not to Exceed. The reduction to the  
34 Aggregate Amount Not to Exceed for the appropriate Period as well as the Total Aggregate Amount Not  
35 to Exceed shall be in an amount proportionate to the number of days in which CONTRACTOR was  
36 determined to be unable to provide services, staffing, facilities or supplies.

37

1 **XIV. INDEMNIFICATION AND INSURANCE**

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

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

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

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

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

37 //

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

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

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

8 F. QUALIFIED INSURER

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

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

17 G. The policy or policies of insurance maintained by CONTRACTOR shall provide the minimum  
18 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
Employers' Liability Insurance	\$1,000,000 per occurrence
Network Security & Privacy Liability	\$1,000,000 per claims made
Professional Liability Insurance	\$1,000,000 per claims -made
	\$1,000,000 aggregate
Sexual Misconduct Liability	\$1,000,000 per occurrence

1 H. REQUIRED COVERAGE FORMS

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

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

6 I. REQUIRED ENDORSEMENTS

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

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

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

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

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

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

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

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

30 L. The County of Orange shall be the loss payee on the Employee Dishonesty coverage. A Loss  
31 Payee endorsement evidencing that the County of Orange is a Loss Payee shall accompany the Certificate  
32 of Insurance.

33 M. CONTRACTOR shall notify COUNTY in writing within thirty (30) calendar days of any policy  
34 cancellation and within ten (10) calendar days for non-payment of premium and provide a copy of the  
35 cancellation notice to COUNTY. Failure to provide written notice of cancellation shall constitute a breach  
36 of CONTRACTOR's obligation hereunder and ground for COUNTY to suspend or terminate this  
37 Contract.

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

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

6 P. Insurance certificates should be forwarded to the department address listed in the Referenced  
7 Contract Provisions.

8 Q. If CONTRACTOR fails to provide the insurance certificates and endorsements within seven (7)  
9 calendar days of notification by COUNTY, COUNTY may terminate this Contract immediately, upon  
10 written notice.

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

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

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

#### 23 U. SUBMISSION OF INSURANCE DOCUMENTS

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

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

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

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

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

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

34 a. ADMINISTRATOR may withhold or delay any or all payments due CONTRACTOR  
35 pursuant to any and all contracts between COUNTY and CONTRACTOR until such time that the required  
36 COI and endorsements that meet the insurance provisions stipulated in this Contract are submitted to  
37 ADMINISTRATOR.

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

5 c. If CONTRACTOR is assessed a late penalty, the amount shall be deducted from  
6 CONTRACTOR’s monthly invoice.

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

10  
11 **XV. INSPECTIONS AND AUDITS**

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

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

26 C. AUDIT RESPONSE

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

32 2. If the audit reveals that money is payable from one party to the other, that is, reimbursement  
33 by CONTRACTOR to COUNTY, or payment of sums due from COUNTY to CONTRACTOR, said  
34 funds shall be due and payable from one party to the other within sixty (60) calendar days of receipt of  
35 the audit results. If reimbursement is due from CONTRACTOR to COUNTY, and such reimbursement  
36 is not received within said sixty (60) calendar days, COUNTY may, in addition to any other remedies

37 //



1 provided by law, reduce any amount owed CONTRACTOR by an amount not to exceed the  
2 reimbursement due COUNTY.

3 D. CONTRACTOR shall retain a licensed certified public accountant, who will prepare and file with  
4 ADMINISTRATOR, an annual, independent, organization-wide audit of related expenditures as may be  
5 required during the term of the Contract. CONTRACTOR's licensed certified public accountant shall also  
6 prepare an annual Single Audit as required by 31 USC 7501 – 7507, as well as its implementing  
7 regulations under 2 CFR Part 200, Uniform Administrative Requirements, Cost Principles, and Audit  
8 Requirements for Federal Awards. CONTRACTOR shall forward the Single Audit to  
9 ADMINISTRATOR within fourteen (14) calendar days of receipt.

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

#### 14 **XVI. LICENSES AND LAWS**

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

23 B. Consistent with 45 CFR 75.113, CONTRACTOR must disclose, in a timely manner, in writing  
24 to COUNTY all information related to violations of federal criminal law involving fraud, bribery, or  
25 gratuity violations potentially affecting the federal award. Disclosures must be sent in writing to  
26 COUNTY and to the HHS OIG at the following address:

27  
28 Department of Health and Human Services  
29 Health Resources and Services Administration  
30 Office of Federal Assistance Management  
31 Division of Grants Management Operations  
32 5600 Fishers Lane, Mailstop 10SWH03  
33 Rockville, MD 20879  
34 AND  
35 U.S. Department of Health and Human Services  
36 Office of Inspector General  
37 Attn: Mandatory Grant Disclosures, Intake Coordinator

1 330 Independence Avenue, SW, Cohen Building Room 5527

2 Washington, DC 20201

3 Fax: (202)2050604

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

- 7 1. ARRA of 2009.
- 8 2. Code of Federal Regulations, Title 42, Public Health.
- 9 3. 42 CFR, Public Health, H&SC 121025.
- 10 4. 31 USC 7501 – 7507, as well as its implementing regulations under 2 CFR Part 200, Uniform  
11 Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards.
- 12 5. HIPAA Privacy Rule, as it may now exist, or be hereafter amended, as applicable.
- 13 6. 42 USC §12101 et seq., Americans with Disabilities Act of 1990.
- 14 7. WIC §15600, et seq., Elder Abuse and Dependent Adult Civil Protection Act.
- 15 8. 45 CFR Part 76, Drug Free Workplace.
- 16 9. CCR, Title 22, Division 6, Community Care Licensing Division.
- 17 10. 42 USC. 12901 et seq., AIDS Housing Opportunity Act
- 18 11. Ryan White HIV/AIDS Treatment Extension Act of 2009 (Public Law 111-87, October 30,  
19 2009).
- 20 12. U.S. Department of Health and Human Services, National Institutes of Health (NIH) Grants  
21 Policy Statement (10/13).
- 22 13. U.S. Department of Health and Human Services, Public Health Service, PHS Grant Policy  
23 Statement.
- 24 14. 45 CFR part 75-Uniform Administrative Requirements, Cost Principles, and Audit  
25 Requirements for HHS Awards.
- 26 15 31 USC 7501 – 7507, as well as its implementing regulations under 2 CFR Part 200,  
27 Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards.
- 28 16. Title XXVI of the Public Health Services Act, as amended by the Ryan White HIV/AIDS  
29 Treatment Extension Act of 2009 (Public Law 111-87).
- 30 17. Section 106 (g) of the Trafficking Victims Act of 2000, as amended (22 U.S.C. 7104).
- 31 18. Further Consolidated Appropriations Act, 2020.
- 32 19. Medicare and Medicaid anti-kickback statute (42 U.S.C. 1320a-7b (b)).
- 33 20. Federal Funding Accountability and Transparency Act of 2006 (Pub. L. 109-282) as amended  
34 by section 6202 of Public Law 110-252.

35 //

36 //

37 //

**XVII. LITERATURE, ADVERTISEMENTS, AND SOCIAL MEDIA**

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

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

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

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

**XVIII. MAXIMUM OBLIGATION/AMOUNT NOT TO EXCEED**

A. The Total Aggregate Amount Not to Exceed of COUNTY for services provided in accordance with this Contract, and the separate Aggregate Amount Not to Exceed for each Period under this Contract, are as specified in the Referenced Contract Provisions of this Contract. This specific Contract with CONTRACTOR is only one of several contracts to which this Aggregate Amount Not to Exceed applies. It therefore is understood by the Parties that reimbursement to CONTRACTOR will be only a fraction of the Aggregate Amount Not to Exceed.

B. Upon written request by CONTRACTOR, and at sole discretion of ADMINISTRATOR, ADMINISTRATOR may increase or decrease the Period One, Period Two and Period Three Aggregate Amount Not to Exceed, provided the total of these Aggregate Amounts Not to Exceed does not exceed the Total Aggregate Amount Not to Exceed of COUNTY as specified in the Referenced Contract Provisions of this Contract.

C. ADMINISTRATOR may amend the Aggregate Amount No to Exceed by an amount not to exceed ten percent (10%) of Period One funding for this Contract.

//

//

**XIX. MINIMUM WAGE LAWS**

1  
2 A. Pursuant to the United States of America Fair Labor Standards Act of 1938, as amended, and  
3 State of California Labor Code, §1178.5, CONTRACTOR shall pay no less than the greater of the federal  
4 or California Minimum Wage to all its employees that directly or indirectly provide services pursuant to  
5 this Contract, in any manner whatsoever. CONTRACTOR shall require and verify that all its contractors  
6 or other persons providing services pursuant to this Contract on behalf of CONTRACTOR also pay their  
7 employees no less than the greater of the federal or California Minimum Wage.

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

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

**XX. NONDISCRIMINATION****A. EMPLOYMENT**

17  
18 1. During the term of this Contract, CONTRACTOR and its Covered Individuals shall not  
19 unlawfully discriminate against any employee or applicant for employment because of his/her race,  
20 religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition,  
21 genetic information, marital status, sex, gender, gender identity, gender expression, age, sexual  
22 orientation, or military and veteran status. Additionally, during the term of this Contract, CONTRACTOR  
23 and its Covered Individuals shall require in its subcontracts that subcontractors shall not unlawfully  
24 discriminate against any employee or applicant for employment because of his/her race, religious creed,  
25 color, national origin, ancestry, physical disability, mental disability, medical condition, genetic  
26 information, marital status, sex, gender, gender identity, gender expression, age, sexual orientation, or  
27 military and veteran status.

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

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

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

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

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

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

- 25           1. Denying a client or potential client any service, benefit, or accommodation.
- 26           2. Providing any service or benefit to a client which is different or is provided in a different  
27 manner or at a different time from that provided to other clients.
- 28           3. Restricting a client in any way in the enjoyment of any advantage or privilege enjoyed by  
29 others receiving any service or benefit.
- 30           4. Treating a client differently from others in satisfying any admission requirement or condition,  
31 or eligibility requirement or condition, which individuals must meet in order to be provided any service  
32 or benefit.
- 33           5. Assignment of times or places for the provision of services.

34           C. COMPLAINT PROCESS – CONTRACTOR shall establish procedures for advising all clients  
35 through a written statement that CONTRACTOR's and/or subcontractor's clients may file all complaints  
36 alleging discrimination in the delivery of services with CONTRACTOR, subcontractor, and  
37 ADMINISTRATOR or the U.S. Department of Health and Human Services' OCR.

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

5 2. Within the time limits procedurally imposed, the complainant shall be notified in writing as  
6 to the findings regarding the alleged complaint and, if not satisfied with the decision, may file an appeal.

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

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

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

## 22 **XXI. NOTICES**

23 A. Unless otherwise specified, all notices, claims, correspondence, reports and/or statements  
24 authorized or required by this Contract shall be effective:  
25

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

29 2. When faxed, transmission confirmed;

30 3. When sent by Email; or

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

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

37 //

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

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

## 7 **XXII. NOTIFICATION OF DEATH**

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

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

13 1. TELEPHONE NOTIFICATION – CONTRACTOR shall notify ADMINISTRATOR by  
14 telephone immediately upon becoming aware of the death due to non-terminal illness of any person served  
15 pursuant to this Contract; provided, however, weekends and holidays shall not be included for //  
16 purposes of computing the time within which to give telephone notice and, notwithstanding the time limit  
17 herein specified, notice need only be given during normal business hours.

### 18 2. WRITTEN NOTIFICATION

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

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

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

## 30 **XXIII. NOTIFICATION OF PUBLIC EVENTS AND MEETINGS**

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

34 B. CONTRACTOR shall notify ADMINISTRATOR at least thirty (30) business days in advance of  
35 any applicable public event or meeting. The notification must include the date, time, duration, location  
36 //

1 and purpose of the public event or meeting. Any promotional materials or event related flyers must be  
2 approved by ADMINISTRATOR prior to distribution.

#### 4 **XXIV. RECORDS MANAGEMENT AND MAINTENANCE**

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

8 B. CONTRACTOR shall ensure appropriate financial records related to cost reporting, expenditure,  
9 revenue, billings, etc., are prepared and maintained accurately and appropriately.

10 C. CONTRACTOR shall ensure compliance with requirements pertaining to the privacy and  
11 security of PII and/or PHI. CONTRACTOR shall, ten (10) business days of discovery of a Breach of  
12 privacy and/or security of PII and/or PHI by CONTRACTOR, notify ADMINISTRATOR of such breach  
13 by telephone and email or facsimile.

14 D. CONTRACTOR may be required to pay any costs associated with a Breach of privacy and/or  
15 security of PII and/or PHI, including but not limited to the costs of notification, to the extent such breach  
16 is due to CONTRACTOR's sole fault. CONTRACTOR shall pay any and all such costs arising out of a  
17 Breach of privacy and/or security of PII and/or PHI to the extent such breach is due to CONTRACTOR's  
18 sole fault.

19 E. CONTRACTOR shall retain all financial records for a minimum of ten (10) years from the  
20 commencement of the Contract, unless a longer period is required due to legal proceedings such as  
21 litigations and/or settlement of claims.

22 F. CONTRACTOR shall make records available upon request pertaining to the costs of services,  
23 Client fees, charges, billings, and revenues available at one (1) location within the limits of the County of  
24 Orange.

25 G. If CONTRACTOR is unable to meet the record location criteria above, ADMINISTRATOR may  
26 provide written approval to CONTRACTOR to maintain records in a single location, identified by  
27 CONTRACTOR.

28 H. CONTRACTOR may be required to retain all records involving litigation proceedings and  
29 settlement of claims respecting this Contract for a longer term which will be agreed to by the Parties.

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

#### 34 **XXV. RESEARCH AND PUBLICATION**

35 CONTRACTOR shall not utilize information and data received from COUNTY or developed as a  
36 result of this Contract for the purpose of personal or professional research, or for publication.

37 //



**XXVI. REVENUE**

1  
2 A. THIRD-PARTY REVENUE – CONTRACTOR shall make every reasonable effort to obtain all  
3 available third-party reimbursement for which persons served pursuant to this Contract may be eligible.  
4 Charges to insurance carriers shall be on the basis of CONTRACTOR’s usual and customary charges.

5 B. PROCEDURES – CONTRACTOR shall maintain internal financial controls which adequately  
6 ensure proper billing and collection procedures. CONTRACTOR’s procedures shall specifically provide  
7 for the identification of delinquent accounts and methods for pursuing such accounts. CONTRACTOR  
8 shall provide ADMINISTRATOR, monthly, a written report specifying the current status of fees which  
9 are billed, collected, transferred to a collection agency, or deemed by CONTRACTOR to be uncollectible.

10 C. OTHER REVENUES – CONTRACTOR shall charge for services, supplies, or facility use by  
11 persons other than individuals or groups eligible for services pursuant to this Contract.

**XXVII. SEVERABILITY**

12  
13  
14 If a court of competent jurisdiction declares any provision of this Contract or application thereof to  
15 any person or circumstances to be invalid or if any provision of this Contract contravenes any federal,  
16 state or county statute, ordinance, or regulation, the remaining provisions of this Contract or the  
17 application thereof shall remain valid, and the remaining provisions of this Contract shall remain in full  
18 force and effect, and to that extent the provisions of this Contract are severable.

**XXVIII. SPECIAL PROVISIONS**

19  
20  
21 A. CONTRACTOR shall not use the funds provided by means of this Contract for the following  
22 purposes:

- 23 1. Making cash payments to intended recipients of services through this Contract.
- 24 2. Lobbying any governmental agency or official. CONTRACTOR shall file all certifications  
25 and reports in compliance with this requirement pursuant to Title 31, USC, §1352 (e.g., limitation on use  
26 of appropriated funds to influence certain federal contracting and financial transactions).
- 27 3. Fundraising.
- 28 4. Purchase of gifts, meals, entertainment, awards, or other personal expenses for  
29 CONTRACTOR’s staff, volunteers, or members of the Board of Directors or governing body.
- 30 5. Reimbursement of CONTRACTOR’s members of the Board of Directors or governing body  
31 for expenses or services.
- 32 6. Making personal loans to CONTRACTOR’s staff, volunteers, interns, consultants,  
33 subcontractors, and members of the Board of Directors or governing body, or its designee or authorized  
34 agent, or making salary advances or giving bonuses to CONTRACTOR’s staff.
- 35 7. Paying an individual salary or compensation for services at a rate in excess of the current  
36 Level I of the Executive Salary Schedule as published by the OPM. The OPM Executive Salary Schedule  
37 may be found at [www.opm.gov](http://www.opm.gov).

- 1           8. Severance pay for separating employees.
- 2           9. Paying rent and/or lease costs for a facility prior to the facility meeting all required building
- 3 codes and obtaining all necessary building permits for any associated construction.
- 4           10. Purchasing or improving land, including constructing or permanently improving any building
- 5 or facility, except for tenant improvements.
- 6           11. Satisfying any expenditure of non-federal funds as a condition for the receipt of federal funds
- 7 (matching).
- 8           12. Contracting or subcontracting with any entity other than an individual or nonprofit entity,
- 9 unless no nonprofit entity is able and willing to provide such services.
- 10          13. Supplanting current funding for existing services.
- 11          14. Payment of home mortgages; direct maintenance expense (tires, repairs, etc.) of a privately
- 12 owned vehicle or any other cost associated with a vehicle, such as lease or loan payments, insurance, or
- 13 license and registration fees; payment of local or state personal property taxes (for residential property,
- 14 private automobiles, or any other personal property against which taxes may levied). This restriction does
- 15 not apply to vehicles operated by organizations for program purposes.
- 16          15. To meet professional licensure or program licensure requirements.
- 17          16. Providing inpatient hospital services or purchasing major medical equipment.
- 18          B. Unless otherwise specified in advance and in writing by ADMINISTRATOR, CONTRACTOR
- 19 shall not use the funds provided by means of this Contract for the following purposes:
- 20           1. Funding travel or training (excluding mileage or parking).
- 21           2. Making phone calls outside of the local area unless documented to be directly for the purpose
- 22 of client care.
- 23           3. Payment for grant writing, consultants, certified public accounting, or legal services.
- 24           4. Purchase of artwork or other items that are for decorative purposes and do not directly
- 25 contribute to the quality of services to be provided pursuant to this Contract.
- 26           5. Purchase of gifts, meals, entertainment, awards, or other personal expenses for
- 27 CONTRACTOR's clients.
- 28          C. To the greatest extent practicable, all equipment and products purchased with funds made
- 29 available through this Contract should be American-made.

**XXIX. STATUS OF CONTRACTOR**

30  
31  
32          CONTRACTOR is, and shall at all times be deemed to be, an independent contractor and shall be  
33 wholly responsible for the manner in which it performs the services required of it by the terms of this  
34 Contract. CONTRACTOR is entirely responsible for compensating staff, subcontractors, and consultants  
35 employed by CONTRACTOR. This Contract shall not be construed as creating the relationship of  
36 employer and employee, or principal and agent, between COUNTY and CONTRACTOR or any of  
37 CONTRACTOR's employees, agents, consultants, or subcontractors. CONTRACTOR assumes

1 exclusively the responsibility for the acts of its employees, agents, consultants, or subcontractors as they  
 2 relate to the services to be provided during the course and scope of their employment. CONTRACTOR,  
 3 its agents, employees, consultants, or subcontractors, shall not be entitled to any rights or privileges of  
 4 COUNTY's employees and shall not be considered in any manner to be COUNTY's employees.

### 6 **XXX. TERM**

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

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

### 16 **XXXI. TERMINATION**

17 A. Either party may terminate this Contract, without cause, upon ninety (90) calendar days  
 18 written notice given the other party.

19 B. Unless otherwise specified in this Contract, COUNTY may terminate this Contract upon five (5)  
 20 calendar days' written notice if CONTRACTOR fails to perform any of the terms of this Contract. At  
 21 ADMINISTRATOR's sole discretion, CONTRACTOR may be allowed up to thirty (30) calendar days  
 22 for corrective action.

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

- 25 1. The loss by CONTRACTOR of legal capacity.
- 26 2. Cessation of services.
- 27 3. The delegation or assignment of CONTRACTOR's services, operation or administration to  
 28 another entity without the prior written consent of COUNTY.
- 29 4. The neglect by any physician or licensed person employed by CONTRACTOR of any duty  
 30 required pursuant to this Contract.
- 31 5. The loss of accreditation or any license required by the Licenses and Laws Paragraph of this  
 32 Contract.
- 33 6. The continued incapacity of any physician or licensed person to perform duties required  
 34 pursuant to this Contract.
- 35 7. Unethical conduct or malpractice by any physician or licensed person providing services  
 36 pursuant to this Contract; provided, however, COUNTY may waive this option if CONTRACTOR

37 //

1 removes such physician or licensed person from serving persons treated or assisted pursuant to this  
2 Contract.

3 D. CONTINGENT FUNDING

4 1. Any obligation of COUNTY under this Contract is contingent upon the following:

5 a. The continued availability of federal, state and county funds for reimbursement of  
6 COUNTY's expenditures, and

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

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

13 E. In the event this Contract is suspended or terminated prior to the completion of the term as  
14 specified in the Referenced Contract Provisions of this Contract, ADMINISTRATOR may, at its sole  
15 discretion, reduce the Aggregate Amount Not to Exceed of this Contract in an amount consistent with the  
16 reduced term of the Contract.

17 F. In the event this Contract is terminated by either party pursuant to Subparagraphs A., B., C. or D.  
18 above, CONTRACTOR shall do the following:

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

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

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

25 4. If clients are to be transferred to another facility for services, furnish ADMINISTRATOR,  
26 upon request, all client information and records deemed necessary by ADMINISTRATOR to effect an  
27 orderly transfer.

28 5. Assist ADMINISTRATOR in effecting the transfer of clients in a manner consistent with  
29 client's best interests.

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

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

34 8. To the extent services are terminated, cancel outstanding commitments covering the  
35 procurement of materials, supplies, equipment, and miscellaneous items, as well as outstanding  
36 commitments which relate to personal services. With respect to these canceled commitments,  
37 CONTRACTOR shall submit a written plan for settlement of all outstanding liabilities and all claims

1 arising out of such cancellation of commitment which shall be subject to written approval of  
2 ADMINISTRATOR.

3 G. The rights and remedies of COUNTY provided in this Termination Paragraph shall not be  
4 exclusive and are in addition to any other rights and remedies provided by law or under this Contract.

5  
6 **XXXII. THIRD PARTY BENEFICIARY**

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

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

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

15 //

16 //

17 //

18 //

19 //

20 //

21 //

22 //

23 //

24 //

25 //

26 //

27 //

28 //

29 //

30 //

31 //

32 //

33 //

34 //

35 //

36 //

37 //

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

3  
4 ALIANZA TRANSLATINX

5  
6 DocuSigned by:  
7 BY: *Keloe Rios-Wyatt* DATED: 5/4/2023  
8 3802121F1AF0482...

9 TITLE: President/CEO

10  
11 BY: \_\_\_\_\_ DATED: \_\_\_\_\_

12  
13 TITLE: \_\_\_\_\_

14  
15  
16  
17 COUNTY OF ORANGE

18  
19  
20 BY: \_\_\_\_\_ DATED: \_\_\_\_\_

21 HEALTH CARE AGENCY

22  
23  
24  
25 APPROVED AS TO FORM  
26 OFFICE OF THE COUNTY COUNSEL  
27 ORANGE COUNTY, CALIFORNIA

28  
29 DocuSigned by:  
30 BY: *Brittany McLean* DATED: 5/5/2023  
31 9713A4061D4343D...

32 DEPUTY

33  
34  
35 If CONTRACTOR 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  
37 the 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.

EXHIBIT A  
 TO CONTRACT FOR PROVISION OF  
 HIV/STD TESTING, CARE, AND REFERRAL SERVICES  
 BETWEEN  
 COUNTY OF ORANGE  
 AND  
 ALIANZA TRANSLATINX  
 JULY 10, 2023 THROUGH JUNE 30, 2026

**I. ASSURANCES**

The following Assurances are applicable to Outpatient/Ambulatory Health Services only:

A. CONTRACTOR acknowledges that the Contract is funded through HRSA EHE funding, and that said funding is to be funding of last resort and may only be used to provide services when adequate alternative services are unavailable and no other resources exist to fund the services, as further set forth in this Paragraph I. Assurances of Exhibit A.

B. In accordance with funding requirements, CONTRACTOR will:

1. Assure that contract funds are used as payer of last resort. CONTRACTOR shall not use contract funds to make payments for any item or service to the extent that payment for that item or service has already been made, or can reasonably be expected to be made:

a. Under any state compensation program, under an insurance policy, or under any federal or state health benefits program;

b. By an entity that provides health services on a prepaid basis; or

c. By third party reimbursement.

2. Provide, to the maximum extent practicable, HIV-related health care and support services without regard to the ability of the individual to pay for such services and without regard to the current or past health condition of the individual with HIV.

3. Provide services in a setting that is accessible to low-income individuals with HIV.

4. Permit and cooperate with any official federal or state investigation undertaken regarding programs funded by HRSA.

**II. BUDGET**

A. The following Budget is set forth for informational purposes only:

**PrEP Navigation Services**

**ADMINISTRATIVE COSTS**

Salaries	\$	15,000
Benefits	\$	4,427
Services and Supplies	\$	750

1	Indirect Costs	\$ 6,662
2	SUBTOTAL	\$ 26,839
3		
4	PROGRAM COSTS	
5	Salaries	\$ 195,000
6	Benefits	\$ 57,545
7	Services and Supplies	\$ 15,847
8	SUBTOTAL	\$ 268,392
9	<b>Total Costs Not to Exceed</b>	<b>\$ 295,231</b>

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

22 C. CONTRACTOR's administrative costs cannot exceed ten percent (10%) of total costs for each  
23 service. Overhead expenses (e.g., rent, utilities, repair and maintenance) are considered administrative  
24 costs.

25 D. CONTRACTOR shall submit a budget revision request to ADMINISTRATOR to request budget  
26 changes hereafter. The budget revision request shall be on a form approved or provided by  
27 ADMINISTRATOR.

28 E. CFDA/STATE FUNDING INFORMATION

29 1. This Contract includes federal and state funds paid to CONTRACTOR. The CFDA  
30 number(s) and associated information for federal and state funds paid through this Contract are specified  
31 below:

32	CFDA Year:	23-26
33	CFDA No:	93.686
34	FAIN No.:	1 UT8HA33953-01-00
35	Program Title:	Ending the HIV Epidemic: A Plan for America – Ryan White HIV/AIDS Program
36		Parts A and B
37	Federal Agency:	Department of Health and Human Services



1 Award Name Ending the HIV Epidemic  
 2 Indirect Rate: California Department of Public Health Approved Indirect Cost Rate 19.14%  
 3 Amount: \$110,461(Annual Estimate)  
 4 R&D Award: No

5  
 6 CFDA Year: 23-26  
 7 CFDA No: 93.94  
 8 FAIN No.: NU62PS924630  
 9 Program Title: Integrated HIV Programs for Health Departments to Support Ending the HIV  
 10 Epidemic in the United States (indirect)  
 11 Federal Agency: Centers for Disease Control and Prevention  
 12 Award Name Ending the HIV Epidemic in the United States (indirect)  
 13 Indirect Rate: California Department of Public Health Approved Indirect Cost Rate 19.14%  
 14 Amount: \$1,324,891 (Annual Estimate)  
 15 R&D Award: No

16  
 17 Grant Year: 23-26  
 18 Grant No.: 19-110967  
 19 FAIN No.: N/A - State Funding  
 20 Program Title: Sexually Transmitted Diseases (STD) Program Management and Collaboration  
 21 Project  
 22 Federal Agency: N/A - State Funding through the California Department of Public Health - STD  
 23 Control Branch  
 24 Award Name: Sexually Transmitted Diseases (STD) Program Management and Collaboration  
 25 Project  
 26 Indirect Rate: California Department of Public Health Approved Indirect Cost Rate 19.14%  
 27 Amount: \$257,492 (Annual Estimate)  
 28 R&D Award: No

29 2. CONTRACTOR may be required to have an audit conducted in accordance with 31 USC  
 30 7501 – 7507, as well as its implementing regulations under 2 CFR Part 200. CONTRACTOR shall be  
 31 responsible for complying with any federal audit requirements within the reporting period specified by 31  
 32 USC 7501 – 7507, as well as its implementing regulations under 2 CFR Part 200.

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

35 F. DISALLOWED COSTS - CONTRACTOR may not use HRSA funds to pay for the following:  
 36 1. Procurement or improvement of land, or to procure, construct or permanently improve any  
 37 building or other facility (other than minor remodeling with prior HRSA approval),  
 2. Cash payments to service recipients,  
 3. Clinical research,



1 F. CDC means the division of United States Health and Human Services department responsible for  
2 the control and prevention of diseases including HIV.

3 G. CEF means the Client Encounter Form that collects Client information to determine current level  
4 of risk for HIV and demographic information.

5 H. CLIA means federal regulations to establish quality standards for laboratory testing to ensure the  
6 accuracy, reliability, and timeliness of patient test results. CLIA requires that any facility examining  
7 human specimens for diagnosis, prevention, treatment of a disease, or for assessment of health, will  
8 register with the Federal CMS and obtain CLIA certification.

9 I. Client(s) means an individual seeking HIV and/or STD counseling and testing services in  
10 conjunction with HIV prevention and education services including PrEP/nPEP services and PrEP  
11 Navigation Services. A Client(s) is also an individual who is eligible for and utilizes HIV  
12 Outpatient/Ambulatory Health Services.

13 J. Client Support means the provision of needs assessment and timely follow up to ensure Clients  
14 are accessing needed supportive services. This service can be provided by non-medically credentialed  
15 staff.

16 K. Core Medical Services means services defined by the Health Resources and Services  
17 Administration (HRSA) as core medical services including Outpatient/Ambulatory Medical Care,  
18 Medical Case Management, Mental Health Services, Oral Health Care, Medical Nutrition Therapy, and  
19 Home Health Care. Details on HRSA service categories definitions can be found in HRSA Policy  
20 Clarification Notice #16-02 available at: [https://ryanwhite.hrsa.gov/sites/default/files/ryanwhite/  
21 grants/service-category-pcn-16-02-final.pdf](https://ryanwhite.hrsa.gov/sites/default/files/ryanwhite/grants/service-category-pcn-16-02-final.pdf).

22 L. Cultural Competence means the knowledge, understanding, and skills to work effectively with  
23 individuals from differing cultural backgrounds.

24 M. CMR Confidential Morbidity Reports means forms used by medical providers to report any  
25 reportable disease or condition to the Public Health Department.

26 N. Confirmed Linkage means a verified HIV doctor visit by a Client.

27 O. Conventional Testing means those tests approved by the FDA that utilize Conventional Testing  
28 techniques requiring collection of bodily fluids such as blood or oral fluid used to check for the presence  
29 of the HIV antibody. Conventional Testing involves an initial risk assessment and a separate disclosure  
30 session, usually within one (1) to two (2) weeks after a sample has been collected.

31 P. Priority Population Client means populations identified within the categories listed below in the  
32 last five (5) years that are eligible to receive high-level intervention HIV counseling and testing in  
33 accordance with guidance from the CDPH/OA:

- 34 1. Transgender men
- 35 2. Transgender women
- 36 3. Men who have sex with men
- 37 4. Genderqueer or non-binary

- 1 5. Persons who inject drugs
- 2 6. Persons having sex with male sex partners known to have sex with a male
- 3 7. Persons having sex in exchange for drugs, money, other items, or services
- 4 8. Persons having sex with a sex worker partner
- 5 9. Persons having sex with a partner who injects drugs
- 6 10. Persons having sex with an HIV positive partner
- 7 11. Stimulant drug user
- 8 12. Person diagnosed with gonorrhea or syphilis

9 Q. Ending the HIV Epidemic (EHE) Priority Populations means historically underserved and  
10 disproportionately affected populations and subpopulations with demonstrated higher rates of HIV  
11 infection in Orange County. This includes Men who have Sex with Men (MSM) of color (African  
12 American/Black or Hispanic/Latino), individuals with history of incarceration, individuals with history of  
13 substance use, including people who inject drugs, young people (19-25), transgender individuals, PrEP  
14 eligible individuals, and PLWH who are not virally suppressed.

15 R. Equipment means personal property procured or fabricated that is complete in itself, of durable  
16 nature, has an expected useful life of one (1) or more years, and an original purchase price of \$5,000.00  
17 or more, including tax, per item.

18 S. Health Resources and Services Administration (HRSA) means the agency of the U.S. Department  
19 of Health and Human Services that is responsible for administering the Ryan White HIV/AIDS Extension  
20 Act of 2009.

21 T. HIV means the virus that causes AIDS.

22 U. HIV/AIDS Case Report Form means the form used by medical providers to report HIV/AIDS  
23 cases to the Public Health Department.

24 V. HIV Competency means having knowledge of and experience with HIV, the needs of infected  
25 clients, and related community resources.

26 W. Intern means a person enrolled in an accredited undergraduate or graduate-level program in public  
27 health, health education, or in a related field; or a person receiving certification in social work or a  
28 behavioral health discipline and performing functions under the supervision and/or auspices of that  
29 program or licensing board.

30 X. Inventory Report means a report on the number of tests completed in a given period and includes  
31 a log of the number of test kits and controls available.

32 Y. Linkage to Care means a range of client-centered services to link newly diagnosed individuals  
33 and those needing re-engagement in HIV care.

34 Z. Local Evaluation Online (LEO) means COUNTY's designated data system for HIV testing data.

35 AA. LEO Client Data Privacy Notice means a notice given to Clients stating that their personal and  
36 medical information provided will be inputted into the LEO and may be accessed by the local health  
37 department and CDPH/OA

1 AB. No-Show Client Follow-up means a process in which a counselor takes action to contact a Client  
2 who tested confidentially, either by telephone or mail, in an attempt to have Client return for their HIV  
3 test result.

4 AC. Partner Services (PS) means the process whereby the sex and/or needle sharing partner(s) of a  
5 HIV infected person is/are notified by the infected individual or by PS staff regarding possible exposure  
6 to HIV. PS includes three (3) methods of notification:

- 7 1. Client notifies a partner themselves.
- 8 2. Dual Notification - Client notifies a partner with PS staff present.
- 9 3. Anonymous Third-Party Notification – PS staff notifies a partner anonymously based on  
10 partner information provided by Client.

11 AD. Quality Management means the coordination of activities aimed at improving client care, health  
12 outcomes, and client satisfaction. Details on Quality Management can be found in HRSA Policy  
13 Clarification Notice #15-02 available at: [https://hab.hrsa.gov/sites/default/files/hab/Global/CQM-PCN-  
14 15-02.pdf](https://hab.hrsa.gov/sites/default/files/hab/Global/CQM-PCN-15-02.pdf)

15 AE. Rapid Testing means the preliminary screening test approved by the FDA that uses blood from a  
16 finger stick or oral fluid to determine the presence of HIV antibodies and produces results in  
17 approximately twenty (20) minutes.

18 AF. Referral means the process by which immediate Client needs for care and supportive services are  
19 assessed and prioritized, and Clients are provided with assistance in accessing HIV services.

20 AG. Result Disclosure means a session during which a Client receives HIV and/or STD test results.

21 AH. Routine Opt-out Testing means the approach in which Clients are informed that an HIV test will  
22 be conducted unless they explicitly decline to be tested.

23 AI. Test Kit means the OraQuick rapid HIV test kit, or the Abbott Determine HIV AG/AB Combo  
24 test kit used to determine the presence of HIV antibodies. Other test kits may be used with prior  
25 ADMINISTRATOR approval and completion of QA Plan for testing technology.

26 AJ. Test Processing means the steps taken to test a specimen for HIV antibodies either through  
27 Conventional Testing in a lab or through Rapid Testing.

28 AK. Verified Medical Visit means a documented or verbal communication with the Client that verifies  
29 the Client attended a medical care appointment and received treatment for the Client's HIV.

30 AL. Volunteer means a person who provides unpaid support to a program, project, or organization.

#### 31 32 **IV. CLIENT GRIEVANCE REVIEW AND RESOLUTION POLICY**

33 A. CONTRACTOR shall adhere to the Client Grievance Review and Resolution Policy established  
34 by ADMINISTRATOR.

35 B. CONTRACTOR shall establish and maintain a Client Grievance Resolution Policy and document  
36 that each Client to whom services are provided under the terms of this Contract are given information on  
37 the grievance process. CONTRACTOR's policy shall allow for the Client to appeal CONTRACTOR's

1 decision to ADMINISTRATOR, for review if the Client is unsatisfied with CONTRACTOR's final  
2 decision related to a grievance. CONTRACTOR shall submit a copy of its Client Grievance Resolution  
3 Policy to ADMINISTRATOR within thirty (30) calendar days of the effective date of this Contract and  
4 within fifteen (15) calendar days of the adoption by CONTRACTOR of any revisions to the policy.  
5 CONTRACTOR's Client Grievance Resolution Policy is subject to approval by ADMINISTRATOR for  
6 the purpose of maintaining consistency with established standards and policies.

## 7 8 **V. PAYMENTS**

9 A. COUNTY shall pay CONTRACTOR monthly, in arrears, for the actual costs of providing the  
10 services described hereunder, less revenues which are actually received by CONTRACTOR; provided,  
11 however, the total of such payments does not exceed COUNTY's Total Aggregate Amount Not to Exceed,  
12 as set forth in the Referenced Contract Provisions of the Contract and, provided further,  
13 CONTRACTOR's costs are reimbursable pursuant to county, state and/or federal regulations. All  
14 payments are interim payments only and are subject to final settlement in accordance with the Cost Report  
15 Paragraph of the Contract. ADMINISTRATOR may, at its discretion, pay supplemental billings for any  
16 month for which the interim payment amount specified above has not been fully paid.

17 1. ADMINISTRATOR shall use the Expenditure and Revenue Report specified in the Reports  
18 Paragraph of this Exhibit A to the Contract to determine payment to CONTRACTOR.

19 2. If, at any time, CONTRACTOR's Expenditure and Revenue Reports indicate that the  
20 monthly interim payments exceed the actual cost of providing services, ADMINISTRATOR may reduce  
21 COUNTY payments to CONTRACTOR by an amount not to exceed the difference between the year-to-  
22 date interim payment amount to CONTRACTOR and the year-to-date actual cost incurred by  
23 CONTRACTOR.

24 3. If, at any time, CONTRACTOR's Expenditure and Revenue Reports indicate that the interim  
25 payment amounts are less than the actual cost of providing services, ADMINISTRATOR may authorize  
26 a supplemental payment to CONTRACTOR by an amount not to exceed the difference between the year-  
27 to-date interim payment amount to CONTRACTOR and the year-to-date actual cost incurred by  
28 CONTRACTOR.

29 B. CONTRACTOR's billing shall be on a form approved or supplied by COUNTY and provide such  
30 information as is required by ADMINISTRATOR. Billings are due the twentieth (20th) calendar day of  
31 each month and payments to CONTRACTOR should be released by COUNTY no later than twenty-one  
32 (21) calendar days after receipt of the correctly completed billing form.

33 C. All billings to COUNTY shall be supported, at CONTRACTOR's facility, by source  
34 documentation including, but not limited to, ledgers, journals, time sheets, invoices, bank statements,  
35 canceled checks, receipts, receiving records and records of services provided. ADMINISTRATOR may  
36 require CONTRACTOR to submit documentation in support of the monthly billings.

37 //

1 D. At ADMINISTRATOR's sole discretion, ADMINISTRATOR may withhold or delay all or a part  
2 of any payment if CONTRACTOR fails to comply with any provision of the Contract.

3 E. COUNTY shall not reimburse CONTRACTOR for services provided beyond the expiration  
4 and/or termination of this Contract, except as may otherwise be provided under this Contract, or  
5 specifically agreed upon in a subsequent contract.

6 F. CONTRACTOR and ADMINISTRATOR may mutually agree, in writing, to modify the  
7 Payments Paragraph of this Exhibit A to the Contract.

## 8 9 **VI. REPORTS**

10 A. CONTRACTOR shall maintain records and make reports as required by ADMINISTRATOR.  
11 CONTRACTOR understands that failure to provide said reports or meet any of the requirements of this  
12 Reports Paragraph shall be cause for ADMINISTRATOR to withhold or delay any or a portion of  
13 payments to CONTRACTOR, as specified in the Payments Paragraph of this Exhibit A to the Contract.

### 14 B. FISCAL

15 1. In support of monthly billings, CONTRACTOR shall submit monthly Expenditure and  
16 Revenue Reports to ADMINISTRATOR. These reports shall be on a form acceptable to, or provided by,  
17 ADMINISTRATOR and shall report actual costs and revenues for CONTRACTOR's program(s) or cost  
18 center(s) described in the Services Paragraph of this Exhibit A to the Contract, anticipated monthly costs  
19 and revenues projected through year end, and the number of units of service provided by CONTRACTOR  
20 with funds from this Contract. The reports shall be due to ADMINISTRATOR no later than the twentieth  
21 (20th) calendar day following the end of the month being reported, unless otherwise agreed to in writing  
22 by ADMINISTRATOR.

23 C. STAFFING – CONTRACTOR shall submit monthly Staffing Reports to ADMINISTRATOR.  
24 These reports shall be on a form provided or approved by ADMINISTRATOR and shall report staff by  
25 position, actual staff hours worked, and the employees' names, and shall indicate which staff have taken  
26 Compliance Training in accordance with the Compliance Paragraph of this Contract. The reports are due  
27 to ADMINISTRATOR no later than the twentieth (20th) calendar day following the end of the month  
28 being reported, unless otherwise agreed to in writing by ADMINISTRATOR.

### 29 D. PROGRAMMATIC

30 1. CONTRACTOR shall submit a bi-annual narrative report of services to ADMINISTRATOR.  
31 These reports shall be on a form provided or approved by ADMINISTRATOR and shall include but not  
32 be limited to, summary of program activities, accomplishments and challenges, efforts to reach priority  
33 populations, staffing changes and corresponding impact on services, status of licensure and/or  
34 certifications, changes in populations being served and reasons for any such changes. CONTRACTOR  
35 shall state whether it is or is not progressing satisfactorily in achieving all the terms of this Contract and,  
36 if not, shall specify what steps will be taken to achieve satisfactory progress. The reports shall be due on  
37 the third Monday of January and July each Period.

1 2. CONTRACTOR shall track and report the following performance outcomes at minimum in  
2 programmatic reports:

3 **a. PrEP Navigation Services**

- 4 1) Percentage of persons testing negative for HIV who are screened for PrEP eligibility
- 5 2) Percentage of persons eligible for PrEP who are provided a PrEP referral
- 6 3) Percentage of persons provided a PrEP referral who are assisted with linkage to a
- 7 PrEP provider
- 8 4) Percentage of persons linked to a PrEP provider who obtain a PrEP prescription
- 9 5) Percentage of persons with a PrEP prescription who initiate PrEP
- 10 6) Percentage of persons who initiated PrEP who attend one (1) or more PrEP follow-
- 11 up sessions post initiation

12 **E. DATA REPORTING**

13 1. CONTRACTOR shall fully comply with ADMINISTRATOR’s requirements for data  
14 reporting for services.

15 **a. PrEP Navigation Services**

- 16 1) Data reporting shall be defined as collecting data on approved forms for all PrEP
- 17 Navigation encounters and entering data into COUNTY’s designated data system
- 18 inclusive of Local Evaluation Online (LEO) by the fifteenth (15th) calendar day of
- 19 each month for PrEP Navigation encounters completed in the prior month.
- 20 2) CONTRACTOR shall maintain documentation related to PrEP Navigation services
- 21 (CEF form and other documents as required) for a period of seven (7) years after the
- 22 termination of this Contract, and shall be made available to COUNTY or State (or
- 23 their authorized representatives) for audit purposes.

24 **F. QUALITY MANAGEMENT** - ADMINISTRATOR may request from CONTRACTOR, a  
25 written Quality Improvement (QI) plan that addresses and identifies deficiencies in services and proposes  
26 a corrective action to remedy said deficiencies. CONTRACTOR shall submit the QI plan to  
27 ADMINISTRATOR within fifteen (15) calendar days of the request. The QI plan shall be on a form  
28 provided or approved by ADMINISTRATOR and shall be implemented upon ADMINISTRATOR’s  
29 approval of the QI plan.

30 **G. ADDITIONAL REPORTS** – CONTRACTOR shall make additional reports as required by  
31 ADMINISTRATOR concerning CONTRACTOR’s activities as they affect the services hereunder.  
32 ADMINISTRATOR shall be specific as to the nature of information requested and, when possible, shall  
33 allow thirty (30) calendar days for CONTRACTOR to respond.

34 **H.** CONTRACTOR and ADMINISTRATOR may mutually agree, in writing, to modify the Reports  
35 Paragraph of this Exhibit A to the Contract.

36 //

37 //



## VII. SERVICES

1  
2 A. CONTRACTOR shall make all services specified herein available to eligible persons who reside  
3 in Orange County and are at risk for acquiring HIV or living with HIV, in accordance with the Contract.  
4 CONTRACTOR shall not charge fees. CONTRACTOR shall adhere to standards of care approved by  
5 ADMINISTRATOR. CONTRACTOR and ADMINISTRATOR may mutually agree, in writing, to adjust  
6 the Eligibility, Units of Service, and Staffing Subparagraphs set forth below for each program.

7 1. CONTRACTOR shall establish protocols for each of the contracted services prior to  
8 initiating services and within thirty (30) business days thirty after Contract commencement and submit  
9 the protocols to ADMINISTRATOR for approval. Protocols shall be consistent with contractual program  
10 requirements and standards of care provided by ADMINISTRATOR.

11 2. CONTRACTOR shall not conduct any proselytizing activities, regardless of funding sources,  
12 with respect to any person who receives services under the terms of this Contract. Further,  
13 CONTRACTOR agrees that the funds provided hereunder shall not be used to promote, directly or  
14 indirectly, any religion, religious creed or cult, denomination or sectarian institution, or religious belief.

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

21 4. It is understood by both parties that ADMINISTRATOR places a high degree of importance  
22 on the availability of accurate and timely data. CONTRACTOR shall cooperate fully in meeting data  
23 requests and requirements specified by ADMINISTRATOR.

### B. PrEP NAVIGATION SERVICES

24  
25 1. DEFINITION - PrEP is medication to prevent HIV. PrEP is highly effective for preventing  
26 HIV when taken as prescribed in accordance with U.S. Public Health Service PrEP Clinical Practice  
27 Guidelines.

28 2. SCOPE OF SERVICES - PrEP Navigation Services are intended to prevent new HIV  
29 transmission by reducing barriers to PrEP and increasing PrEP access, uptake, and use for populations at  
30 high risk for HIV.

31 a. CONTRACTOR shall develop and maintain comprehensive written policies and  
32 procedures for the provision of PrEP Navigation Services which include, at minimum:

- 33 1) Identifying and linking persons at risk for HIV to PrEP care;
- 34 2) Assistance with health insurance and/or enrollment in co-pay or medication  
35 assistance programs, as applicable;
- 36 3) Identifying and reducing barriers to care including coordinating referrals to needed  
37 support services;

- 4) Patient education, including risk reduction counseling; and
- 5) Medication adherence support.

b. Persons accessing services must be HIV negative with indications for PrEP in accordance with U.S. Public Health Service PrEP Clinical Practice Guidelines.

c. Service delivery should focus, but is not limited to, priority populations, which are individuals from populations disproportionately impacted by HIV. In Orange County, priority populations are:

- 1) Men who have Sex with Men of color (African American/Black or Hispanic/Latino),
- 2) Individuals with history of incarceration,
- 3) Individuals with history of substance use, including people who inject drugs, and
- 4) Other priority populations which existing HIV prevention programs and services have had less capacity to reach:
  - i. Young people (19-25)
  - ii. Transgender individuals

d. CONTRACTOR must refer eligible Clients to a PrEP Assistance Program (PrEP-AP) enrollment site(s) if CONTRACTOR is not a PrEP-AP enrollment site.

e. CONTRACTOR shall ensure that all staff have completed County-identified HIV prevention and PrEP navigation related trainings.

3. UNITS OF SERVICE - CONTRACTOR shall, at a minimum, provide the following units of service per period:

**PrEP Navigation Services**

Client Encounters/Sessions (from CEF/LEO)	300
Unduplicated Clients	150

C. CONTRACTOR and ADMINISTRATOR may mutually agree, in writing, to modify the Services Paragraph of this Exhibit A to the Contract.

**VIII. STAFFING**

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

B. CONTRACTOR shall provide staff to provide the services specified in the Services Paragraph of this Exhibit A to the Contract.

C. CONTRACT shall adhere to staffing and licensure requirements as indicated in Standards of Care approved by ADMINISTRATOR, as applicable.

//

1 D. Services should be provided by qualified staff who possess the following competencies and  
2 perform the following roles and responsibilities, at minimum:

3 **1. PrEP Navigation Services –**

4 a. PrEP Navigation Services should be provided by staff who possess the following  
5 competencies and perform the following roles and responsibilities, at minimum:

- 6 1) Experience working with priority populations and other populations at risk for HIV,
- 7 2) Certified PrEP-AP enrollment worker, if CONTRACTOR is a PrEP-AP enrollment  
8 site,
- 9 3) Knowledge and practice of cultural humility,
- 10 4) Experience navigating the PrEP healthcare landscape, and
- 11 5) Knowledge of community resources for effective linkage to HIV care and support  
12 services

13 b. Services must be correctly documented using appropriate data collection forms, including  
14 but not limited to:

- 15 1) LEO Client Data Privacy Notice - Client must be provided a written notice (LEO  
16 Client Data Privacy Notice) indicating how the information they provide may be  
17 used. CONTRACTOR shall specify how provision of the LEO Client Data Privacy  
18 Notice is documented indicating client receipt in written protocol for the provision  
19 of PrEP Navigation Services.
- 20 2) Client Encounter Form (CEF) – Required CDPH data collection form to ensure  
21 performance outcomes are captured in LEO.

22 c. CONTRACTOR shall provide staff with the following skills and knowledge, at minimum:

- 23 1) Communication skills – staff must have the ability to communicate with Clients in  
24 simple, clear, and neutral terms, and be comfortable communicating with Clients from  
25 priority populations;
- 26 2) Basic HIV knowledge – familiarity and knowledge of common HIV language,  
27 terminology and phrases; and understand basic HIV concepts as they relate to HIV  
28 testing services and/or prevention; Staff must participate in training identified by  
29 ADMINISTRATOR or comparable training with ADMINISTRATOR approval prior  
30 to commencement of services;
- 31 3) Knowledge of HIV counseling and testing processes, protocol, and staff roles – ability  
32 to explain the process to a Client (e.g. explaining where the Client will go and with  
33 whom, what will happen, and approximately how long it will take); explain types of  
34 HIV testing available; and understand the limitation of their role and the process for  
35 transitioning the Client to other appropriate staff.

36 E. CONTRACTOR shall make its best efforts to provide Spanish-speaking bilingual staff for direct  
37 services with Clients.

1 F. CONTRACTOR shall ensure that its employees, interns, and volunteers complete the mandated  
 2 trainings including but not limited to confidentiality, service delivery system, and cultural competency.  
 3 CONTRACTOR must submit to ADMINISTRATOR documents verifying completion of all required  
 4 training.

5 G. CONTRACTOR shall notify ADMINISTRATOR, in writing, within three (3) business days of  
 6 any staff vacancies that occur during the term of this Contract.

7 H. STAFFING LEVELS – CONTRACTOR shall, at minimum, provide the following staff  
 8 expressed in FTEs, which shall be equal to an average of forty (40) hours worked per week per period.

9 **PrEP Navigation Services**

10 ADMINISTRATIVE STAFF

11 Program Admin Supervisor 0.150

12 SUBTOTAL 0.150

13 PROGRAM STAFF

14 Outreach Specialist 1.000

15 Program Supervisor 1.000

16 Medical Advocacy Specialist 1.000

17 SUBTOTAL 3.000

18 TOTAL FTEs 3.150

19  
 20 I. CONTRACTOR and ADMINISTRATOR may mutually agree, in writing, to modify the Staffing  
 21 Paragraph of this Exhibit A to the Contract.

22 //  
 23 //  
 24 //  
 25 //  
 26 //  
 27 //  
 28 //  
 29 //  
 30 //  
 31 //  
 32 //  
 33 //  
 34 //  
 35 //  
 36 //

1 EXHIBIT B  
2 TO CONTRACT FOR PROVISION OF  
3 HIV/STD TESTING, CARE, AND REFERRAL SERVICES  
4 BETWEEN  
5 COUNTY OF ORANGE  
6 AND  
7 ALIANZA TRANSLATINX  
8 JULY 10, 2023 THROUGH JUNE 30, 2026  
9

10 **I. BUSINESS ASSOCIATE CONTRACT**

11 A. GENERAL PROVISIONS AND RECITALS

12 1. The parties agree that the terms used, but not otherwise defined below in Subparagraph B.,  
13 shall have the same meaning given to such terms under the Health Insurance Portability and  
14 Accountability Act of 1996, Public Law 104-191 (“HIPAA”), the Health Information Technology for  
15 Economic and Clinical Health Act, Public Law 111-005 (“the HITECH Act”), and their implementing  
16 regulations at 45 CFR Parts 160 and 164 (“the HIPAA regulations”) as they may exist now or be hereafter  
17 amended.

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

23 3. The COUNTY wishes to disclose to CONTRACTOR certain information pursuant to the  
24 terms of the Contract, some of which may constitute Protected Health Information (“PHI”), as defined  
25 below in Subparagraph B.10, to be used or disclosed in the course of providing services and activities  
26 pursuant to, and as set forth, in the Contract.

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

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

34 6. The parties understand that the HIPAA Privacy and Security rules, as defined below in  
35 Subparagraphs B.9 and B.14, apply to the CONTRACTOR in the same manner as they apply to a covered  
36 entity (COUNTY). CONTRACTOR agrees therefore to be in compliance at all times with the terms of  
37 this Business Associate Contract and the applicable standards, implementation specifications, and

1 requirements of the Privacy and the Security rules, as they may exist now or be hereafter amended, with  
2 respect to PHI and electronic PHI created, received, maintained, transmitted, used, or disclosed pursuant  
3 to the Contract.

4 B. DEFINITIONS

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

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

11 a. Breach excludes:

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

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

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

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

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

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

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

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

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

34 4. "Designated Record Set" shall have the meaning given to such term under the HIPAA Privacy  
35 Rule in 45 CFR § 164.501.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

37 //

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

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

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

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

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

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

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

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

33           10. CONTRACTOR agrees to document any Disclosures of PHI COUNTY discloses to  
34 CONTRACTOR or CONTRACTOR creates, receives, maintains, or transmits on behalf of COUNTY,  
35 and to make information related to such Disclosures available as would be required for COUNTY to  
36 respond to a request by an Individual for an accounting of Disclosures of PHI in accordance with  
37 45 CFR § 164.528.



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

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

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

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

19 15 CONTRACTOR shall make itself and any subcontractors, employees or agents assisting  
20 CONTRACTOR in the performance of its obligations under the Contract, available to COUNTY at no  
21 cost to COUNTY to testify as witnesses, or otherwise, in the event of litigation or administrative  
22 proceedings being commenced against COUNTY, its directors, officers or employees based upon claimed  
23 violation of HIPAA, the HIPAA regulations or other laws relating to security and privacy, which involves  
24 inactions or actions by CONTRACTOR, except where CONTRACTOR or its subcontractor, employee  
25 or agent is a named adverse party.

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

35 a. CONTRACTOR does not promptly enter into negotiations to amend this Business  
36 Associate Contract when requested by COUNTY pursuant to this Paragraph C; or

37 //

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

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

7 D. SECURITY RULE

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

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

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

24 a. Complying with all of the data system security precautions listed under Paragraphs E,  
25 below;

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

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

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

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

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

4           E. DATA SECURITY REQUIREMENTS

5           1. Personal Controls

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

14           b. Employee Discipline. Appropriate sanctions must be applied against workforce  
15 members who fail to comply with any provisions of CONTRACTOR's privacy policies and procedures,  
16 including termination of employment where appropriate.

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

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

31           2. Technical Security Controls

32           a. Workstation/Laptop encryption. All workstations and laptops that store PHI COUNTY  
33 discloses to CONTRACTOR or CONTRACTOR creates, receives, maintains, or transmits on behalf of  
34 COUNTY either directly or temporarily must be encrypted using a FIPS 140-2 certified algorithm which  
35 is 128bit or higher, such as Advanced Encryption Standard (AES). The encryption solution must be full  
36 disk unless approved by the COUNTY.

37 //

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

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

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

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

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

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

- 35                   1) Upper case letters (A-Z)
- 36                   2) Lower case letters (a-z)
- 37                   3) Arabic numerals (0-9)

4) Non-alphanumeric characters (punctuation symbols)

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

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

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

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

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

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

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

//

//

1           3. Audit Controls

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

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

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

15           4. Business Continuity/Disaster Recovery Control

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

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

28           5. Paper Document Controls

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

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

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

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

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

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

#### 19 F. BREACH DISCOVERY AND NOTIFICATION

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

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

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

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

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

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

35 b. Any other information that COUNTY is required to include in the notification to  
36 Individual under 45 CFR §164.404 (c) at the time CONTRACTOR is required to notify COUNTY or  
37 //

1 promptly thereafter as this information becomes available, even after the regulatory sixty (60) day period  
2 set forth in 45 CFR § 164.410 (b) has elapsed, including:

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

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

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

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

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

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

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

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

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

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

33 9. If the Breach is the fault of CONTRACTOR, CONTRACTOR shall bear all expense or other  
34 costs associated with the Breach and shall reimburse COUNTY for all expenses COUNTY incurs in  
35 addressing the Breach and consequences thereof, including costs of investigation, notification,  
36 remediation, documentation or other costs associated with addressing the Breach.

37 //



G. PERMITTED USES AND DISCLOSURES BY CONTRACTOR

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

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

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

1) The Disclosure is required by law; or

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

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

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

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

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

H. PROHIBITED USES AND DISCLOSURES

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

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

//

//

//

I. OBLIGATIONS OF COUNTY

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

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

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

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

J. BUSINESS ASSOCIATE TERMINATION

1. Upon COUNTY’s knowledge of a material breach or violation by CONTRACTOR of the requirements of this Business Associate Contract, COUNTY shall:

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

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

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

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

b. CONTRACTOR shall retain no copies of the PHI.

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

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

//  
//  
//  
//

1 EXHIBIT C  
 2 TO CONTRACT FOR PROVISION OF  
 3 HIV/STD TESTING, CARE, AND REFERRAL SERVICES  
 4 BETWEEN  
 5 COUNTY OF ORANGE  
 6 AND  
 7 ALIANZA TRANSLATINX  
 8 JULY 10, 2023 THROUGH JUNE 30, 2026  
 9

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

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

13 A. DEFINITIONS

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

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

18 3. "CMPPA Contract" means the Computer Matching and Privacy Protection Act Contract  
 19 between the Social Security Administration and the California Health and Human Services Agency  
 20 (CHHS).

21 4. "DHCS PI" shall mean Personal Information, as defined below, accessed in a database  
 22 maintained by the COUNTY or California Department of Health Care Services (DHCS), received by  
 23 CONTRACTOR from the COUNTY or DHCS or acquired or created by CONTRACTOR in connection  
 24 with performing the functions, activities and services specified in the Contract on behalf of the COUNTY.

25 5. "IEA" shall mean the Information Exchange Contract currently in effect between the Social  
 26 Security Administration (SSA) and DHCS.

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

33 7. "Personally Identifiable Information" (PII) shall have the meaning given to such term in the  
 34 IEA and CMPPA.

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

37 //

1 9. "Required by law" means a mandate contained in law that compels an entity to make a use  
2 or disclosure of PI or PII that is enforceable in a court of law. This includes, but is not limited to, court  
3 orders and court-ordered warrants, subpoenas or summons issued by a court, grand jury, a governmental  
4 or tribal inspector general, or an administrative body authorized to require the production of information,  
5 and a civil or an authorized investigative demand. It also includes Medicare conditions of participation  
6 with respect to health care providers participating in the program, and statutes or regulations that require  
7 the production of information, including statutes or regulations that require such information if payment  
8 is sought under a government program providing public benefits.

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

## 12 B. TERMS OF CONTRACT

13 1. Permitted Uses and Disclosures of DHCS PI and PII by CONTRACTOR. Except as  
14 otherwise indicated in this Exhibit, CONTRACTOR may use or disclose DHCS PI only to perform  
15 functions, activities, or services for or on behalf of the COUNTY pursuant to the terms of the Contract  
16 provided that such use or disclosure would not violate the California Information Practices Act (CIPA) if  
17 done by the COUNTY.

### 18 2. Responsibilities of CONTRACTOR

19 CONTRACTOR agrees:

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

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

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

35 1) Complying with all of the data system security precautions listed in Paragraph E of  
36 the Business Associate Contract, Exhibit B to the Contract. ; and

37 //

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

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

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

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

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

29                   g. Cooperation with COUNTY. With respect to DHCS PI, to cooperate with and assist the  
30 COUNTY to the extent necessary to ensure the DHCS's compliance with the applicable terms of the CIPA  
31 including, but not limited to, accounting of disclosures of DHCS PI, correction of errors in DHCS PI,  
32 production of DHCS PI, disclosure of a security breach involving DHCS PI and notice of such breach to  
33 the affected individual(s).

34                   h. Breaches and Security Incidents. During the term of the Contract, CONTRACTOR  
35 agrees to implement reasonable systems for the discovery of any breach of unsecured DHCS PI and PII  
36 or security incident. CONTRACTOR agrees to give notification of any beach of unsecured DHCS PI and  
37 //

1 PII or security incident in accordance with Paragraph F, of the Business Associate Contract, Exhibit B to  
2 the Contract.

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

7 //  
8 //  
9 //  
10 //  
11 //  
12 //  
13 //  
14 //  
15 //  
16 //  
17 //  
18 //  
19 //  
20 //  
21 //  
22 //  
23 //  
24 //  
25 //  
26 //  
27 //  
28 //  
29 //  
30 //  
31 //  
32 //  
33 //  
34 //  
35 //  
36 //  
37 //