

MEMORANDUM OF UNDERSTANDING
BETWEEN
THE COUNTY OF ORANGE SOCIAL SERVICES AGENCY
AND
THE COUNTY OF ORANGE HEALTH CARE AGENCY
AND
CHILDREN AND FAMILIES COMMISSION OF ORANGE COUNTY
FOR THE PROVISION OF
EARLY CHILDHOOD SYSTEM OF CARE SERVICES FOR CHILDREN
ENTERING THE CHILD WELFARE SYSTEM
FCI-SSA-19

This Memorandum of Understanding (MOU) is entered into by and between the County of Orange and the Children and Families Commission of Orange County, a public body and legal public entity, hereinafter referred to as “CFCOC.” The County of Orange may be referred to as “COUNTY” and is acting through its Social Services Agency, hereinafter referred to as “SSA,” and its Health Care Agency, hereinafter referred to as “HCA.” This MOU contains specific guidelines for the administration of Early Childhood System of Care (ECSOC) services to be provided to children ages birth (0) through five (5) years who are entering the child welfare system.

COUNTY and CFCOC may be referred to individually as “Party” and collectively as “the Parties.” The relationship between COUNTY and CFCOC, with regard to this MOU, is based upon the following:

1. This MOU is authorized and provided for pursuant to Orange County Board of Supervisors Resolution Number 00-354 and CFCOC Resolution Number 17-004 C&FC.
2. In order to facilitate the creation and implementation of an integrated, comprehensive, and collaborative system of information and services to enhance optimal early childhood development, the legislature enacted the California Children and Families Act of 1998,

Health and Safety Code Section 130100, et seq. (as amended, the “Act”) implementing the Children and Families First Initiative passed by the California electorate in November, 1998. The Act established the California Children and Families Commission and County Children and Families Commissions, allowing for the establishment of CFCOC. As required by the Act, CFCOC adopted a Strategic Plan to define how funds authorized under the Act should best be used to meet the critical needs of Orange County’s children, ages birth (0) through five (5) years. CFCOC’s Strategic Plan, as it currently exists or is amended, shall hereinafter be referred to as “Strategic Plan.” CFCOC provides for supportive services to families with children ages birth (0) through five (5) years who are at risk of abuse and neglect, to enable the children to enter school ready to learn.

3. SSA provides for the provision of family support services to county residents with the goal of preventing child abuse and neglect, and enabling children to reside with their own families. SSA is responsible for the care, case planning, and supervision of the children who enter the child welfare system in Orange County.
4. HCA is dedicated to protecting and promoting the optimal health of individuals, families, and Orange County’s diverse communities through partnerships, community leadership, assessment of community needs, planning and policy development, prevention and education, and quality services.
5. ECSOC is an integrated and comprehensive program of promoting, supporting and improving early childhood development that enhances the intellectual, social, emotional and physical development of children by providing child health care services that emphasize prevention, diagnostic screenings, immunizations, nutrition, general health screenings and treatment services not covered by other programs.
6. SSA, HCA, and CFCOC shall work together through the Early Childhood System of Care program to provide services that seek to improve school readiness for the population served, whose entry into the child welfare system creates obstacles to early success in school.

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1. TERM

The term of this MOU shall commence on July 1, 2020, and end on June 30, 2021, unless earlier terminated pursuant to the provisions of Paragraph 25 of this MOU; however, the Parties shall be obligated to perform such duties as would normally extend beyond this term, including, but not limited to, obligations with respect to indemnification, reporting and confidentiality. COUNTY and CFCOC may mutually agree in writing to extend the term of this MOU for up to twelve (12) additional months upon the same terms and conditions but with no increase in COUNTY's funding totals listed in Exhibit B, Distribution of Funds, attached hereto and incorporated herein by reference.

2. PURPOSE

The purpose of this MOU is to establish guidelines with respect to the administration of ECSOC Services.

3. POPULATION TO BE SERVED

ECSOC Services are provided to children ages birth (0) through five (5) years, who enter the child welfare system. The population served is hereinafter referred to as CHILDREN.

4. GOAL

The goal of this MOU is to improve early childhood development outcomes for CHILDREN, by helping them prepare to succeed in school.

5. MUTUAL RESPONSIBILITIES

The following are mutual responsibilities of the Parties pursuant to this MOU:

5.1 The Parties will commit reasonable resources on an as-available basis and will share their expertise with the other Parties to facilitate the activities contemplated hereunder. Further, HCA, SSA and CFCOC will each designate a liaison, to coordinate, communicate and periodically review the activities associated with this MOU.

5.2 The activities contemplated hereunder are subject to Federal, State, and County regulations, and each Party shall abide by its own agency/institutional regulations and will respect the mission, goals and limitations of the other Parties.

5.3 While operating the existing program model, the Parties agree to meet to discuss strengthening and enhancing program delivery. The SSA Director and/or SSA Deputy Directors, HCA Director and/or HCA Deputy Director, and CFCOC staff

shall, at their discretion, designate representatives to attend the meeting. A draft proposal of the enhancements will be created for review by all Parties.

- 5.4 Without changing the overall roles and responsibilities of the Parties as described in Paragraphs 5, 6, 7, 8, and 9, the Parties may mutually agree in writing to modify aspects of the ECSOC program to pilot new program models to determine the efficacy and outcomes of the models, as well as certain procedural aspects of this MOU to facilitate each Party's participation in ECSOC. Specifically, the Parties may mutually agree in writing to modify line items and/or amounts and/or the number and type of full-time equivalent (FTE) positions provided for in Subparagraph 3.7 of Exhibit A, to this MOU, without exceeding the maximum payment obligation for each Party, or aspects of the Work Plan reflected in Exhibit A-**Error! Reference source not found.**, including funding distribution, milestone objectives and target quantities.

6. CFCOC RESPONSIBILITIES

CFCOC shall:

- 6.1 Attend quarterly meetings to discuss strengthening and enhancing program delivery.
- 6.2 Pay SSA quarterly, in arrears, for costs incurred and paid by SSA to perform the services in this MOU, up to the CFCOC Maximum Payment Obligation set forth in Subparagraph 12.2.
- 6.3 Train HCA staff on the use of CFCOC's Evaluation and Contracts Management System, and provide technical support for ECSOC program.
- 6.4 Instruct CFCOC staff and agents with access to confidential CHILDREN information regarding the following:
- 6.4.1 The confidential nature of the information pursuant to Paragraph 14;
- 6.4.2 Guidelines for CHILDREN contacts to safeguard behavioral boundaries; and
- 6.4.3 Confidentiality protection of individual CHILDREN in the ECSOC program pursuant to the requirements of Paragraph 14.
- 6.5 Along with its subcontractor(s), publish CHILDREN data only in de-identified aggregate form or in anonymous vignette.

6.6 Provide linkages to other CFCOC funded programs and services that could benefit mutual CHILDREN.

7. HCA RESPONSIBILITIES

7.1 Attend quarterly meetings to discuss strengthening and enhancing program delivery.

7.2 Provide 3.0 FTE Public Health Nurses (PHNs), who are Registered Nurses with PHN certification by the State of California, to provide services as set forth in Exhibit A of this MOU.

7.3 Provide 1.0 FTE Information Processing Technician (IPT) to provide services as set forth in Exhibit A of this MOU.

7.4 Provide a Supervising PHN, to supervise staff performing services under this MOU. The supervising PHN shall be a Registered Nurse with PHN certification by the State of California.

7.5 Coordinate services with other CFCOC service providers and community partners.

7.6 PHNs will work with the referred CHILDREN's assigned social worker to obtain necessary testing and services for CHILDREN.

7.7 Explore pilot opportunities to strengthen and enhance ECSOC services.

7.8 HCA agrees to provide data for CFCOC's Evaluation and Contracts Management System. HCA acknowledges and agrees that ECSOC services funded by CFCOC through this MOU is part of a larger Strategic Plan which has as its primary focus and objective to ensure the overall physical, social, emotional, and intellectual health of children from the prenatal stage through age five. HCA acknowledges that CFCOC has retained the services of a qualified information technology contractor to create, operate, and maintain a data collection, reporting, and outcomes system relating to the programs and services provided by each and all of CFCOC's grant recipients/service providers, in order to gather and analyze data, and create a reporting and outcomes system about all CFCOC activities, programs and services provided by and through CFCOC to the target population of Orange County children birth (0) through five (5).

7.9 ECSOC will track mutually agreed upon outcomes, for example; developmental

status, eligibility for entitlement programs, and child welfare involvement about CHILDREN from birth (0) through five (5) years, in furtherance of the goals and objectives of CFCOC's Strategic Plan. Data shall be gathered and shared through CFCOC's internet-based evaluation and contracts management system. Pursuant to an agreement between CFCOC's designated contractor/consultant and CFCOC, contractor/consultant acts as an Application Service Provider ("ASP") on behalf of CFCOC and its contractors, including COUNTY, with respect to all work-related data. Through this separate contract, CFCOC's designated contractor/consultant has created and operates, and will continue to operate and maintain, CFCOC's Evaluation and Contracts Management System relating to ECSOC.

- 7.10 HCA acknowledges and agrees that as a part of the integrated data structure in its performance under this MOU (and the performance of all other CFCOC contractors/grantees under separate grant agreements or MOUs) there will be ECSOC level reporting to CFCOC with respect to Exhibit A-1 (Work Plan). HCA agrees to participate in the reporting, and to cooperate with CFCOC, its Executive Director, and the ASP, and to provide data related to, or created by, the services provided under this MOU, to the ASP, through CFCOC's Evaluation and Contracts Management System. This data shall allow CFCOC to track, analyze, and evaluate all services provided by HCA as well as all other of CFCOC's grant recipients.

8. SSA RESPONSIBILITIES

- 8.1 Attend quarterly meetings to discuss strengthening and enhancing program delivery.
- 8.2 Identify children ages birth (0) through five (5) years who have entered the child welfare system and refer them to PHNs to receive ECSOC Services.
- 8.3 Assist the PHNs by gathering any pertinent information obtained by the Orangewood Children and Family Center (OCFC) Medical Unit and HCA/Behavior Health Services relating to CHILDREN.
- 8.4 The referred CHILDREN's assigned social worker will work with PHNs to obtain necessary testing and services for CHILDREN.

9. SERVICES

The Parties shall provide the services described in Exhibit A, Project Summary, and Exhibit A-1, Work Plan, both of which are attached hereto and incorporated herein by this reference.

10. FACILITIES:

10.1 It is mutually understood that HCA will provide services as set forth in Exhibit A of this MOU at a SSA facility.

10.2 HCA and SSA may mutually agree in writing to add, change, modify, or delete facility location(s) as necessary to best serve the needs of SSA and CHILDREN.

11. USE OF COUNTY PROPERTY

11.1 SSA will provide HCA the rent-free use of office space, office furniture, and office equipment located in any and all offices and SSA facilities at which HCA shall be collocated with COUNTY staff pursuant to this MOU. Per this MOU, said office space, office furniture, and equipment shall be used solely by employees of HCA while performing their assigned duties pursuant to this MOU.

12. STATEMENT OF COSTS

12.1 COUNTY will provide the specified services in this MOU at an anticipated cost to COUNTY of \$590,169 for fiscal year 2020-21.

12.2 The Maximum Payment Obligation of CFCOC to SSA pursuant to this MOU is \$80,000 per fiscal year for the term of this MOU, as set forth in Exhibit B, Distribution of Funds.

12.3 CFCOC shall pay SSA quarterly in arrears, for the CFCOC share of the actual allowable costs incurred and paid by SSA to perform the services required by this MOU, in accordance with the amounts and categories set forth in Exhibit B, Distribution of Funds. Payments for each line item shall not exceed the amount specified as CFCOC Funds. Notwithstanding, the Directors of each organization (SSA Director, HCA Director, and CFCOC Executive Director) or their authorized representatives may approve adjustments of the amounts specifically stated in each line item, so long as the total of all amounts within all line items, as adjusted, does not exceed CFCOC's Maximum Payment Obligation of \$80,000 per fiscal year, as set forth in subparagraph 12.2 above.

- 12.4 HCA shall cost apply SSA quarterly by the thirtieth (30th) calendar day of the month following the end of each quarter, for the actual allowable costs incurred for staffing and supplies needed to provide the services hereunder, with the exception of the quarter ending June 30th. HCA agrees to cost apply the fourth quarter claim by June 15th for the quarter ending June 30th, which includes estimated costs for the month of June, and follow up with actual cost information by July 30th. SSA agrees to send its claim to CFCOC by the fifteenth (15th) calendar day of the month following the end of each quarter for the subject services, with the exception of the month of June. SSA agrees to provide an estimated claim by June 15th for the quarter ending June 30th, which includes estimated costs for the month of June, and follow up with actual cost information by July 15th.
- 12.5 SSA shall provide timely budgetary information upon request from CFCOC, for inclusion in its budget, and any other required State and/or Federal Reports.
- 12.6 COUNTY and CFCOC shall comply with any and all State and Federal programmatic and fiscal claiming guidelines developed for the use of funds, including Federal sub-recipient monitoring, reporting requirements and audits.
13. NON-DISCRIMINATION
- 13.1 In the performance of this MOU, CFCOC agrees that it shall not engage nor employ any unlawful discriminatory practices in the admission of clients, provision of services or benefits, assignment of accommodations, treatment, evaluation, employment of personnel, or in any other respect, on the basis of race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, marital status, sex, gender, gender identity, gender expression, age, sexual orientation, military and veteran status, or any other protected group, in accordance with the requirements of all applicable federal or State laws.
- 13.2 Each of the Parties shall furnish non-confidential information related to this MOU that is requested by any other Party and shall permit the other Party access, during business hours, to non-confidential books, records, and accounts in order to ascertain compliance with Paragraph 13 et seq.

14. CONFIDENTIALITY

- 14.1 The Parties agree to maintain confidentiality of all records pursuant to WIC Sections 827 and 10850-10853, the CDSS MPP, Division 19-000, and all other provisions of law, and regulations promulgated thereunder relating to privacy and confidentiality, as each may now exist or be hereafter amended.
- 14.2 All records and information concerning any and all persons referred to CFCOC by COUNTY or COUNTY's designee shall be considered and kept confidential by the Parties, the Parties' employees, agents, subcontractors, and all other individuals performing services under this MOU. The Parties shall require all of its employees, agents, subcontractors, and all other individuals performing services under this MOU to sign an agreement before commencing the provision of any such services, agreeing to maintain confidentiality pursuant to this MOU. As to the COUNTY, if as its employees, agents, subcontractors have already executed such an agreement as a condition of employment or pursuant to a subcontract, no additional agreement shall be required.
- 14.3 The Parties shall inform all of its employees, agents, subcontractors, and all other individuals performing services under this MOU of this provision and that any person violating the provisions of said California state law may be guilty of a crime.
- 14.4 The Parties agree that any and all subcontracts entered into for the purposes of this MOU shall be subject to the confidentiality requirements of this MOU.
- 14.5 The Parties agree to maintain the confidentiality of its records with respect to Juvenile Court matters, in accordance with WIC Section 827, all applicable statutes, case law, and Orange County Juvenile Court Policy regarding Confidentiality, as it now exists or may hereafter be amended.
- 14.5.1 No access, disclosure, or release of information regarding a child who is the subject of Juvenile Court proceedings shall be permitted except as authorized. If authorization is in doubt, no such information shall be released without the written approval of a Judge of the Juvenile Court.
- 14.5.2 The Parties must receive prior written approval of the Juvenile Court before allowing any child to be interviewed, photographed, or recorded

by any publication or organization, or to appear on any radio, television, or internet broadcast or make any other public appearance. Such approval shall be requested through child's Social Worker.

15. PUBLICITY, LITERATURE, ADVERTISEMENTS AND SOCIAL MEDIA

15.1 COUNTY and CFCOC own all rights to their respective name, logos, and symbols of COUNTY and CFCOC. The use and/or reproduction of COUNTY's name, logos, or symbols for any purpose, including commercial advertisement, promotional purposes, announcements, displays, or press releases, without COUNTY's prior written consent is expressly prohibited.

15.2 The Parties may develop and publish information related to this MOU where all of the following conditions are satisfied:

15.2.1 All parties provide its respective written approval of the content and publication of the information at least thirty (30) calendar days prior to publishing the information, unless a different timeframe for approval is agreed upon by all Parties;

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

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

15.2.3.1 any commercial product or service; and,

15.2.3.2 any product or service provided by a Party, unless approved in writing by all Parties; and

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

16. INDEMNIFICATION

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

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

17. SECURITY

17.1 Security Requirements

17.1.1 While CFCOC is not expected to receive confidential information CFCOC agrees to maintain the confidentiality of all COUNTY and COUNTY-related records and information that they receive and store pursuant to all statutory laws relating to privacy and confidentiality that

currently exists or exists at any time during the term of this MOU. CFCOC represents and warrants that it has implemented and will maintain during the term of this MOU administrative, physical, and technical safeguards to reasonably protect private and confidential CHILDREN information, to protect against anticipated threats to the security or integrity of COUNTY data that they receive and store, and to protect against unauthorized physical or electronic access to or use of COUNTY data. Such safeguards and controls shall include at a minimum:

17.1.1.1 Storage of confidential paper files that ensures records are secured, handled, transported, and destroyed in a manner that prevents unauthorized access.

17.1.1.2 Control of access to physical and electronic records to ensure COUNTY data is accessed only by individuals with a need to know for the delivery of MOU services under this MOU.

17.1.1.3 Control to prevent unauthorized access and to prevent CFCOC employees from providing COUNTY data to unauthorized individuals.

17.1.1.4 Firewall protection.

17.1.1.5 Use of encryption methods of electronic COUNTY data while in transit from CFCOC networks to external networks, when applicable.

17.1.1.6 Measures to securely store all COUNTY data, including, but not be limited to, encryption at rest and multiple levels of authentication and measures to ensure COUNTY data shall not be altered or corrupted without COUNTY's prior written consent. CFCOC further represents and warrants that it has implemented and will maintain during the term of this MOU administrative, technical, and physical safeguards and controls consistent with State and federal security requirements.

17.1.2 While the COUNTY will not be receiving any confidential data from CFCOC as it relates to this MOU, the COUNTY agrees to maintain the

confidentiality of these records. As to the data the COUNTY maintains and stores, and which relate to this MOU, the COUNTY has implemented and will maintain during the term of this MOU, administrative, physical, and technical safeguards to reasonably protect private and confidential CHILDREN information, to protect against anticipated threats to the security or integrity of COUNTY data that they receive and store, and to protect against unauthorized physical or electronic access to or use of COUNTY data

17.2 Security Breach Notification

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

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

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

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

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

18. NOTIFICATION OF INCIDENTS, CLAIMS, OR SUITS

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

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

19. PUBLIC RECORDS

To the extent permissible under the law, all records, including, but not limited to, reports, audits, notices, claims, statements, and correspondence, required by this MOU may be subject to public disclosure. Neither Party shall be liable for any such lawful disclosure.

20. PUBLICATION OF PROGRAM RESULTS

- 20.1 Subject to Paragraph 15, CFCOC and its subcontractor(s) shall have the right to publish or publicly disseminate research data and research results collected, received, or developed hereunder. With prior consent of HCA and SSA, CFCOC

may submit proposed publications to the Clerk of the Commission and/or Clerk of the Board of Supervisors. In all other instances, each Party shall submit to the other Parties thirty (30) calendar days prior to submission for publication a copy of all proposed publications or papers disclosing data, data summaries or data vignettes, collected, received, or developed hereunder. In the event any Party determines that the publication or paper contains research subject identifiers or other information that may lead to the identification of a participant, the Party shall immediately notify the other Parties, and the publishing Party shall remove the identifying information prior to submission for publication or public dissemination. In addition, each Party may provide comments and suggestions regarding the publication or paper, and the publishing Party will give such comments and suggestions due consideration. In the event the other Parties do not provide comments or suggestions within 30 days, or do not provide notice to the publishing Party as described herein, the publishing Party shall be free to publish or publicly disseminate such publications or papers.

20.2 For purposes of this Paragraph 20, the term "publication," or any derivation thereof, shall include the public dissemination of information via any medium, whether oral or written, including but not limited to books, magazines, newspapers, scientific journals, other periodicals, television, radio, presentations at conferences and symposiums, electronic mail, and internet postings.

20.3 Additionally, the term "public dissemination," or any derivation thereof, shall mean the transmission of research data to any party other than HCA, SSA, CFCOC or CFCOC's subcontractor(s), and their employees, who are subject to the confidentiality provisions as set forth in Paragraph 14 above.

21. USE OF NAME

COUNTY and CFCOC agree that they will not use the names(s) of the other Party or their employees, in any advertisement, press release, or publicity related to the services performed under this MOU without the prior written approval of the other Party.

22. NOTICES

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

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

HCA: County of Orange Health Care Agency
Attn: Contract Development and Management Division Manager
405 West 5th Street, 6th Floor, Suite 600
Santa Ana, CA 92701

CFCOC: Children and Families Commission of Orange County
Attn: Contract Manager
1505 E. 17th Street, Suite 230
Santa Ana, CA 92705

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

23. RESOLUTION OF CONFLICTS

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

Step 1: Conference between the SSA Children and Family Services Program Manager of Placement Coordination, the HCA Specialized Public Health Nursing Program Manager and the CFCOC Program Lead.

Step 2: If the above Step does not resolve the matter within 30 days, conference between the SSA Children and Family Services Director or Deputy Director, or designee, the HCA Public Health Chief of Operations, or designee, and the CFCOC Vice President of Programs. A determination shall be made within 30 days.

Step 3: Conference between the SSA Director of Children and Family Services, or designee, the HCA Public Health Deputy Agency Director/Health Officer, or designee, and the CFCOC Vice President of Programs.

Nothing in this Paragraph limits the rights of the Parties under Paragraph 25.

24. CONFLICT OF INTEREST

CFCOC shall exercise reasonable care and diligence to prevent any actions or conditions that could result in a conflict with the best interests of COUNTY. This obligation shall apply to CFCOC; CFCOC's employees, agents, and subcontractors associated with accomplishing work and services under this MOU. CFCOC's efforts shall include, but not be limited to establishing precautions to prevent its employees, agents, and subcontractors from providing or offering gifts, entertainment, payments, loans or other considerations which could be deemed to influence or appear to influence COUNTY staff or elected officers from acting in the best interests of the COUNTY.

25. TERMINATION

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

25.2 For ninety (90) calendar days prior to the expiration date of this MOU, or upon notice of termination of this MOU ("Transition Period"), CFCOC agrees to cooperate with COUNTY in the orderly transfer of service responsibilities, case records, and pertinent documents. The Transition Period may be modified as agreed upon in writing by the Parties. During the Transition Period, services and data access shall continue to be made available to COUNTY without alteration.

CFCOC also shall assist COUNTY in extracting and/or transitioning all data in the format determined by COUNTY.

- 25.3 In the event of termination of this MOU, cessation of business by CFCOC, or any other event preventing CFCOC from continuing to provide services, CFCOC shall not withhold COUNTY data or refuse for any reason, to promptly provide to COUNTY all COUNTY data if requested to do so on such media as reasonably requested by COUNTY, even if COUNTY is then or is alleged to be in breach of this MOU.
- 25.4 The obligations under this MOU utilize COUNTY resources, for which funding, or portions of funding, may be contingent upon the State and/or federal budget; receipt of funds from and/or obligation of funds by the State and/or Federal Government; and inclusion of sufficient funding for the services hereunder in the budget approved by COUNTY's Board of Supervisors and CFCOC's Board of Commissioners for each fiscal year covered by this MOU. If such approval, funding, or appropriations are not forthcoming, or are otherwise limited, COUNTY and CFCOC may terminate, reduce, or modify this MOU without penalty. Similarly, the CFCOC's obligations are contingent on funding.
- 25.5 If any term, covenant, condition, or provision of this MOU or the application thereof is held invalid, void, or unenforceable, the remainder of the provisions in this MOU shall remain in full force and effect and shall in no way be affected, impaired, or invalidated thereby.
26. SIGNATURE IN COUNTERPARTS
- The Parties agree that separate copies of this MOU may be signed by each of the Parties, and this MOU will have the same force and effect as if the original had been signed by all Parties. CFCOC represents and warrants that the person executing this MOU on behalf of and for CFCOC is an authorized agent who has actual authority to bind CFCOC to each and every term, condition and obligation of this MOU and that all requirements of CFCOC have been fulfilled to provide such actual authority.
27. GENERAL PROVISIONS
- 27.1 Nothing herein contained shall be construed as creating the relationship of employer and employee, or principal and agent, between COUNTY and any

- participant participating in the ECSOC program, or any of CFCOC's agents or employees.
- 27.2 Nothing herein contained shall be construed as creating the relationship of employer and employee, or principal and agent, between CFCOC and any participant participating in this program, or any of COUNTY's agents or employees.
- 27.3 This MOU, with its Exhibit(s) incorporated herein by reference, represents the entire understanding of the Parties with respect to the subject matter. No change, modification, extension, termination or waiver of this MOU, or any of the understandings herein contained, shall be valid unless made in writing and signed by duly authorized representatives of the Parties hereto.
- 27.4 This MOU has been negotiated and executed in the State of California and shall be governed by and construed under the laws of the State of California. In the event of any legal action to enforce or interpret this MOU, the sole and exclusive venue shall be a court of competent jurisdiction located in Orange County, California, and the Parties hereto agree to and do hereby submit to the jurisdiction of such court, notwithstanding Code of Civil Procedure Section 394. Furthermore, the Parties specifically agree to waive any and all rights to request that an action be transferred for trial to another county.
- 27.5 The Parties warrant that it and its Personnel, described in this MOU, including PHNs, and Supervising PHNs of this MOU, who are subject to individual registration and/or licensing requirements, have all necessary licenses and permits required by the laws of the United States, State of California, County of Orange, and all other appropriate governmental agencies to perform the services described in this MOU, and agrees to maintain, and require its Personnel to maintain, these licenses and permits in effect for the duration of this MOU. The Parties must notify the other Party within one (1) business day of any change in license or permit status (e.g., becoming expired, inactive, etc.) that comes to their attention.
- 27.6 In the performance of this MOU, Parties shall comply with all applicable laws and regulations of the United States, State of California, County of Orange, and County of Orange Social Services Agency, and all administrative regulations,

rules, and policies adopted thereunder, as each and all may now exist or be hereafter amended.

27.7 In the performance of this MOU, CFCOC may neither delegate its duties or obligations nor assign its rights, either in whole or in part, without the prior written consent of COUNTY. Any attempted delegation or assignment without prior written consent shall be void.

27.8 The various headings, numbers, and organization herein are for the purpose of convenience only and shall not limit or otherwise affect the meaning of this MOU.

28. BUSINESS ASSOCIATES

Due to County's organizational structure, County is a hybrid entity under Health Insurance Portability and Accountability Act (HIPAA). Some County agencies, such as HCA, are required to comply with HIPAA and some, such as SSA, are not. For the purposes of this MOU, CFCOC shall be considered a Business Associate of HCA and shall comply with the terms and conditions identified in the Business Associates Terms and Conditions, which is attached hereto as Exhibit C, and is incorporated herein by this reference. SSA is not a Business Associate of HCA or a covered entity.


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

CHILDREN AND FAMILIES
COMMISSION OF ORANGE COUNTY,
a public body and legal entity

BY: 
Chair

Dated: 6/3/20

SIGNED AND CERTIFIED THAT A
COPY OF THIS DOCUMENT HAS BEEN
DELIVERED TO THE CHAIR OF THE
COMMISSION

BY: 
Robin Stieler
Clerk of the Commission

Dated: 6/3/20

APPROVED AS TO FORM:
Alan Burns, HARPER & BURNS, LLP

BY: 
Commission Counsel

Dated: May 26, 2020

COUNTY OF ORANGE,
a political subdivision of the State of
California

BY: _____

Chairwoman
of the Board of Supervisors
County of Orange, California

DATED: _____

SIGNED AND CERTIFIED THAT A
COPY OF THIS DOCUMENT HAS BEEN
DELIVERED TO THE CHAIR OF THE
BOARD

PER G.C SEC. 25103, RESOLUTION 79-1537

ATTEST:

BY: _____

Robin Stieler
Clerk of the Board of Supervisors
Of County of Orange, California

APPROVED TO FORM
Office of the County Counsel
Orange County, California

BY:

Carolyn S. Frost
Deputy

Dated:

05/27/20

EXHIBIT A

PROJECT SUMMARY

**CHILDREN AND FAMILIES COMMISSION OF ORANE COUNTY
MEMORANDUM OF UNDERSTANDING**

PROGRAM SUMMARY

**HEALTH CARE AGENCY
SOCIAL SERVICES AGENCY**

**CFCOC Agreement # FCI-SSA-17
SSA Agreement #CJB1420**

**EARLY CHILDHOODSYSTEM OF CARE SERVICES FOR
CHILDREN ENTERING THE CHILD WELFARE SYSTEM**

Term: July 1, 2020 through June 30, 2021

1. FUNDING RECIPIENT

HEALTH CARE AGENCY

County Government – County of Orange
405 West Fifth Street, 6th Floor, Suite 600
Santa Ana, CA 92701

Contact: Tommy Bui, (714) 834-2084, ToBui@ochca.com

Work Plan and Data Entry Contact: April Orozco, Program Manager (714) 834-7920,
AOrozco@ochca.com

Invoices/Documentation Contact: Natalie Anastasi-Perea, Administration Manager,
(714) 834-6579, NAnastasi-Perea@ochca.com

Designated Level of Data Reporting: AMM and CLDM

Signatories: Chairwoman of the Board of Supervisors

SOCIAL SERVICES AGENCY

County Government – County of Orange

500 N. State College Blvd., Suite 100

Orange, CA 92868

Contact: John Bunnett, (714) 541-7408, John.Bunnett@ssa.ocgov.com

2. BACKGROUND

One (1) out of six (6) children, ages birth (0) through five (5) years, are at moderate or high risk for developmental, behavioral, or social delays that impact their overall health and ability to succeed in school. Children entering the child welfare system have a higher rate of these conditions than children in the general population, and they experience more barriers to accessing services to address their needs.

The ECSOC program for children ages birth (0) through five (5) years, who are entering the child welfare system, addresses the aforementioned conditions. ECSOC staff coordinate or provide routine developmental screenings, coordinate health and behavioral health services, assist linkages to community resources, and provide education and support to caregivers. In addition, the ECSOC provides up to three (3) months of case management follow-up to ensure the children are linked to those specialized services needed to meet their needs. ECSOC services will be provided by HCA PHNs, working in collaboration with SSA staff, CFCOC funded grantees, and other community providers. Funding will be leveraged with Federal and State funds through Title IV-E.

3. PURPOSE AND SCOPE OF WORK

The purpose of this MOU is to coordinate or provide screenings for the health and developmental needs of children ages birth (0) through five (5) years of age upon entry into the child welfare system and refer children for additional assessment(s) when screening results identify concerns. PHNs will provide assessment and coordination of service delivery with community service providers during the first three (3) months upon entry into the child welfare system. While operating the existing program model, the Parties agree to meet to discuss strengthening and enhancing program delivery as discussed in Paragraph 5 of this MOU. The SSA Director and/or SSA Deputy Directors, HCA Director and/or HCA Deputy Director, and CFCOC staff shall, at

their discretion, designate representatives to attend the meeting. A draft proposal of the enhancements will be created for review by all Parties.

CONTRACTOR shall provide services described in this Program Summary, Exhibit A, and perform the tasks and achieve the outcomes in the Work Plan, Exhibit A-1, with the funding and within the funding limitations set forth in the Distribution of Funds, Exhibit B. The Parties agree to meet and confer on a quarterly basis regarding the issue of modifying the Work Plan. No modifications to the Work Plan will become effective unless such modified Work Plan is set forth in writing and is agreed to by all Parties. In the event the Parties cannot reach agreement on modifications to the Work Plan, the annual service levels shall remain at the same rate as set forth in the Work Plan attached to this MOU, as previously amended by mutual agreement. All modifications to the Work Plan shall be within the parameters of the established Scope of Work as set forth in this MOU.

3.1 HCA shall provide public health nursing services, which shall include, but not be limited to:

3.1.1 Health Assessments for Children: Ensure health assessments are performed including a physical and psychosocial evaluation, developmental screening, health history and information gathering.

3.1.2 Case Management Services: Case management services shall include follow-up and referral of identified health care, nutritional, developmental, and psychosocial and safety needs.

3.1.3 Information Referral and Linkages to Community Resources: Ensure access to appropriate resources to meet identified needs to include assisting with access to health insurance, establishment of a medical home care provision by health providers and prevention services.

3.1.4 Documentation and Reporting: Document nursing assessments, prioritization of care needs, interventions including linkages to community resources, and collection and reporting of demographic data.

3.2 HCA shall designate a Supervising Public Health Nurse to supervise the PHNs performing services under this MOU and the IPT who will perform data entry, tracking and other clerical duties.

3.3 SSA shall identify children ages birth (0) through five (5) years who have entered the child welfare system and refer these children to the PHNs for ECSOC services.

3.4 PHNs and the referred Children's assigned social worker shall work together to gather all pertinent information needed by the OCH Medical Unit and HCA/Behavior Health Services.

3.5 SSA shall work collaboratively with the PHNs in obtaining the necessary testing and services for the children served in ECSOC program.

3.6 SSA shall provide the PHNs and the IPT with office space at SSA Facilities. SSA will also provide office equipment and computers; information technology support; access to phone, fax, and copier machines; and use of facilities necessary to perform services pursuant to this MOU.

3.7 SSA and HCA will budget for and provide the following staff and supplies:

3.7.1 3.0 FTE Public Health Nurses - \$486,684:

Minimum Qualifications: Current California Registered Nurse licensure, and Public Health Nurse Certification.

3.7.2 1.0 FTE Information Processing Technician - \$75,009:

Minimum qualification: High school diploma or equivalent.

3.7.3 0.50 FTE Supervising Public Health Nurse (In-Kind):

Minimum Qualifications: California Registered Nurse licensure, Public Health Nurse Certification, and three (3) years' experience working in an agency providing Public Health Nursing Services.

3.7.4 0.10 FTE Senior Social Services Supervisor (In-Kind):

Minimum Qualifications: Bachelor's degree in social work, psychology, sociology or a related field and three (3) years of experience in a public social services agency.

3.7.5 ECSOC supplies, materials, training - \$9,000

3.7.6 Indirect/Administrative Expenses - \$99,476

4. ATTACHMENTS TO EXHIBIT B

None

5. WAIVERS/AMENDMENTS TO AGREEMENT

None

6. INVOICE/PAYMENT ELECTIONS

As of the date of this MOU, the Parties mutually agree to the following invoicing/payment elections. Notwithstanding anything to the contrary and provided that any modifications to these elections do not alter the overall goals and basic purpose of the MOU, and provided these modifications do not increase CFCOC's Maximum Payment Obligation during the term of the MOU, SSA and CFCOC may, in accordance with the authority described in Section **Error! Reference source not found.** of this MOU, make future modifications to the following invoicing/payment elections.

6.1 Billing/Payment Interval. The Parties agree that the interval for Billing and/or Payment for this Agreement as described in Paragraph 12.3 is quarterly.

7. FUNDING SOURCE AND ADDITIONAL REQUIREMENTS (as applicable)

7.1 The Parties acknowledge that funding for this MOU includes federal funding, or California Child Signature Program grant funds.

7.2 The records retention period for this MOU shall be five (5) years from the date of final disbursement of funds under this MOU or the completion of any pending COUNTY, state, or federal audit(s).

8. CMAA and TCM (as applicable)

EXHIBIT A-1
WORK PLAN FOR JULY 1, 2020 THROUGH JUNE 30, 2021

Date of Draft: 4-23-20

Commission Lead:

Work plan approved by: Iliia Rolon, Vice-President of Programs

Organization / Collaborative Name	Project Name	Work Plan Contact Name	Contact's Phone and Email	Contract Number
HCA/SSA	Early Childhood System of Care (ECSOC)	April Orozco	714-834-7920 AOrozco@ochca.com	CFCOC - FCI-SSA-17 SSA – CJB1420
Project Abstract (a short description of the project):				
The ESCOC will address health and developmental needs of children 0 to 5 years of age upon their entry into the child welfare system. Each child will receive 3 months of case management services from a Health Care Agency Public Health Nurse (PHN) who will provide health and developmental screenings, develop an individualized care plan, coordinate service delivery, and support and educate caregivers around the care plan.				
General Instructions				
<ul style="list-style-type: none"> • Monthly service update: Update ALL services every month whether or not a service has been provided during that month. Enter the number of New Clients and Repeat Clients (if applicable) and Services for each service on work plan. • Update beginning and end date: For each monthly update, the beginning date is the first day of the month and the end date is the last day of the month; e.g., July 1, 2020 - July 31, 2020. • New Clients: All clients are new starting July 1, 2020; this includes clients who were already in the program prior to July 1. Clients are reported as New in their first month, and are repeated as Repeat (if applicable) in subsequent months. • Monthly Service Counts: Enter aggregate data each month under Monthly Service Counts for children 0-5, parent/guardians and providers. • Multiple services updates in one month: if updating a service more than one time in a month, please include a note in the update that this is the second (or third) update and the reason for the multiple updates. 				

Goal 1. HEALTHY CHILDREN

Outcome	Indicator	Objective	Service	Program Data Type	Target #	Start Date	End Date	Instructions
HC.1 Increased percent of children receiving developmental / behavioral screenings at milestone ages with linkage to appropriate services	Health and Developmental Screenings/ Assessments	HC.1.2 Increase the proportion of children (60%) screened for developmental milestones, vision, hearing, speech and language, behavior, psychosocial issues, and other special needs, and receive appropriate referrals	HC 1.2.1 Children receive developmental and/or behavioral screening using AAP recommended tools (e.g. PEDS, ASQ, ASQ-SE, MCHAT, Child Behavior Checklist).	Children 0-5	210 unduplicated children	7/1/20	6/30/21	Children: Children are "new" to this service in month where first receiving this screening and repeat in subsequent months if rescreened. Services: Total # of developmental or behavioral screenings provided during the month. Period Narrative: Brief description of screenings provided
HC.2 Increased percent of children receiving developmental / behavioral screenings at milestone ages with linkage to appropriate services	Health and Developmental Screenings/ Assessments	HC.2.2 Increase the proportion of children (60%) screened for developmental milestones, vision, hearing, speech and language, behavior, psychosocial issues, and other special needs, and receive appropriate referrals	HC.2.2.10a Parents receive referrals regarding their child's health and developmental concerns	Parent	240 unduplicated parents	7/1/20	6/30/21	Parents: Parents are "new" to this service in the month where they first receive a referral and are repeat in subsequent months for referrals for new health concerns. Do not recount a parent if you are re-referring for the same health concern. Services: Total # of referrals provided Notes: Brief description of referrals provided
HC.3 Increased percent of children have and use a health home for comprehensive	Health Home	HC.3.2 Increase to 100% the proportion of	HC.3.2.1 Children are linked to a	Children 0-5	30 unduplicated children	7/1/20	6/30/21	Children: # of children linked to a health home (as a result of this

Goal 1. HEALTHY CHILDREN

Outcome	Indicator	Objective	Service	Program Data Type	Target #	Start Date	End Date	Instructions
health services to include physical, dental and mental health		children who have a health care home.	health care home					program's efforts). Always new. Period Narrative: Brief description.
HC.3 Increased percent of children have and use a health home for comprehensive health services to include physical, dental and mental health	Oral Health	HC.3.4 Reduce dental cavities so that the proportion of young children with one or more cavities is no more than 9%.	HC.3.4.1 Children are linked to a dental home	Children 0-5	30 unduplicated children	7/1/20	6/30/21	Children: # of children linked to referred dental home (as a result of this program's efforts). Always new. Notes: Brief description.

Outcome	Indicator	Objective	Service	Program Data Type	Target #	Start Date	End Date	Instructions
SF.4 Increased access to and availability of family support services and resources	Information and Referral	SF.4.1 Increase community awareness of and linkage to available services	SF.4.1.4 Parents receive follow up on referrals and services are accessed	Parent	210 unduplicated parents	7/1/20	6/30/21	Parents: # of parents linked to referred services. Parents are "new" in the month where first receiving referral and repeat in subsequent months for referrals for new family support services and resources. Services: Total # of linked referrals. Period Narrative: Brief description of services. Also include total number of referrals.

Outcome	Indicator	Objective	Service	Program Data Type	Target #	Start Date	End Date	Instructions
CB.1 Increase access and efficiency, quality and effectiveness	Service Planning and Access Points	CB.1.1 Conduct service planning activities that improve access and coordination of services	CB.1.1.1 Program will develop a plan that outlines infrastructure, functions and coordination of services	Activity	6 activities	7/1/20	6/30/21	Services: # of sustainability activities and/or coordination of services completed Notes: Describe efforts to sustain program and/or coordinate services
CB.2 Promote data to support decision making and program improvement	Program Evaluation	CB.2.1 Develop high-quality program evaluations and reporting	CB 2.1.1 Program staff will report the number of client exit records entered for month reported	Children 0-5	30 unduplicated children	7/1/20	6/30/21	Children: Children 0-5 (new only)

EXHIBIT B
TO CHILDREN AND FAMILIES COMMISSION OF ORANGE COUNTY
MEMORANDUM OF UNDERSTANDING
Distribution of Funds

County of Orange Health Care Agency/ Social Services Agency	Funds Due 7/1/20 – 6/30/21		
	Title IV-E Funds	CFCOC Funds	Total ECSOC Funds
Staffing:			
• 3.0 FTE Public Health Nurses	\$411,284	\$75,400	\$486,684
• 1.0 FTE Information Processing Technician	70,409	4,600	75,009
<i>Staffing Subtotal</i>	481,693	80,000	561,693
Direct ECSOC Expenses (ECSOC Supplies, Materials, and Training):	9,000	0	9,000
Indirect / Administrative Expenses (Information Technology, Human Resources, Financial Support Staff, and Compliance)	99,476	0	99,476
Total	\$590,169	\$80,000	\$670,169

TOTAL TITLE IV-E FUNDS:	\$590,169
TOTAL CFCOC MAXIMUM PAYMENT OBLIGATION:	\$80,000
TOTAL PROJECT ALLOCATION:	\$670,169

EXHIBIT C

**TO CHILDREN AND FAMILIES COMMISSION OF ORANGE COUNTY
MEMORANDUM OF UNDERSTANDING**

BUSINESS ASSOCIATES TERMS AND CONDITIONS

A. GENERAL PROVISIONS AND RECITALS

1. The Parties agree that the terms used, but not otherwise defined below, shall have the same meaning as those terms in the Health Insurance Portability and Accountability Act of 1996 (HIPAA) as it may exist now or be hereafter amended.

2. It is agreed by both Parties that CFCOC is a Business Associate of COUNTY solely for the purposes of this Agreement.

3. It is understood by both Parties that the HIPAA Security and Privacy Rules apply to the CFCOC in the same manner as they apply to the covered entity (COUNTY). CFCOC shall therefore at all times be in compliance with the applicable provisions of both the Privacy and the Security Rules as are described in Subparagraphs B.4. and B.5. below, and is responsible for complying with the issued regulations for said rules, as they currently exist or are hereafter amended, for purposes of safeguarding any Protected Health Information (PHI) used or generated by CFCOC consistent with the terms of this Agreement.

4. It is understood by the Parties that the Privacy Rule does not pre-empt any state statutes, rules or regulations that impose more stringent requirements with respect to confidentiality of PHI.

5. COUNTY wishes to disclose certain information to CFCOC pursuant to the terms of this Agreement, some of which may constitute PHI as defined in Subparagraph B.6. below.

6. COUNTY and CFCOC intend to protect the privacy and provide for the security of PHI disclosed to the CFCOC pursuant to this Agreement, in compliance with HIPAA and the regulations promulgated thereunder by the U.S. Department of Health and Human Services as they may now exist or be hereafter amended.

B. DEFINITIONS

1. “Breach” means the acquisition, access, use, or disclosure of Protected Health Information in a manner not permitted under the HIPAA Privacy Rule which compromises the security or privacy of the Protected Health Information.

a. For purposes of this definition, compromises the security or privacy of the Protected Health Information means poses a significant risk of financial, reputational, or other harm to the Individual.

b. A use or disclosure of Protected Health Information that does not include the identifiers listed at §164.514 (e) (2), such as date of birth, and zip code does not compromise the security or privacy of protected health information.

c. Breach excludes:

1) Any unintentional acquisition, access, or use of Protected Health Information by a workforce member or person acting under the authority of a covered entity or a business associate, if such acquisition, access, or use was made in good faith and within the scope of authority and does not result in further use or disclosure in a manner not permitted under the Privacy Rule.

2) Any inadvertent disclosure by a person who is authorized to access Protected Health Information at a covered entity or business associate to another person authorized to access Protected Health Information at the same covered entity or business associate, or organized health care arrangement in which the covered entity participates, and the information received as a result of such disclosure is not further used or disclosed in a manner not permitted under the Privacy Rule.

3) A disclosure of Protected Health Information where a covered entity or business associate has a good faith belief that an unauthorized person to whom the disclosure was made would not reasonably have been able to retain such information.

2. “Designated Record Set” shall have the meaning given to such term under the Privacy Rule, including, but not limited to, 45 CFR Section 164.501.

3. “Individual” shall have the meaning given to such term under the Privacy Rule, including, but not limited to, 45 CFR Section 160.103 and shall include a person who qualifies as a personal representative in accordance with 45 CFR Section 164.502(g).

4. “Privacy Rule” shall mean the Standards for Privacy of Individually Identifiable Health Information at 45 CFR Part 160 and Part 164, Subparts A and E.

5. “Security Rule” shall mean the Security Standards for the Protection of Electronic Protected Health Information at 45 CFR Part 160, Part 162, and Part 164, Subparts A and C.”

6. “Protected Health Information” or “PHI” shall have the meaning given to such term under the Privacy Rule, including, but not limited to, 45 CFR Section 160.103, as applied to the information created or received by Business Associate from or on behalf of Covered Entity.

7. “Required by Law” shall have the meaning given to such term under the Privacy Rule, including, but not limited to, 45 CFR Section 164.103.

8. “Secretary” shall mean the Secretary of the Department of Health and Human Services or his or her designee.

9. “Unsecured Protected Health Information” means Protected Health Information that is not rendered unusable, unreadable, or indecipherable to unauthorized individuals through the use of a technology or methodology specified by the Secretary of Health and Human Services in the guidance issued on the HHS Web site.

C. OBLIGATIONS AND ACTIVITIES OF CFCOC AS BUSINESS ASSOCIATE:

1. CFCOC agrees not to use or disclose PHI other than as permitted or required by this MOU or as otherwise required by law; including state, federal, or local law or regulation; or pursuant to a court order, subpoena, or other legal order or as required by law.

2. CFCOC agrees to use appropriate safeguards to prevent use or disclosure of PHI other than as provided for by this Agreement.

3. CFCOC agrees to mitigate, to the extent practicable, any harmful effect that is known to CFCOC of a use or disclosure of PHI by CFCOC in violation of the requirements of this Agreement.

4. CFCOC agrees to report to COUNTY within five (5) business days any use or disclosure of PHI not provided for by this MOU of which CFCOC becomes aware.

5. CFCOC agrees to ensure that any agent, including a subcontractor or consultant of CFCOC, such as an ASP, to whom it provides PHI received from COUNTY, or created or received by CFCOC on behalf of COUNTY, agrees to the same restrictions and conditions that apply through this MOU to CFCOC with respect to such information.

6. CFCOC agrees to provide access, within fifteen (15) calendar days of receipt of a written request by COUNTY, to PHI in a Designated Record Set, to COUNTY or, as directed by COUNTY, to an Individual in order to meet the requirements under 45 CFR Section 164.524.

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

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

9. CFCOC agrees to document any disclosures of PHI and to make information related to such disclosures available as would be required for COUNTY to respond to a request by an Individual for an accounting of disclosures of PHI in accordance with 45 CFR Section 164.528.

10. CFCOC agrees to provide COUNTY or an Individual, as directed by COUNTY, in a time and manner to be determined by COUNTY, that information collected in accordance with this Agreement, in order to permit COUNTY to respond to a request by an Individual for an accounting of disclosures of PHI in accordance with 45 CFR Section 164.528.

11. CFCOC shall work with COUNTY upon notification by CFCOC to COUNTY of a Breach to properly determine if any Breach exclusions exist as defined in Subparagraph B.1.c. above.

D. SECURITY RULE

1. Security. CFCOC shall establish and maintain appropriate administrative, physical and technical safeguards that reasonably and appropriately protect the confidentiality, integrity and availability of electronic PHI. CFCOC shall follow generally accepted system security principles and the requirements of the final HIPAA rule pertaining to the security of PHI.

2. Agents and Subcontractors of CFCOC. CFCOC shall ensure that any agent, including a subcontractor or consultant of CFCOC, such as an ASP, to whom it provides electronic PHI, agrees to implement reasonable and appropriate safeguards to protect the PHI.

3. Security Incidents. CFCOC shall report any “security incident” of which it becomes aware to COUNTY. For purposes of this agreement, a security incident means the attempted or successful unauthorized access, use, disclosure, modification, or destruction of information or interference with system operations. This does not include trivial incidents that occur on a daily basis, such as scans, “pings,” or unsuccessful attempts to penetrate computer networks or servers maintained by CFCOC.

E. BREACH DISCOVERY AND NOTIFICATION

1. Following the discovery of a Breach of Unsecured Protected Health Information, CFCOC shall notify COUNTY of such Breach, however both Parties agree to a delay in the notification if so advised by a law enforcement official, pursuant to 45 CFR 164.412.

2. A Breach shall be treated as discovered by CFCOC as of the first day on which the Breach is known to the CFCOC, or by exercising reasonable diligence, would have been known to CFCOC.

3. CFCOC shall be deemed to have knowledge of a Breach if the Breach is known, or by exercising reasonable diligence would have known, to any person who is an employee, officer, or other agent of the CFCOC, in accordance with 45 CFR 164.410.

4. CFCOC shall provide the notification of the Breach without unreasonable delay, and in no case later than five (5) business days after a Breach.

5. CFCOC’s notification may be oral, but shall be followed by written notification within twenty-four (24) hours of the oral notification. Thereafter, CFCOC shall provide written notification containing the contents stated below, within five (5) business days. CFCOC shall be required to provide any other information relevant to the Breach in writing, as soon as discovered, or as soon as the information is available.

6. CFCOC’s notification shall include, to the extent possible:

a. The identification of each Individual whose unsecured protected health information has been, or is reasonably believed by CFCOC to have been, accessed, acquired, used, or disclosed during the Breach,

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

- 1) A brief description of what happened, including the date of the Breach and the date of the discovery of the Breach, if known;
- 2) A description of the types of Unsecured Protected Health Information that were involved in the Breach (such as whether full name, social security number, date of birth, home address, account number, diagnosis, disability code, or other types of information were involved);
- 3) Any steps Individuals should take to protect themselves from potential harm resulting from the Breach;
- 4) A brief description of what CFCOC is doing to investigate the Breach, to mitigate harm to Individuals, and to protect against any future Breaches; and
- 5) Contact procedures for Individuals to ask questions or learn additional information, which shall include a toll-free telephone number, an e-mail address, Web site, or postal address.

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

8. In the event that CFCOC is responsible for, or suffers a Breach of Unsecured Protected Health Information, in violation of the Privacy Rule, CFCOC shall have the burden of demonstrating that CFCOC made all notifications to COUNTY as required by the Breach Notification regulations, or in the alternative, that the use or disclosure did not constitute a Breach as defined in 45 CFR § 164.402.

9. CFCOC shall maintain documentation of all required notifications required pursuant to this MOU in the event of an impermissible use or disclosure of Unsecured Protected Health Information, or its risk assessment of the application of an exception to demonstrate that the notification was not required.

10. CFCOC shall provide to COUNTY all specific and pertinent information about the Breach to permit COUNTY to meet its notification obligations under the HITECH Act, as soon as practicable, but in no event later than fifteen (15) calendar days after reporting the initial Breach to the COUNTY.

11. CFCOC shall continue to provide all additional pertinent information about the Breach to COUNTY as it may become available, in reporting increments of fifteen (15) calendar days after the last report to COUNTY. CFCOC shall also respond in good faith to any reasonable requests for further information, or follow-up information after report to COUNTY, when such request is made by COUNTY.

12. CFCOC shall bear all expense or other costs associated with the Breach, and shall reimburse COUNTY for all expenses COUNTY incurs in addressing the Breach and consequences thereof, including costs of investigation, notification, remediation, documentation or other costs associated with addressing the Breach.

F. PERMITTED USES AND DISCLOSURES BY CFCOC

1. Except as otherwise limited in this Agreement, CFCOC may use or disclose PHI to perform functions, activities, or services for, or on behalf of, COUNTY as specified in this Agreement, provided that such use or disclosure would not violate the Privacy Rule if done by COUNTY or the minimum necessary policies and procedures of COUNTY.

2. CFCOC is permitted to use PHI as necessary for the proper management and administration of CFCOC or to carry out legal responsibilities of CFCOC. (ref. 45 C.F.R. 164.504(e)(4)(i)(A-B)).

3. CFCOC is permitted to disclose PHI received from COUNTY for the proper management and administration of CFCOC or to carry out legal responsibilities of CFCOC, provided:

- a. The disclosure is required by law; or
- b. CFCOC 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, the person will use appropriate safeguards to prevent unauthorized use or disclosure of the PHI, and the person immediately notifies CFCOC of any instance of which it is aware in which the confidentiality of the Information has been Breached. (ref. 45 C.F.R. 164.504(e)(4)(ii)).

4. CFCOC is also permitted to use or disclose PHI to provide data aggregation services, as that term is defined by 45 C.F.R. 164.501, relating to the health care operations of COUNTY.

G. OBLIGATIONS OF COUNTY

1. COUNTY shall notify CFCOC of any limitation(s) in COUNTY's notice of privacy practices in accordance with 45 CFR Section 164.520, to the extent that such limitation may affect CFCOC's use or disclosure of PHI.

2. COUNTY shall notify CFCOC of any changes in, or revocation of, permission by an Individual to use or disclose PHI, to the extent that such changes may affect CFCOC's use or disclosure of PHI.

3. COUNTY shall notify CFCOC of any restriction to the use or disclosure of PHI that COUNTY has agreed to in accordance with 45 CFR Section 164.522, to the extent that such restriction may affect CFCOC's use or disclosure of PHI.

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

H. BUSINESS ASSOCIATE TERMINATION

1. Notwithstanding the Termination provisions set forth in this MOU, the MOU shall only terminate when all of the PHI provided by COUNTY to CFCOC, or created or received by CFCOC on behalf of COUNTY, is destroyed or returned to COUNTY, or if infeasible to return or destroy PHI, protections are extended to such information, in accordance with the termination provisions of this Subparagraph.

2. In addition to the rights and remedies provided in the Termination paragraph of this Agreement, upon COUNTY's knowledge of a material breach by CFCOC of the requirements of this Paragraph, COUNTY shall either:

a. Provide an opportunity for CFCOC to cure the material breach or end the violation and terminate this MOU if CFCOC does not cure the material breach or end the violation within thirty (30) business days; or

b. Immediately terminate this MOU if CFCOC has breached a material term of this MOU and cure is not possible; or

c. If neither termination nor cure is feasible, COUNTY shall report the violation to the Secretary of the Department of Health and Human Services.

3. Upon termination of this Agreement, all PHI provided by COUNTY to CFCOC, or created or received by CFCOC on behalf of COUNTY, shall either be destroyed or returned to COUNTY as provided in the Termination paragraph of this Agreement, and in conformity with the Privacy Rule.

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

b. CFCOC shall retain no copies of the PHI.

c. In the event that CFCOC determines that returning or destroying the PHI is infeasible, CFCOC 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, CFCOC shall extend the protections of this MOU to such PHI and limit further uses and disclosures of such PHI to those purposes that make the return or destruction infeasible, for so long as CFCOC maintains such PHI.