

1 CONTRACT FOR PROVISION OF
 2 HIV PRE-EXPOSURE PROPHYLAXIS (PrEP) NAVIGATION SERVICES
 3 BETWEEN
 4 COUNTY OF ORANGE
 5 AND
 6 AIDS SERVICES FOUNDATION ORANGE COUNTY
 7 DBA RADIANT HEALTH CENTERS
 8 SEPTEMBER 1, 2022 THROUGH JUNE 30, 2025
 9

10 THIS CONTRACT entered into this 1st day of September 2022, is by and between the COUNTY
 11 OF ORANGE, a political subdivision of State of California (COUNTY), and AIDS SERVICES
 12 FOUNDATION ORANGE COUNTY DBA RADIANT HEALTH CENTERS, a California Nonprofit
 13 Corporation (CONTRACTOR). COUNTY and CONTRACTOR may sometimes be referred to herein
 14 individually as “Party” or collectively as “Parties.” The County of Orange Health Care Agency
 15 (ADMINISTRATOR) shall administer this Contract.
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 18 **W I T N E S S E T H:**
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20 WHEREAS, of December 31, 2021, there were 6,772 Orange County residents living with Human
 21 Immunodeficiency Virus disease (HIV); and

22 WHEREAS, the COUNTY wishes to contract with CONTRACTOR for the provision of HIV Pre –
 23 Exposure Prophylaxis PrEP Navigation Services described herein; and

24 WHEREAS, COUNTY receives “Integrated HIV Programs for Health Departments to Support
 25 Ending the HIV Epidemic in the United States” funding from the Centers for Disease Control and
 26 Prevention (CDC) through the California Department of Public Health (CDPH); and

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

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

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REFERENCED CONTRACT PROVISIONS

Term: September 1, 2022 through June 30, 2025

Period One means the period from September 1, 2022 through June 30, 2023

Period Two means the period from July 1, 2023 through June 30, 2024

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

Amount Not to Exceed:

Period One Maximum Obligation:	\$ 250,000
Period Two Maximum Obligation:	250,000
Period Three Maximum Obligation	<u>250,000</u>
Total Maximum Obligation	\$ 750,000

Basis for Reimbursement: Actual Cost

Payment Method: Monthly in arrears

CONTRACTOR UNIQUE IDENTIFIER: UMN6LAVB6H47

CONTRACTOR DUNS Number: 18-930-0031

CONTRACTOR TAX ID Number: 33-0126481

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: Philip Yaeger, Executive Director/CEO
AIDS Services Foundation Orange County
dba Radiant Health Centers
17982 Sky Park Circle, Suite J
Irvine, CA 92614
pyaeger@radianthealthcenters.org

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I. ACRONYMS

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

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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. CAPER	Consolidated Annual Performance and Evaluation Report
8	E. ASRS	Alcohol and Drug Programs Reporting System
9	F. CAS	Client Assessment Staff
10	G. CCC	California Civil Code
11	H. CEF	Client Encounter Form
12	I. CCR	California Code of Regulations
13	J. CFDA	Catalog of Federal Domestic Assistance
14	K. CFR	Code of Federal Domestic Assistance
15	L. CDPH/OA	California Department of Public Health, Office of AIDS
16	M. CEO	County Executive Office
17	N. CFR	Code of Federal Regulations
18	O. CHPP	COUNTY HIPAA Policies and Procedures
19	P. CHS	Correctional Health Services
20	Q. CLIA	Clinical Laboratory Improvement Act/Amendment
21	R. CMS	Center for Medicare and Medicaid Services
22	S. COI	Certificate of Insurance
23	T. D/MC	Drug/Medi-Cal
24	U. DHCS	Department of Health Care Services
25	V. DPFS	Drug Program Fiscal Systems
26	W. DRS	Designated Record Set
27	X. EFA	Emergency Financial Assistance
28	Y. ePHI	Electronic Protected Health Information
29	Z. EHE	Ending the HIV Epidemic
30	AA. FTE	Full Time Equivalent
31	AB. FDA	Food and Drug Administration
32	AC. GAAP	Generally Accepted Accounting Principles
33	AD. HAB	Federal HIV/AIDS Bureau
34	AE. HCA	Health Care Agency
35	AF. HHS	Health and Human Services
36	AG. HIPAA	Health Insurance Portability and Accountability Act of 1996, Public
37		Law 104-191

1	AH. HITECH Act	The Health Information Technology for Economic and
2		Clinical Health Act, Public Law 111-005
3	AI. HIV	Human Immunodeficiency Virus
4	AJ. HOPWA	Housing Opportunities for Persons with AIDS
5	AK. HRSA	Federal Health Resources and Services Administration
6	AL. HSC	California Health and Safety Code
7	AM. HUD	Housing and Urban Development
8	AN. ISO	Insurance Services Office
9	AO. LEO	Local Evaluation Online
10	AP. LIHP	Low Income Health Program
11	AQ. MHP	Mental Health Plan
12	AR. OCJS	Orange County Jail System
13	AS. OCPD	Orange County Probation Department
14	AT. OCR	Office for Civil Rights
15	AU. OCSD	Orange County Sheriff's Department
16	AV. OIG	Office of Inspector General
17	AW. OMB	Office of Management and Budget
18	AX. OPM	Federal Office of Personnel Management
19	AY. PA DSS	Payment Application Data Security Standard
20	AZ. PC	State of California Penal Code
21	BA. PCI DSS	Payment Card Industry Data Security Standard
22	BB. PHI	Protected Health Information
23	BC. PII	Personally Identifiable Information
24	BD. PLWH	Person Living with HIV/AIDS
25	BE. PRA	Public Record Act
26	BF. PrEP	Pre-Exposure Prophylaxis
27	BG. PS	Partner Services
28	BH. QM	Quality Management
29	BI. RAP	Rental Assistance Program
30	BJ. RSR	Ryan White Services Reports
31	BK. Ryan White Act	Ryan White HIV/AIDS Treatment Extension Act of 2009
32	BL. SIR	Self-Insured Retention
33	BM. STAR	Short-Term Assistance for Rent
34	BN. STSH	Short-Term Supportive Housing
35	BO. USC	United States Code
36	BP. WIC	State of California Welfare and Institutions Code
37	//	

II. ALTERATION OF TERMS

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

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

III. ASSIGNMENT OF DEBTS

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

IV. COMPLIANCE

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

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

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

- a. Designation of a Compliance Officer and/or compliance staff.
- b. Written standards, policies and/or procedures.
- c. Compliance related training and/or education program and proof of completion.
- d. Communication methods for reporting concerns to the Compliance Officer.
- e. Methodology for conducting internal monitoring and auditing.

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1 f. Methodology for detecting and correcting offenses.

2 g. Methodology/Procedure for enforcing disciplinary standards.

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

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

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

25 B. SANCTION SCREENING – CONTRACTOR shall screen all Covered Individuals employed or
26 retained to provide services related to this Contract semi-annually to ensure that they are not designated
27 as Ineligible Persons, as pursuant to this Contract. Screening shall be conducted against the General
28 Services Administration's Excluded Parties List System or System for Award Management, the Health
29 and Human Services/Office of Inspector General List of Excluded Individuals/Entities, and the
30 California Medi-Cal Suspended and Ineligible Provider List and/or any other list or system as identified
31 by ADMINISTRATOR.

32 1. For purposes of this Paragraph IV (COMPLIANCE), Covered Individuals includes all
33 employees, interns, volunteers, contractors, subcontractors, agents, and other persons who provide
34 health care items or services or who perform billing or coding functions on behalf of
35 ADMINISTRATOR. Notwithstanding the above, this term does not include part-time or per-diem
36 employees, contractors, subcontractors, agents, and other persons who are not reasonably expected to
37 work more than one hundred sixty (160) hours per calendar year; except that any such individuals shall

1 become Covered Individuals at the point when they work more than one hundred sixty (160) hours
2 during the calendar year. CONTRACTOR shall ensure that all Covered Individuals relative to this
3 Contract are made aware of ADMINISTRATOR’s Compliance Program, Code of Conduct and related
4 policies and procedures (or CONTRACTOR’s own compliance program, code of conduct and related
5 policies and procedures if CONTRACTOR has elected to use its own).

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

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

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

12 3. CONTRACTOR shall screen prospective Covered Individuals prior to hire or engagement.
13 CONTRACTOR shall not hire or engage any Ineligible Person to provide services relative to this
14 Contract.

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

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

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

32 7. CONTRACTOR shall notify ADMINISTRATOR immediately if a Covered Individual or
33 entity is currently excluded, suspended or debarred, or is identified as such after being sanction
34 screened. Such individual or entity shall be immediately removed from participating in any activity
35 associated with this Contract. ADMINISTRATOR will determine appropriate repayment from, or

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2 sanction(s) to CONTRACTOR for services provided by ineligible person or individual.
3 CONTRACTOR shall promptly return any overpayments within forty-five (45) business days after the
4 overpayment is verified by ADMINISTRATOR.

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

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

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

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

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

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

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

22 1. CONTRACTOR shall ensure completion of Specialized Provider Training by all Covered
23 Individuals relative to this Contract.

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

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

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

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

33 E. MEDICAL BILLING, CODING, AND DOCUMENTATION COMPLIANCE STANDARDS

34 1. CONTRACTOR shall take reasonable precaution to ensure that the coding of health care
35 claims, billings and/or invoices for same are prepared and submitted in an accurate and timely manner
36 and are consistent with federal, state and county laws and regulations. This includes compliance with
37 federal and state health care program regulations and procedures or instructions otherwise

1 | communicated by regulatory agencies including the Centers for Medicare and Medicaid Services or
2 | their agents.

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

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

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

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

13 | 6. CONTRACTOR shall meet the HCA MHP Quality Management Program Standards and
14 | participate in the quality improvement activities developed in the implementation of the Quality
15 | Management Program.

16 | 7. CONTRACTOR shall comply with the provisions of ADMINISTRATOR's Cultural
17 | Competency Plan submitted and approved by the state. ADMINISTRATOR shall update the Cultural
18 | Competency Plan and submit the updates to the State for review and approval annually. (CCR, Title 9,
19 | §1810.410.subds. (c)- (d).

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

26 |

27 | **V. CONFIDENTIALITY**

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

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

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

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

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

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

13 14 **VI. CONFLICT OF INTEREST**

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

23 B. The Parties hereto acknowledge that CONTRACTOR may be affiliated with one or more
24 organizations or professional practices located in Orange County. CONTRACTOR therefore warrants
25 that he/she shall not violate any applicable law, rule or regulation of any governmental entity relating to
26 conflict of interest. Except as specified in the Services Paragraph of the Contract, CONTRACTOR shall
27 not knowingly undertake any act which unjustifiably results in any relative benefit to any organization
28 or professional practice with which he/she is affiliated as a direct or indirect result, whether economic or
29 otherwise in nature, of the performance of duties and obligations required by the Contract, when
30 compared to the result such act has on any other organization or professional practice.

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

33 34 **VII. COST REPORT**

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

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

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

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

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

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

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

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

31 C. Final settlement shall be based upon the actual and reimbursable costs for services hereunder,
32 less applicable revenues and any late penalty, not to exceed COUNTY's Maximum Obligation as set
33 forth in the Referenced Contract Provisions of this Contract. CONTRACTOR shall not claim
34 expenditures to COUNTY which are not reimbursable pursuant to applicable federal, state and
35 COUNTY laws, regulations and requirements. Any payment made by COUNTY to CONTRACTOR,
36 which is subsequently determined to have been for an unreimbursable expenditure or service, shall be
37 repaid by CONTRACTOR to COUNTY in cash, or other authorized form of payment, within thirty (30)

1 calendar days of submission of the Cost Report or COUNTY may elect to reduce any amount owed
2 CONTRACTOR by an amount not to exceed the reimbursement due COUNTY.

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

10 E. 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 higher than the aggregate of interim monthly
12 payments to CONTRACTOR, COUNTY shall pay CONTRACTOR the difference, provided such
13 payment does not exceed the Maximum Obligation of COUNTY.

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

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

25
26 Signed _____
27 Name _____
28 Title _____
29 Date _____"

30
31 **VIII. DEBARMENT AND SUSPENSION CERTIFICATION**

32 A. CONTRACTOR certifies that it and its principals:

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

35 2. Have not within a three-year period preceding this Contract been convicted of or had a civil
36 judgment rendered against them for commission of fraud or a criminal offense in connection with
37 obtaining, attempting to obtain, or performing a public (federal, state, or local) transaction or contract

1 under a public transaction; violation of federal or state antitrust statutes or commission of
2 embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or
3 receiving stolen property.

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

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

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

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

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

19 20 **IX. DELEGATION ASSIGNMENT, AND SUBCONTRACTS**

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

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

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

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

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

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

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

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

23 C. CONTRACTOR’s obligations undertaken pursuant to the Contract may be carried out by means
 24 of subcontracts, provided such subcontracts are approved in advance, in writing by ADMINISTRATOR,
 25 meet the requirements of the Contract as they relate to the service or activity under subcontract, include
 26 any provisions that ADMINISTRATOR may require, and are authorized in writing by
 27 ADMINISTRATOR prior to the beginning of service delivery.

28 1. After approval of a subcontract, ADMINISTRATOR may revoke the approval of a
 29 subcontract upon five (5) calendar days’ written notice to CONTRACTOR if the subcontractor
 30 subsequently fails to meet the requirements of the Contract or any provisions that ADMINISTRATOR
 31 has required. ADMINISTRATOR may disallow subcontractor expenses reported by CONTRACTOR.

32 2. No subcontractor shall terminate or alter the responsibilities of CONTRACTOR to
 33 COUNTY pursuant to the Contract.

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

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

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

13 14 **X. DISPUTE RESOLUTION**

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

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

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

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

32 C. Any final decision of COUNTY shall be expressly identified as such, shall be in writing, and
33 shall be signed by a COUNTY Deputy Purchasing Agent or designee. If COUNTY fails to render a
34 decision within ninety (90) calendar days after receipt of CONTRACTOR's demand, it shall be deemed
35 a final decision adverse to CONTRACTOR's contentions.

36 D. The Contract has been negotiated and executed in the State of California and shall be governed
37 by and construed under the laws of the State of California. In the event of any legal action to enforce or

1 interpret the Contract, the sole and exclusive venue shall be a court of competent jurisdiction located in
2 Orange County, California, and the Parties hereto agree to and do hereby submit to the jurisdiction of
3 such court, notwithstanding Code of Civil Procedure Section 394. Furthermore, the Parties specifically
4 agree to waive any and all rights to request that an action be transferred for adjudication to another
5 county.

6 **XI. EMPLOYEE ELIGIBILITY VERIFICATION**

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

16 **XII. EQUIPMENT**

17
18 A. Unless otherwise specified in writing by ADMINISTRATOR, Equipment is defined as all
19 property of a Relatively Permanent nature with significant value, purchased in whole or in part by
20 ADMINISTRATOR to assist in performing the services described in this Contract. "Relatively
21 Permanent" is defined as having a useful life of one year or longer. Equipment which costs \$5,000 or
22 over, including freight charges, sales taxes, and other taxes, and installation costs are defined as Capital
23 Assets. Equipment which costs between \$600 and \$5,000, including freight charges, sales taxes and
24 other taxes, and installation costs, or electronic equipment that costs less than \$600 but may contain PHI
25 or PII, are defined as Controlled Equipment. Controlled Equipment includes, but is not limited to
26 phones, tablets, audio/visual equipment, computer equipment, and lab equipment. The cost of
27 Equipment purchased, in whole or in part, with funds paid pursuant to this Contract shall be depreciated
28 according to GAAP.

29 B. CONTRACTOR shall obtain ADMINISTRATOR's prior written approval to purchase any
30 Equipment with funds paid pursuant to this Contract. Upon delivery of Equipment, CONTRACTOR
31 shall forward to ADMINISTRATOR, copies of the purchase order, receipt, and other supporting
32 documentation, which includes delivery date, unit price, tax, shipping and serial numbers.
33 CONTRACTOR shall request an applicable asset tag for said Equipment and shall include each
34 purchased asset in an Equipment inventory.

35 C. Upon ADMINISTRATOR's prior written approval, CONTRACTOR may expense to
36 COUNTY the cost of the approved Equipment purchased by CONTRACTOR. To "expense," in
37 //

1 relation to Equipment, means to charge the proportionate cost of Equipment in the fiscal year in which it
2 is purchased. Title of expensed Equipment shall be vested with COUNTY.

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

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

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

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

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

21 22 **XIII. FACILITIES, PAYMENTS AND SERVICES**

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

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

34 35 **XIV. INDEMNIFICATION AND INSURANCE**

36 A. CONTRACTOR agrees to indemnify, defend with counsel approved in writing by COUNTY,
37 and hold COUNTY, its elected and appointed officials, officers, employees, agents and those special

1 districts and agencies for which COUNTY’s Board of Supervisors acts as the governing Board
 2 (“COUNTY INDEMNITEES”) harmless from any claims, demands or liability of any kind or nature,
 3 including but not limited to personal injury or property damage, arising from or related to the services,
 4 products or other performance provided by CONTRACTOR pursuant to this Contract. If judgment is
 5 entered against CONTRACTOR and COUNTY by a court of competent jurisdiction because of the
 6 concurrent active negligence of COUNTY or COUNTY INDEMNITEES, CONTRACTOR and
 7 COUNTY agree that liability will be apportioned as determined by the court. Neither Party shall
 8 request a jury apportionment.

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

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

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

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

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

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

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

6 F. **QUALIFIED INSURER**

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

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

15 G. The policy or policies of insurance maintained by CONTRACTOR shall provide the minimum
16 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
Employee Dishonesty	\$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
10 as broad naming the *County of Orange, its elected and appointed officials, officers, agents and*
11 *employees* as Additional Insureds, or provide blanket coverage, which will state ***AS REQUIRED BY***
12 ***WRITTEN 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-
15 insurance 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
17 endorsements 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
32 Certificate 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
36 breach of CONTRACTOR's obligation hereunder and ground for COUNTY to suspend or terminate
37 this 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
12 insurance of any of the above insurance types throughout the term of this Contract. Any increase or
13 decrease in insurance will be as deemed by County of Orange Risk Manager as appropriate to
14 adequately protect 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
22 this 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
36 required COI and endorsements that meet the insurance provisions stipulated in this Contract are
37 submitted to 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
18 audit, review, evaluation, or examination, or making transcripts during the periods of retention set forth
19 in the 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
24 Contract, and shall provide the above-mentioned persons adequate office space to conduct such
25 evaluation or 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 //
37 //

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

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

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

11 **XVI. LICENSES AND LAWS**

12
13 A. CONTRACTOR, its officers, agents, employees, affiliates, and subcontractors shall, throughout
14 the term of this Contract, maintain all necessary licenses, permits, approvals, certificates, accreditations,
15 waivers, and exemptions necessary for the provision of the services hereunder and required by the laws,
16 regulations and requirements of the United States, the State of California, COUNTY, and all other
17 applicable governmental agencies. CONTRACTOR shall notify ADMINISTRATOR immediately and
18 in writing of its inability to obtain or maintain, irrespective of the pendency of any hearings or appeals,
19 permits, licenses, approvals, certificates, accreditations, waivers and exemptions. Said inability shall be
20 cause for termination of this Contract.

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

25 Department of Health and Human Services
26 Health Resources and Services Administration
27 Office of Federal Assistance Management
28 Division of Grants Management Operations
29 5600 Fishers Lane, Mailstop 10SWH03
30 Rockville, MD 20879

31 AND

32 U.S. Department of Health and Human Services
33 Office of Inspector General
34 Attn: Mandatory Grant Disclosures, Intake Coordinator
35 330 Independence Avenue, SW, Cohen Building Room 5527
36 Washington, DC 20201
37 Fax: (202)2050604

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

- 4 1. ARRA of 2009.
- 5 2. 42 CFR, Public Health, H&SC 121025.
- 6 3. 31 USC 7501 – 7507, as well as its implementing regulations under 2 CFR Part 200,
 7 Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards.
- 8 4. HIPAA Privacy Rule, as it may now exist, or be hereafter amended, as applicable.
- 9 5. 42 USC §12101 et seq., Americans with Disabilities Act of 1990.
- 10 6. WIC §15600, et seq., Elder Abuse and Dependent Adult Civil Protection Act.
- 11 7. 45 CFR Part 76, Drug Free Work Place.
- 12 8. CCR, Title 22, Division 6, Community Care Licensing Division.
- 13 9. 42 USC. 12901 et seq., AIDS Housing Opportunity Act
- 14 9. Ryan White HIV/AIDS Treatment Extension Act of 2009 (Public Law 111-87, October 30,
 15 2009).
- 16 10. U.S. Department of Health and Human Services, National Institutes of Health (NIH) Grants
 17 Policy Statement (10/13).
- 18 11. U.S. Department of Health and Human Services, Public Health Service, PHS Grant Policy
 19 Statement.
- 20 12. Title XXVI of the Public Health Services Act, as amended by the Ryan White HIV/AIDS
 21 Treatment Extension Act of 2009 (Public Law 111-87).

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

23
 24 A. Any written information or literature, including educational or promotional materials,
 25 distributed by CONTRACTOR to any person or organization for purposes directly or indirectly related
 26 to this Contract must be approved at least thirty (30) calendar days in advance and in writing by
 27 ADMINISTRATOR before distribution. For the purposes of this Contract, distribution of written
 28 materials shall include, but not be limited to, pamphlets, brochures, flyers, newspaper or magazine ads,
 29 and electronic media such as the Internet.

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

34 C. If CONTRACTOR uses social media (such as Facebook, Twitter, YouTube or other publicly
 35 available social media sites) in support of the services described within this Contract, CONTRACTOR
 36 shall develop social media policies and procedures and have them available to ADMINISTRATOR
 37 upon reasonable notice. CONTRACTOR shall inform ADMINISTRATOR of all forms of social media

1 used to either directly or indirectly support the services described within this Contract. CONTRACTOR
2 shall comply with COUNTY Social Media Use Policy and Procedures as they pertain to any social
3 media developed in support of the services described within this Contract. CONTRACTOR shall also
4 include any required funding statement information on social media when required by
5 ADMINISTRATOR.

6 D. Any information as described in Subparagraphs A., B. and C. above shall not imply
7 endorsement by COUNTY, unless ADMINISTRATOR consents thereto in writing.
8

9 **XVIII. MAXIMUM OBLIGATION**

10 A. The Total Maximum Obligation of COUNTY for services provided in accordance with this
11 Contract, and the separate Maximum Obligations for each Period under this Contract, are as specified in
12 the Referenced Contract Provisions of this Contract.

13 B. Upon written request by CONTRACTOR, and at sole discretion of ADMINISTRATOR,
14 ADMINISTRATOR may increase or decrease the Period One, Period Two and Period Three Maximum
15 Obligations, provided the total of these Maximum Obligations does not exceed the Total Maximum
16 Obligation of COUNTY as specified in the Referenced Contract Provisions of this Contract.

17 C. ADMINISTRATOR may amend the Maximum Obligation by an amount not to exceed ten
18 percent (10%) of Period One funding for this Contract.
19

20 **XIX. MINIMUM WAGE LAWS**

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

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

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

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XX. NONDISCRIMINATION**A. EMPLOYMENT**

1
2
3 1. During the term of this Contract, CONTRACTOR and its Covered Individuals shall not
4 unlawfully discriminate against any employee or applicant for employment because of his/her race,
5 religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition,
6 genetic information, marital status, sex, gender, gender identity, gender expression, age, sexual
7 orientation, or military and veteran status. Additionally, during the term of this Contract,
8 CONTRACTOR and its Covered Individuals shall require in its subcontracts that subcontractors shall
9 not unlawfully discriminate against any employee or applicant for employment because of his/her race,
10 religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition,
11 genetic information, marital status, sex, gender, gender identity, gender expression, age, sexual
12 orientation, or military and veteran status.

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

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

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

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

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

34 **B. SERVICES, BENEFITS AND FACILITIES** – CONTRACTOR and/or subcontractor shall not
35 discriminate in the provision of services, the allocation of benefits, or in the accommodation in facilities
36 on the basis of race, religious creed, color, national origin, ancestry, physical disability, mental
37 disability, medical condition, genetic information, marital status, sex, gender, gender identity, gender

1 expression, age, sexual orientation, or military and veteran status in accordance with Title IX of the
 2 Education Amendments of 1972 as they relate to 20 USC §1681 - §1688; Title VI of the Civil Rights
 3 Act of 1964 (42 USC §2000d); the Age Discrimination Act of 1975 (42 USC §6101); Title 9, Division
 4 4, Chapter 6, Article 1 (§10800, et seq.) of the California Code of Regulations; and Title II of the
 5 Genetic Information Nondiscrimination Act of 2008, 42 USC 2000ff, et seq. as applicable, and all other
 6 pertinent rules and regulations promulgated pursuant thereto, and as otherwise provided by state law and
 7 regulations, as all may now exist or be hereafter amended or changed. For the purpose of this
 8 Nondiscrimination paragraph, Discrimination includes, but is not limited to the following based on one
 9 or more of the factors identified above:

- 10 1. Denying a client or potential client any service, benefit, or accommodation.
- 11 2. Providing any service or benefit to a client which is different or is provided in a different
 12 manner or at a different time from that provided to other clients.
- 13 3. Restricting a client in any way in the enjoyment of any advantage or privilege enjoyed by
 14 others receiving any service or benefit.
- 15 4. Treating a client differently from others in satisfying any admission requirement or
 16 condition, or eligibility requirement or condition, which individuals must meet in order to be provided
 17 any service or benefit.
- 18 5. Assignment of times or places for the provision of services.

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

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

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

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

36 E. RETALIATION – Neither CONTRACTOR nor subcontractor, nor its employees or agents shall
 37 intimidate, coerce or take adverse action against any person for the purpose of interfering with rights

1 | secured by federal or state laws, or because such person has filed a complaint, certified, assisted or
 2 | otherwise participated in an investigation, proceeding, hearing or any other activity undertaken to
 3 | enforce rights secured by federal or state law.

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

8 | **XXI. NOTICES**

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

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

14 | 2. When faxed, transmission confirmed;

15 | 3. When sent by Email; or

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

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

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

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

28 | **XXII. NOTIFICATION OF DEATH**

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

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

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

37 | //

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

3 | 2. WRITTEN NOTIFICATION

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

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

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

15 |
16 | **XXIII. NOTIFICATION OF PUBLIC EVENTS AND MEETINGS**

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

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

24 |
25 | **XXIV. RECORDS MANAGEMENT AND MAINTENANCE**

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

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

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

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

1 Breach of privacy and/or security of PII and/or PHI to the extent such breach is due to
2 CONTRACTOR's sole fault.

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

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

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

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

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

17 18 **XXV. RESEARCH AND PUBLICATION**

19 CONTRACTOR shall not utilize information and data received from COUNTY or developed as a
20 result of this Contract for the purpose of personal publication.

21 22 **XXVI. REVENUE**

23 A. CLIENT FEES – CONTRACTOR shall charge, unless waived by ADMINISTRATOR, a fee to
24 Clients to whom billable services, other than those amounts reimbursed by Medicare, Medi-Cal or other
25 third party health plans, are provided pursuant to this Contract, their estates and responsible relatives,
26 according to their ability to pay as determined by the State Department of Health Care Services'
27 "Uniform Method of Determining Ability to Pay" procedure or by any other payment procedure as
28 approved in advance, and in writing by ADMINISTRATOR; and in accordance with Title 9 of the CCR.
29 Such fee shall not exceed the actual cost of services provided. No Client shall be denied services
30 because of an inability to pay.

31 B. THIRD-PARTY REVENUE – CONTRACTOR shall make every reasonable effort to obtain all
32 available third-party reimbursement for which persons served pursuant to this Contract may be eligible.
33 Charges to insurance carriers shall be on the basis of CONTRACTOR's usual and customary charges.

34 C. PROCEDURES – CONTRACTOR shall maintain internal financial controls which adequately
35 ensure proper billing and collection procedures. CONTRACTOR's procedures shall specifically
36 provide for the identification of delinquent accounts and methods for pursuing such accounts.
37 CONTRACTOR shall provide ADMINISTRATOR, monthly, a written report specifying the current

1 status of fees which are billed, collected, transferred to a collection agency, or deemed by
2 CONTRACTOR to be uncollectible.

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

6 **XXVII. SEVERABILITY**

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

13 **XXVIII. SPECIAL PROVISIONS**

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

- 16 1. Making cash payments to intended recipients of services through this Contract.
- 17 2. Lobbying any governmental agency or official. CONTRACTOR shall file all certifications
18 and reports in compliance with this requirement pursuant to Title 31, USC, §1352 (e.g., limitation on
19 use of appropriated funds to influence certain federal contracting and financial transactions).
- 20 3. Fundraising.
- 21 4. Purchase of gifts, meals, entertainment, awards, or other personal expenses for
22 CONTRACTOR's staff, volunteers, or members of the Board of Directors or governing body.
- 23 5. Reimbursement of CONTRACTOR's members of the Board of Directors or governing
24 body for expenses or services.
- 25 6. Making personal loans to CONTRACTOR's staff, volunteers, interns, consultants,
26 subcontractors, and members of the Board of Directors or governing body, or its designee or authorized
27 agent, or making salary advances or giving bonuses to CONTRACTOR's staff.
- 28 7. Paying an individual salary or compensation for services at a rate in excess of the current
29 Level I of the Executive Salary Schedule as published by the OPM. The OPM Executive Salary
30 Schedule may be found at www.opm.gov.
- 31 8. Severance pay for separating employees.
- 32 9. Paying rent and/or lease costs for a facility prior to the facility meeting all required building
33 codes and obtaining all necessary building permits for any associated construction.
- 34 10. Purchasing or improving land, including constructing or permanently improving any
35 building or facility, except for tenant improvements.
- 36 11. Satisfying any expenditure of non-federal funds as a condition for the receipt of federal
37 funds (matching).

1 12. Contracting or subcontracting with any entity other than an individual or nonprofit entity,
2 unless no nonprofit entity is able and willing to provide such services.

3 13. Supplanting current funding for existing services.

4 14. Payment of home mortgages; direct maintenance expense (tires, repairs, etc.) of a privately
5 owned vehicle or any other cost associated with a vehicle, such as lease or loan payments, insurance, or
6 license and registration fees; payment of local or state personal property taxes (for residential property,
7 private automobiles, or any other personal property against which taxes may levied). This restriction
8 does not apply to vehicles operated by organizations for program purposes.

9 15. To meet professional licensure or program licensure requirements.

10 16. Providing inpatient hospital services or purchasing major medical equipment.

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

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

14 2. Making phone calls outside of the local area unless documented to be directly for the
15 purpose of client care.

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

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

19 5. Purchase of gifts, meals, entertainment, awards, or other personal expenses for
20 CONTRACTOR's clients.

21 C. To the greatest extent practicable, all equipment and products purchased with funds made
22 available through this Contract should be American-made.

23
24 **XXIX. STATUS OF CONTRACTOR**

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

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XXX. TERM

1
2 A. The term of this Contract shall commence as specified in the Referenced Contract
3 Provisions of this Contract or the execution date, whichever is later. This Contract shall terminate as
4 specified in the Referenced Contract Provisions of this Contract unless otherwise sooner terminated as
5 provided in this Contract; provided, however, CONTRACTOR shall be obligated to perform such duties
6 as would normally extend beyond this term, including but not limited to, obligations with respect to
7 confidentiality, indemnification, audits, reporting and accounting.

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

XXXI. TERMINATION

10
11
12 A. Either party may terminate this Contract, without cause, upon thirty (30) calendar days written
13 notice given the other party.

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

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

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

D. CONTINGENT FUNDING

- 34 1. Any obligation of COUNTY under this Contract is contingent upon the following:
 - 35 a. The continued availability of federal, state and county funds for reimbursement of
36 COUNTY's expenditures, and
37

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

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

7 E. In the event this Contract is suspended or terminated prior to the completion of the term as
8 specified in the Referenced Contract Provisions of this Contract, ADMINISTRATOR may, at its sole
9 discretion, reduce the Maximum Obligation of this Contract in an amount consistent with the reduced
10 term of the Contract.

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

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

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

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

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

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

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

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

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

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

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XXXII. THIRD PARTY BENEFICIARY

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

XXXIII. WAIVER OF DEFAULT OR BREACH

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

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

3
4 AIDS SERVICES FOUNDATION ORANGE COUNTY
5 DBA RADIANT HEALTH CENTERS

6 DocuSigned by:
7 BY: Philip Haeger DATED: 6/13/2022
8 D2209F150CE740D...

9 TITLE: CEO

10
11 BY: _____ DATED: _____

12
13 TITLE: _____

14
15
16
17
18 COUNTY OF ORANGE

19
20
21 BY: _____ DATED: _____

22 HEALTH CARE AGENCY

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: 6/13/2022
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 PRE-EXPOSURE PROPHYLAXIS (PrEP) NAVIGATION SERVICES
 BETWEEN
 COUNTY OF ORANGE
 AND
 AIDS SERVICES FOUNDATION ORANGE COUNTY
 DBA RADIANT HEALTH CENTERS
 SEPTEMBER 1, 2022 THROUGH JUNE 30, 2025

I. BUDGET

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

	<u>PERIOD ONE</u>	<u>PERIOD TWO</u>	<u>PERIOD THREE</u>
ADMINISTRATION			
Salaries	\$ 16,071	\$ 16,071	\$ 16,071
Benefits	\$ 4,018	\$ 4,018	\$ 4,018
Services and Supplies	\$ 4,661	\$ 4,661	\$ 4,661
Office Space	\$ 786	\$ 786	\$ 786
Accounting/Audit Expense	\$ 750	\$ 750	\$ 750
Dues, Subscriptions, Licenses	\$ 300	\$ 300	\$ 300
Insurance	\$ 200	\$ 200	\$ 200
Office Supplies	\$ 400	\$ 400	\$ 400
Postage and Shipping	\$ 100	\$ 100	\$ 100
Printing	\$ 100	\$ 100	\$ 100
Repairs and Maintenance – Computers	\$ 75	\$ 75	\$ 75
Repairs and Maintenance - General	\$ 250	\$ 250	\$ 250
Telephone	\$ 350	\$ 350	\$ 350
Utilities	\$ 150	\$ 150	\$ 150
Professional Services	\$ 1,200	\$ 1,200	\$ 1,200
SUBTOTAL	\$ 24,750	\$ 24,750	\$ 24,750
PROGRAM			
Salaries	\$ 146,640	\$ 146,640	\$ 146,640
Benefits	\$ 36,660	\$ 36,660	\$ 36,660
Services and Supplies	\$ 41,950	\$ 41,950	\$ 41,950
Office Space	\$ 4,200	\$ 4,200	\$ 4,200
Advertising	\$ 6,500	\$ 6,500	\$ 6,500

1	Dues, Subscriptions, Licenses	\$ 2,000	\$ 2,000	\$ 2,000
2	Insurance	\$ 1,000	\$ 1,000	\$ 1,000
3	Office Supplies	\$ 2,500	\$ 2,500	\$ 2,500
4	Postage and Shipping	\$ 500	\$ 500	\$ 500
5	Printing	\$ 2,500	\$ 2,500	\$ 2,500
6	Program Supplies	\$ 4,000	\$ 4,000	\$ 4,000
7	Repairs and Maintenance – Computers	\$ 500	\$ 500	\$ 500
8	Repairs and Maintenance - General	\$ 1,750	\$ 1,750	\$ 1,750
9	Telephone	\$ 2,500	\$ 2,500	\$ 2,500
10	Transportation	\$ 4,000	\$ 4,000	\$ 4,000
11	Utilities	\$ 1,000	\$ 1,000	\$ 1,000
12	Professional Services	\$ 9,000	\$ 9,000	\$ 9,000
13	SUBTOTAL	\$ 225,250	\$ 225,250	\$ 225,250
14	TOTAL CONTRACT COSTS	<u>\$ 250,000</u>	<u>\$ 250,000</u>	<u>\$ 250,000</u>

16 B. Any increases or decreases to the budget must be approved, in advance and in writing, by
 17 ADMINISTRATOR. Administrative Costs shall not exceed ten percent (10%) of total costs.

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

29 D. CONTRACTOR shall submit a budget revision request to ADMINISTRATOR to request
 30 budget changes hereafter. The budget revision request shall be on a form approved or provided by
 31 ADMINISTRATOR.

32 E. CFDA INFORMATION

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

35 CFDA Year: 2022
 36 CFDA No.: 93.94
 37 FAIN No.: NU62PS924630

1 Program Title: Integrated HIV Programs for Health Departments to Support Ending
 2 the HIV Epidemic in the United States (indirect)
 3 Federal Agency: Centers for Disease Control and Prevention
 4 Award Name: Ending the HIV Epidemic in the United States (indirect)
 5 Indirect Rate: California Department of Public Health Approved Indirect Cost
 6 Rate 20.717%
 7 Amount: \$250,000 (estimated annually)
 8 R&D Award: No

9 2. CONTRACTOR may be required to have an audit conducted in accordance with 31 USC
 10 7501 – 7507, as well as its implementing regulations under 2 CFR Part 200. CONTRACTOR shall be
 11 responsible for complying with any federal audit requirements within the reporting period specified by
 12 31 USC 7501 – 7507, as well as its implementing regulations under 2 CFR Part 200.

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

15 F. CONTRACTOR and ADMINISTRATOR may mutually agree, in writing, to modify the
 16 Budget Paragraph of this Exhibit A to the Contract.

17 **II. PAYMENTS**

18 A. COUNTY shall pay CONTRACTOR monthly, in arrears, for the actual costs of providing the
 19 services described hereunder, less revenues which are actually received by CONTRACTOR; provided,
 20 however, the total of such payments does not exceed COUNTY’s Maximum Obligation, as set forth in
 21 the Referenced Contract Provisions of the Contract and, provided further, CONTRACTOR’s costs are
 22 reimbursable pursuant to county, state and/or federal regulations. All payments are interim payments
 23 only and are subject to final settlement in accordance with the Cost Report Paragraph of the Contract.
 24 ADMINISTRATOR may, at its discretion, pay supplemental billings for any month for which the
 25 interim payment amount specified above has not been fully paid.

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

28 2. If, at any time, CONTRACTOR’s Expenditure and Revenue Reports indicate that the
 29 monthly interim payments exceed the actual cost of providing services, ADMINISTRATOR may reduce
 30 COUNTY payments to CONTRACTOR by an amount not to exceed the difference between the year-to-
 31 date interim payment amount to CONTRACTOR and the year-to-date actual cost incurred by
 32 CONTRACTOR.

33 3. If, at any time, CONTRACTOR’s Expenditure and Revenue Reports indicate that the
 34 interim payment amounts are less than the actual cost of providing services, ADMINISTRATOR may
 35 authorize a supplemental payment to CONTRACTOR by an amount not to exceed the difference
 36

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1 between the year-to-date interim payment amount to CONTRACTOR and the year-to-date actual cost
2 incurred by CONTRACTOR.

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

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

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

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

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

18
19 **III. REPORTS**

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

24 B. FISCAL

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

33 C. STAFFING – CONTRACTOR shall submit monthly Staffing Reports to ADMINISTRATOR.
34 These reports shall be on a form provided or approved by ADMINISTRATOR and shall report staff by
35 position, actual staff hours worked, and the employees’ names, and shall indicate which staff have taken
36 Compliance Training in accordance with the Compliance Paragraph of this Contract. The reports shall

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1 be due to ADMINISTRATOR no later than the twentieth (20th) calendar day following the end of the
2 month being reported, unless otherwise agreed to in writing by ADMINISTRATOR.

3 D. PROGRAMMATIC

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

12 2. CONTRACTOR shall track and report the following performance outcomes in
13 programmatic reports:

- 14 a. Percentage of persons testing negative for HIV who are screened for PrEP eligibility,
15 b. Percentage of persons eligible for PrEP who are provided a PrEP referral,
16 c. Percentage of persons eligible for PrEP who are assisted with linkage to a PrEP
17 provider,
18 d. Percentage of persons eligible for PrEP who obtain a PrEP prescription,
19 e. Percentage of persons eligible for PrEP who initiate PrEP, and
20 f. Percentage of persons eligible for PrEP who attend one or more PrEP follow-up
21 sessions post-initiation.

22 E. DATA REPORTING

23 1. CONTRACTOR shall fully comply with ADMINISTRATOR's requirements for data
24 reporting for PrEP Navigation Services. For purposes of the Contract, data reporting shall be defined as
25 collecting data on approved forms for all PrEP Navigation encounters and entering data into the
26 COUNTY's designated data system inclusive of Local Evaluation Online (LEO) by the fifteenth (15th)
27 calendar day of each month for PrEP Navigation encounters completed in the prior month.

28 2. CONTRACTOR shall maintain documentation related to PrEP Navigation services and
29 corresponding HIV and STD testing activities (CEF form and other documents as required by CDPH)
30 for a period of seven (7) years after the termination of this Contract, and shall be made available to the
31 County or State (or their authorized representatives) for audit purposes.

32 F. QUALITY MANAGEMENT –ADMINISTRATOR may request from CONTRACTOR, a
33 written Quality Improvement (QI) plan that addresses and identifies deficiencies in services and propose
34 a corrective action to remedy said deficiencies. CONTRACTOR shall submit the QI plan to
35 ADMINISTRATOR within fifteen (15) calendar days of the request. The QI plan shall be on a form
36 provided or approved by ADMINISTRATOR and shall be implemented upon ADMINISTRATOR's
37 approval of the QI plan.

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

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

7 8 **IV. SERVICES**

9 A. CONTRACTOR shall make all services specified herein available to eligible persons who
10 reside in Orange County and are at risk of acquiring HIV, in accordance with the Contract.
11 CONTRACTOR shall not charge fees.

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

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

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

25 **B. PrEP NAVIGATION SERVICES**

26 1. DEFINITION - PrEP is medication to prevent HIV. PrEP is highly effective for preventing
27 HIV when taken as prescribed.

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 high
30 risk for HIV.

31 a. CONTRACTOR shall develop and maintain a comprehensive written protocol for the
32 provision of the following PrEP Navigation Services:

- 33 1) Identifying and linking persons at risk for HIV to PrEP care;
- 34 2) Assistance with health insurance and/or enrollment in medication assistance
35 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 current CDC 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:
 - a) Young people (19-25)
 - b) Transgender individuals

d. CONTRACTOR shall provide PrEP clinical services delivered in accordance with current CDC PrEP Clinical Practice Guidelines and offered within a PrEP Clinical Care Model utilizing other funding sources.

e. CONTRACTOR shall provide HIV counseling and testing services utilizing other funding sources free of charge to Clients in accordance with all applicable laws, regulations, and guidelines to provide said services. For individuals who test negative for HIV, services shall include: 1) disclosure of negative test result; 2) referral for PrEP Navigation services, as detailed in Section VB (PrEP Navigation Services) of Exhibit A, as appropriate; and 3) referral to HIV prevention services.

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

g. 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:

	PERIOD <u>ONE</u>	PERIOD <u>TWO</u>	PERIOD <u>THREE</u>
15 Minute Face-to-Face Contact	490	490	490
15 Minute Service Coordination	735	735	735
Unduplicated Clients	245	245	245

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

V. STAFFING

1
2 A. CONTRACTOR shall establish a written Code of Conduct for employees, volunteers, interns
3 and members of the Board of Directors, which shall include, but not be limited to, standards related to
4 the use of drugs and/or alcohol; staff-client relationships; prohibition of sexual contact with clients; and
5 conflict of interest. Prior to providing any services pursuant to this Contract, all members of the Board
6 of Directors, employees, volunteers and interns of CONTRACTOR shall agree in writing to maintain the
7 standards set forth in the Code of Conduct.

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

10 C. PrEP Navigation Services should be provided by staff who possess the following competencies
11 and perform the following roles and responsibilities, at minimum:

- 12 1. Experience working with priority populations and other populations at risk for HIV,
- 13 2. Certified PrEP-AP enrollment worker, if CONTRACTOR is a PrEP-AP enrollment site,
- 14 3. Knowledge and practice of cultural humility,
- 15 4. Experience navigating the PrEP healthcare landscape, and
- 16 5. Knowledge of community resources for effective linkage to HIV care and support services.

17 D. Services must be correctly documented using appropriate data collection forms, including but
18 not limited to:

19 1. LEO Client Information Notice - Client must be provided a written notice (LEO Client
20 Information Notice) indicating how the information they provide may be used. CONTRACTOR shall specify
21 how provision of the LEO Client Information Notice is documented indicating client receipt in written
22 protocol for the provision of PrEP Navigation Services.

23 2. Client Encounter Form (CEF) – Required CDPH data collection form to ensure performance
24 outcomes are captured in LEO.

25 E. CONTRACTOR shall provide staff with the following skills and knowledge, at minimum:

26 1. Communication skills – staff must have the ability to communicate with Clients in simple,
27 clear, and neutral terms, and be comfortable communicating with Clients from priority populations;

28 2. Basic HIV knowledge – familiarity and knowledge of common HIV language, terminology
29 and phrases; and understand basic HIV concepts as they relate to HIV testing services and/or
30 prevention; Staff must participate in training identified by ADMINISTRATOR or comparable training
31 with ADMINISTRATOR approval prior to commencement of services;

32 3. Knowledge of HIV counseling and testing processes, protocol, and staff roles – ability to
33 explain the process to a Client (e.g. explaining where the Client will go and with whom, what will
34 happen, and approximately how long it will take); explain types of HIV testing available; and
35 understand the limitation of their role and the process for transitioning the Client to other appropriate
36 staff.

37 //

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

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

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

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

	PERIOD <u>ONE</u> FTEs	PERIOD <u>TWO</u> FTEs	PERIOD <u>THREE</u> FTEs
ADMINISTRATION			
Chief Executive Officer	0.017	0.017	0.017
Senior Executive Assistant	0.017	0.017	0.017
Director of Human Resources	0.017	0.017	0.017
Chief Programs Officer	0.017	0.017	0.017
Chief Financial Officer	0.017	0.017	0.017
Senior Accountant	0.017	0.017	0.017
Staff Accountant	0.017	0.017	0.017
Accounting Assistant	0.017	0.017	0.017
Data Support Technician	0.017	0.017	0.017
Program Quality Assurance & Improvement Administrator	<u>0.017</u>	<u>0.017</u>	<u>0.017</u>
SUBTOTAL	0.166	0.166	0.166
PROGRAM			
Clinic Manager	0.150	0.150	0.150
PrEP Navigator	1.000	1.000	1.000
PrEP Navigator	1.000	1.000	1.000
PrEP Navigator	<u>0.500</u>	<u>0.500</u>	<u>0.500</u>
SUBTOTAL	2.650	2.650	2.650
TOTAL CONTRACT FTEs	2.816	2.816	2.816

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

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1 EXHIBIT B
2 TO CONTRACT FOR PROVISION OF
3 HIV PRE-EXPOSURE PROPHYLAXIS (PrEP) NAVIGATION SERVICES
4 BETWEEN
5 COUNTY OF ORANGE
6 AND
7 AIDS SERVICES FOUNDATION ORANGE COUNTY
8 DBA RADIANT HEALTH CENTERS
9 SEPTEMBER 1, 2022 THROUGH JUNE 30, 2025
10

11 **I. BUSINESS ASSOCIATE CONTRACT**

12 A. GENERAL PROVISIONS AND RECITALS

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

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

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

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

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

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

1 terms of this Business Associate Contract and the applicable standards, implementation specifications,
2 and requirements of the Privacy and the Security rules, as they may exist now or be hereafter amended,
3 with respect to PHI and electronic PHI created, received, maintained, transmitted, used, or disclosed
4 pursuant to the Contract.

5 B. DEFINITIONS

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

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

12 a. Breach excludes:

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

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

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

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

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

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

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

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

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

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

37 //

1 5. “Disclosure” shall have the meaning given to such term under the HIPAA regulations in 45
2 CFR § 160.103.

3 6. “Health Care Operations” shall have the meaning given to such term under the HIPAA
4 Privacy Rule in 45 CFR § 164.501.

5 7. “Individual” shall have the meaning given to such term under the HIPAA Privacy Rule in
6 45 CFR § 160.103 and shall include a person who qualifies as a personal representative in accordance
7 with 45 CFR § 164.502(g).

8 8. “Physical Safeguards” are physical measures, policies, and procedures to protect
9 CONTRACTOR’s electronic information systems and related buildings and equipment, from natural
10 and environmental hazards, and unauthorized intrusion.

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

13 10. “Protected Health Information” or “PHI” shall have the meaning given to such term under
14 the HIPAA regulations in 45 CFR § 160.103.

15 11. “Required by Law” shall have the meaning given to such term under the HIPAA Privacy
16 Rule in 45 CFR § 164.103.

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

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

24 14. “The HIPAA Security Rule” shall mean the Security Standards for the Protection of
25 electronic PHI at 45 CFR Part 160, Part 162, and Part 164, Subparts A and C.

26 15. “Subcontractor” shall have the meaning given to such term under the HIPAA regulations in
27 45 CFR § 160.103.

28 16. “Technical safeguards” means the technology and the policy and procedures for its use that
29 protect electronic PHI and control access to it.

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

34 18. “Use” shall have the meaning given to such term under the HIPAA regulations in 45 CFR §
35 160.103.

36 //
37 //

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

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

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

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

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

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

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

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

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

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

1 10. CONTRACTOR agrees to document any Disclosures of PHI COUNTY discloses to
2 CONTRACTOR or CONTRACTOR creates, receives, maintains, or transmits on behalf of COUNTY,
3 and to make information related to such Disclosures available as would be required for COUNTY to
4 respond to a request by an Individual for an accounting of Disclosures of PHI in accordance with
5 45 CFR § 164.528.

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

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

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

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

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

32 16. The Parties acknowledge that federal and state laws relating to electronic data security and
33 privacy are rapidly evolving and that amendment of this Business Associate Contract may be required to
34 provide for procedures to ensure compliance with such developments. The Parties specifically agree to
35 take such action as is necessary to implement the standards and requirements of HIPAA, the HITECH
36 Act, the HIPAA regulations and other applicable laws relating to the security or privacy of PHI. Upon
37 COUNTY's request, CONTRACTOR agrees to promptly enter into negotiations with COUNTY

1 concerning an amendment to this Business Associate Contract embodying written assurances consistent
2 with the standards and requirements of HIPAA, the HITECH Act, the HIPAA regulations or other
3 applicable laws. COUNTY may terminate the Contract upon thirty (30) days written notice in the event:

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

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

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

12 D. SECURITY RULE

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

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

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

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

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

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

37 //

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

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

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

11 E. DATA SECURITY REQUIREMENTS

12 1. Personal Controls

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

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

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

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

1 2. Technical Security Controls

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

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

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

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

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

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

33 g. User IDs and Password Controls. All users must be issued a unique user name for
34 accessing PHI COUNTY discloses to CONTRACTOR or CONTRACTOR creates, receives, maintains,
35 or transmits on behalf of COUNTY. Username must be promptly disabled, deleted, or the password
36 changed upon the transfer or termination of an employee with knowledge of the password, at maximum
37 within 24 hours. Passwords are not to be shared. Passwords must be at least eight characters and must

1 be a non-dictionary word. Passwords must not be stored in readable format on the computer.
2 Passwords must be changed every 90 days, preferably every 60 days. Passwords must be changed if
3 revealed or compromised. Passwords must be composed of characters from at least three of the
4 following four groups from the standard keyboard:

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

9 h. Data Destruction. When no longer needed, all PHI COUNTY discloses to
10 CONTRACTOR or CONTRACTOR creates, receives, maintains, or transmits on behalf of COUNTY
11 must be wiped using the Gutmann or US Department of Defense (DoD) 5220.22-M (7 Pass) standard, or
12 by degaussing. Media may also be physically destroyed in accordance with NIST Special Publication
13 800-88. Other methods require prior written permission by COUNTY.

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

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

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

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

33 m. Transmission encryption. All data transmissions of PHI COUNTY discloses to
34 CONTRACTOR or CONTRACTOR creates, receives, maintains, or transmits on behalf of COUNTY
35 outside the secure internal network must be encrypted using a FIPS 140-2 certified algorithm which is
36 128bit or higher, such as AES. Encryption can be end to end at the network level, or the data files

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1 containing PHI can be encrypted. This requirement pertains to any type of PHI in motion such as
2 website access, file transfer, and E-Mail.

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

7 3. Audit Controls

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

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

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

21 4. Business Continuity/Disaster Recovery Control

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

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

34 5. Paper Document Controls

35 a. Supervision of Data. PHI COUNTY discloses to CONTRACTOR or CONTRACTOR
36 creates, receives, maintains, or transmits on behalf of COUNTY in paper form shall not be left
37 unattended at any time, unless it is locked in a file cabinet, file room, desk or office. Unattended means

1 that information is not being observed by an employee authorized to access the information. Such PHI
2 in paper form shall not be left unattended at any time in vehicles or planes and shall not be checked in
3 baggage on commercial airplanes.

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

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

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

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

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

25 F. BREACH DISCOVERY AND NOTIFICATION

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

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

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

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

1 3. CONTRACTOR’s notification shall include, to the extent possible:

2 a. The identification of each Individual whose Unsecured PHI has been, or is reasonably

3 believed by CONTRACTOR to have been, accessed, acquired, used, or disclosed during the Breach;

4 b. Any other information that COUNTY is required to include in the notification to

5 Individual under 45 CFR §164.404 (c) at the time CONTRACTOR is required to notify COUNTY or

6 promptly thereafter as this information becomes available, even after the regulatory sixty (60) day

7 period set forth in 45 CFR § 164.410 (b) has elapsed, including:

8 1) A brief description of what happened, including the date of the Breach and the date

9 of the discovery of the Breach, if known;

10 2) A description of the types of Unsecured PHI that were involved in the Breach (such

11 as whether full name, social security number, date of birth, home address, account number, diagnosis,

12 disability code, or other types of information were involved);

13 3) Any steps Individuals should take to protect themselves from potential harm

14 resulting from the Breach;

15 4) A brief description of what CONTRACTOR is doing to investigate the Breach, to

16 mitigate harm to Individuals, and to protect against any future Breaches; and

17 5) Contact procedures for Individuals to ask questions or learn additional information,

18 which shall include a toll-free telephone number, an e-mail address, Web site, or postal address.

19 4. COUNTY may require CONTRACTOR to provide notice to the Individual as required in

20 45 CFR § 164.404, if it is reasonable to do so under the circumstances, at the sole discretion of the

21 COUNTY.

22 5. In the event that CONTRACTOR is responsible for a Breach of Unsecured PHI in violation

23 of the HIPAA Privacy Rule, CONTRACTOR shall have the burden of demonstrating that

24 CONTRACTOR made all notifications to COUNTY consistent with this Paragraph F and as required by

25 the Breach notification regulations, or, in the alternative, that the acquisition, access, use, or disclosure

26 of PHI did not constitute a Breach.

27 6. CONTRACTOR shall maintain documentation of all required notifications of a Breach or

28 its risk assessment under 45 CFR § 164.402 to demonstrate that a Breach did not occur.

29 7. CONTRACTOR shall provide to COUNTY all specific and pertinent information about the

30 Breach, including the information listed in Section E.3.b.(1)-(5) above, if not yet provided, to permit

31 COUNTY to meet its notification obligations under Subpart D of 45 CFR Part 164 as soon as

32 practicable, but in no event later than fifteen (15) calendar days after CONTRACTOR’s initial report of

33 the Breach to COUNTY pursuant to Subparagraph F.2 above.

34 8. CONTRACTOR shall continue to provide all additional pertinent information about the

35 Breach to COUNTY as it may become available, in reporting increments of five (5) business days after

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1 the last report to COUNTY. CONTRACTOR shall also respond in good faith to any reasonable
2 requests for further information, or follow-up information after report to COUNTY, when such request
3 is made by COUNTY.

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

8 G. PERMITTED USES AND DISCLOSURES BY CONTRACTOR

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

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

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

18 1) The Disclosure is required by law; or

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

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

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

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

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

33 H. PROHIBITED USES AND DISCLOSURES

34 1. CONTRACTOR shall not disclose PHI COUNTY discloses to CONTRACTOR or
35 CONTRACTOR creates, receives, maintains, or transmits on behalf of COUNTY about an individual to

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1 a health plan for payment or health care operations purposes if the PHI pertains solely to a health care
2 item or service for which the health care provider involved has been paid out of pocket in full and the
3 individual requests such restriction, in accordance with 42 USC § 17935(a) and 45 CFR § 164.522(a).

4 2. CONTRACTOR shall not directly or indirectly receive remuneration in exchange for PHI
5 COUNTY discloses to CONTRACTOR or CONTRACTOR creates, receives, maintains, or transmits on
6 behalf of COUNTY, except with the prior written consent of COUNTY and as permitted by 42 USC §
7 17935(d)(2).

8 I. OBLIGATIONS OF COUNTY

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

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

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

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

20 J. BUSINESS ASSOCIATE TERMINATION

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

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

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

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

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

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

34 c. In the event that CONTRACTOR determines that returning or destroying the PHI is not
35 feasible, CONTRACTOR shall provide to COUNTY notification of the conditions that make return or
36 destruction infeasible. Upon determination by COUNTY that return or destruction of PHI is infeasible,
37 CONTRACTOR shall extend the protections of this Business Associate Contract to such PHI and limit

1 further Uses and Disclosures of such PHI to those purposes that make the return or destruction
2 infeasible, for as long as CONTRACTOR maintains such PHI.

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

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1 EXHIBIT C
 2 TO CONTRACT FOR PROVISION OF
 3 HIV PRE-EXPOSURE PROPHYLAXIS (PrEP) NAVIGATION SERVICES
 4 BETWEEN
 5 COUNTY OF ORANGE
 6 AND
 7 AIDS SERVICES FOUNDATION ORANGE COUNTY
 8 DBA RADIANT HEALTH CENTERS
 9 SEPTEMBER 1, 2022 THROUGH JUNE 30, 2025

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

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

14 A. DEFINITIONS

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

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

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

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

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

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

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

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

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

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

14 B. TERMS OF CONTRACT

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

20 2. Responsibilities of CONTRACTOR

21 CONTRACTOR agrees:

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

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

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

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

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

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

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

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

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

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

36 h. Breaches and Security Incidents. During the term of the Contract, CONTRACTOR
37 agrees to implement reasonable systems for the discovery of any breach of unsecured DHCS PI and PII

1 or security incident. CONTRACTOR agrees to give notification of any breach of unsecured DHCS PI
2 and PII or security incident in accordance with Paragraph F, of the Business Associate Contract, Exhibit
3 B to the Contract.

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

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