



**CONTRACT**

**BETWEEN**

**COUNTY OF ORANGE**

**AND**

**THE STAYWELL COMPANY, LLC**

**FOR**

**HEALTH MANAGEMENT PROGRAM**

**CONTRACT**

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## **CONTRACT**

THIS Contract for a Health Management Program, hereinafter referred to as (“Contract”) is effective May 13, 2015 by and between the County of Orange, a political subdivision of the State of California, hereinafter referred to as “County” and The StayWell Company, LLC, with a place of business at 780 Township Line Road, Yardley, PA 19067, hereinafter referred to as “Contractor”, which are sometimes individually referred to as “Party,” or collectively referred to as “Parties.”

## **RECITALS**

WHEREAS, Contractor responded to a Request for Proposal (“RFP”) for a Health Management Program; and

WHEREAS, the Contractor represents that its services shall meet or exceed the requirements and specifications of the RFP; and

WHEREAS, the County Board of Supervisors has authorized the Purchasing Agent or his designee to enter into this Contract with Contractor for a Health Management Program.

NOW, THEREFORE, the Parties mutually agree as follows:

## **ARTICLES**

1. **Scope of Work:** The Scope of Work for this Contract is attached hereto as Attachment A.
2. **Pricing:** The Contract, as specified in Attachment B hereto, includes full compensation for providing all services to be provided under this Contract.
3. **Invoicing/Payment:** All invoicing and payment for services performed under this Contract shall be as specified in Attachment B, hereto.
4. **Contract Term:** The term of this Contract shall commence on May 13, 2015 and shall terminate on May 12, 2022 ~~2020~~, (the “Term”) unless earlier terminated in accordance with the provisions of articles 32 & 33 hereof or otherwise extended as provided herein. Permitted extensions of the Term provided in this article 4 shall not result in any change in any other term, condition, or provision of this Contract.
5. **Entire Agreement:** This Contract, including its Attachments, contains the entire contract between the Parties with respect to the matters herein and there are no exceptions, alternatives, substitutions, revisions, understandings, agreements, restrictions, promises, warranties or undertakings, whether oral or written, other than those set forth herein or referred to herein.
6. **Amendments:** No alteration or variation of the terms of this Contract shall be valid unless made in writing and signed by the Parties.
7. **Governing Law and Venue:** This Contract has been negotiated and executed in the State of California and shall be governed by and construed under the laws of the State of California, without reference to conflict of laws provisions. In the event of any legal action to enforce or interpret this Contract, the sole and exclusive venue shall be a court of competent jurisdiction

located in Orange County, California, and the Parties hereto agree to and do hereby submit to the jurisdiction of such court, notwithstanding Code of Civil Procedure section 394. Furthermore, the Parties specifically agree to waive any and all rights to request that an action be transferred for trial to another venue.

8. **Appropriation/Contingency of Funds:** This Contract is subject to and contingent upon applicable budgetary appropriations being approved by the County of Orange Board of Supervisors for each fiscal year during the Term of this Contract. If such appropriations are not approved, this Contract will be immediately terminated without penalty to the County.
9. **Taxes:** Unless otherwise provided herein or by law, price quoted does not include California state sales or use tax.
10. **Delivery:** Time of delivery of services is of the essence in this Contract. County reserves the right to refuse any services and to cancel all or any part of the services that do not conform to the prescribed Scope of Work.
11. **Independent Contractor:** Contractor shall be considered an independent contractor and neither Contractor, its employees, nor anyone working under Contractor shall be considered an agent or an employee of County. Neither Contractor, its employees nor anyone working under Contractor, shall qualify for workers' compensation or other fringe benefits of any kind through County.
12. **Assignment or Sub-contracting:** The terms, covenants, and conditions contained herein shall apply to and bind the heirs, successors, executors, administrators and assigns of the Parties. Furthermore, neither the performance of this Contract nor any portion thereof may be assigned or sub-contracted by Contractor without the express written consent of County. Any attempt by Contractor to assign or sub-contract the performance or any portion thereof of this Contract without the express written consent of County shall be invalid and shall constitute a breach of this Contract. Notwithstanding the foregoing, the County consents to the subcontractors listed in Attachment D.3.
13. **Non-Discrimination:** In the performance of this Contract, Contractor agrees that it will comply with the requirements of Section 1735 of the California Labor Code and not engage nor permit any sub-contractors to engage in discrimination in employment of persons because of the race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, marital status, or sex of such persons. Contractor acknowledges that a violation of this provision shall subject Contractor to all the penalties imposed for a violation of anti-discrimination laws or regulations including but not limited to Section 1720 *et seq.*, of the California Labor Code.
14. **Performance:** Contractor shall perform all work under this Contract, taking necessary steps and precautions to perform the work to County's satisfaction. Contractor shall be responsible for the professional quality, technical assurance, timely completion and coordination of all documentation and other services performed by the Contractor under this Contract. Contractor shall perform all work diligently, carefully, and in a good and workman-like manner; shall furnish all labor, supervision, machinery, equipment, materials, and supplies necessary therefore; shall at its sole expense obtain and maintain all permits and licenses required by public authorities, including those of County required in its governmental capacity, in connection with performance of the services; and, if permitted to sub-contract, shall be fully responsible for all work performed by sub-contractors.

15. **Errors and Omissions:** All reports, files and other documents prepared and submitted by Contractor shall be complete and shall be carefully checked by the professional(s) identified by Contractor as Account Manager and key personnel, prior to submission to the County. Contractor agrees that County review is discretionary and Contractor shall not assume that the County will discover errors and/or omissions. If the County discovers any errors or omissions prior to approving Contractor's reports, files and other written documents, the reports, files or documents will be returned to Contractor for correction. Should the County or others discover errors or omissions in the reports, files or other written documents submitted by Contractor after County approval thereof, County approval of Contractor's reports, files or documents shall not be used as a defense by Contractor in any action between the County and Contractor, and the reports, files or documents will be returned to Contractor for correction at no charge to County.
16. **Warranty:** Contractor expressly warrants that the services covered by this Contract will conform to the requirements of Attachment A when used by County in accordance with the terms set forth in Attachment A. If a component of the services provided by Contractor fails to meet the agreed upon specifications set forth in Attachment A, Contractor shall: as soon as reasonably possible, repair or replace such component to the extent reasonably necessary to correct such failure. . Acceptance of this Contract shall constitute an agreement upon Contractor's part to indemnify, defend and hold County and its indemnitees, as identified in paragraph 19 below and as more fully described in paragraph 19, harmless from liability, loss, damage and expense, including reasonable counsel fees, incurred or sustained by County by reason of the failure of the services to conform to such warranties, faulty work performance, negligent or unlawful acts, and non-compliance with any applicable state or federal codes, regulations, ordinances, orders, or statutes, including the Occupational Safety and Health Act (OSHA) and the California Industrial Safety Act. Such remedies shall be in addition to any other remedies provided by law.
17. **Patent/Copyright Materials/Proprietary Infringement:** Contractor shall be solely responsible for clearing the right to use any patented or copyrighted materials in the performance of this Contract. Contractor warrants that any software as modified through services provided hereunder will not infringe upon or violate any patent, proprietary right or trade secret right of any third party. Contractor agrees that, in accordance with the more specific requirement contained in paragraph 19 below, it shall indemnify, defend and hold County and County Indemnitees harmless from any and all such claims and be responsible for payment of all costs, damages, penalties and expenses related to or arising from such claim(s), including, but not limited to, attorney's fees, costs and expenses.
18. **Compliance with Laws:**
- a. Each of the parties shall fully comply, at their own expense, with all standards, laws, statutes, restrictions, ordinances, requirements, and regulations (collectively "laws"), including, but not limited to those issued by County in its governmental capacity and all other laws applicable to the services at the time services are provided to and accepted by County. Contractor acknowledges that County is relying on Contractor to ensure such compliance, and pursuant to the requirements of paragraph 19 below, Contractor agrees that it shall defend, indemnify and hold County and County Indemnitees harmless from all liability, damages, costs and expenses arising from or related to a violation of such laws. County represents and warrants that it will not direct Contractor to use or disclose Participant Information in a manner that violates any applicable laws, rules or regulations.

b. Although Contractor's recommended wellness program structure and the Online Services (as defined below) comply with industry best practices, including but not limited to ACA and HIPAA guidelines, County acknowledges and agrees that it is ultimately responsible for confirming compliance of its benefits and wellness program with applicable federal and state law, including but not limited to the Affordable Care Act (ACA), the Americans with Disabilities Act (ADA), the Genetic Information and Nondiscrimination Act of 2008 and HIPAA. The Parties understand and intend that Contractor is not acting as a fiduciary of any kind with respect to County or any benefit plan. It is understood and agreed that none of the services to be provided by Contractor are fiduciary services that would be performed for or on behalf of any benefit plan, that Contractor has no discretion or ability, formal or otherwise, to exercise any authority, direction or influence, whether direct or indirect, with respect to the administration of any aspect of any benefit plans including, but not limited to, the disposition of the assets of such plans, the interpretation or application of such plans' documents, or to determine the entitlements of such plan's participants and their beneficiaries to coverage of benefits. The Parties further agree that all authority, discretion and control, formal or informal, direct or indirect, with respect to the adjudication of benefit claims, the disposition, application or investment of the assets of any benefit plan and the administration of such plans are exclusively vested in County or in those persons to whom it has delegated, or who exercise, any such authority or power.

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

#### **INSURANCE PROVISIONS**

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

All self-insured retentions (SIRs) and deductibles shall be clearly stated on the Certificate of Insurance. If no SIRs or deductibles apply, indicate this on the Certificate of Insurance with a 0 by the appropriate line of coverage. Any self-insured retention (SIR) or deductible in an amount in excess of \$25,000 (\$5,000 for automobile liability), shall specifically be approved by the County Executive Office (CEO)/Office of Risk Management.

If the Contractor fails to maintain insurance acceptable to the County for the full term of this Contract, the County may terminate this Contract.

### **Qualified Insurer**

The policy or policies of insurance must be issued by an insurer licensed to do business in the state of California (California Admitted Carrier) or have a minimum rating be A- (Secure A.M. Best's Rating) and VIII (Financial Size Category as determined by the most current edition of the Best's Key Rating Guide/Property-Casualty/United States or ambest.com.

If the insurance carrier is not a non-admitted carrier in the state of California and does not have an A.M. Best rating of A-/VIII, the County CEO/Office of Risk Management retains the right to approve or reject a carrier after a review of the company's performance and financial ratings.

The policy or policies of insurance maintained by the Contractor shall provide the minimum limits and coverage as set forth below:

<b>Coverage</b>	<b>Minimum Limits</b>
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
Professional Liability Insurance	\$1,000,000 per claims made or per occurrence

### **Required Coverage Forms**

The Commercial General Liability coverage shall be written on Insurance Services Office (ISO) form CG 00 01, or a substitute form providing liability coverage at least as broad.

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

### **Required Endorsements**

The Commercial General Liability policy shall contain the following endorsements, which shall accompany the Certificate of insurance:

- 1) An Additional Insured endorsement using ISO form CG 2010 or CG 2033 or a form at least as broad naming the County of Orange, its elected and appointed officials, officers, employees, agents as Additional Insureds.
- 2) A primary non-contributing endorsement evidencing that the Contractor's insurance is primary and any insurance or self-insurance maintained by the County of Orange shall be excess and non-contributing.



## Attachment B - Redline Changes to Contract with The StayWell Company LLC

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

The Workers' Compensation policy shall contain a waiver of subrogation endorsement waiving all rights of subrogation against the County of Orange, and members of the Board of Supervisors, its elected and appointed officials, officers, agents and employees.

All insurance policies required by this Contract shall give the County of Orange 30 days notice in the event of cancellation and 10 days for non-payment of premium. This shall be evidenced by policy provisions or an endorsement separate from the Certificate of Insurance.

If Contractor's Professional Liability policy is a "claims made" policy, Contractor shall agree to maintain professional liability coverage for two years following completion of Contract.

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

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

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

County expressly retains the right to require Contractor to increase or decrease insurance of any of the above insurance types throughout the term of this Contract, which increase or decrease shall be mutually agreed upon. Any increase or decrease in insurance will be as deemed by County of Orange Risk Manager as appropriate to adequately protect County.

County shall notify Contractor in writing of changes in the insurance requirements. If Contractor does not deposit copies of acceptable certificates of insurance and endorsements with County incorporating such changes within thirty days of receipt of such notice, this Contract may be in breach without further notice to Contractor, and County shall be entitled to all legal remedies.

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

20. **Confidentiality:** Contractor agrees to maintain the confidentiality of all County and County-related records and information pursuant to all statutory laws relating to privacy and confidentiality that currently exist or exist at any time during the term of this Contract. All such records and information shall be considered confidential and kept confidential by Contractor and Contractor's staff, agents and employees.
21. **Contractor Personnel:** Contractor warrants that all Contractor personnel engaged in the performance of work under this Contract shall possess sufficient experience and/or education and the required licenses set forth herein in good standing to perform the services requested by the County. County expressly retains the right to have any of the Contractor personnel removed from performing

services under this Contract to the County. Contractor shall effectuate the removal of the specified Contractor personnel from providing any services to the County under this Contract within one business day of notification by County. County shall submit the request in writing to the Contractor's Account Manager. The County is not required to provide any reason, rationale or additional factual information if it elects to request any specific Contractor personnel be removed from performing services under this Contract.

22. **Contractor's Account Manager and Key Personnel:** Contractor shall appoint an Account Manager to direct the Contractor's efforts in fulfilling Contractor's obligations under this Contract. This Account Manager shall be subject to approval by the County and shall not be changed without the written consent of the County's project manager, which consent shall not be unreasonably withheld.

The Contractor's Account Manager and key personnel shall be assigned to this project for the duration of this Contract and shall diligently pursue all work and services to meet the project time lines. Key personnel are those individuals who report directly to the Contractor's Account Manager.

23. **Project Manager:** The County shall appoint a project manager to act as liaison between the County and the Contractor during the term of this Contract. The County's project manager shall coordinate the activities of the County staff assigned to work with the Contractor. The County's project manager shall have the right to require the removal and replacement of the Contractor's Account Manager from providing services to County under this Contract. The County's Project Manager shall notify the Contractor in writing of such request for removal of Contractor's Account Manager. The Contractor shall accomplish the removal within one (1) day after written notice by the County's project manager. The County's project manager shall review and approve the appointment of the replacement for the Contractor's Account Manager. The County is not required to provide any additional information, reason or rationale for the request for removal of Contractor's Account Manager from providing services to County under this Contract.

24. **Reports/Meetings:** The Contractor shall develop reports and any other relevant documents necessary to complete the services and requirements as set forth in this Contract. The County's project manager and the Contractor's Account Manager will meet on reasonable notice to discuss the Contractor's performance and progress under this Contract. If requested, the Contractor's Account Manager and other project personnel shall attend all meetings. The Contractor shall provide such information that is requested by the County for the purpose of monitoring progress under this Contract.

25. **Rights and Ownership of Documents:** Any content, applications, tools, graphics, images, or other materials, whether in print, online, or other electronic format (collectively, the "Materials"), provided to County and its affiliates by Contractor as part of the services may not be copied, reproduced, licensed, or sold by County or its affiliates. During the Term of this Contract, Contractor grants County and its affiliates a royalty free, nontransferable, nonexclusive license to provide its eligible participants, who are participating in Contractor's programs, with access to Contractor's Materials described in the Scope of Work attached hereto as Attachment A or otherwise provided by Contractor as part of the services. This license does not include the right to use the Materials to furnish a service to others or to copy, distribute, reproduce or alter the Materials in any way. Materials are provided to the participants solely for their own personal, non-commercial use. All trademarks, ideas, concepts, know-how and techniques used by Contractor, belong to Contractor and Contractor retains all rights and ownership thereto. As used herein, "Intellectual Property Rights" means any copyrights, copyrightable subject matter, trademarks, service marks, know-how, moral rights and other intellectual property rights existing under the laws of any governmental authority, domestic or

foreign, including all applications and registrations relating to any of the foregoing. To the extent that County or any affiliate of County provides intellectual property in which County or such affiliate has Intellectual Property Rights ("County IP") to Contractor for use as part of the Materials, such County IP shall remain the exclusive property of County or the relevant affiliate of County, and County hereby grants Contractor a limited right and license to use such County IP solely for the purpose of performing under this Contract and shall cause the relevant County affiliate to likewise grant Contractor such a license. In the event that a third party brings a claim against County or any County affiliate asserting that any component of the Materials used within the scope of the license hereunder constitutes an infringement of such third party's Intellectual Property Rights, and provided that Contractor is notified promptly in writing by you of any notice of such claim, or should any component of the Materials become, or in Contractor's opinion is likely to become, the subject of any such claim, then you shall permit Contractor, at Contractor's option, either (a) to procure for you the right to continue using such Materials, (b) to replace or modify such component of the Materials so that it becomes non-infringing, or (c) terminate the license of such component of the Materials and pro-rate the amount of fees payable hereunder during the remaining Term of the Agreement, which pro-ration shall be based on the number of components of the Materials remaining following the termination relative to the total number of components of the Materials licensed hereunder. Neither Party shall acquire a right to use, and may not use without the other Party's prior written consent in each instance, the names, characters, artwork, designs, trade names, trademarks or servicemarks of the other Party in any advertising, publicity, public announcement, marketing, press release, promotion and/or client list except as otherwise provided for under this Contract. Notwithstanding the foregoing, Contractor may include County's name in its list of customers for promotional materials with the County's prior permission.

26. **Title to Data:** All materials, documents, data or information obtained from the County data files or any County medium furnished to the Contractor in the performance of this Contract will at all times remain the property of the County. Such data or information may not be used or copied for direct or indirect use by the Contractor after completion or termination of this Contract without the express written consent of the County. All materials, documents, data or information, including copies, must be returned to the County at the end of this Contract.

27. **StayWell Portal Terms:**

a. To the extent that the services include use of the applications, tools, and other online offerings provided through the StayWell Portal (the "Online Services"), County's employees, their spouses, or other authorized participants (each, an "Authorized User") may access the Online Services pursuant to the terms of this Contract. County will allow Authorized Users to use identification numbers provided by County if Contractor determines that such numbers meet Contractor's standards for uniqueness. Contractor and County will work together to determine appropriate unique IDs. County acknowledges that Contractor discourages the use of social security numbers as unique IDs. Identification numbers may not be used by anyone who is not an Authorized User or by anyone outside the United States (unless international participants are specifically provided for under Attachment A.

b. Authorized Users who access the Online Services shall be subject to the terms and conditions of the Privacy Statement and of the Terms of Use posted on the Contractor's website from time to time.

c. County and the Authorized User are responsible for all computers, modems, networks, and other equipment, technology, telecommunications services (including any inside wiring and circuit charges), or software necessary to access the Online Services.

28. **Records:** The Contractor shall keep an accurate record of time expended by Contractor and the sub-contractors working for Contractor in the performance of this Contract. Such record shall be available for periodic inspection by the County at reasonable times.
29. **Audits/Inspections:** Contractor agrees to permit the County's Auditor-Controller or the Auditor-Controller's authorized representative (including auditors from a private auditing firm hired by the County) access at mutually agreeable times, during normal working hours to all books, accounts, records, reports, files, financial records, supporting documentation, including accounts payable/receivable records, and other papers or property of Contractor for the purpose of auditing or inspecting any reasonable aspect of performance under this Contract. The inspection and/or audit will be confined to those matters reasonably connected with the performance of the Contract including, but not limited to, the costs of administering the Contract. The County will provide reasonable notice of such an audit or inspection. The County reserves the right to audit and verify the Contractor's records before final payment is made. Not for cause audits shall not occur more than once per calendar year for up to ten (10) business days per audit.

Contractor agrees to maintain such records for possible audit for a minimum of three years after final payment, unless a longer period of records retention is stipulated under this Contract or by law. Contractor agrees to allow interviews of any employees or others who might reasonably have information related to such records.

Should the Contractor cease to exist as a legal entity, the Contractor's records pertaining to this Contract shall be forwarded to the surviving entity in a merger or acquisition or, in the event of liquidation, to the County's Program Manager.

30. **Publication:** No copies of schedules, written documents, and computer based data, photographs, maps or graphs, resulting from performance or prepared in connection with this Contract, are to be released by Contractor and/or anyone acting under the supervision of Contractor to any person, partnership, company, corporation, or agency, without prior written approval by the County, except as necessary for the performance of the services of this Contract. All press releases related to this Contract, including graphic display information to be published in newspapers, magazines, etc., are to be administered only by the County unless otherwise agreed to by both Parties.
31. **Conflict of Interest:** The Contractor shall exercise reasonable care and diligence to prevent any actions or conditions that could result in a conflict with the best interests of the County. This obligation shall apply to the Contractor; the Contractor's employees, Contractor's agents, and Contractor's subcontractors that perform services hereunder. The Contractor's efforts shall include, but not be limited to establishing precautions to prevent its employees or agents from making, receiving, providing or offering gifts, entertainment, payments, loans or other considerations which could be deemed to appear to influence individuals to act contrary to the best interests of the County. The County Board of Supervisors policy prohibits its employees from engaging in activities involving a conflict of interest. The Contractor shall not, during the period of this Contract, employ any County employee for any purpose.
32. **Termination:** In addition to any other remedies or rights it may have by law, County has the right to terminate this Contract without penalty immediately with cause or after 30 days' written notice without cause, unless otherwise specified. Cause shall be defined as any breach of this Contract, any misrepresentation or fraud on the part of the Contractor. County's sole liability in the event of such

termination for convenience shall be to pay for services rendered to the date of termination, and reasonable, non-cancelable expenses.

33. **Breach of Contract:** The failure of the Contractor to comply with any of the terms, provisions, covenants or conditions of this Contract shall constitute a material breach of this Contract. In such event the County may, and in addition to any other remedies available at law, in equity, or otherwise specified in this Contract:
- a. Afford the Contractor written notice of the breach and ten (10) calendar days or such shorter time that may be specified in this Contract within which to cure the breach; and/or
  - b. Discontinue payment to the Contractor for and during the period in which the Contractor is in breach; and/or
  - c. Terminate this Contract immediately, without penalty to the County.
34. **Disputes:** The Parties shall deal in good faith and attempt to resolve potential disputes informally. If a dispute concerning a question of fact arising under the terms of this Contract is not disposed of in a reasonable period of time by the Contractor's Account Manager and the County's project manager, such matter shall be brought to the attention of the Purchasing Agent by way of the following process:
- a. The Contractor shall submit to the Deputy Purchasing Agent a written demand for a final decision regarding the disposition of any dispute between the Parties arising under, related to, or involving this Contract, unless the County, on its own initiative, has already rendered such a final decision.
  - b. The Contractor's written demand shall be fully supported by factual information, and, if such demand involves a cost adjustment to this Contract, the Contractor shall include with the demand a written statement signed by a senior official indicating that the demand is made in good faith, that the supporting data are accurate and complete, and that the amount requested accurately reflects the amount for which the Contractor believes the County is liable.
  - c. Pending the final resolution of any dispute arising under, related to, or involving this Contract, the Contractor agrees to diligently proceed with the performance of his Contract, including the provision of services. The Contractor's failure to diligently proceed shall be considered a material breach of this Contract. Any final decision of the County shall be expressly identified as such, shall be in writing, and shall be signed by the County's Purchasing Agent or his designee. If the County fails to render a decision within 90 days after receipt of the Contractor's demand, it shall be deemed a final decision adverse to the Contractor's contentions.
35. **Orderly Termination:** Upon termination or other expiration of this Contract, each Party shall promptly return to the other Party all papers, materials, and other properties of the other held by each for purposes of execution of the Contract. In addition, each Party will assist the other Party in orderly termination of this Contract and the transfer of all aspects, tangible and intangible, as may be necessary for the orderly, non-disruptive business continuation of each Party.
36. **Force Majeure:** Contractor shall not be in breach of this Contract during any delay beyond the time named for the performance of this Contract caused by any act of God, war, civil disorder, employment strike or other cause beyond its reasonable control, provided Contractor gives written notice of the cause of the delay to County within 36 hours of the start of the delay and Contractor avails himself of any available remedies.

37. **Consent to Breach Not Waiver:** No term or provision of this Contract shall be deemed waived and no breach excused, unless such waiver or consent shall be in writing and signed by the Party claimed to have waived or consented. Any consent by any Party to, or waiver of, a breach by the other, whether express or implied, shall not constitute consent to, waiver of, or excuse for any other different or subsequent breach.
38. **Remedies Not Exclusive:** The remedies for breach set forth in this Contract are cumulative as to one another and as to any other provided by law, rather than exclusive; and the expression of certain remedies in this Contract does not preclude resort by either Party to any other remedies provided by law.
39. **Notices:** Any and all notices, requests demands and other communications contemplated, called for, permitted, or required to be given herein shall be in writing, except through the course of the County's project manager and Contractor's Account Manager routine exchange of information and cooperation during the terms of the work and services. Any written communications shall be deemed to have been duly given upon actual in-person delivery, if delivery is by direct hand or upon delivery on the actual day of receipt or no greater than four calendar days after being mailed by US certified or registered mail, return receipt requested, postage prepaid, whichever occurs first. The date of mailing shall count as the first day. All communications shall be addressed to the appropriate Party at the address stated herein or such other address as the Parties hereto may designate by written notice from time to time in the manner aforesaid.

County: Program Manager, Kim Derrick  
Human Resource Services/Employee Benefits  
333 W. Santa Ana Blvd., Room 137  
Santa Ana, CA 92701

Contractor: The StayWell Company, LLC  
780 Township Line Road  
Yardley, PA 19067  
Attn: Legal Department

40. **County Child Support Enforcement:** Contractor is required to comply with the child support enforcement requirements of the County. Failure of the Contractor to comply with all federal, state, and local reporting requirements for child support enforcement or to comply with all lawfully served Wage and Earnings Assignment Orders and Notices of Assignment shall constitute a material breach of the Contract. Failure to cure such breach within 60 calendar days of notice from the County shall constitute grounds for termination of this Contract.
41. **Change Of Ownership/Name, Litigation Status, Conflicts with County Interests:** Contractor agrees that if there is a change or transfer in ownership of Contractor's business prior to completion of this Contract, and the County agrees to an assignment of the Contract, the new owners shall be required under terms of sale or other transfer to assume Contractor's duties and obligations contained in this Contract and complete them to the satisfaction of County.

County reserves the right to immediately terminate the Contract in the event the County determines that the assignee is not qualified or is otherwise unacceptable to the County for the provision of services under the Contract.

In addition, Contractor has the duty to notify the County in writing of any change in the Contractor's status with respect to name changes that do not require an assignment of the Contract. The Contractor is also obligated to notify the County in writing if the Contractor becomes a party to any litigation against the County, or a party to litigation that may reasonably affect the Contractor's performance under the Contract, as well as any potential conflicts of interest between Contractor and County that may arise prior to or during the period of Contract performance. While Contractor will be required to provide this information without prompting from the County any time there is a change in Contractor's name, conflict of interest or litigation status, Contractor must also provide an update to the County of its status in these areas whenever requested by the County.

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

42. **Precedence:** The documents herein consist of this Contract and its attachments. In the event of a conflict between or among the Contract documents, the order of precedence shall be the provisions of the main body of this Contract, i.e., those provisions set forth in the articles of this Contract, and then the attachments and exhibits.
43. **Headings:** The various headings and numbers herein, the grouping of provisions of this Contract into separate clauses and paragraphs, and the organization hereof are for the purpose of convenience only and shall not limit or otherwise affect the meaning hereof.
44. **Severability:** If any term, covenant, condition or provision of this Contract is held by a court of competent jurisdiction to be invalid, void, or unenforceable, the remainder of the provisions hereof shall remain in full force and effect and shall in no way be affected, impaired or invalidated thereby.
45. **Calendar Days:** Any reference to the word "day" or "days" herein shall mean calendar day or calendar days, respectively, unless otherwise expressly provided.
46. **Attorney Fees:** In any action or proceeding to enforce or interpret any provision of this Contract, or where any provision hereof is validly asserted as a defense, each Party shall bear its own attorney's fees, costs and expenses.
47. **Intentionally left blank.**
48. **Interpretation:** This Contract has been negotiated at arm's length and between persons sophisticated and knowledgeable in the matters dealt with in this Contract. In addition, each Party has been represented by experienced and knowledgeable independent legal counsel of their own choosing, or has knowingly declined to seek such counsel despite being encouraged and given the opportunity to do so. Each Party further acknowledges that they have not been influenced to any extent whatsoever in executing this Contract by any other Party hereto or by any person representing them, or both. Accordingly, any rule of law (including California Civil Code Section 1654) or legal decision that would require interpretation of any ambiguities in this Contract against the Party that has drafted it is not applicable and is waived. The provisions of this Contract shall be interpreted in a reasonable manner to affect the purpose of the Parties and this Contract.

49. **Authority:** The Parties to this Contract represent and warrant that this Contract has been duly authorized and executed and constitutes the legally binding obligation of their respective organization or entity, enforceable in accordance with its terms.

50. **Health Insurance Portability and Accountability Act (HIPAA):**

- a. Contractor understands and agrees that the disclosure of PHI (defined below) by a health care component of a covered entity is subject to the HIPAA Privacy Rule, Contractor understands and agrees that it is a Business Associate of County for the purposes of the HIPAA Privacy Rule. Therefore, the provisions set forth in Exhibit 1 hereto shall be operative and control the Business Associate relationship of the parties. Nothing in Exhibit 1 shall be considered a waiver of the limitation on subcontracting as set forth in this Contract.
- b. In providing the services, County may disclose and Contractor may receive Protected Health Information, as defined in 45 C.F.R. §164.501 (“PHI”). Contractor will use and disclose any such PHI in accordance with applicable provisions of HIPAA and the privacy and security regulations promulgated pursuant to HIPAA set forth under 45 C.F.R. § 164.101 et. seq. (as amended) and any other applicable California state or federal laws or regulations. Contractor reserves the right to use the PHI and other data and information gathered in the course of providing the services for statistical evaluation and research. Results of this statistical evaluation and research will be disclosed only in aggregate form and such disclosures will not identify County or any affiliate of County or any individual participant unless prior consent has been received in each case. The specific terms of Contractor’s use and disclosure of PHI shall be governed by the “Business Associate Agreement” (“BAA”) attached hereto as Exhibit 1 and by the terms of the Privacy Statement (referenced below) accepted by the participant. To the extent that provisions of the BAA conflict with provisions of this Contract, the provisions of the BAA shall govern.
- c. The relationship between Contractor and any one of County’s participants, all communications in connection with that relationship, and all individual data gathered by Contractor, is confidential and will only be used and disclosed to County (either in its capacity as an employer or plan sponsor) or County’s contractors as permitted by the Terms of Use/Privacy Statement (“Privacy Statement”) accepted by each individual as part of their participation in Contractor’s programs.
- d. In the event access to individual data gathered by Contractor, including but not limited to PHI (collectively, the “Participant Information”), is required to facilitate the administration of certain aspects of County’s programs, such as data analysis and the administration of incentives, and such use was not specified in the Privacy Statement, then County agrees to provide Contractor with written authorization from the individual(s) whose Participant Information is to be disclosed to County or to a third party designated by County
- e. If County requests that Contractor transfer any Participant Information to a third party, Contractor shall reasonably cooperate with County and its designated vendor (“Vendor”), subject to the terms set forth below. Contractor shall transfer the Participant Information to the Vendor upon satisfaction of the following conditions: (i) Contractor receives written instruction from County directing Contractor to transfer the Participant Information to the Vendor; (ii) Contractor receives written confirmation from County that the Vendor has entered into a business associate agreement with County, if required, or that a business associate agreement is not required; and (iii) the Privacy Statements allow for the transfer of the Participant Information to the Vendor.



51. **Survival:** Notwithstanding any provision to the contrary herein, the provisions of paragraphs 15, 16, 17, 18 and 19 shall survive the termination of this Contract.
52. **Employee Eligibility Verification:** The Contractor warrants that it fully complies with all Federal and State statutes and regulations regarding the employment of aliens and others and that all its employees performing work under this Contract meet the citizenship or alien status requirement set forth in Federal statutes and regulations. The Contractor shall obtain, from all employees performing work hereunder, all verification and other documentation of employment eligibility status required by Federal or State statutes and regulations including, but not limited to, the Immigration Reform and Control Act of 1986, 8 U.S.C. §1324 et seq., as they currently exist and as they may be hereafter amended. The Contractor shall retain all such documentation for all covered employees for the period prescribed by the law. The Contractor shall indemnify, defend with counsel approved in writing by County, and hold harmless, the County, its agents, officers, and employees from employer sanctions and any other liability which may be assessed against the Contractor or the County or both in connection with any alleged violation of any Federal or State statutes or regulations pertaining to the eligibility for employment of any persons performing work under this Contract.
53. **Bills and Liens** Contractor shall pay promptly all indebtedness for labor, materials, and equipment used in performance of the work. Contractor shall not permit any lien or charge to attach to the work or the premises, but if any does so attach, Contractor shall promptly procure its release and, in accordance with the requirements of paragraph 19 above, indemnify, defend, and hold County harmless and be responsible for payment of all costs, damages, penalties and expenses related to or arising from or related thereto.
54. **Changes:** Contractor shall make no changes in the work or perform any additional work without County's specific written approval.
55. **Terms and Conditions:** Contractor acknowledges that it has read and agrees to all terms and conditions included in this Contract.
56. **Incorporation:** This Contract and its Attachments A through F and Exhibit 1 are attached hereto and incorporated by reference and made a part of this Contract.
57. **County's Conflict of Interest Policy (Renewal)** – The Contractor has confirmed in writing that they understand and are in compliance with the County's Conflict of Interest Policy as stated in Article 31 herein.

**CONTRACT SIGNATURE PAGE**

The Parties hereto have executed this Contract on the dates shown opposite their respective signatures below.

**CONTRACTOR\***

<u>Lynn Henry</u>	<u>Senior Vice President</u>
Print Name	Title

Signature	Date
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<u>Puneet Sapra</u>	<u>Chief Financial Officer</u>
Print Name	Title

Signature	Date
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**\* If the Contractor is a corporation, signatures of two specific corporate officers are required as further set forth.**

**The first corporate officer signature must be one of the following: 1) the Chairman of the Board; 2) the President; 3) any Vice President.**

**The second corporate officer signature must be one of the following: a) Secretary; b) Assistant Secretary; c) Chief Financial Officer; d) Assistant Treasurer.**

**In the alternative, a single corporate signature is acceptable when accompanied by a corporate resolution demonstrating the legal authority of the signature to bind the company.**

\*\*\*\*\*  
**County of Orange, a political subdivision of the State of California**

Print Name	Title
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Signature	Date
-----------	------

\*\*\*\*\*

Approved by Board of Supervisors on: Date\_\_\_\_\_

APPROVED AS TO FORM:

\_\_\_\_\_  
Deputy, Office of County Counsel  
Orange County, California

## **Attachment A**

### **Scope of Work**

The Contractor will be required, at minimum, to deliver to all eligible participants the following services. For the purpose of this contract an eligible participant is defined as all eligibles listed on the monthly eligibility file that is transmitted to the contractor:

#### **I. Customer Service and Operations Support:**

- A. Provide a dedicated toll-free telephone number for participant access to HelpLine Representatives.
- B. Responds to participant questions.
- C. Provides multilingual support or access to translation representatives with use of Language Line. Charges for the Language line will be billed as incurred at \$1.65/minute as per Attachment B.1.
- D. Assist participants with questions about passwords and logging in, security and confidentiality, Biometric and Health Risk Assessment questionnaire completion, and incentives.
- E. Handle participant inquiries regarding general appeals and the appeals process.
- F. HelpLine Representatives are available from 6 a.m. to 6 p.m. Monday through Thursday; 6 a.m. to 4 p.m. on Friday; and 6 a.m. to 10 a.m. on Saturday (PT), excluding the following holidays: New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, Day after Thanksgiving, and Christmas Day.
- G. Provide extended HelpLine hours for not more than two weeks toward the end of the incentive period, if it is determined necessary by the County and Contractor. The charge for extended hours would be at the rate as stated per Attachment B.1, which includes three staff for an additional two hours, Monday-Thursday until 8:00 p.m. and Friday until 6:00 p.m.
- H. Voice messages are to be returned within 24 hours or at the time indicated in the caller's message, during operational hours as listed in the Scope of Work.
- I. Ability to handle warm transfers to the County or other County program partners.
- J. Staffing and continuous evaluation of service levels to the performance agreements set forth in the contract with the County.
- K. Provide call recording system.

#### **II. Web Portal: My StayWell**

- A. Provide and maintain an on-line web portal that gives participants access to wellness content, a Health Risk Assessment, wellness challenges, team competitions and goal tracking (if applicable), monthly wellbeing sessions (online and mobile), educational materials, Doctor Chat access to 80,000 US-licensed physicians, and incentive tracking, Communities (Champion) features with local level events, messaging and social walls, health coach chat and virtual visits (if applicable), data feeds (imports and exports).
- B. Provide and maintain an on-line web portal that gives participants, who are not required to participate in the County's Wellness Program, access to wellness content, wellness challenges (if applicable), and educational materials.
- C. Web portal content will be updated as necessitated by medical advances or on a component basis. Content that encompasses medical specialties that change quickly, such as heart

disease, diabetes, nutrition and cancer, will be reviewed and updated annually. The interactive tools — all calculators and condition-related risk assessments as well as quizzes relating to specific health topics will be reviewed annually.

- D. Protect the privacy of participants by requiring users to enter a unique user id and password combination to gain entry. Passwords will be encrypted using a one-way hash algorithm before being stored in our database. The Web Portal will use the County's demographic file to ensure only those eligible have access to their individual information. Contractor will secure all data transmitted to and from the Web Portal application using at least 128bit SSL encryption. Once participants are logged into the Web Portal, all data is secured by Contractor's physical, technical, and procedural controls.
- E. Web Portal will include an automatic timeout default of 30 minutes of inactivity on the system and participants will be logged out.

### **III. Incentive Administration**

- A. Using the County's incentive requirements, the Points Bank tool will list the required activities for completion of the County's Wellness program.
- B. The Points Bank will list all the available activities in the County's incentive design in which participants can click on each activity to get a description of the activity as customized by the County. These descriptions will also contain links to the activity, a PDF form, and/or applicable websites.

### **IV. Health Risk Assessment (HRA)**

- A. Coordinate and conduct an annual Health Risk Assessment campaign designed to identify existing and emerging health issues, and to provide a baseline for establishing a health improvement/maintenance plan.
- B. The questionnaire should contain sufficiently plain language so as to be able to be completed by participants without assistance from a medical professional.
- C. HRA technical support will be provided live by Contractor's in-house representatives. Representatives will help participants with questions about passwords and logging in, security and confidentiality, HRA completion, incentives, and offer guidance on HRA results, intervention support and provide referrals to other County program components.
- D. HRA will be written at a 6th – 7th grade reading level. Any changes to the reading level must be approved, in writing and in advance, by the County.
- E. Online HRA results will be available immediately after the participant has submitted their online assessment.

### **V. Biometric Screening**

- A. Develop a Biometric Screening process consisting of cost-efficient health tests that will be administered by qualified individuals in locations convenient and accessible to participants. The Biometric Screenings will include:
  - 1. Height, weight, and waist measurements
  - 2. Blood pressure
  - 3. Total cholesterol
  - 4. HDL
  - 5. Glucose

6. Screening materials and supplies
  7. 3-5 minute results review
  8. Individualized results forms
  9. Printing of consent forms
  10. Screening satisfaction surveys
  11. Health Risk Assessment (HRA) ½ sheet to provide instruction on HRA completion and deadline
  12. Upload of data into Contractor's system within 14 business days of each event
  13. Travel of screening staff within a Metropolitan Statistical Area
  14. Shipping of supplies
  15. Biohazard disposal fees
  16. Permit fees
- B. Provide and manage a system to schedule Biometric Screenings online. Participants can receive reminders to schedule Biometric Screenings to facilitate participant participation as part of the County communication plan.
- C. Coordinate Biometric screenings at the County's request on the dates and locations provided by the County. Screening coordination will include:
1. Development and management of a client work plan to ensure consistent and efficient delivery.
  2. Assistance in defining screening measurements and delivery strategy to maximize event efficiency, vendor selection and coordination.
  3. Consultation on event communications strategy to maximize participation and engagement.
  4. Determination/collection of program logistics and site specific information.
  5. Creation of screening schedule to maximize participation and efficiency.
  6. Determination and facilitation of appropriate automated screening value load process
  7. Customization of Health Assessment instruction sheet to educate participants on additional program opportunities.
  8. Customized Screening Implementation Presentation and Kick off call.
  9. Telephonic site coordinator training on Screening Implementation process.
  10. Customization of standard promotional materials.
  11. Creation of Frequently Asked Questions to ensure all program components are well defined and information is easily accessible.
  12. Use, customization and monitoring of online scheduling tool.
  13. Creation of paper scheduling templates as applicable.
  14. Working with designated site coordinator at each screening location.
  15. Ordering, shipping, and inventory management of screening supplies.
  16. Deployment, collection and monitoring of site coordinator evaluations.
  17. Development of client specific training materials for screening staff.
  18. Regular calls with client and screening vendor.
  19. Screening final report to include participation and satisfaction results.
- D. County agrees to use vendor's standard consent form and customization will be provide at additional cost as stated in Attachment B.1.
- E. Initial location list and expected participation will be provided by County to contractor at least 8 weeks prior to the first event. All dates, times, locations and eligibles must be confirmed by County to contractor 6 weeks prior to the first event. If it is necessary to add hours or days to the confirmed schedule, additional short notice fees, as stated in Attachment B.1, may apply.

## Attachment B - Redline Changes to Contract with The StayWell Company LLC

- F. Requests for bilingual staff must be provided 6 weeks in advance of the event and are subject to availability. Additional fees as stated in Attachment B.1 may apply.
- G. Additional Staff Time
1. Staff will need a minimum of 1 hour to set up for each event. If there are additional security requirements that require staff to arrive in advance of 1 hour prior to the event start time, an additional hour for set up will be charged, at the rate as stated in Attachment B.1.
  2. If staff is asked to stay 15 minutes or more past the scheduled end time of the event, an additional fee will be charged, as stated in Attachment B.1. This fee will be waived if screening is understaffed or if expected participation is exceeded.
- H. Privacy screens, two sets per screening staff, to create separate screening areas within a screening event are available if requested by the County for an additional fee as stated in Attachment B.1.
- I. Registration staff will be provided for no additional fee at events with 75 or more participants expected and/or events with a flow rate of 20 participants an hour or greater. Requests for registration staff for events that have less than the above noted participants will be billed at the rate as stated in Attachment B.1.
- J. A small event fee will be billed at the rates as stated in Attachment B.1, at events with fewer than 30 screenings ordered. This fee applies in addition to the 90% minimum on the number ordered. Events with breaks in the screening schedule 2 hours or greater will be treated as separate events.
- K. Each screening event must be a minimum of 4 consecutive hours in length. A per hour staff fee to make up the hours to get to minimum is stated in Attachment B.1.
- L. For non-standard screening hours, which are those scheduled on holidays, weekends, evenings where the end time is after 7:00 p.m., or the start time is earlier than 7:30 a.m., an additional fee as stated in Attached B will be charged.1.
- M. If County cancels or makes to an already scheduled biometric screening the following fees will be incurred:
1. Cancellation 10 business days or less prior to the scheduled date - 50% of estimated fees\*;
  2. Cancellation 11-15 business days prior to scheduled date-25% of estimated event fees\*; or
  3. Cancellation 16-20 business days prior to scheduled date-15% of estimated event fees\*.
  4. Additional fees apply for the following changes if made within 10 business days or less prior to the event date; changes made to the address < 20 miles distant, start or end time change up to 2 hours, change in services rendered that does not affect staffing mix or quantity, etc. or changes made to the address > 20 miles distant, start or end time change of 2 hours or more, change in services that requires any staffing changes, etc.
  5. Additional fees apply for increases made to the estimated participation within 10 business days or less prior to the event requiring additional staff or expedited shipping.
- \*The estimated fees and event fees will be based the final registration schedule and will include any additional fees that were agreed upon by the contractor and County.
- N. Biometric technical support will be provided live by Contractor's in-house representatives. Each on-site screening appointment will include:
1. Collection of biometric values and feedback on each, comparing individual participant results to national standards;

2. Screening Results Brochure containing individual participant results and a call to action;
  3. Program information sheet, including information on completing the HRA and Non-Smoking Attestation;
  4. Participant Satisfaction Survey; and
  5. Immediate Referral Form (if applicable for participants with values requiring immediate follow up).
- O. Provide a mechanism for participants to complete their biometric screening at a local lab facility. Results will be loaded to the contractor's system within 14 business days of the collection date. The biometric screening at the lab will consist of a fasting blood draw and the facility will be able to collect and report directly to Contractor, at minimum:
1. Height, weight, and waist measurements
  2. Blood pressure
  3. Total cholesterol
  4. HDL
  5. Glucose
  6. LDL
  7. Triglycerides
- P. In the event that a participant's complete set of values may be unobtainable or certain measures do not yield a result; the contractor will collect a second sample at the screening. This may occur for a variety of reasons, including but not limited to: the participant's values are outside of the testable range of the testing equipment, the participant is dehydrated, or there is a high hematocrit level in the blood sample collected. If the second sample does not yield results, the participant will be referred to their physician. The participant will still receive onsite consultation on all other values, and their participation will be counted towards the per event minimum.
- Q. Use Biometric Health Screening Confirmation Forms in which participants can submit recent test results (within last six months prior to the start of the Biometric Screening date range) via an affidavit from their physician verifying completion of the required tests. Once received by the contractor, the results will be loaded to the contractor's system within 14 business days of the receipt date.
- R. Provide a mechanism for participants to complete their biometric screening at home. The at home biometric screening kit includes the kit contents (instructions, supplies for sample collection, return mailer, patient info card), cover letter, and prepaid postage to send sample to the lab. Kits will be shipped within 3 business days of kit request. A minimum of 50 kits ordered per program year applies. Results will be loaded to the contractor's system within 14 business days of the collection date. The at home kit will be able to collect and report directly to the Contractor, at minimum:
1. Total Cholesterol
  2. HDL
  3. LDL
  4. Triglycerides
  5. Glucose
- S. Contractor will send the County a file, not more than twice per incentive period, for County to outreach to participants with missing values on their Biometric Health Screening Confirmation Forms. Only those participant forms with no values will be listed on the report. Additional reports can be sent to County for an additional fee as stated in the Attachment B.1.
- T. County will provide a designated site coordinator at each location who will be responsible for event promotion, room reservations, and greeting the screening staff the day of the event. This individual would also act as the main point of contact for the Screening Team.

**VI. Non-Smoker Attestation**

- A. Develop a process for participants to complete a Non-Smoker attestation attesting that one of the following statements is true:
  - 1. I have never smoked; or
  - 2. I have been tobacco free for the last 30 days; or
  - 3. I have tried a smoking cessation program in the last 12 months; or
  - 4. I am currently enrolled in a smoking cessation program.
- B. Technical support will be provided live by Contractor's in-house representatives. Representatives will help participants with questions about the completion of the non-smoker attestation.

**VII. Data Management and Reporting**

- A. Reporting will be offered on a monthly, quarterly, and annual basis. Depending on the report, it will be made available to the County within 15/45/90 days after the end of the reporting period.
- B. The County will be provided Contractor's standard reporting package which includes pertinent, easy to understand program measures that monitor the utilization, impact, and success of each program component. The following standard reports will be available to the County:
  - 1. Weekly Health Assessment Completion Report during incentive period.
  - 2. Monthly Report which includes:
    - a. HRA Completion
    - b. Telephonic coaching participation details
    - c. Activity participation
    - d. Web portal tool and resource utilization
    - e. HelpLine calls
    - f. Incentives earned
  - 3. Quarterly Report (every 90 days) which includes:
    - a. Population profiles (health risk prevalence and number of health risks)
    - b. Program participation summary (HRA and telephonic coaching)
    - c. Participant satisfaction: HRA, Web Portal, and telephonic coaching
  - 4. Annual Biometric Screenings Participation Report which includes:
    - a. Screening event details
    - b. Participant summary
    - c. Participant satisfaction
    - d. Site coordinator feedback
  - 5. Lifestyle Management Telephonic Coaching Outcomes (if applicable) which includes:
    - a. Telephonic coaching participation (if applicable)
    - b. Health risk specific lifestyle and behavior change details
  - 6. Key Findings and Recommendations Report which includes:
    - a. Demographic profile of Health Assessment Participant
    - b. Population health risk profile (i.e. health risk prevalence, number of health risks)
    - c. Productivity impacts related to health risks
    - d. Estimated avoidable costs of health risks
    - e. Compliance with recommended screenings and immunizations
    - f. Readiness to change unhealthy behaviors
- C. Data Feeds to and from the County (or County designee)



1. Data Feeds will be sent to the County's Benefits Center for incentive purposes no later than 15 days after the end of the month that is being reported on.
2. Data feeds will contain, at a minimum:
  - a. Eligible Participant Name
  - b. Eligible Participant Identifier(s)
  - c. Biometric Completion Status
  - d. Health Risk Assessment Completion Status
  - e. Non-Smoking Attestation Completion Status
3. County will provide bi-monthly eligibility feeds (two per month). Contractor will provide up to 2 exports for incentive purposes during the contract period.
4. At the County's request transfer actionable data to the County which may include partial or complete HRA metrics, demographic information, biometric completion status, health risk assessment completion status, and non-smoking attestation completion status. Additional file feeds are at the rate stated in Attachment B-1.

**VIII. Communication Materials**

- A. Development of Communication Materials which will include one of Contractor's existing themes with the following pieces:
  1. 1 print brochure
  2. 6 print postcards
  3. 6 emails
  4. 15 electronic targeted messages
- B. Mailing of materials will be done by Contractor.
- C. County will be responsible for cost of mailing at actual U.S. Postal Service rates.
- D. Adjustments to communications materials can be made, at the County's requests, within the same overall budget.
- E. Minimum print run for all communication is 1,000 pieces.
- F. County is responsible for full payment of all customized print pieces, as requested.

**IX. Telephonic Health Coaching**

- A. Telephonic Health Coaching – one on one telephonic coaching which is billed per the rates stated in Attachment B.1.
  1. Telephone Health Coaching includes 8 topics: Nutrition, Weight, Stress, Back Care, Smoking, Cholesterol, Blood Pressure, and Physical Activity.
  2. The County will be billed after call one has been completed and the second call has been scheduled.
  3. Engagement of participants includes online instant invitation and, if requested by County, outbound phone calls for those at moderate/high risk as identified in the Health Risk Assessment.
  4. Provide unlimited series of coaching calls over the current contract year, made on a personalized schedule.
  5. Participants will be able to contact their coach as needed, even after formal program completion, to get the support they need to maintain their progress in making healthy change.

**X. Additional Services**

At the County's request, Contractor will provide the following services:

- A. Destination Challenges
  1. Provided by our subcontractor, Health Enhancement Systems ("HES"), these challenges are interactive content and tools that engage Participants over the course of several weeks and are designed to be fun and engaging activities that help motivate Participants in making lifestyle changes ("Destination Challenges").

2. Timeframes, tasks, key milestones, and the task owner for Destination Challenges will be outlined in the Project Plan in accordance with the Standard Configuration Options.
  3. Participants will have access to online Destination Challenges through the StayWell Portal.
  4. County will review and approve electronically in the form of an email all online Destination Challenge materials designed by StayWell prior to distribution.
  5. Device integration is available with the online Destination Challenges (optional and at additional fees).
    - a. Standard Communications; StayWell will send Participants 2 registration emails and 1 completion email (no customization).
    - b. Poster/flyer; included in HES implementation guide for client customization and delivery.
    - c. Articles; included in HES implementation guide for client customization and delivery.
    - d. Social Media Package; included in HES implementation guide for client customization and delivery.
    - e. Logo; included in HES implementation guide for client customization and delivery
    - f. PowerPoint presentation; included in HES implementation guide for client customization and delivery.
    - g. Weekly Participant emails; HES sends.
    - h. Welcome email; HES sends.
    - i. Team invite emails, if applicable; HES sends.
- B. StayWell Ignite – Weight Management
1. This intense coaching solution for participants identified as having Metabolic Syndrome or considered obese.
  2. Participants will enroll in a 12-week program that requires weekly participation in group discussions and group coaching conversations. Each week will have a focus or topic, the coaching conversations and discussion topics will follow that topic/theme. A Participant dashboard of activity is displaced on StayWell Portal.
  3. Participants will receive a digital scale and activity tracking device that they will utilize during the program allowing the coach to monitor progress in the program.
  4. A personal intake session is first conducted with their coach subsequent Group Coaching environment using Google Hangouts (or equivalent technology).
  5. There is a minimum of 6 and a maximum of 8 participants per group on the group coaching program.
  6. Sessions are scheduled on approximately a calendar, quarterly basis. Sessions can include Participants from multiple StayWell clients.
- C. StayWell Onpoint Group Coaching
1. The Onpoint solution is StayWell's proprietary diabetes condition management program.
  2. Onpoint includes the following components:
    - a. Onpoint Tracking
      1. Onpoint Tracking is available for participants to track their physical activity, blood glucose levels, sleep and weight.
      2. A participant can choose to track his or her activity, blood glucose levels, weight and sleep either through connecting the Participant's own supported Bluetooth-enabled device or by manual entry directly into the StayWell platform.

3. Device integration is supported through Validic, and is available for Apple HealthKit.
3. Onpoint Community
  - a. Onpoint Community introduces individuals diagnosed with Type I and Type II.
  - b. Diabetes to a community of other individuals identified as Diabetic with the purpose of building knowledge and skills to successfully manage their condition and providing an ongoing support program.
  - c. Eligibility for Onpoint Community is based on participant responses to a brief questionnaire, including a diagnosis of Type I or Type II Diabetes.
  - d. Onpoint participants have the ability to connect directly with a Nurse Coach through secure messaging within the Onpoint dashboard.
  - e. Onpoint Community is accessible through the StayWell Portal.
- D. Program Management (Onsite Staff)
  1. Tasks and Deliverables

StayWell will provide County with a full time onsite wellness program manager (the “Program Manager”) who will work collaboratively with the StayWell client services team, County, and other County vendor partners with the purpose of:

    - a. Creating a culture of health.
    - b. Increasing awareness and engagement in the company-wide health management programs.
    - c. Providing customized support to designated locations/business units.
    - d. If applicable, coaching individuals on behavioral changes in order to encourage risk reduction.
  2. StayWell will conduct the recruiting and hiring process, but will have mutual agreement with County as to the final job description and final candidate. The Program Manager will be a full-time employee of StayWell with a minimum of an undergraduate college degree in a health related field and at least 2-6 years’ of related work experience (based on position).
  3. If requested, individual(s) will be located onsite at a specified County location or locations.
  4. StayWell will provide the Program Manager with initial orientation/training on the use of StayWell tools and Programs, as well as County specific Program details and expectations.
  5. County responsibilities:
    - a. County will be responsible for providing additional training and orientation of the Program Manager with regard to worksite requirements, onsite County staff contacts, and culture.
    - b. County will provide the Program Manager with internet access, County computer (for access to County email directory), office space, desk/chair, locked file cabinet, landline phone, additional office supplies if necessary.
    - c. County will clearly communicate, document, and prioritize expectations, goals, and objectives for the Program Manager to both the Program Manager and their StayWell Staff Manager on at least an annual basis, including any changes that are made throughout the year.
    - d. County will provide regular feedback regarding Program Manager performance to both the Program Manager and their StayWell staff manager.

6. Other:
  - a. Full-time staff will work 40-hour weeks (Standard daily schedule based on an 8 hour workday).
  - b. Separate from standard paid time off days provided to the Program Manager by StayWell, each Program Manager will have three designated days offsite per year for individual professional development, training and volunteerism.
  - c. If Program Manager takes a Leave of Absence, StayWell will hire a temporary, full time replacement for the term of the leave. Program Manager fees remain consistent for term of leave, and includes training for the temporary staff.
  - d. Program Manager merit increases will be in an amount consistent with the StayWell employee merit policy, based on both annual employee and company performance.
7. General role and responsibilities of the Program Manager, if applicable:
  - a. Strategic Support
  - b. Drive implementation of local wellness Program strategy; ensure programming is consistent with established wellness goals.
  - c. Create and provide direction/support to wellness champion networks.
  - d. Act as the subject matter expert on health & wellness and behavior change topics; consult on County's established strategic wellness initiatives with internal and external partners, as appropriate.
  - e. Utilize data to support recommendations for new health and wellness initiatives.
8. Implementation Support
  - a. Assist with day-to-day delivery of established Programs with direction from County and StayWell onsite staff manager.
  - b. Coordinate logistics and implement company-wide campaigns, screening promotions, programs, events, etc.
  - c. Evaluate and improve upon County policies (e.g., smoking, cafeteria, vending machines).
  - d. Assist with Program promotion, including development and/or distribution of promotional materials.
  - e. Develop and facilitate educational programs (i.e., courses, workshops, special events, and interactive booths).
  - f. Collaborate with onsite HR/benefit teams and other County departments (as applicable).
  - g. Develop and maintain files of community resources and health content for augmenting Program delivery when necessary.
  - h. Participate in County meetings when appropriate
  - i. Conduct one on one health chats with Participants focusing on lifestyle management topics including back care, exercise, nutrition, stress management, smoking cessation, cholesterol control, blood pressure and weight management.
9. Onsite Lifestyle Management Coaching
  - a. Coaching topics include weight management, tobacco cessation, stress management, nutrition, physical activity, back care, and blood pressure and cholesterol management.
  - b. Eligibles will be notified of onsite coaching options through communications (paper, electronic, direct contact with onsite coach) and can register by setting up an appointment with the coach.

- c. Each onsite lifestyle management coaching Participant will receive a series of personalized and tailored coaching sessions designed to meet the Participant's unique needs, preferences, and interests.
- d. Any Participants interested in participating in onsite lifestyle management coaching may identify themselves to the onsite coach.
- e. As a standard part of the coaching Program, each Participant will receive:
  - 1. After the first coaching session, a health topic-specific booklet, e.g. weight management.
  - 2. After the first coaching session and during subsequent sessions, print and/or electronic health sheets as needed.
  - 3. After the third coaching session, a standard coaching Participant satisfaction survey.

10. Replacement of Program Manager or Termination of Services

- a. In the event County requests that StayWell replace one Program Manager with another Program Manager, StayWell will use reasonable efforts to replace the Program Manager within 90 days of receipt of written request from County.
- b. Notwithstanding the termination of a Program Manager under subsection a. above, County shall remain responsible for any fees due for the Services of a Program Manager for a period of 30 days after the date of notice of termination.

11. Professional Activity and Licensing

- a. The provision of Program Manager Services hereunder is not intended to replace disciplines requiring licensure, such as the practice of medicine. Further, StayWell will notify County if a governmental authority notifies StayWell that any Program Manager must be licensed to provide the Services under this as described in this Section. In such event, StayWell may cease providing the Services that would subject StayWell or the Program Manager to such licensure requirement, unless StayWell and County can agree upon an amendment to the Program Manager Services that would make such licensure unnecessary or delay the Services while such licensure is being obtained (if feasible). Any such cessation shall be effective the earlier of the date required by the governmental authority or upon at least 30 days' prior written notice to County. In the event of a change in law or in the event that a governmental entity's regulations or rules require a change to the Program Manager Services, either party may request to amend this Section with regard to the Services affected. If the parties cannot agree upon such modification within 45 days of the receipt of a notice, either party shall have the right to terminate the Program Manager Services upon 30 days' prior written notice to the other party without penalty to either party. County's sole liability in the event of such termination shall be to pay for Services rendered up to the date of termination.

12. Onsite Personnel Status

- a. StayWell agrees, warrants and represents that it is an independent contractor and that the Program Manager is an employee of StayWell and shall not be considered an employee of County and shall not be entitled to any County employee benefits. County shall not have the right to exercise control over the manner in which the Program Manager performs their duties, except insofar as County requires that performance shall be in accordance with this SOW. StayWell assumes sole and full responsibility for its employees,

agents and subcontractors. StayWell and its employees, agents and subcontractors have no authority to make commitments or enter into contracts on behalf of, bind or otherwise obligate County in any manner whatsoever. StayWell, and not County, is solely responsible for the compensation of the Program Manager, and payment of worker's compensation, disability and other income and other similar benefits, unemployment and other similar insurance, and for withholding income, other taxes and social security. In the event that the Program Manager provides the Services on County's premises, StayWell shall ensure that the Program Manager complies with any applicable County policies and procedures.

13. Non Solicitation

- a. Each party recognizes that the employees of the other party, and such employees' loyalty and service to that other party, constitute a valuable asset of that other party. Accordingly, except for general employment solicitations and responses thereto, each party agrees not to knowingly canvass, solicit directly or indirectly, contract, or hire any employee of the other party during the term of the Agreement and for 12 months after any termination of this Agreement, or 6 months following termination of employment of an employee with the other party, whichever occurs first.

E. Calling Campaign

1. Work in coordination with County to develop a systematic calling campaign to make announcements and reminders for the OC Healthy Steps program. The fees associated as detailed in Attachment B-1 assume the following:
  - a. Campaign Setup
    1. Determine type of call campaign (announcement or reminder)
    2. Determine target audience
    3. Determine general message of the campaign
  - b. Scripting Development
    1. Develop draft script
    2. Modify script after County provides feedback
    3. Test script
    4. Finalize script
  - c. Voice Recording
    1. Record script
    2. Send script to County for review and approval
  - d. Deploy outbound calls by using the list of phone numbers provided in the County.
  - e. Administration Fee

F. Wellness Newsletter

1. Contractor will provide the County with copywriting/editing, design and production support. The associated fees as detailed in Attachment B.1 assume the following:
  - a. Each newsletter will be a maximum of 4 pages front and back. Contractor will print, collate, fold and tab the newsletter for mailing.
  - b. County of Orange provides copy direction and outline for each article, as well as any source documents used.
  - c. Contractor will write articles and/or edit provided text as needed.
  - d. Contractor will provide County with final PDFs for posting online.
  - e. Contractor will print, collate, fold and tab newsletters for mailing.

- f. Contractor will presort, address and check in the newsletters for mailing at the post office.
2. County will be responsible for cost of mailing at actual U.S. Postal Service rates.

**ATTACHMENT B****Cost/Compensation****1. Compensation**

This is a fixed price Contract between the County of Orange and Contractor for a Health Management Program for the County of Orange as provided in Attachment A, Scope of Work. County agrees to compensate the Contractor per firm fixed price contract as set forth below. Contractor agrees to accept the same as full compensation for performing all services and furnishings all staffing and materials called for; and for risks connected with the services; and for performance by Contractor of all its duties and obligations hereunder.

<b>Programs and Service Descriptions</b>	<b>Unit Price</b>	<b>Unit</b>
<b>My StayWell Portal</b>  Includes: wellness content, a Health Risk Assessment, wellness challenges, team competitions and goal tracking (if applicable), monthly wellbeing sessions (online and mobile), educational materials, Doctor Chat access to 80,000 US-licensed physicians, and incentive tracking, Communities (Champion) features with local level events, messaging and social walls, health coach chat and virtual visits (if applicable), data feeds (imports and exports).	20,000-34,999: \$0.84 16,000-19,999: \$0.87 12,000-15,999: \$1.00 10,000-11,999: \$1.27 7,500- 9,999: \$1.40 5,000-7,499: \$1.54	Per Eligible Participant Per Month
<b>Self-Directed Coaching</b>  Online health Coaching Topics included: weight management, tobacco cessation, nutrition, physical activity and stress management.	N/A	Included in My StayWell Platform as Wellbeing Sessions
<b>Data Feeds</b>  Includes: 30 eligibility files and 2 incentives files per program year.	N/A	Included in My StayWell Platform
<b>Non-Smoking Attestation -Telephonic Submission</b>	\$50,000 - Up to 5,500 telephonic submissions \$10 per telephonic submission after 5,500	To be paid in the first month of the incentive period with additional fees paid in month following incentive period; if utilized.
<b>Language Line</b>  <b>Includes: multi-lingual support or access to translation representative with language line support.</b>	\$1.65	Per Minute



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<b>Telephonic and virtual Health Coaching</b>  Includes: 8 topics: nutrition, weight, stress, back care, smoking, cholesterol, blood pressure and physical activity.	\$185.00	Per Participant in each contract year.  To be billed after first call is complete and 2nd call is scheduled.
<b>Programs and Service Descriptions</b>	<b>Unit Price</b>	<b>Unit</b>
<b>StayWell Communications</b>  Includes: choice on one theme, 1 print brochure, 6 print postcards, 6 emails, 15 eMessages	20,000 - 34,999: \$7.08 16,000 - 19,999: \$7.30 12,000 - 15,999: \$7.90 10,000 - 11,999: \$9.10 7,500 - 9,999: \$9.70 5,000 - 7,499: \$10.30	Per Eligible Per Year  50% to be paid in 1st contract month & remainder at the end of the incentive period
<b>Postage for Paper Communications</b>	Actual USPS Rates	Per mailed communication piece
<b>Data Management</b>	\$125.00	Per Hour
<b>IT Programming</b>	\$250.00	Per Hour
<b>Communications Consulting</b>	\$175.00	Per Hour
<b>OPTIONAL SERVICES AT COUNTY REQUEST</b>		
<b>Programs and Service Descriptions</b>	<b>Unit Price</b>	<b>Unit</b>
<b>StayWell Ignite - Weight Management</b>  Includes: tracker & scale, shipping & taxes additional	\$600.00	Per Registered Participant
<b>StayWell OnPoint Group Coaching - Diabetes</b>	\$965.00	Per Participant
<b>OnPoint Diabetes Community</b>	\$3,000.00	Per Year
<b>Health Enhancement Systems Online Destination Challenges</b>  Includes device integration where applicable	20,000 - 34,999: \$2.72 16,000 - 19,999: \$2.80 12,000 - 15,999: \$2.92 10,000 - 11,999: \$3.00 7,500 - 9,999: \$3.05 5,000 - 7,499: \$3.15	Per Eligible Per Challenge  50% to be paid in 1st month of launch of challenge & remainder at the end of the challenge.
<b>Health Enhancement Systems Online Destination Challenges</b>  Includes device integration where applicable	\$2,800.00	Setup fee per challenge

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<b>Health Enhancement Systems</b> <b>Online Destination Challenges</b> Includes device integration where applicable	\$10.50 - 4 week challenge \$13.50 - 6 week challenge \$16.50 - 8 week challenge \$20.00 - 12 week challenge	Per Participant
<b>Programs and Service Descriptions</b>	<b>Unit Price</b>	<b>Unit</b>
<b>Quarterly Wellness Newsletter, Creation, Design, Printing</b>	16,301 - 32,600: \$0.5422 1 - 16,300: \$0.5590	Per Quarter
<b>Quarterly Wellness Newsletter, Mail Service Optimization*</b> *Postage is billed separately at actual	\$0.05 per newsletter printed	Per Quarter
<b>Wellness Champions Connection</b> Includes user access to the Champion Connection and 5 Core Topic Toolkits	N/A	Included in My Staywell Platform
<b>Additional Wellness Champion Toolkit Topics</b>	\$1,500.00	Annually per toolkit topic
<b>Onsite Program Manager</b>	\$170,000.00	Annually
<b>Onsite Program Manager – Mileage and Parking Expense</b>	Billed at Actual	As incurred
<b>Data feeds with Biometric and/or HRA results to Health Plan</b>	\$500.00	Per Data Feed
<b>Extended HelpLine Hours during Wellness Incentive Period</b>	\$2,750.00	Per Week
<b>Telephonic Health Coaching Annual Engagement Fee (Outreach)</b>	\$12,000.00	Annual Fee
<b>Wellness Communication Postage</b>	Actual USPS Rates	Per mailed communication piece
<b>Additional Communication Pieces</b> (minimum print run is 1,000 units)	Standard Trifold Brochure, 4-color (printed and fulfilled) - \$3.50 each Standard Postcard 6" x 9", 4-color (printed and fulfilled) - \$2.25 each Email Send Set-Up (per topic) - \$250 each Email Sends (to individual email address) - \$0.05 each eMessage Sends (through the web portal) - \$0.05/each Communication Consulting - \$175.00 an hour	Per communication piece

<b>Custom Course Development</b>	\$250.00	Per Hour
<b>Custom Campaigns on My StayWell Platform</b>	\$2,000.00	Per Campaign
<b>Custom Challenges on My StayWell Platform</b>	\$2,000.00	Per Challenge
<b>Biometric Screenings</b>		
<b>Programs and Service Descriptions</b>	<b>Unit Price</b>	<b>Unit</b>
<b>Screening Coordination</b>	1-5 events: \$10,000 6-15 events: \$15,000 16-30 events: \$20,000 31-50 events: \$25,000 51-75 events: \$30,000 76-100 events: \$35,000 101-125 events: \$40,000 126-150 events: \$45,000 151-175 events: \$50,000 176-200 events: \$55,000	Annual  75% to be paid each year after schedule is finalized; 25% each year after final event.
<b>Fasting Fingerstick (event minimums apply)</b>	\$59.00	Per Participant
<b>Non-Fasting Fingerstick</b>	\$57.00	Per Screened Participant
<b>Lab Option</b>	\$50.00	Per Screened Participant
<b>Home Test Kits</b>	Home Test Kits: Requested - \$10.00 Home Test Kits: Returned - \$35.00 Home Test Kits: Replacement Kits: \$10	Per Participant
<b>Onsite Health Screening: Non-Standard Hours (holidays and weekends)</b>	\$250.00	Per Event
<b>Onsite Health Screening: Less than 4-hour minimum</b>	\$125 / Hour	Per Staff Member Per Hour
<b>Onsite Health Screening: Short Notice fee</b>	\$425.00	Per Event
<b>Onsite Health Screening: Small Event Fee</b>	\$295.00	Per Event
<b>Onsite Health Screening: Privacy Screens (if requested)</b>	\$25.00	Per Screen (Max of \$250 per event)
<b>Processing of Health Care Provider Forms</b>	\$15.00	Per unique Form

## Onsite Screening Assumptions

### 1. Screening coordination includes:

- Development and management of a client work plan to ensure consistent and efficient delivery
- Assistance in defining screening measurements and delivery strategy to maximize event efficiency, vendor selection and coordination
- Consultation on event communications strategy to maximize participation and engagement
- Determination/collection of program logistics and site-specific information
- Creation of screening schedule to maximize participation and efficiency
- Customization of program handout to educate participants on additional program opportunities
- Customized Screening Kick off and Implementation Presentation
- Telephonic site coordinator training on screening implementation process
- Customization of standard promotional materials
- Creation of Frequently Asked Questions
- Set up and monitoring of online scheduling tool
- Creation of paper scheduling templates as applicable
- StayWell to work with designated site coordinator at each screening location
- Ordering, shipping, and inventory management of screening supplies
- Deployment, collection and monitoring of site coordinator evaluations
- Development of client specific training materials for screening staff
- Regular calls with client and screening vendor
- Onsite screening final report to include aggregate risk, participation and satisfaction results
- Screenings with 2 or more hours of break at one location on one day will be treated as 2 separate events.
- The health screening Non-Fasting Fingerstick fee per participant includes:
  1. height, weight and waist measurements
  2. blood pressure
  3. total cholesterol, HDL
  4. glucose
  5. screening materials and supplies
  6. 3-5 minute results review
  7. individualized results forms
  8. printing of consent forms
  9. screening satisfaction surveys
  10. Program handout to educate participants on additional program opportunities

## Attachment B - Redline Changes to Contract with The StayWell Company LLC

<p>11. Upload of data into StayWell's system-90% of data to be uploaded within 10 business days of each event.</p> <p>12. travel of screening staff within a Metropolitan Statistical Area</p> <p>13. shipping of supplies</p> <p>14. biohazard disposal fees</p> <p>15. permit fees</p> <p>16. nonstandard screening hours (7pm-7am)</p>
<ul style="list-style-type: none"> <li>• <b>MINIMUM:</b> For each event, Client will be billed for the number of actual screenings completed at the event, or for 90% of the number of screenings ordered, whichever is greater; provided however, that if 30 screenings are ordered, Client will be charged for a minimum of 30 screenings. Where fewer than 30 screenings are ordered, Client will be billed an additional Small Event Fee of \$295. Events with breaks in the screening schedule of 2 hours or greater will be billed as separate events and the minimum shall apply to each event.</li> </ul>
<ul style="list-style-type: none"> <li>• <b>SCHEDULING:</b> All dates, times, locations and number of screenings ordered per event must be provided at least 8 weeks in advance of the event. Additional fees may apply for events that are requested fewer than 6 weeks prior to the event date. If it is necessary to add hours or days to the confirmed schedule, additional fees may apply.</li> </ul>
<ul style="list-style-type: none"> <li>• <b>SET UP/TEAR DOWN:</b> Staff will need a minimum of 1 hour to set up for each event. If there are additional security requirements that require staff to arrive in advance of 1 hour prior to the event start time, an hourly rate of \$125/hr/staff will apply. If staff is asked to stay 15 minutes or more past the scheduled end time of the event, a fee of \$125/hr/staff applies. This fee is waived if screening is understaffed or if expected participation is exceeded.</li> </ul>
<ul style="list-style-type: none"> <li>• <b>TRAVEL:</b> Travel is included in the per participant fee with the exception of travel for events beyond 40 mile roundtrip of Metropolitan Statistical Area (MSA) with population of 200,000 or more or for special events or nonstandard (off-hours) events that require a hotel stay. Parking to be billed at actual.</li> </ul>
<ul style="list-style-type: none"> <li>• <b>REGISTRATION STAFF:</b> Registration staff will be provided for no additional fee at events with 75 or more participants expected and/or events with a flow rate of 20/hr or greater. Requests for registration staff at any other event will be billed at the rate of \$125/hr/staff.</li> </ul>
<ul style="list-style-type: none"> <li>• <b>CANCELLATION AND CHANGE FEES:</b> Cancellation 10 business days or less prior to the scheduled event date- 50% of estimated fees, cancellation 11-15 business days prior to scheduled event date-25% of estimated event fees, cancellation 16-20 business days prior to scheduled event date-15% of estimated event fees. Additional fees apply for the following changes if made within 10 business days or less prior to the event date; changes made to the address &lt; 20 miles distant, start or end time change up to 2 hours, changes in services rendered that do not affect staffing mix or quantity, etc. or changes made to the address &gt; 20 miles distant, start or end time change of 2 hours or more, change in services that requires any staffing changes, etc.</li> </ul>

## Attachment B - Redline Changes to Contract with The StayWell Company LLC

<ul style="list-style-type: none"><li>• Additional fees apply for increases made to the estimated participation within 10 business days or less prior to the event date requiring additional staff or expedited shipping.</li></ul>
<ul style="list-style-type: none"><li>• <b>CLIENT ASSIGNED STAFF:</b> It is expected that the client will provide a designated site coordinator at each location who will be responsible for event promotion, room reservations, and greeting the screening staff the day of the event. This individual would also act as the main point of contact for the StayWell Screening Team.</li></ul>
<ul style="list-style-type: none"><li>• <b>BILINGUAL STAFF:</b> Requests for bilingual staff must be provided 6 weeks in advance of the event and are subject to availability. Additional fees may apply.</li></ul>
<ul style="list-style-type: none"><li>• <b>Note:</b> There are some instances in which a complete set of values may be unobtainable. This may occur for a variety of reasons, including but not limited to: the participant's values are outside of the testable range of the testing equipment, the participant is dehydrated or there is a high hematocrit level in the blood sample collected. In the event certain measures do not result, standard process dictates that a second sample be collected onsite. If the second sample does not yield results, the participant will be referred to their physician. The participant will still receive onsite consultation on all other values, and their participation will be counted towards the per event minimum.</li></ul>
<ul style="list-style-type: none"><li>• <b>ADDITIONAL STATE FEES:</b> Certain states have screening regulations that require additional fees, or accommodations. For example, some states require additional permits, have local licensing requirements, or have regulations allowing for agency officials to perform unannounced onsite reviews. In the event that the Department of Health or other governing agency attends a screening to perform a compliance review, the scheduled screening flow for that event could be impacted. If a screening is disrupted for this reason, StayWell will work with our client to minimize the impact a site visit may have, but StayWell cannot be held responsible for delays caused by an unannounced inspection. Further, due to state requirements, not all requested date or time changes which are received by the client less than 30 business days prior to an event can be accommodated. StayWell will use best efforts to discuss the details of any state regulations that may affect an event with our client prior to the confirmed event date.</li></ul>

### Offsite Screening Assumptions

1. **The Health Care Provider Form (HCPF) option** is billed per form submitted for processing and includes customization of form, custom secure fax number, secure upload option, processing and data entry of forms and upload of 90% of screening data within 10 business days into StayWell database, and feedback loop to participant. Client will only be billed for forms submitted and will not be held to a minimum guarantee.
2. **The lab option is billed per actual usage and includes:**

- Set up and coordination of lab service
- Participant access to participating Quest locations
- Blood draw and lab processing
- Individualized results mailed to participant homes
- Load of screening data to StayWell database - 90% of data to be uploaded within 10 business days of visit to the lab.

**3. The Home Test Kit fees include:**

Program set up, weekly data load into StayWell database (90% of data to be uploaded within 10 business days of processing of kit), and management of delivery details. Assumes delivery in partnership with Quest.

**Requested Kit Fee:** Includes fulfillment of kit, online kit request, postage to send kit to participant and prepaid postage to send sample to lab, kit contents (instructions, supplies for sample collection, return mailer, patient info card), cover letter. A minimum of 50 kits ordered per program year applies.

**Kit Processing Fee:** Includes: processing of kit (processing of lab results for Total Cholesterol, HDL, LDL, Triglycerides and Glucose), physician network approval (lab requisition) outbound calls to participants for critical alert values (triglycerides > 1,000, glucose <50 or >300) results cover letter, printing and mailing of individual lab results to participant. Client will only be billed for processed kits and will not be held to a minimum guarantee.

**Replacement Kit Fee:** In the event that a sample cannot be tested or a kit is not received by a participant, replacement kits are available for the fee outlined above participant sample is un-testable or if participant would like to request another kit. Client will only be billed for requested replacement kits and will not be held to a minimum guarantee.

If a sample is received by the lab and contains the requestor's name, we will assume the blood values to be the requestor's. If the sample contains any name other than the person that requested the kit, the sample will not be processed. As example, an eligible participant requests a kit but allows someone other than themselves to complete the kit. We will assume the results associated with the eligible's name to be their own and these are the values that will be loaded to the Health Assessment. StayWell cannot control for non-eligible participants completing/submitting test kit on behalf of an eligible.

- 1. Contractor's Expense:** The Contractor will be responsible for all costs related to photo copying, telephone communications, fax communications, and parking during the performance of work and services under this Contract. The County will not provide free parking for any service in the County Civic Center.
- 2. Firm Pricing Structure:** Contractor guarantees that prices quoted are equal to or less than prices quoted to any other local, State or Federal government entity for services of equal or lesser scope. Contractor agrees that no price increases shall be passed along to the County during the term of this Contract not otherwise specified and provided for within this Contract. If the contract is renewed for two additional years, pricing for each additional contract year will not exceed 5% of the prior years' service fees.
- 3. Payment Terms:** Invoices are to be submitted in arrears to the program manager, unless otherwise directed in this contract. Vendor shall reference contract number on invoice. Payment will be net 30 days after receipt of an invoice in a format acceptable to the County of Orange and verified and approved by the agency/department and subject to routine processing requirements. The responsibility for providing an acceptable invoice rests with the contractor. Billing shall cover services and/or goods not previously invoiced. The contractor shall reimburse the County of Orange for any monies paid to the contractor for goods or services not provided or when goods or services do not meet the contract requirements.

Payments made by the County shall not preclude the right of the County from thereafter disputing any items or services involved or billed under this contract and shall not be construed as acceptance of any part of the goods or services.

**4. Payment – Invoicing Instructions:** The Contractor will provide an invoice on the Contractor's letterhead for services rendered. Each invoice will have a number and will include the following information:

1. Contractor's name and address
2. Contractor's remittance address, if different from 1 above
3. Name of County agency/department
4. Delivery/service address
5. Contractor/Subordinate contract or number
6. Date of order
7. Type of fees/service
8. Sales tax, if applicable
9. Dates of fees/service
10. Brief description of fees/service
11. Contractor's Federal I.D. Number

The Contractor shall be fully responsible for providing an acceptable invoice to the County. Incomplete or incorrect invoices are not acceptable and will be returned to the Contractor for correction.

The County's Project Manager, or designee, is responsible for approval of invoices and subsequent submittal of invoices to the Auditor-Controller for processing of payment. The responsibility for providing an acceptable invoice to the County for payment rests with the Contractor. Incomplete or incorrect invoices are not acceptable and will be returned to the Contractor for correction.

Invoices and support documentation are to be forwarded to:

Kim Derrick, Program Manager  
Human Resource Services/Employee Benefits  
Hall of Administration  
333 W. Santa Ana Blvd., Room 137 Santa Ana, CA 92701

The County's Program Manager at HR/Employee Benefits in conjunction with Employee Benefits Finance is responsible for approval of invoices and subsequent submittal of invoices to the County Auditor-Controller for payment processing.



**Attachment C****Implementation Plan/Project Schedule**

<b>Task</b>	<b>Starts On</b>	<b>Due On</b>	<b>Responsible</b>
Schedule initial implementation meeting with client and discuss location list and expected participation	May 13, 2015	May 13, 2015	IM, AE, Client
Review and approval of Screening Consent Form	May 13, 2015	May 15, 2015	SC, Client
Screening kick off call	May 13 , 2015	May 13 , 2015	SC, Client
Create client site	May 14, 2015	May 18, 2015	IM
Customization forms sent to client	May 15, 2015	May 15, 2015	IM
Final confirmation of screening schedule	May 15, 2015	May 18, 2015	SC, Client
General site configuration	May 15, 2015	May 22, 2015	IM
Customization forms due back to Contractor	May 20, 2015	May 20, 2015	Client
Review and approval of Screening Implementation presentation and promotional materials	May 18, 2015	May 22, 2015	SC, Client
Screening order Due	May 18, 2015	May 18, 2015	SC, Client
Customize client site	May 20, 2015	Jun 09, 2015	IM
Screening Site Coordinator training call	Jun 1, 2015	Jun 5, 2015	SC, Client

IM = Implementation Manager, AE = Account Executive, SC = Screening Coordinator

## Attachment B - Redline Changes to Contract with The StayWell Company LLC

Name	Starts On	Due On	Responsible
Launch Online Screening Scheduling Tool	Jun 08, 2015	Jun 08, 2015	SC
Demo staging site to client	Jun 12, 2015	Jun 16, 2015	IM, Client
SWP initial client site review	Jun 16, 2015	Jun 19, 2015	Client
Client changes reviewed and updated	Jun 19, 2015	Jun 24, 2015	IM
SWP site provided to client to review completed changes	Jun 24, 2015	Jun 25, 2015	IM, Client
Launch readiness	Jun 23, 2015	Jul 02, 2015	IM
Site launched	Jul 06, 2015	Jul 06 , 2015	IM
First Screening Event (tentative; may be pushed to Jul 06 based on final schedule)	Jul 01, 2015	Jul 01, 2015	SC

IM = Implementation Manager, AE = Account Executive, SC = Screening Coordinator

**Attachment D****Staffing Plan****1. Primary Staff to perform Contract duties**

<b>Name</b>	<b>Classification/Title</b>	<b>Experience/Qualifications</b>
Summer Brockman	Sr. Strategic Account Executive	Minimum of a bachelor's degree in a health-related field and 8 years of industry experience.
Andrea Holbrook	Client Service Manager	Minimum of a bachelor's degree in a health-related field and 6 years of industry experience.
Mandy Schmidt	Screening Manager	Minimum of a bachelor's degree in a health-related field and 6 years of industry experience.

**2. Alternate staff** (for use only if primary staff are not available)

<b>Name</b>	<b>Classification/Title</b>	<b>Experience/Qualifications</b>
Eric Day	Director, Account Management	Minimum of a bachelor's degree in a health-related field and 20+ years of industry experience.
Cathy Durbin	Sr. Manager, Client Services	Minimum of a bachelor's degree in a health-related field and 10+ years of industry experience.

Contractor reserves the right to terminate the employment relationship with of any of the above listed personnel members without prior notice to or consent of County. In such an event Contractor will notify County promptly and replace such personnel member with an individual reasonably acceptable to County.

**3. Sub-contractor(s)**

In accordance with Article 12 "Assignment or Sub-Contracting", listed below are Sub-contractor(s) anticipated by Contractor to perform services specified in Attachment A, Scope of Work.

<b>Company Name</b>	<b>Staff Name</b>
Summit Health ( <i>acquired by Quest in 2014</i> )	Screening staff from Summit locations across the U.S., to provide worksite biometric screenings and process blood work.  Our subcontractors use trained individuals such as RNs, LPNs, phlebotomists, and technicians. Staff may also include registered dietitians, exercise physiologists, EMT's, etc. Our vendors are certified and licensed, CLIA waived, and OSHA compliant.
Health Enhancement Services (HES)	HES has been creating worksite wellness challenges for corporations, health plans, health systems, hospitals, government agencies, educational institutions and nonprofits since 1992.  StayWell subcontracts their destination challenges to HES, allowing HES to setup and manage challenges. StayWell will provide a SSO to HES to allow for a seamless transition for participants.

Attachment B - Redline Changes to Contract with The StayWell Company LLC

Company Name	Staff Name
Language Line Solutions®	<p>Language Line Solutions® is the language services provider for Staywell. We use their translations services on our interactions with non-English speaking participants.</p> <p>They provide us with access to highly trained and professional linguists in more than 240 languages with hours that align with our coaching center.</p>

**Attachment E****Performance Guarantees**

Contractor shall report to the County yearly, or upon other frequency if noted below, within 45 days after the close of the contract term, on its satisfaction of each of the following performance guarantees.

Program Year 1: 05/13/15 – 05/12/16

Program Year 2: 05/13/16 – 05/12/17

Program Year 3: 05/13/17 – 05/12/18

Program Year 4: 5/13/18 – 5/12/19

Program Year 5: 5/13/19 – 5/12/20

Program Year 6: 5/13/20 – 5/12/21

Program Year 7: 5/13/21 – 5/12/22

**Core Services Performance Guarantees:**

<b>Metric</b>	<b>Definition</b>	<b>Expected Performance</b>	<b>% of Fees at Risk</b>
<b>Client Satisfaction with Implementation</b>	<p>(1) A survey will be sent to key County stakeholders. Formal performance will be assessed 90 days the completion of the implementation plan.</p> <p>(2) “Satisfaction” is defined as the sum of the “top two box” responses (“satisfied” and “very satisfied”), divided by the number of responses, excluding “neutral”.</p> <p>(3) The parties agree in principle with the measurement methodology as described. The parties further agree to refine such measurement methodology as mutually agreeable to the parties and to document the refined methodology in the contractual documents.</p>	<p>Achieve an overall Satisfaction rating of at least 90% for Contractor’s implementation execution, using Contractor’s standard implementation survey tool.</p> <p>Applies only to 2015 implementation.</p>	Performance Fee of \$5000.
<b>Stakeholder Satisfaction – Ongoing</b>	<p>1) A survey will be sent to key County stakeholders within 60 days of the end of each contract period.</p> <p>(2) “Satisfaction” is defined as the sum of the “top two box” responses (“satisfied” and “very satisfied”), divided by the number of responses, excluding “neutral”.</p>	Achieve an overall Satisfaction rating of at least 90% for Contractor’s Account Management Team on an annual basis, using Contractor’s standard tool.	Performance Fee of \$3,500.

## Attachment B - Redline Changes to Contract with The StayWell Company LLC

Metric	Definition	Expected Performance	% of Fees at Risk
	(3) The parties agree in principle with the measurement methodology as described. The parties further agree to refine such measurement methodology as mutually agreeable to the parties and to document the refined methodology in the contractual documents.		
<b>Reporting</b>	<p>(1) Reports on the program's progress will be produced and delivered:</p> <ul style="list-style-type: none"> <li>a) Monthly: 100% of the standard monthly reports in any year will be delivered within 15 business days after the close of each reporting month.</li> <li>b) County and Contractor will mutually agree when month reporting will begin.</li> <li>c) 100% of standard annual reports will be delivered within three (3) months after close of the Contract Year or within a mutually-agreed upon timeframe for non-claims reports.</li> </ul> <p>(2) This will be measured through the standard work plan processes for the monthly reports and the annual report showing whether reporting deadlines were met.</p> <p>(3) The County will be alerted of important trends in the reporting on a continuous basis.</p> <p>(4) All reports will include executive summaries.</p>	For all Reporting requirements listed, 100% will be met	Performance Fee of \$3,500 (Includes Monthly & Annual Reports)
<b>Client Data Feeds</b>	Data Feeds will be sent to the County's Benefits Center for incentive purposes no later than 15 days after the end of the month that is being reported on.	All Data Feeds to the County's Benefits Center will have an accuracy rate of 98% and be delivered on time.	Performance fee of \$2,500 per feed during the incentive period, up to a maximum amount of \$10,000.
<b>Web Portal</b>	<p>(1) Web portal operational 99%, with the exception of scheduled maintenance.</p> <p>(2) The County will be alerted of urgent updates to the web portal within 48 hours of when the change is scheduled to occur.</p> <p>(3) Measurement to begin in July 2015 and measured on monthly basis at the end of the month.</p>	≥99% web-based service uptime as measured over a 10 month period in first year and 12 months each subsequent year., excluding scheduled maintenance. Operational issues will be limited to those within the scope and control of the service provider.	Performance Fee of \$3,500 for each contract year.

### **Biometric Screening Performance Guarantees:**

Metric	Measure	Performance Guarantee	Fees at Risk
<b>Start Time</b>	All scheduled events shall begin no later than ten (10) minutes after the scheduled event start time. The event will not be considered "late" if it is weather or natural disaster related or due to the site location not being made accessible by the County.	\$500 per event, if any one event starts more than ten (10) minutes late by no fault of County. The event start time will be shared with the County and confirmed prior to the scheduled event.	\$500 per event, up to a maximum of \$8,000 during each Wellness Incentive Period.
<b>Supplies</b>	<p>(1) All scheduled events shall screen the number of expected participants.</p> <p>(a) The amount of supplies will be at each event based the number of screenings ordered.</p>	\$500 per event if any one event does not have the adequate amount of supplies for the expected number of participants by no fault of County.	\$500 per event, up to a maximum of \$8,000 during each Wellness Incentive

## Attachment B - Redline Changes to Contract with The StayWell Company LLC

	(b) The number ordered will be submitted to the County for review and approval before the order is submitted	The expected number of participants will be shared with the County and confirmed prior to the scheduled event.	Period.
<b>Staff</b>	All scheduled events shall be fully staffed according to the number of expected participants and amount of time designated to the event.	\$500 per event if any one event is not fully staffed, or, if Contractor does not confirm the number of staff to County prior to scheduled event. The number of staff will be confirmed by the Contractor to the County prior to the scheduled event.	\$500 per event, up to a maximum of \$8,000 during each Wellness Incentive Period.
<b>Cancellations</b>	No events shall be cancelled by Vendor.	This guarantee would be subject to any event cancelled within 10 business days of event.	\$500 per event, up to a maximum of \$8,000 during each Wellness Incentive Period.
<b>Online Scheduler Availability</b>	(1) Online Scheduler will be operational 99%, with the exception of scheduled maintenance. (2) The County will be alerted of urgent updates to the web portal within 48 hours of when the change is scheduled to occur. (3) The County will be alerted of scheduled updates to the web portal at least 30 days in advance of when the changes are scheduled to occur.	≥99% web-based service uptime as measured during the incentive period, excluding scheduled maintenance. Operational issues will be limited to those within the scope and control of the service provider.	\$3,500 for each Wellness Incentive scheduling period.

### Telephonic Coaching Services Performance Guarantees – Applicable Only When Coaching is Implemented by County

Metric	Measure	Performance Guarantee	Fees at Risk
<b>Participation</b>	<p>(1) Performance will be monitored throughout the program. The formal performance guarantee measurement date will occur within 90 days following the close of activity for the previous contract year.</p> <p>(a) Telephonic lifestyle health coaching programs must be promoted through Contractor's standard online contact process.</p> <p>(b) County will provide Contractor accurate and complete home addresses and telephone numbers on the customer eligibility file prior to implementation; a minimum accuracy rate of 90% is required.</p> <p>(c) Customer must implement targeting criteria that results in at least 50% of telephonic lifestyle coaching program eligibility for participants who complete the online health assessment.</p> <p>(2) Individuals who complete at least one coaching call and schedule their second call are considered participants.</p> <p>(3) Participation will be evaluated quarterly (every 90 days); if prior to formal performance assessment it appears participation will not meet the assumed levels, strategies to increase participation will be discussed and implemented.</p> <p>(4) Numerator: Count of participants who complete at least one (1) telephonic lifestyle health coaching call.</p> <p>(5) Denominator: Count of participants who registered for a telephonic lifestyle health coaching program.</p>	>20% of the participants that register for telephonic health coaching, with valid contact information, will complete at least one telephonic Lifestyle Management call.	Performance Fee of \$5,500/contract year.

## Attachment B - Redline Changes to Contract with The StayWell Company LLC

	(6) Assumes a minimum of 500 telephonic health coaching participants.		
<b>Engagement</b>	<p>(1) Assessment of engagement will be based on participants enrolled in the contract year being assessed.</p> <p>(2) Performance will be monitored throughout the contract year. The formal performance guarantee measurement date will occur during the 1st quarter following the close of activity for the previous contract year.</p> <p>(3) Engagement will be evaluated quarterly (every 90 days); if prior to formal performance assessment it appears engagement will not meet the assumed levels, strategies to increase engagement will be discussed and implemented.</p> <p>(4) Participants who receive their first call in the last quarter of the measurement year will be excluded from the calculation.</p> <p>(5) Numerator: Count of Participants in the denominator who complete three (3) or more coaching calls and Denominator: Count of Participants that complete one (1) or more coaching calls</p> <p>(6) Assumes a minimum of 500 telephonic health coaching participants.</p>	A minimum of 30% of participants will complete a minimum of three coaching calls.	Performance Fee of \$5,500/contract year.

Notes:

1. In the event that any PG is not able to be calculated due to unmet assumption criteria, that PG will be void and the Fees at Risk associated with that PG will not be reallocated to any other PG.
2. Measurement for all PGs will be based upon Customer's active employee population only.
3. Customer termination during an active Program Year will void all PGs associated with that year.
4. Any undisputed fees not paid in full within sixty (60) days of the invoice date shall void all Performance Guarantees, in their entirety, related to the applicable Program Year of such undisputed fee.



**Attachment F****Account Management Report Card****Rating Methodology:**

5 = Completely Satisfied  
 4 = Very Satisfied  
 3 = Satisfied  
 2 = Somewhat Satisfied  
 1 = Dissatisfied

Client/Company Name: County of Orange  
 Completed By (please print): \_\_\_\_\_  
 Client Signature \_\_\_\_\_  
 Date completed: \_\_\_\_\_  
 Telephone #: \_\_\_\_\_

County will complete the box with the score that most closely reflects the level of satisfaction with the local account management team with respect to the following service categories. A separate quarterly report card will be completed, every 90 days, and will be signed and dated each quarter.

<b>Measurable Need</b>	<b>1<sup>st</sup> Q</b>	<b>2<sup>nd</sup> Q</b>	<b>3<sup>rd</sup> Q</b>	<b>4<sup>th</sup> Q</b>	<b>Composite to be completed by PG Unit</b>
1. Responds to client issues and questions in a timely, comprehensive manner.					
2. Develops, follows through on action plans; effective coordination to resolve open issues.					
3. Provides client with timely notification of issues impacting participants					
4. Provides effective support in preparing for, and conducting annual biometric and HRA campaign					
5. Account Management - Delivers agreed upon reports and communication of Contractor results on time					
Account Management Composite Score (All Categories)					

Fill in for each quarterly period:

Date Sent to Client:

Date Returned by Client:

\_\_\_\_/\_\_\_\_/\_\_\_\_    \_\_\_\_/\_\_\_\_/\_\_\_\_    \_\_\_\_/\_\_\_\_/\_\_\_\_    \_\_\_\_/\_\_\_\_/\_\_\_\_  
 \_\_\_\_/\_\_\_\_/\_\_\_\_    \_\_\_\_/\_\_\_\_/\_\_\_\_    \_\_\_\_/\_\_\_\_/\_\_\_\_    \_\_\_\_/\_\_\_\_/\_\_\_\_

## **EXHIBIT 1**

### **BUSINESS ASSOCIATE CONTRACT**

#### **A. GENERAL PROVISIONS AND RECITALS**

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

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

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

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

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

6. The Parties understand that the HIPAA Privacy and Security rules, as defined below in Subparagraphs B.9 and B.14, apply to the Contractor in the same manner as they apply to a covered entity (County). Contractor agrees therefore to be in compliance at all times with the terms of this Business Associate Contract and the applicable standards, implementation specifications, and requirements of the Privacy and the Security rules, as they may exist now or be hereafter amended, with respect to PHI and electronic PHI created, received, maintained, transmitted, used, or disclosed pursuant to the Contract .

#### **B. DEFINITIONS**

1. “Administrative Safeguards” are administrative actions, and policies and procedures, to manage the selection, development, implementation, and maintenance of security measures to protect electronic PHI and to manage the conduct of Contractor’s workforce in relation to the protection of that information.

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

a. Breach excludes:

## Attachment B - Redline Changes to Contract with The StayWell Company LLC

i. Any unintentional acquisition, access, or use of PHI by a workforce member or person acting under the authority of Contractor or County, if such acquisition, access, or use was made in good faith and within the scope of authority and does not result in further use or disclosure in a manner not permitted under the Privacy Rule.

ii. Any inadvertent disclosure by a person who is authorized to access PHI at Contractor to another person authorized to access PHI at the Contractor, or organized health care arrangement in which County participates, and the information received as a result of such disclosure is not further used or disclosed in a manner not permitted under the HIPAA Privacy Rule.

iii. A disclosure of PHI where Contractor or County has a good faith belief that an unauthorized person to whom the disclosure was made would not reasonably have been able to retain such information.

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

i. The nature and extent of the PHI involved, including the types of identifiers and the likelihood of re-identification;

ii. The unauthorized person who used the PHI or to whom the disclosure was made;

iii. Whether the PHI was actually acquired or viewed; and

iv. The extent to which the risk to the PHI has been mitigated.

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

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

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

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

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

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

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

10. “Protected Health Information” or “PHI” shall have the meaning given to such term under the HIPAA regulations in 45 CFR § 160.103, limited however, to the PHI that Contractor creates, receives, maintains, or transmits

## Attachment B - Redline Changes to Contract with The StayWell Company LLC

on behalf of County.

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

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

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

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

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

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

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

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

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

1. Contractor agrees not to use or further disclose PHI County discloses to Contractor other than as permitted or required by this Business Associate Contract or as required by law.

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

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

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

5. Contractor agrees to report to County promptly any Use or Disclosure of PHI not provided for by this Business Associate Contract of which Contractor becomes aware. Contractor must report Breaches of Unsecured PHI in accordance with Paragraph E below and as required by 45 CFR § 164.410.

6. Contractor agrees to ensure that any Subcontractors that create, receive, maintain, or transmit PHI on

## Attachment B - Redline Changes to Contract with The StayWell Company LLC

behalf of Contractor agree to the same restrictions and conditions that apply through this Business Associate Contract to Contractor with respect to such information.

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

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

9. Contractor agrees to make internal practices, books, and records, including policies and procedures, relating to the use and disclosure of PHI received from, or created or received by Contractor on behalf of, County available to the Secretary in a time and manner as determined by the Secretary for purposes of the Secretary determining County's compliance with the HIPAA Privacy Rule. Contractor agrees to make internal practices, books, and records, including policies and procedures, relating to the use and disclosure of PHI received from, or created or received by Contractor on behalf of, County available to the County during mutually agreeable times and normal business hours for purposes of the County determining Contractor's compliance with this Business Associate Contract.

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

11. Contractor agrees to provide County or an Individual, as directed by County, in a reasonable time and manner to be determined by County, with information collected in accordance with the Contract, in order to permit County to respond to a request by an Individual for an accounting of Disclosures of PHI in accordance with 45 CFR § 164.528.

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

13. Contractor shall work with County upon notification by Contractor to County of a Breach to properly determine if any Breach exclusions exist as defined in Subparagraph B.2.a above.

### D. SECURITY RULE

1. Contractor shall comply with the requirements of 45 CFR § 164.306 and establish and maintain reasonable and appropriate Administrative, Physical and Technical Safeguards in accordance with 45 CFR § 164.308, § 164.310, § 164.312, and § 164.316 with respect to electronic PHI County discloses to Contractor or Contractor creates, receives, maintains, or transmits on behalf of County. Contractor shall follow generally accepted system security principles and the requirements of the HIPAA Security Rule pertaining to the security of electronic PHI.

## Attachment B - Redline Changes to Contract with The StayWell Company LLC

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

3. Contractor shall report to County promptly any Security Incident of which it becomes aware. Contractor shall report Breaches of Unsecured PHI in accordance with Paragraph E below and as required by 45 CFR § 164.410.

### E. BREACH DISCOVERY AND NOTIFICATION

1. Following the discovery of a Breach of Unsecured PHI, Contractor shall notify County of such Breach, however both Parties agree to a delay in the notification if so advised by a law enforcement official pursuant to 45 CFR § 164.412.

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

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

2. Contractor shall provide the notification of the Breach promptly to the County Privacy Officer at

Thea Bullock, County Privacy Officer 405 W. 5 <sup>th</sup> Street Santa Ana, CA 92701 (714) 834-3154 <a href="mailto:privacyofficer@ocgov.com">privacyofficer@ocgov.com</a>	Or Linda Le, Deputy County Privacy Officer 405 W. 5 <sup>th</sup> Street Santa Ana, CA 92701 (714) 834-4082 <a href="mailto:lile@ochca.com">lile@ochca.com</a> <a href="mailto:HIPAA@ochca.com">HIPAA@ochca.com</a>
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a. Contractor's notification may be oral, but shall be followed by written notification within 5 business days of the oral notification.

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

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

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

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

## Attachment B - Redline Changes to Contract with The StayWell Company LLC

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

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

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

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

4. County may require Contractor to provide notice to the Individual as required in 45 CFR § 164.404, if it is reasonable to do so under the circumstances and if the Breach was a result of a breach of this Business Associate Contract by Contractor, at the reasonable discretion of the County.

5. In the event that Contractor is responsible for a Breach of Unsecured PHI in violation of the HIPAA Privacy Rule, Contractor shall have the burden of demonstrating that Contractor made all notifications to County consistent with this Paragraph E, or, in the alternative, that the acquisition, access, use, or disclosure of PHI did not constitute a Breach. and:

(1) Contractor shall maintain documentation of all required notifications of a Breach or its risk assessment under 45 CFR § 164.402 to demonstrate that a Breach did not occur.

(2) Contractor shall provide to County, to the maximum extent possible, all specific and pertinent information about the Breach, including the information listed in Section E.3.b. (1)-(5) above, if not yet provided, to permit County to meet its notification obligations under Subpart D of 45 CFR Part 164 promptly, but in no event later than fifteen (15) calendar days after Contractor's initial report of the Breach to County pursuant to Subparagraph E.2 above.

(3) Contractor shall continue to provide all additional pertinent information about the Breach to County as it may become available. Contractor shall also respond in good faith to any reasonable requests for further information, or follow-up information after report to County, when such request is made by County.

(4) To the extent the Breach of Unsecured PHI arises as a result of Contractor's breach of this Business Associate Contract, Contractor shall bear all reasonable expenses or other costs associated with the Breach and shall reimburse County for all reasonable expenses County incurs in addressing the Breach, including costs of, notification,, documentation or other costs associated with addressing the Breach.

### F. PERMITTED USES AND DISCLOSURES BY CONTRACTOR

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

## Attachment B - Redline Changes to Contract with The StayWell Company LLC

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

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

i. The Disclosure is required by law; or

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

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

2. Contractor may use PHI County discloses to Contractor, if necessary, to carry out legal responsibilities of Contractor.

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

4. Contractor may use or disclose PHI County discloses to Contractor as required by law.

### G. OBLIGATIONS OF COUNTY

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

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

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

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

### H. BUSINESS ASSOCIATE TERMINATION

1. Upon County's knowledge of a material breach or violation by Contractor of the requirements of this Business Associate Contract, County shall:

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

b. Terminate this Business Associate Contract upon written notice, if Contractor is unwilling or unable to cure the material breach or end the violation within (30) days, provided termination of this Business



## Attachment B - Redline Changes to Contract with The StayWell Company LLC

Associate Contract is feasible.

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

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

b. Contractor shall retain no copies of the PHI.

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

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

**EXHIBIT 2**

**County of Orange Child Support Enforcement  
Certifications Requirements**

- A. In the case of an individual Contractor, his/her name, date of birth, Social Security number, and residence address:

Name: \_\_\_\_\_  
D.O.B: \_\_\_\_\_  
Social Security No: \_\_\_\_\_  
Residence Address: \_\_\_\_\_  
\_\_\_\_\_

- B. In the case of a Contractor doing business in a form other than as an individual, the name, date of birth, Social Security number, and residence address of each individual who owns an interest of 10 percent or more in the contracting entity:

Name: \_\_\_\_\_  
D.O.B: \_\_\_\_\_  
Social Security No: \_\_\_\_\_  
Residence Address: \_\_\_\_\_  
\_\_\_\_\_

Name: \_\_\_\_\_  
D.O.B: \_\_\_\_\_  
Social Security No: \_\_\_\_\_  
Residence Address: \_\_\_\_\_  
\_\_\_\_\_

(Additional sheets may be used if necessary)

*"I certify that \_\_\_\_\_ Company name \_\_\_\_\_ is in full compliance with all applicable federal and state reporting requirements regarding its employees and with all lawfully served Wage and Earnings Assignment Orders and Notices of Assignments and will continue to be in compliance throughout the term of the Contract with the County of Orange. I understand that failure to comply shall constitute a material breach of the contract and that failure to cure such breach within 60 calendar days of notice from the County shall constitute grounds for termination of the contract.*

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Authorized Signature	Name	Title	Date
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### **EXHIBIT 3**

#### **EDD Independent Contractor Reporting Requirements**

Effective January 1, 2001, the County of Orange is required to file federal Form 1099-Misc for services received from a “service provider” to whom the County pays \$600 or more or with whom the County enters into a contract for \$600 or more within a single calendar year. The purpose of this reporting requirement is to increase child support collection by helping to locate parents who are delinquent in their child support obligations.

The term “service provider” is defined in California Unemployment Insurance Code Section 1088.8, subparagraph B.2 as “an individual who is not an employee of the service recipient for California purposes and who received compensation or executes a contract for services performed for that service recipient within or without the state.” The term is further defined by the California Employment Development Department to refer specifically to independent Offerors. An independent contractor is defined as “an individual who is not an employee of the ... government entity for California purposes and who receives compensation or executes a contract for services performed for that...government entity either in or outside of California.”

The reporting requirement does not apply to corporations, general partnerships, limited liability partnerships, and limited liability companies.

Additional information on this reporting requirement can be found at the California Employment Development Department web site located at [www.edd.ca.gov/txicr.htm](http://www.edd.ca.gov/txicr.htm).

To comply with the reporting requirements, County procedures for contracting with independent Offerors mandate that the following information be completed and forwarded to the contracting agency/department immediately upon request:

First name, middle initial and last name  
Social Security Number  
Address  
Start and expiration dates of contract  
Amount of contract

_____		
First Name	Middle Initial	Last Name
SSN _____		
Contract Number _____		Dollar value of contract _____
Start Date _____		Expiration Date _____