

AGREEMENT FOR PROVISION OF
HIV CARE SERVICES
BETWEEN
COUNTY OF ORANGE
AND
SHANTI ORANGE COUNTY
MARCH 1, ~~2016~~2019 THROUGH FEBRUARY ~~28, 2019~~29, 2020

THIS AGREEMENT entered into this 1st day of March ~~2016, which date is enumerated for purposes of reference only~~2019, is by and between the COUNTY OF ORANGE, a political subdivision of State of California (COUNTY) and SHANTI ORANGE COUNTY, a California nonprofit corporation (CONTRACTOR). COUNTY and CONTRACTOR may sometimes be referred to herein individually as "Party" or collectively as "Parties." This Agreement shall be administered by the County of Orange Health Care Agency (ADMINISTRATOR).

W I T N E S S E T H:

~~—WHEREAS, of December 2014, there were 5,760 residents living with Human Immunodeficiency Virus disease (HIV); and~~

WHEREAS, COUNTY wishes to contract with CONTRACTOR for the provision of HIV Care services described herein to the residents of Orange County ~~where there are an additional estimated 938 individuals unaware that they are infected with HIV;~~ and

WHEREAS, COUNTY receives funding from the Health Resources and Services Administration for Core Medical and Non-Core Medical Services, such as Case Management Services, Mental Health Services, Health Insurance Premium and Cost Sharing/Emergency Financial Assistance for Medications, Home Health Care/Home and Community-Based Health Services/Hospice Services/Rehabilitation, Nutrition Services, Medical Transportation Services, Legal Services ; and

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

~~—NOW, THEREFORE, IT IS MUTUALLY AGREED AS FOLLOWS:~~

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

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REFERENCED CONTRACT PROVISIONS

Term: ~~March 1, 2016~~ 2019 through February ~~28, 2019~~ 29, 2020

~~Period One means the period from March 1, 2016 through February 28, 2017~~

~~Period Two means the period from March 1, 2017 through February 28, 2018~~

~~Period Three means the period from March 1, 2018 through February 28, 2019~~

Maximum Obligation:

Period One Maximum Obligation:	\$148 <u>\$ 168</u> ,607
Period Two Maximum Obligation:	158 ,607
Period Three Maximum Obligation:	158 ,607
TOTAL MAXIMUM OBLIGATION:	\$465,821 '

Basis for Reimbursement: Actual Cost

Payment Method: Payment in Arrears

CONTRACTOR DUNS Number: ~~930610183~~

CONTRACTOR TAX ID Number: ~~33-0236592~~

Notices to COUNTY and CONTRACTOR:

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

CONTRACTOR: Shanti Orange County
23461 South Pointe Drive, Suite 100
Laguna Hills, CA 92653
Attn: ~~Sarah Kasman~~ Lindsay Fitzpatrick
~~sarah.kasman@shantioc.org~~
lindsay.fitzpatrick@shantioc.org

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I. ACRONYMS

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

A. ADAP	— AIDS Drug Assistance Program
B. AIDS —	Acquired Immune Deficiency Syndrome
C. ARRA	American Recovery and Reinvestment Act of 2009
D. ASRS	Alcohol and Drug Programs Reporting System
E. CAN	Certified Nursing Attendants
F. CAP	Corrective Action Plan
G. CCC	California Civil Code
H. CCR	California Code of Regulations
I. CDC	Centers for Disease Control
J. CFDA	Catalog of Federal Domestic Assistance
K. CFR	Code of Federal Regulations
L. CHPP	COUNTY HIPAA Policies and Procedures
M. CHS	Correctional Health Services
N. CIPA	California Information Practices Act
O. CMPPA —	Computer Matching and Privacy Protection Act
P. COI	Certificate of Insurance
Q. CPA	Certified Public Accountant
R. CSI	Client and Services Information
S. DCR	Data Collection and Reporting
T. DD	Dually Diagnosed
U. DHCS	California Department of Health Care Services
V. D/MC	Drug/Medi-Cal
W. DME	Durable Medical Equipment
X. DPFS	Drug Program Fiscal Systems
Y. DRP	Disaster Recovery Plan
Z. DRS	Designated Record Set
AA. EEOC	Equal Employment Opportunity Commission
AB. EHR	Electronic Health Records
AC. ePHI	Electronic Protected Health Information
AD. ERC	Emergency Receiving Center
AE. FFS	Fee For service
AF. FIPS	Federal Information Processing Standards
AG. FQHC	Federally Qualified Health Center
AH. FTE	Full Time Equivalent

AI.	GAAP	Generally Accepted Accounting Principles
AJ.	HAB—	Federal HIV/AIDS Bureau
AK.	HCA	County of Orange Health Care Agency
AL.	HHS	Federal Health and Human Services Agency
AM.	HIPAA	Health Insurance Portability and Accountability Act of 1996, Public Law 104-191
AN.	HITECH	—Health Information Technology for Economic and Clinical Health — Act, Public Law 111-005
AO.	HIV	Human Immunodeficiency Virus
AP.	HRSA	Federal Health Resources and Services Administration
AQ.	HSC	California Health and Safety Code
AR.	ISO	Insurance Services Office
AS.	ITP	Individualized Treatment Plan
AT.	LGBTQI—	Lesbian, Gay, Bisexual, Transgender, Questioning, and Intersex
AU.	MAI	Minority AIDS Initiative
AV.	MOU	Memoranda of Understanding
AW.	NIH	National Institutes of Health
AX.	NIST	 National Institute of Standards and Technology
AY.	NOA	Notice of Action
AZ.	NP	Nurse Practitioner
BA.	NPDB	 National Provider Data Bank
BB.	NPI	 National Provider Identifier
BC.	NPP 	Notice of Privacy Practices
BD.	OCJS	Orange County Jail System
BE.	OCPD	Orange County Probation Department
BF.	OCR	Federal Office for Civil Rights
BG.	OCSD	Orange County Sheriff's Department
BH.	OIG	Federal Office of Inspector General
BI.—	OMB	Federal Office of Management and Budget
BJ.	—OPM	Federal Office of Personnel Management
BK.	P&P	Policy and Procedure
BL.	PA DSS—	Payment Application Data Security Standard
BM.	PAF	Partnership Assessment Form
BN.	PC	California Penal Code
BO.	PCI DSS—	Payment Card Industry Data Security Standard
BP.	PHI	Protected Health Information
BQ.	PI	Personal Information

BR.	PII	Personally Identifiable Information
BS.	PRA	California Public Records Act
BT.	QI	Quality Improvement
BU.	QIC	Quality Improvement Committee
BV.	QM	Quality Management
BW.	RSR	Ryan White Services Reports
BX.	SIR	Self-Insured Retention
BY.	SNAP	Supplemental Nutrition Assistance Program
BZ.	SSI	Supplemental Security Income
CA.	STP	Special Treatment Program
CB.	UOS	Units of Service
CC.	USC	United States Code
CD.	W&IC	California Welfare and Institutions Code
CE.	WIC	Women, Infants and Children

II. ALTERATION OF TERMS

A. This Agreement, together with Exhibits A, B, and C attached hereto and incorporated herein, fully expresses the complete understanding of COUNTY and CONTRACTOR with respect to the subject matter of this Agreement.

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

III. ASSIGNMENT OF DEBTS

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

IV. COMPLIANCE

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

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

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

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

3. If CONTRACTOR ~~elects~~ does not provide proof of its own Compliance Program to ~~adhere~~ ADMINISTRATOR, CONTRACTOR shall acknowledge to ~~HCA's~~ comply with ADMINISTRATOR's Compliance Program and Code of Conduct; the CONTRACTOR shall submit to the ADMINISTRATOR within thirty (30) calendar days of ~~award~~ execution of this Agreement a signed acknowledgement that CONTRACTOR shall comply with ~~HCA's~~ ADMINISTRATOR's Compliance Program and Code of Conduct.

4. If CONTRACTOR elects to have its own Compliance Program ~~and~~ Code of Conduct ~~and~~ any compliance related policies and procedures review by ADMINISTRATOR, then ~~it~~ CONTRACTOR shall submit a copy of its ~~Compliance Program, Code~~ compliance program, code of ~~Conduct~~ conduct and all relevant policies and procedures to ADMINISTRATOR within thirty (30) calendar days of ~~award~~ execution of this Agreement. ADMINISTRATOR's Compliance Officer, or designee, shall review said documents within a reasonable time, which shall not exceed forty five (45) calendar days, and determine if CONTRACTOR's proposed compliance program and code of conduct contain all required elements to the ADMINISTRATOR's satisfaction as consistent with the HCA's Compliance Program and Code of Conduct ~~contains all required elements~~. ADMINISTRATOR shall inform CONTRACTOR ~~shall take necessary action~~ of any missing required elements and CONTRACTOR shall revise its compliance program and code of conduct to meet ~~said standards or shall be asked to~~ acknowledge and agree to HCA's Compliance Program and Code of Conduct if the CONTRACTOR's Compliance Program and Code of Conduct does not contain all required elements. ADMINISTRATOR's required elements within thirty (30) calendar days after ADMINISTRATOR's Compliance Officer's determination and resubmit the same for review by the ADMINISTRATOR.

5. Upon written confirmation from ADMINISTRATOR's Compliance Officer that the CONTRACTOR's ~~Compliance Program and Code of Conduct contains~~ compliance program, code of conduct and any compliance related policies and procedures contain all required elements, CONTRACTOR shall ensure that all Covered Individuals relative to this Agreement are made aware of CONTRACTOR's ~~Compliance Program, Code~~ compliance program, code of Conduct and ~~conduct~~ related policies and procedures and contact information for the ADMINISTRATOR's Compliance Program.

~~6. Failure of CONTRACTOR to submit its Compliance Program, Code of Conduct and relevant policies and procedures shall constitute a material breach of this Agreement. Failure to cure such breach within sixty (60) calendar days of such notice from ADMINISTRATOR shall constitute grounds for termination of this Agreement as to the non-complying party.~~

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

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

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

- a. is currently excluded, suspended, debarred or otherwise ineligible to participate in federal and state health care programs; or
- b. has been convicted of a criminal offense related to the provision of health care items or services and has not been reinstated in the federal and state health care programs after a period of exclusion, suspension, debarment, or ineligibility.

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

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

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

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

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

~~promptly return any overpayments within forty-five (45) business days after the overpayment is verified by ADMINISTRATOR.~~

C. GENERAL COMPLIANCE TRAINING – ADMINISTRATOR shall make General Compliance Training ~~and Provider Compliance Training, where appropriate,~~ available to Covered Individuals.

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

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

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

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

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

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

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

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

3. ~~—D~~ Such training will be made available to each Covered Individual annually.

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

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

E. MEDICAL BILLING, CODING, AND DOCUMENTATION COMPLIANCE STANDARDS

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

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

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

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

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

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

V. CONFIDENTIALITY

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

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

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

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

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

VI. COST REPORT

A. CONTRACTOR shall submit separate Cost Reports ~~for Period One, Period Two and Period Three, or for a portion thereof,~~ to COUNTY no later than sixty (60) calendar days following termination

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

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

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

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

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

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

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

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

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

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

E. If the Cost Report indicates the actual and reimbursable costs of services provided pursuant to this Agreement, less applicable revenues and late penalty, are higher than the aggregate of interim monthly payments to CONTRACTOR, COUNTY shall pay CONTRACTOR the difference, provided such payment does not exceed the Maximum Obligation of COUNTY.

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

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

Signed _____
 Name _____
 Title _____
 Date _____"

VII. DELEGATION, ASSIGNMENT AND SUBCONTRACTS

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

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B. CONTRACTOR may not assign the rights hereunder, either in whole or in part, without the prior written consent of COUNTY.

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

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

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

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

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

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

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

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

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

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

VIII. EMPLOYEE ELIGIBILITY VERIFICATION

CONTRACTOR warrants that it shall fully comply with all federal and state statutes and regulations regarding the employment of aliens and others and to ensure that employees, subcontractors, and consultants performing work under this Agreement meet the citizenship or alien status requirements set forth in federal statutes and regulations. CONTRACTOR shall obtain, from all employees, subcontractors, and consultants 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 USC §1324 et seq., as they currently exist and as they may be hereafter amended. CONTRACTOR shall retain all such documentation for all covered employees, subcontractors, and consultants for the period prescribed by the law.

IX. EQUIPMENT

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

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

C. Upon ADMINISTRATOR’s prior written approval, CONTRACTOR may expense to COUNTY the cost of the approved Equipment purchased by CONTRACTOR. To “expense,” in relation to

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

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

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

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

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

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

X. FACILITIES, PAYMENTS AND SERVICES

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

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

XI. INDEMNIFICATION AND INSURANCE

A. CONTRACTOR agrees to indemnify, defend with counsel approved in writing by COUNTY, and hold COUNTY, its elected and appointed officials, officers, employees, agents and those special districts and agencies for which COUNTY's Board of Supervisors acts as the governing Board ("COUNTY INDEMNITEES") harmless from any claims, demands or liability of any kind or nature,

including but not limited to personal injury or property damage, arising from or related to the services, products or other performance provided by CONTRACTOR pursuant to this Agreement. 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.

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

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

D. All SIRs and deductibles shall be clearly stated on the COI. ~~If no SIRs or deductibles apply, indicate this on the COI with a zero (0) by the appropriate line of coverage.~~ Any SIR or deductible in an amount in excess of ~~\$25,000 (\$5,000 for automobile liability)~~, shall specifically be approved by the CEO/Office of Risk Management upon review of CONTRACTOR's current audited financial report. If CONTRACTOR's SIR is approved, CONTRACTOR, in addition to, and without limitation of, any other indemnity provision(s) in this Agreement, agrees to all of the following:

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

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

3. The provisions of California Civil Code Section 2860 shall apply to any and all actions to which the duty to defend stated above applies, and the CONTRACTOR's SIR provision shall be

interpreted as though the CONTRACTOR was an insurer and the COUNTY was the insured.

E. If CONTRACTOR fails to maintain insurance ~~acceptable to COUNTY~~ as required in this Paragraph XII (INDEMNIFICATION AND INSURANCE) for the full term of this Agreement, ~~COUNTY may~~ such failure shall constitute a breach of CONTRACTOR'S obligation hereunder and ground for COUNTY to terminate this Agreement.

F. QUALIFIED INSURER

1. The policy or policies of insurance must be issued by an insurer with a minimum rating of 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). It is preferred, but not mandatory, that the insurer be licensed to do business in the state of California (California Admitted Carrier).

2. If the insurance carrier does not have an A.M. Best Rating of A-/VIII, the 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.

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

<u>Coverage</u>	<u>Minimum Limits</u>
Commercial General Liability	\$1,000,000 per occurrence \$2,000,000 aggregate
Automobile Liability including coverage for owned, non-owned and hired vehicles	\$1,000,000 per occurrence
Workers' Compensation	Statutory
Employers' Liability Insurance	\$1,000,000 per occurrence
Network Security & Privacy Liability	\$1,000,000 per claims made
Professional Liability Insurance	\$1,000,000 per claims made \$1,000,000 aggregate
Sexual Misconduct Liability	\$1,000,000 per occurrence
Employee Dishonesty	\$1,000,000 per occurrence

H. REQUIRED COVERAGE FORMS

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

I. REQUIRED ENDORSEMENTS—

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

1 a. 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, and agents as Additional Insureds, or provide blanket coverage, which will state AS REQUIRED BY WRITTEN AGREEMENT.

2 b. A primary non-contributing endorsement using ISO form CG 20 01 04 13, or a form at least as broad 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.

2. The Network Security and Privacy Liability policy shall contain the following endorsements which shall accompany the Certificate of Insurance:

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

b. A primary and 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.

J. All insurance policies required by this Agreement 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.

K. 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, or provide blanket coverage, which will state AS REQUIRED BY WRITTEN AGREEMENT.

L. CONTRACTOR shall notify COUNTY in writing within thirty (30) days of any policy cancellation and within ten (10) days for non-payment of premium and provide a copy of the cancellation notice to COUNTY. Failure to provide written notice of cancellation ~~may~~ shall constitute a ~~material~~ breach of ~~the Agreement, upon which the~~ CONTRACTOR's obligation hereunder and ground for, COUNTY ~~may suspend or~~ to terminate this Agreement.

M. If CONTRACTOR's Professional Liability policy ~~is a "claims made~~ and Network Security & Privacy Liability are "Claims Made" policy, CONTRACTOR shall agree to maintain ~~Professional Liability~~ coverage for two (2) years following completion of Agreement.

N. 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).

O. 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 Agreement. Any increase or decrease in insurance will be as deemed by County of Orange Risk Manager as appropriate to adequately protect COUNTY.

P. COUNTY shall notify CONTRACTOR in writing of changes in the insurance requirements. If CONTRACTOR does not deposit copies of acceptable COIs and endorsements with COUNTY incorporating such changes within thirty (30) calendar days of receipt of such notice, such failure shall constitute a breach of CONTRACTOR’s obligation hereunder and ground for termination of this Agreement ~~may be in breach without further notice to CONTRACTOR, and by COUNTY shall be entitled to all legal remedies.~~

Q. 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 Agreement, nor act in any way to reduce the policy coverage and limits available from the insurer.

R. SUBMISSION OF INSURANCE DOCUMENTS

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

- Prior to the start date of this Agreement.
- No later than the expiration date for each policy.
- Within thirty (30) calendar days upon receipt of written notice by COUNTY regarding changes to any of the insurance types as set forth in Subparagraph G, ~~of this Agreement,~~ above.

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

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

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

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

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

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

XII. INSPECTIONS AND AUDITS

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

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

C. AUDIT RESPONSE

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

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

D. CONTRACTOR shall retain a licensed certified public accountant, who will prepare ~~an annual Single Audit as required by 31 USC 7501–7507, as well as its implementing regulations under 2 CFR Part 200, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards. CONTRACTOR shall forward the Single Audit to ADMINISTRATOR within fourteen (14) calendar days of receipt~~ and file with ADMINISTRATOR, an annual, independent, organization-wide

audit of related expenditures as may be required during the term of this Agreement.

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

XIII. LICENSES AND LAWS

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

B. ENFORCEMENT OF CHILD SUPPORT OBLIGATIONS

1. CONTRACTOR certifies it 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 Agreement with the County of Orange. Failure to comply shall constitute a material breach of the Agreement and failure to cure such breach within sixty (60) calendar days of notice from the COUNTY shall constitute grounds for termination of the Agreement.

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

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

b. In the case of a ~~contractor~~ 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 ten percent (10%) or more in the contracting entity;

~~c. A certification that CONTRACTOR has fully complied with all applicable federal and state reporting requirements regarding its employees;~~

~~d. A certification that CONTRACTOR has fully complied with all lawfully served Wage and Earnings Assignment Orders and Notices of Assignment, and will continue to so comply.~~

~~2. Failure of CONTRACTOR to timely submit the data and/or certifications required by Subparagraphs 1.a., 1.b., 1.c., or 1.d. above, or to comply with all federal and state employee 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 this Agreement; and~~

~~failure to cure such breach within sixty (60) calendar days of notice from COUNTY shall constitute grounds for termination of this Agreement.~~

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

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

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

XIV. LITERATURE, ADVERTISEMENTS, AND SOCIAL MEDIA

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

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

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

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

XV. MAXIMUM OBLIGATION

A. The ~~Total~~ Maximum Obligation of COUNTY for services provided in accordance with this Agreement, ~~and the separate Maximum Obligations for each period under this Agreement, are~~ is as specified in the Referenced Contract Provisions of this Agreement, except as allowed for in Subparagraph B. below.

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

XVI. MINIMUM WAGE LAWS

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

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

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

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XVII. NONDISCRIMINATION

A. EMPLOYMENT

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

XVIII. NOTICES

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

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

2. When faxed, transmission confirmed;

3. When sent by Email; or

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

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

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

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

XIX. NOTIFICATION OF DEATH

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

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

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

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

2. WRITTEN NOTIFICATION

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

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

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

XX. NOTIFICATION OF PUBLIC EVENTS AND MEETINGS

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

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

XXI. RECORDS MANAGEMENT AND MAINTENANCE

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

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

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

~~—D~~ B. CONTRACTOR shall ensure appropriate financial records related to cost reporting,

expenditure, revenue, billings, etc., are prepared and maintained accurately and appropriately.

E. CONTRACTOR shall ensure all appropriate state and federal standards of documentation, preparation, and confidentiality of records related to participant, client and/or patient records are met at all times.

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

- ~~1. The medical records and billing records about individuals maintained by or for a covered health care provider;~~
- ~~2. The enrollment, payment, claims adjudication, and case or medical management record systems maintained by or for a health plan; or~~
- ~~3. Used, in whole or in part, by or for the covered entity to make decisions about individuals.~~

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

- ~~1. Have documents readily available within forty eight (48) hour notice of a scheduled audit or site visit.~~
- ~~2. Provide auditor or other authorized individuals access to documents via a computer terminal.~~
- ~~3. Provide auditor or other authorized individuals a hardcopy printout of documents, if requested.~~

~~H. CONTRACTOR shall ensure compliance with requirements pertaining to the privacy and security of PII and/or PHI. CONTRACTOR shall notify COUNTY immediately by telephone call plus email or fax upon the discovery of a Breach of unsecured PHI and/or PII.~~

~~I. CONTRACTOR may be required to pay any costs associated with a Breach of privacy and/or security of PII and/or PHI, including but not limited to the costs of notification. CONTRACTOR shall pay any and all such costs arising out of a Breach of privacy and/or security of PII and/or PHI.~~

~~J. CONTRACTOR shall retain all client and/or patient medical records for seven (7) years following discharge of the client and/or patient, with the exception of non-emancipated minors for whom records must be kept for at least one (1) year after such minors have reached the age of eighteen (18) years, or for seven (7) years after the last date of service, whichever is longer.~~

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

L. CONTRACTOR shall make records pertaining to the costs of services, participant fees, charges, billings, and revenues available at one (1) location within the limits of the County of Orange.

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

NG. CONTRACTOR may be required to retain all records involving litigation proceedings and settlement of claims for a longer term as directed by ADMINISTRATOR.

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

XXII. RESEARCH AND PUBLICATION

CONTRACTOR shall not utilize information and/or data received from COUNTY, or arising out of, or developed, as a result of this Agreement for the purpose of personal or professional research, or for publication.

XXIII.- REVENUE

A. CLIENT FEES – CONTRACTOR shall charge a fee to clients to whom services are provided pursuant to this Agreement, their estates and responsible relatives, in accordance with the fee system designated by ADMINISTRATOR. This fee shall be based upon the person's ability to pay for services, but it shall not exceed the actual cost of services provided. No person shall be denied services because of an inability to pay.

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

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

XXIV. SEVERABILITY

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

XXV. SPECIAL PROVISIONS

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

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

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

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

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

XXVI. STATUS OF CONTRACTOR

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

XXVII. TERM

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

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

XXVIII. TERMINATION

A. Either party may terminate this Agreement, without cause, upon thirty (30) calendar days' written notice given the other party.

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

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

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

D. CONTINGENT FUNDING

1. Any obligation of COUNTY under this Agreement is contingent upon the following:
 - a. The continued availability of federal, state and county funds for reimbursement of COUNTY's expenditures, and
 - b. Inclusion of sufficient funding for the services hereunder in the applicable budget(s) approved by the Board of Supervisors.
2. In the event such funding is subsequently reduced or terminated, COUNTY may suspend, terminate or renegotiate this Agreement upon thirty (30) calendar days' written notice given CONTRACTOR. If COUNTY elects to renegotiate this Agreement due to reduced or terminated funding, CONTRACTOR shall not be obligated to accept the renegotiated terms.

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

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

1. Comply with termination instructions provided by ADMINISTRATOR in a manner which

is consistent with recognized standards of quality care and prudent business practice.

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

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

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

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

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

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

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

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

XXIX. THIRD PARTY BENEFICIARY

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

XXX. WAIVER OF DEFAULT OR BREACH

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

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

SHANTI ORANGE COUNTY

BY: _____

DATED: _____

TITLE: - _____

COUNTY OF ORANGE

BY: _____

DATED: _____

HEALTH CARE AGENCY

APPROVED AS TO FORM
OFFICE OF THE COUNTY COUNSEL
ORANGE COUNTY, CALIFORNIA

BY: _____

DATED: - _____

DEPUTY

If the contracting party is a corporation, two (2) signatures are required: one (1) signature by the Chairman of the Board, the President or any Vice President; and one (1) signature by the Secretary, any Assistant Secretary, the Chief Financial Officer or any Assistant Treasurer. If the contract is signed by one (1) authorized individual only, a copy of the corporate resolution or by-laws whereby the board of directors has empowered said authorized individual to act on its behalf by his or her signature alone is required by ADMINISTRATOR.

EXHIBIT A
TO AGREEMENT FOR PROVISION OF
HIV CARE SERVICES
BETWEEN
COUNTY OF ORANGE
AND
SHANTI ORANGE COUNTY
MARCH 1, ~~2016~~2019 THROUGH FEBRUARY ~~28, 2019~~29, 2020

I. ~~Assurances~~ ASSURANCES

In accordance with funding requirements under Title XXVI of the Public Health Services Act amended by the Ryan White HIV/AIDS Treatment Extension Act of 2009 (Ryan White Act), CONTRACTOR assures that it will:

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

1. Under any state compensation program, under an insurance policy, or under any federal or state health benefits program;
2. By an entity that provides health services on a prepaid basis; or
3. By third party reimbursement.

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

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

D. Permit and cooperate with any official federal or state investigation undertaken regarding programs conducted under the Ryan White Act.

E. Comply with the funding requirements regarding charges for services:

1. In the case of individuals with an income less than or equal to one hundred percent (100%) of the ~~official~~-federal poverty ~~line~~level, CONTRACTOR shall not impose charges on any such individual for the provision of services under this Agreement.

2. In the case of individuals with an income greater than one hundred percent (100%) of the ~~official~~-federal poverty level, CONTRACTOR may charge client fees based on a schedule of charges approved by the ADMINISTRATOR. CONTRACTOR may not charge client fees without an approved fee schedule that complies with Ryan White Act legislative intent.

3. In the case of individuals with an income greater than one hundred percent (100%) of the ~~official~~-federal poverty level and not exceeding two hundred percent (200%) of such poverty level,

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CONTRACTOR shall not, for any calendar year, impose charges in an amount exceeding five percent (5%) of the annual gross income of the individual involved.

4. In the case of individuals with an income greater than two hundred percent (200%) of the ~~official~~ federal poverty level and not exceeding three hundred percent (300%) of such poverty ~~level~~ line, CONTRACTOR shall not, for any calendar year, impose charges in an amount exceeding seven percent (7%) of the annual gross income of the individual involved.

5. In the case of individuals with an income greater than three hundred percent (300%) of the ~~official~~ federal poverty level, CONTRACTOR shall not, for any calendar year, impose charges in an amount exceeding ten percent (10%) of the annual gross income of the individual involved.

6. In the case of individuals with an income greater than five hundred percent (500%) of the federal poverty level, CONTRACTOR shall allow an exception for individuals with documentation to receive services with prior approval of ADMINISTRATOR.

7. As required by HRSA, CONTRACTOR must have in place policies and procedures for collecting a nominal fee, greater than zero, based on an individual's annual income and documenting that a client has met their annual cap on charges.

8. As required by HRSA, CONTRACTOR must have in place a process for documenting fees collected and waiving of fees when the client reaches their annual cap.

9. As required by HRSA, CONTRACTOR shall not deny services based on the individual's failure to pay fee.

10. CONTRACTOR shall not report individuals to a debt collection agency for failure to pay fee.

II. BUDGET

A. The following Budget is set forth for informational purposes only, and may be adjusted by mutual agreement, in writing, by CONTRACTOR and ADMINISTRATOR.

1. Medical Case Management (Medical Retention) Services

<u>ADMINISTRATIVE COSTS</u>	
Salaries	\$ 0
Benefits	0
Services and Supplies	450
<u>SUBTOTAL</u>	<u>\$ 450</u>
<u>DIRECT CARE COSTS</u>	
Salaries	\$ 14,646
Benefits	2,000
Services and Supplies	6,832
<u>SUBTOTAL</u>	<u>\$ 23,478</u>

TOTAL COST\$ 23,92812. Medical Case Management (Linkage to Care) Services

<u>ADMINISTRATIVE COSTS</u>	<u>PERIOD ONE</u>	<u>PERIOD TWO</u>	<u>PERIOD THREE</u>
—Salaries	\$ 3,720	\$ 3,720	\$ 3,720
—Benefits	—649	—649	—649
—Supplies and Services	—1,131	—1,131	—1,131
<u>SUBTOTAL</u>	<u>\$ 5,500</u>	<u>\$ 5,500</u>	<u>\$ 5,500</u>
 <u>DIRECT CARE COSTS</u>			
—Salaries	\$24,999	\$24,999	\$24,999
—Benefits	—5,000	—5,000	—5,000
—Supplies and Services	—19,501	—29,501	—29,501
<u>SUBTOTAL</u>	<u>\$49,500</u>	<u>\$59,500</u>	<u>\$59,500</u>
 <u>TOTAL COST</u>	 <u>\$55,000</u>	 <u>\$65,000</u>	 <u>\$65,000</u>

ADMINISTRATIVE COSTS

Salaries	\$ 0
Benefits	0
Operating Expenses	
Services and Supplies	500
<u>SUBTOTAL</u>	<u>\$ 500</u>

DIRECT CARE COSTS

Salaries	\$ 19,637
Benefits	2,600
Operating Expenses	
Services and Supplies	7,570
<u>SUBTOTAL</u>	<u>\$ 29,807</u>

TOTAL COST\$ 30,30723. Non-Medical Case Management (Client Support) Services

<u>ADMINISTRATIVE COSTS</u>	<u>PERIOD ONE</u>	<u>PERIOD TWO</u>	<u>PERIOD THREE</u>
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—Salaries	\$3,488	\$3,488	\$3,488
—Benefits	—698	—698	—698
SUBTOTAL	\$4,186	\$4,186	\$4,186
DIRECT CARE COSTS			
—Salaries	\$45,712	\$45,712	\$45,712
—Benefits	—8,709	—8,709	—8,709
SUBTOTAL	\$54,421	\$54,421	\$54,421
TOTAL COST	\$58,607	\$58,607	\$58,607

ADMINISTRATIVE COSTS

Salaries	\$ 0
Benefits	0
Operating Expenses	
Services and Supplies	1,100
<u>SUBTOTAL</u>	<u>\$ 1,100</u>
<u>DIRECT CARE COSTS</u>	
Salaries	\$ 58,000
Benefits	5,900
Operating Expenses	
Services and Supplies	14,372
<u>SUBTOTAL</u>	<u>\$ 78,272</u>
<u>TOTAL COST</u>	<u>\$ 79,372</u>

34. Non-Medical Case Management (Client Advocacy) Services

	<u>PERIOD ONE</u>	<u>PERIOD TWO</u>	<u>PERIOD THREE</u>
DIRECT CARE COSTS			
—Salaries	\$16,700	\$16,700	\$16,700
—Benefits	—3,300	—3,300	—3,300
SUBTOTAL	\$20,000	\$20,000	\$20,000
TOTAL COST	\$20,000	\$20,000	\$20,000

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<u>ADMINISTRATIVE COSTS</u>	
Salaries	\$ 0
Benefits	0
Operating Expenses	
Services and Supplies	235
<u>SUBTOTAL</u>	<u>\$ 235</u>
<u>DIRECT CARE COSTS</u>	
Salaries	\$ 8,335
Benefits	1,000
Operating Expenses	
Services and Supplies	5,430
<u>SUBTOTAL</u>	<u>\$ 14,765</u>
<u>TOTAL COST</u>	<u>\$ 15,000</u>

45. Non-Medical Case Management (Eligibility Screening) Services

	<u>PERIOD ONE</u>	<u>PERIOD TWO</u>	<u>PERIOD THREE</u>
<u>DIRECT CARE COSTS</u>			
—Salaries	\$12,560	\$12,560	\$12,560
—Benefits	<u>2,470</u>	<u>2,470</u>	<u>2,470</u>
<u>SUBTOTAL</u>	<u>\$15,000</u>	<u>\$15,000</u>	<u>\$15,000</u>
<u>TOTAL COST</u>	<u>\$15,000</u>	<u>\$15,000</u>	<u>\$15,000</u>

<u>ADMINISTRATIVE COSTS</u>	
Salaries	\$ 0
Benefits	0
Services and Supplies	\$ 370
<u>SUBTOTAL</u>	<u>\$ 370</u>
<u>DIRECT CARE COSTS</u>	
Salaries	\$ 12,530
Benefits	2,470
Services and Supplies	4,630
<u>SUBTOTAL</u>	<u>\$ 19,630</u>
<u>TOTAL COST</u>	<u>\$ 20,000</u>

5. TOTAL CONTRACT COSTS	\$148,607	\$158,607	\$158,607
6. TOTAL CONTRACT COSTS		\$ 168,607	

B. CONTRACTOR may request to shift funds between budgeted line items for the purpose of meeting specific program needs by utilizing a Budget/Staffing Modification Request form provided by ADMINISTRATOR. CONTRACTOR shall submit a properly completed Budget/Staffing Modification Request to ADMINISTRATOR for consideration, in advance, which will include a justification narrative specifying the purpose of the request, the amount of said funds to be shifted and the sustaining annual impact of the shift as may be applicable to the current contract period and/or future contract periods. CONTRACTOR shall obtain written approval of any Budget Staffing Modification Request(s) from ADMINISTRATOR prior to implementation by CONTRACTOR. Failure of CONTRACTOR to obtain written approval from ADMINISTRATOR for proposed Budget/Staffing Modification Request(s) may result in disallowance of those costs.

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

D. CONTRACTOR's cumulative total costs shall be evaluated monthly and compared to the percent of expected contracted costs at that point in the contract period. If CONTRACTOR's actual costs deviate ten percent (10%), either above or below the target, ADMINISTRATOR may request a written justification and a corrective action plan or request for budget revision.

E. In the event CONTRACTOR's costs are ten percent (10%) or more below the percent of expected contracted costs; and CONTRACTOR's plan is not acceptable to ADMINISTRATOR, or CONTRACTOR fails to submit a plan within the time period specified by ADMINISTRATOR, ADMINISTRATOR may reduce the Maximum Obligation for the Period as set forth in the Referenced Contract Provisions of this Agreement. ADMINISTRATOR shall notify CONTRACTOR in writing of such reduction.

F. CATALOG OF FEDERAL DOMESTIC ASSISTANCE (CFDA) INFORMATION

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

CFDA Year: ~~2016~~2019

CFDA No.: 93.914

Program Title: HIV Emergency Relief Project Grants (B)

Federal Agency: Department of Health and Human Services

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

Amount: ~~\$148,607~~ \$ 168,607 (estimated)

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

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

G. CONTRACTOR may not use Ryan White Part A funds for:

1. purchase or improve land, or to purchase, construct or permanently improve any building or other facility (other than minor remodeling),
 2. cash payments to service recipients,
 3. development of materials designed to promote or encourage intravenous drug use or sexual activity, whether homosexual or heterosexual,
 4. the purchase of vehicles without written Grants Management Officer approval,
 5. non-targeted marketing or promotions or advertising about HIV services that target the general public,
 6. broad-scope awareness activities about HIV services that target the general public, outreach activities,
 7. outreach activities that have HIV prevention education as their exclusive purpose,
 8. influencing or attempting to influence members of Congress and other Federal personnel,
- and
9. foreign travel.

H. CONTRACTOR and ADMINISTRATOR may mutually agree, in writing, to modify the Budget Paragraph of this Exhibit A to the Agreement.”

~~III. client grievance R~~Review and resolution policy**CLIENT GRIEVANCE REVIEW AND RESOLUTION POLICY**

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

B. CONTRACTOR shall establish and maintain a Client Grievance Resolution Policy and document that each client to whom services are provided under the terms of this Agreement are given information on the grievance process. CONTRACTOR’s policy shall allow for the client to appeal CONTRACTOR’s decision to ADMINISTRATOR, for review if the client is unsatisfied with CONTRACTOR’s final decision related to a grievance. CONTRACTOR shall submit a copy of its Client Grievance Resolution Policy to ADMINISTRATOR within thirty (30) calendar days of the effective date of this Agreement and within fifteen (15) calendar days of the adoption by CONTRACTOR of any revisions to the policy. CONTRACTOR’s Client Grievance Resolution Policy is subject to approval by ADMINISTRATOR for the purpose of maintaining consistency with established standards and policies.

IV. ~~general staffing requirements~~ GENERAL STAFFING REQUIREMENTS

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

B. CONTRACTOR shall adhere to staffing and licensure requirements as indicated in Standards of Care approved by ADMINISTRATOR.

C. CONTRACTOR shall notify ADMINISTRATOR, in writing, within three (3) business days, of any staffing changes that occur during the term of this Agreement.

V. PAYMENTS

A. BASIS FOR REIMBURSEMENT – COUNTY shall pay CONTRACTOR for the actual costs of providing the services described hereunder, less any revenues which are actually received by CONTRACTOR for Ryan White eligible services; provided, however, that CONTRACTOR's costs are allowable pursuant to county, state, and federal regulations.

B. PAYMENT METHOD – COUNTY shall pay CONTRACTOR monthly in arrears the actual cost of the services, less any revenues that are actually received by CONTRACTOR provided for Ryan White eligible services, however, the total of such payments shall not exceed the COUNTY's Maximum Obligation. CONTRACTOR's billings shall be on a form approved or provided by ADMINISTRATOR and shall provide such information as is required by ADMINISTRATOR. -Billings are due by the twentieth (20th) calendar day of each month, and payments to CONTRACTOR should be released by COUNTY no later than twenty-one (21) calendar days after receipt of the correctly completed billing form. -Invoices received after the due date may not be paid within the same month.

C. Monthly payments are interim payments only, and subject to Final Settlement in accordance with the Cost Report Paragraph of this Agreement.

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D. All billings to COUNTY shall be supported, at CONTRACTOR's facility, by source documentation including, but not limited to, ledgers, journals, time sheets, invoices, bank statements, canceled checks, receipts, receiving records, and records of services provided.

1. In support of the monthly billing, CONTRACTOR shall submit an Expenditure and Revenue Report, which includes a Units of Service Report, on a form approved or provided by ADMINISTRATOR.

2. If, at any time, CONTRACTOR's Expenditure and Revenue Reports indicate that the total

amount of payments exceed the actual costs of providing services, ADMINISTRATOR may reduce COUNTY payments to CONTRACTOR by an amount not to exceed the difference between the payments to CONTRACTOR and the actual costs incurred by CONTRACTOR.

E. At ADMINISTRATOR's sole discretion, ADMINISTRATOR may withhold or delay any payment, either in whole or in part, if CONTRACTOR fails to comply with any provision of this Agreement, including, but not limited to, CONTRACTOR's obligations with respect to reporting, correcting deficiencies, or delays in progressing satisfactorily in achieving all the terms of this Agreement. CONTRACTOR agrees that release of any payment withheld or delayed by ADMINISTRATOR shall be contingent upon satisfactory implementation and timeliness of CONTRACTOR's corrective action; provided, however, that any issue not satisfactorily resolved after sixty (60) calendar days may result in CONTRACTOR's loss of such withheld or delayed funds.

F. COUNTY shall not reimburse CONTRACTOR for services provided beyond the expiration and/or termination of this Agreement, except as may otherwise be provided under this Agreement, or specifically agreed upon in a subsequent Agreement.

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

VI. REPORTS

A. CONTRACTOR shall maintain records and make reports as required by ADMINISTRATOR. Such reports shall include, but may not be limited to, cooperating in the Evaluation of Administrative Mechanism process and its timelines. CONTRACTOR understands that failure to provide said reports or meet any of the requirements of this Reports Paragraph shall be cause for ADMINISTRATOR to withhold or delay any or a portion of payments to CONTRACTOR, as specified in the Payments Paragraph of this Exhibit A to the Agreement.

B. FISCAL

1. In support of monthly billings, CONTRACTOR shall submit monthly Expenditure and Revenue Reports to ADMINISTRATOR. These reports shall be on a form provided or approved by ADMINISTRATOR and shall report actual costs and revenues for CONTRACTOR's program(s) or cost center(s) described in the Services Paragraph of this Exhibit A to the Agreement, the number of HIV infected individuals served, and the number of service units provided by CONTRACTOR with funds from this Agreement (Units of Service Report). The reports shall be due to ADMINISTRATOR no later than the twentieth (20th) calendar day following the end of the month being reported, unless otherwise agreed to in writing by ADMINISTRATOR.

2. CONTRACTOR shall submit quarterly Year-End Projection Reports to ADMINISTRATOR. These reports shall be on a form provided or approved by ADMINISTRATOR and shall report anticipated units of services to be provided, and projected year-end actual costs and revenues for CONTRACTOR's program(s) or cost center(s) described in the Services Paragraph of this

Exhibit A to the Agreement. Such reports shall include the actual monthly costs and revenues as of the date submitted and anticipated monthly costs and revenues projected through year-end. Year-End Projection Reports shall be due on the third Monday of the following months each year: June, September, and December; unless otherwise agreed to in writing by ADMINISTRATOR. The Year-End Cost Report shall be submitted to the ADMINISTRATOR on the last Friday of April each year; unless otherwise agreed to in writing by the ADMINISTRATOR.

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

D. PROGRAMMATIC – CONTRACTOR shall submit ~~Biannual~~biannual programmatic reports to ADMINISTRATOR. These reports shall be on a form provided or approved by ADMINISTRATOR and shall include but not be limited to, staff changes and corresponding impact on services, status of licensure and/or certifications, changes in populations being served and reasons for any such changes. CONTRACTOR shall state whether it is or is not progressing satisfactorily in achieving all the terms of this Agreement and, if not, shall specify what steps will be taken to achieve satisfactory progress. The reports shall be due on the third Monday of March and September each year.

E. RSR – CONTRACTOR shall submit to ADMINISTRATOR in a format provided or approved by ADMINISTRATOR, documentation of services provided, including characteristics of clients receiving those services and descriptive information about CONTRACTOR's organization. RSR documentation shall be received by ADMINISTRATOR no later than February 1st for the preceding calendar year.

F. Countywide Data Reporting – CONTRACTOR shall fully comply with ADMINISTRATOR requirements for real-time data reporting of client demographics and selected service delivery information for Ryan White Act funded services. For purposes of this Agreement, real-time data reporting shall be defined as entering data into the COUNTY's designated data system within five (5) business days of providing services, unless otherwise agreed upon in writing by ADMINISTRATOR.

G. ~~QM~~— REPORTS – CONTRACTOR shall submit an annual QM Report with appropriate signature(s) to ADMINISTRATOR on the last business day of March each year; unless otherwise agreed to in writing by the ADMINISTRATOR. The QM Report shall be submitted in a format provided or approved by ADMINISTRATOR. The QM Report shall include but not be limited to:

1. Summary of QM activities;
2. Service-specific outcome measure results as outlined in the annual Ryan White performance measures;
3. Summary of findings; and

4. Summary of how findings will be addressed.

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

I. CONTRACTOR and ADMINISTRATOR may mutually agree, in writing, to modify the Reports Paragraph of this Exhibit A to the Agreement.

VII. SERVICES

A. CONTRACTOR shall make all services specified herein available to eligible persons who reside in Orange County and are ~~infected~~living with the HIV, in accordance with this Agreement. Parties understand that Common Standards of Care have been developed for all HIV Services and service-specific Standards of Care have been developed for some services. CONTRACTOR shall adhere to standards of care approved by ADMINISTRATOR. ~~CONTRACTOR and ADMINISTRATOR may mutually agree, in writing, to adjust the Eligibility, Units of Service, and Staffing Subparagraphs set forth below for each program.~~

1. CONTRACTOR acknowledges that this Agreement is funded through the Ryan White Act, and that said funding is to be funding of last resort and may only be used to provide services when adequate alternative services are unavailable and no other resources exist to fund the services.

2. CONTRACTOR shall develop and maintain formal referral relationships with appropriate entities to facilitate early intervention services for low-income individuals with HIV. Signed MOU with major points of entry shall be established and must include the names of parties involved, time frame of agreement, and a clearly defined referral process, including follow-up. CONTRACTOR shall keep the original signed ~~MOU's~~MOUs in a central file and send a copy of each MOU to ADMINISTRATOR. CONTRACTOR shall coordinate referral processes with appropriate programs of ADMINISTRATOR, but is not required to enter into MOUs to do so.

3. Unless otherwise stated, CONTRACTOR shall verify eligibility for services including basic eligibility for all Ryan White services that includes proof of HIV status, proof of residency within Orange County, and lack of other sources of services. CONTRACTOR shall verify service specific service qualifications as outlined in the Requirements to be ~~Eligible~~eligible and ~~Qualify~~qualify document.

a. CONTRACTOR shall document verification of eligibility on forms provided or approved by ADMINISTRATOR.

b. Eligibility must be evaluated at least every six (6) months or when the client’s eligibility or service qualifications change.

4. CONTRACTOR shall maintain files for all clients. Files, at a minimum, shall contain information necessary for federal reporting, including, but not limited to, name, address, race, ethnicity,

gender, date of birth, living situation, income, source of insurance, CDC disease stage, and risk factors, and types of service provided.

~~5~~ 5. CONTRACTOR shall establish protocols for each of the contracted services within thirty (30) calendar days after contract commencement and submit the protocols to ADMINISTRATOR for approval. Protocols shall be consistent with contractual program requirements and standards of care provided by ADMINISTRATOR.

6. CONTRACTOR shall not conduct any proselytizing activities, regardless of funding source, with respect to any person who receives services under the terms of this Agreement. ~~Further,~~ CONTRACTOR agrees that the funds provided hereunder shall not be used to promote, directly or indirectly, any religion, religious creed or cult, denomination or sectarian institution, or religious belief.

~~6~~7. CONTRACTOR shall make its best efforts to provide services pursuant to this Agreement in a manner that is culturally and linguistically appropriate for the population(s) served. CONTRACTOR shall maintain documentation of such efforts which may include, but not be limited to: records of participation in COUNTY-sponsored or other applicable training; recruitment and hiring policies and procedures; copies of literature in multiple languages and formats, as appropriate; and descriptions of measures taken to enhance accessibility for, and sensitivity to, persons who are physically challenged.

~~7~~8. It is understood by both parties that ADMINISTRATOR places a high degree of importance on the availability of accurate and timely data. Examples include data on costs, utilization, and the cost-effectiveness of HIV-related services. CONTRACTOR shall cooperate fully in meeting data requests and requirements specified by ADMINISTRATOR, including, at minimum, monthly entry of client demographic data, service eligibility verification, service utilization information, and instant reporting of service delivery. In addition, CONTRACTOR shall submit any data or report required by the funding source of agencies providing services with Ryan White Act, MAI funds, and any data or report required by the department of Housing and Urban Development of agencies when providing services with HOPWA funds.

B. MEDICAL CASE MANAGEMENT SERVICES

1. ~~DEFINITION~~

~~a.~~ DEFINITIONS - Linkage to Care – A range of client-centered services to link newly diagnosed individuals and those needing re-engagement in HIV care must utilize the Anti-Retroviral Treatment and Access Services (ARTAS) strengths-based model. The preferred model for the ARTAS Linkage to Care service is to have dedicated medical case management staff distinct from other medical case management staff who provide services beyond the initial ARTAS intervention. The ARTAS Linkage to Care program shall be limited to six (6) months. Individuals that require additional assistance beyond six (6) months shall be transitioned to ongoing medical case management services to ensure linkage and retention in care. Key activities include:

~~1)~~a. initial assessment of service needs;

- ~~2)~~ b. development of a comprehensive, individualized service plan;
- ~~3)~~ c. coordination of services required to implement the plan;
- ~~4)~~ d. monitoring of client to assess the efficacy of the plan;
- ~~5)~~ e. periodic re-evaluation at least every three months and adaptation of the plan, as necessary; and
- ~~6)~~ f. clear documentation of assessment, plan, and referrals.

2. SCOPE OF SERVICES

a. CONTRACTOR shall provide access to a full range of services. Services must be consistent with Standards of Care for Case Management provided by ADMINISTRATOR. These services ensure timely and coordinated access to appropriate levels of health and support services.

b. Services should ensure continuity of care through ongoing assessment of the client's needs and personal support systems.

c. CONTRACTOR shall implement appropriate strategies to improve access to care and adherence to treatment.

d. CONTRACTOR shall provide activities as follows and shall include written justification for providing services to individual clients in the client's home, in the hospital, or at any location other than CONTRACTOR's offices. All activities relate to the client's care shall be documented in the client record. CONTRACTOR shall conduct the following activities:

1) Client Intake:

a) Perform client intake within five (5) business days of the client's referral or initial client contact. Client intake shall include gathering of pertinent client information necessary to establish the client's eligibility, demographic information, and information necessary for federal reporting.

b) Provide client with information that includes: client's rights and responsibilities, information about filing a grievance, and notice of privacy practices. The case manager should also obtain required documents, including: consent for client information to be entered in Countywide database, consent for treatment form, signed receipt of rights and responsibilities, signed receipt of information on the grievance process, and releases of information as appropriate.

2) Psychosocial Assessment:

a) Begin assessment of client within one (1) week of client intake and complete assessment within two (2) weeks. Areas of assessment should include, but not be limited to: medical need; understanding of HIV transmission factors; substance use; mental health issues; financial needs; nutritional needs; housing and living situation; social and emotional support; legal issues; and transportation.

b) Utilize a psychosocial assessment tool and complete a client acuity scale as determined by agreement between ADMINISTRATOR and CONTRACTOR to record and monitor client needs.

c) Match the education/experience level of the case manager to client acuity/needs. Where appropriate, CONTRACTOR may use an interdisciplinary team approach to case management.

d) Periodically assess and re-evaluate client's level of functioning and changing clinical and psychological needs. As specified by ADMINISTRATOR in the Standards of Care, CONTRACTOR shall conduct formal reassessment at minimum as follows, depending on the client's health status and level of functioning as determined by the primary case manager.

Level of Case Management	Minimum Psychosocial Assessment Frequency	Minimum Contact Frequency
Linkage to Care Services	3 months	twice a month
Medical Retention Services	3 months	1 month
Client Support Services	6 months	3 months

e) Maintain regular and appropriate contact with clients or with person(s) responsible for providing care, in the case of dependent clients. Periodicity should be based on client need and acuity level and on minimum standards set by ADMINISTRATOR in the Standards of Care, as noted above.

3) Education: Incorporate general and client-specific prevention education into case management sessions.

4) Individual Service Plan (ISP):

a) Develop an ISP with specific client goals, actions to be taken, timeframes for actions, and responsible parties for each activity within thirty (30) calendar days of the client's intake.

b) Work collaboratively with the client and involve the client in the development of the ISP.

c) Modify the ISP as the client's needs change. The ISP shall be a living document and updated as frequently as required based on client's goals and progress. CONTRACTOR shall update the ISP at a minimum of every six (6) months.

5) Referral/Advocacy and Coordination of Services:

a) Based on the client's intake and assessment, refer client to appropriate health, social services, and entitlement programs available in-house or in the community (inclusive of HIV-related and non-HIV-related private and/or governmental services).

b) Contact agency to which client was referred to make sure linkages were established.

6) Follow-Up and Monitoring:

a) Periodically contact clients to assess and re-evaluate client's level of

functioning and changing clinical and psychological needs based on assessed acuity.

b) Respond in a timely and appropriate manner to client requests for assistance and to client needs.

c) Conduct follow-up on clients who fall out of care.

d) Make reasonable attempts to maintain clients who have behavioral issues that impede delivery of services in Case Management. This may include establishing behavioral contracts for continuation of services. CONTRACTOR shall notify ADMINISTRATOR of any situation necessitating behavioral contracts for continuation of services.

7) Coordination of Medical Care:

a) Assess client's access to medical care and any barriers to care. Case managers shall make an effort to identify barriers to adherence.

b) Monitor client medication adherence and provide assistance as appropriate.

c) Communicate barriers to adherence to client's medical care providers.

8) Service Closure:

a) Document service closure of client in client file.

b) Make reasonable and appropriate attempts to locate and communicate with clients lost to follow-up before terminating services. The case manager may refer the case to an outreach worker in an attempt to bring the client back into care if attempts to locate client have been unsuccessful. Referrals to the outreach worker shall be documented in the client's chart as part of a termination plan.

c) Close out the client in the data collection system within thirty (30) days of service closure.

C. NON-MEDICAL CASE MANAGEMENT SERVICES – CLIENT SUPPORT

1. DEFINITIONS

~~a. Client Support~~ – The provision of needs assessment and timely follow up to ensure clients are accessing needed supportive services. This service can be provided by non-medically credentialed staff. Key activities include:

1) initial assessment of service needs;

2) development of a comprehensive, individualized service plan;

3) coordination of services required to implement the plan;

4) monitoring of client to assess the efficacy of the plan;

5) periodic re-evaluation at least every six (6) months and adaptation of the plan, as necessary; and

6) clear documentation of assessment, plan, and referrals. Service Coordination may be used as a “step-down” model for transitioning clients to increasing levels of self-sufficiency.

~~b.~~ 2. SCOPE OF SERVICES

a. CONTRACTOR shall provide access to services via information or referrals. Services

must be consistent with Standards of Care for Case Management provided by ADMINISTRATOR. These services ensure timely and coordinated access to appropriate levels of health and support services.

D. REFERRAL FOR HEALTHCARE

1. Client Advocacy -The provision of basic needs assessment and assistance (through appropriate referrals) in obtaining medical, social, community, legal, financial, and other needed services. Key activities include:

- ~~1)~~ a. assessment of service needs;
- ~~2)~~ b. provision of information and/or referrals;
- ~~3)~~ c. assistance in obtaining intake information for individuals pending enrollment in a service and who are initiating a thirty (30) day grace period, if needed;
- ~~4)~~ d. clear documentation of assessment and referrals. On-going follow-up with clients is not a requirement of Client Advocacy.

~~e~~ 2. Eligibility Screening - The provision of Ryan White eligibility and Office of AIDS-Health Insurance Premium Program screening. Key activities include:

- ~~1)~~ a. assessment of client income, insurance, and residency;
- ~~2)~~ b. provision of information regarding Affordable Care Act; and
- ~~3)~~ c. assistance in completing applications for eligible services.

~~2. SCOPE OF SERVICES~~

~~a. CONTRACTOR shall provide access to services via information or referrals. Services must be consistent with Standards of Care for Case Management provided by ADMINISTRATOR. These services ensure timely and coordinated access to appropriate levels of health and support services.~~

~~D. QM PLAN~~

E. Quality Management (QM) Activities

1. CONTRACTOR shall participate in QM activities including, but not limited to, participation on the QM Committee, QM trainings, development of standards of care, peer ~~reviews~~ review, and the establishment of countywide goals and objectives. ~~Unless modified by agreement of ADMINISTRATOR and CONTRACTOR, CONTRACTOR shall develop and submit to ADMINISTRATOR a written QM Plan signed by CONTRACTOR's authorized representative. CONTRACTOR shall participate in the QM activities established by ADMINISTRATOR and shall adhere to the standards set forth by the countywide Ryan White QM Committee.~~

F 2. The QM Plan shall include but not be limited to CONTRACTOR's:

- ~~a.~~ a. Quality statement;
- ~~b.~~ b. Quality infrastructure, including leadership, QM committee, staff roles and responsibilities, and reporting;
- ~~c.~~ c. Capacity building activities, including orientation and training on QM activities;
- ~~d.~~ d. Evaluation, including evaluation of quality infrastructure, performance measures, and quality improvement activities; and

- ~~e. Goals, objectives, indicators, and targets for each service category.~~
- ~~f. CONTRACTOR shall comply with ADMINISTRATOR's program evaluation requirements, including development and implementation of a Quality Management Plan.~~
- ~~E. CONTRACTOR and ADMINISTRATOR may mutually agree, in writing, to modify the Services Paragraph of this Exhibit A to the Agreement.~~

VIII. STAFFING

A. MEDICAL CASE MANAGEMENT (~~LINKAGE TO CARE~~ MEDICAL RETENTION) SERVICES

~~1.~~ - CONTRACTOR shall, at a minimum, provide the following paid staff expressed in FTEs, which shall be equal to an average of forty (40) hours worked per week:

<u>PROGRAM ADMINISTRATIVE STAFF</u>	
<u>Executive Director</u>	<u>0.0200</u>
<u>SUBTOTAL</u>	<u>0.0200</u>
<u>DIRECT CARE STAFF</u>	
<u>Case Manager</u>	<u>0.4000</u>
<u>SUBTOTAL</u>	<u>0.4000</u>
<u>TOTAL FTEs</u>	<u>0.4200</u>

~~B. MEDICAL CASE MANAGEMENT (LINKAGE TO CARE) SERVICES~~ - CONTRACTOR shall, at a minimum, provide the following paid staff expressed in FTEs, which shall be equal to an average of forty (40) hours worked per week:

ADMINISTRATIVE STAFF	PERIOD ONE	PERIOD TWO	PERIOD THREE
	<u>FTEs</u>	<u>FTEs</u>	<u>FTEs</u>
Executive Director	<u>0.0400</u>	<u>0.0400</u>	<u>0.0400</u>
SUBTOTAL	<u>0.0400</u>	<u>0.0400</u>	<u>0.0400</u>
 DIRECT CARE STAFF			
Case Manager	<u>0.4000</u>	<u>0.4000</u>	<u>0.4000</u>
Case Manager	<u>0.1400</u>	<u>0.1400</u>	<u>0.1400</u>
SUBTOTAL	<u>0.5400</u>	<u>0.5400</u>	<u>0.5400</u>

TOTAL FTEs	0.5800	0.5800	0.5800
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ADMINISTRATIVE STAFFExecutive Director0.0400SUBTOTAL0.0400DIRECT CARE STAFFCase Manager0.3500SUBTOTAL0.3500TOTAL FTEs0.3900

C. NON-MEDICAL CASE MANAGEMENT (CLIENT SUPPORT) SERVICES - CONTRACTOR shall, at a minimum, provide the following paid staff expressed in FTEs, which shall be equal to an average of forty (40) hours worked per week:

PROGRAM ADMINISTRATIVE STAFF	<u>PERIOD ONE</u>	<u>PERIOD TWO</u>	<u>PERIOD THREE</u>
	<u>FTEs</u>	<u>FTEs</u>	<u>FTEs</u>
—Executive Director	<u>0.1500</u>	<u>0.1500</u>	<u>0.1500</u>
SUBTOTAL	<u>0.1500</u>	<u>0.1500</u>	<u>0.1500</u>
 DIRECT CARE STAFF			
—Case Manager	<u>0.4500</u>	<u>0.4500</u>	<u>0.4500</u>
—Case Management Assistant	<u>0.3000</u>	<u>0.3000</u>	<u>0.3000</u>
SUBTOTAL	<u>0.7500</u>	<u>0.7500</u>	<u>0.7500</u>
 TOTAL FTEs	<u>0.9000</u>	<u>0.9000</u>	<u>0.9000</u>

ADMINISTRATIVE STAFFExecutive Director0.1500SUBTOTAL0.1500

D. REFERRAL FOR HEALTHCARE (CLIENT ADVOCACY) SERVICES- CONTRACTOR shall, at a minimum, provide the following paid staff expressed in FTEs, which shall be equal to an average of forty (40) hours worked per week:

DIRECT CARE STAFF	<u>PERIOD ONE</u>	<u>PERIOD TWO</u>	<u>PERIOD THREE</u>
	<u>FTEs</u>	<u>FTEs</u>	<u>FTEs</u>
— Case Manager	0.1000	0.1000	0.1000
— Case Management Assistant	0.3000	0.3000	0.3000
SUBTOTAL	0.4000	0.4000	0.4000
 TOTAL FTEs	 0.4000	 0.4000	 0.4000

<u>DIRECT CARE STAFF</u>	
<u>Case Manager</u>	<u>0.1000</u>
<u>Case Management Assistant</u>	<u>0.3000</u>
<u>SUBTOTAL</u>	<u>0.4000</u>
 <u>TOTAL FTEs</u>	 <u>0.4000</u>

~~D. NON MEDICAL CASE MANAGEMENT~~ E. REFERRAL FOR HEALTHCARE
 (ELIGIBILITY SCREENING) ~~SERVICES~~ SERVICE CONTRACTOR shall, at a minimum, provide the following paid staff expressed in FTEs, which shall be equal to an average of forty (40) hours worked per week:

DIRECT CARE STAFF	<u>PERIOD ONE</u>	<u>PERIOD TWO</u>	<u>PERIOD THREE</u>
	<u>FTEs</u>	<u>FTEs</u>	<u>FTEs</u>
— Case Manager	0.0500	0.0500	0.0500
— Case Management Assistant	0.2600	0.2600	0.2600
SUBTOTAL	0.3100	0.3100	0.3100
 TOTAL FTEs	 0.3100	 0.3100	 0.3100

<u>DIRECT CARE STAFF</u>	
<u>Case Manager</u>	<u>0.0000</u>
<u>Case Management Assistant</u>	<u>0.5000</u>
<u>SUBTOTAL</u>	<u>0.5000</u>
 <u>TOTAL FTEs</u>	 <u>0.5000</u>

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EF. CONTRACTOR and ADMINISTRATOR may mutually agree, in writing, to modify the

Staffing Paragraph of this Exhibit A to the Agreement²²

IX. UNITS OF SERVICE

~~A. A. MEDICAL CASE MANAGEMENT (MEDICAL RETENTION) SERVICES –~~
CONTRACTOR shall, at minimum, provide the following units of service. A session shall be fifteen (15) minutes in duration and shall consist of face-to-face contact with a client to assist with benefits services.

<u>Medical Case Management Medical Retention Services</u>	
<u>15-min Face-to-Face contacts</u>	<u>60</u>
<u>15-min Service Coordination on behalf of client</u>	<u>250</u>
<u>Unduplicated clients</u>	<u>11</u>

~~B. MEDICAL CASE MANAGEMENT (LINKAGE TO CARE) SERVICES –~~ CONTRACTOR shall at minimum provide the following units of service:

	<u>PERIOD ONE</u>	<u>PERIOD TWO</u>	<u>PERIOD THREE</u>
	<u>Units of Service</u>	<u>Units of Service</u>	<u>Units of Service</u>
Medical Case Management Linkage to Care			
— 15-min Face-to-face contacts	103	75	75
— 15-min Service Coordination on behalf of client	300	300	300
— Unduplicated clients	22	15	15

<u>Medical Case Management Linkage to Care</u>	
<u>15-min Face-to-face contacts</u>	<u>65</u>
<u>15-min Service Coordination on behalf of client</u>	<u>250</u>
<u>Unduplicated clients</u>	<u>13</u>

~~BC. NON-MEDICAL CASE MANAGEMENT (CLIENT SUPPORT) SERVICES –~~
CONTRACTOR shall, at minimum, provide the following units of service. A session shall be fifteen (15) minutes in duration and shall consist of face-to-face contact with a client to assist with benefits services.

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PERIOD ONE PERIOD TWO PERIOD THREE

	<u>Units of Service</u>	<u>Units of Service</u>	<u>Units of Service</u>
Client Support			
— 15 min Face-to-Face contacts	120	120	120
— 15 min Service Coordination on behalf of client	480	480	480
— Unduplicated clients	60	60	60

<u>Client Support</u>	
<u>15- min Face-to-Face contacts</u>	<u>150</u>
<u>15-min Service Coordination on behalf of client</u>	<u>320</u>
<u>Unduplicated clients</u>	<u>70</u>

~~C. NON-MEDICAL CASE MANAGEMENT~~

D. REFERRAL FOR HEALTHCARE – (CLIENT ADVOCACY) - CONTRACTOR shall, at minimum, provide the following units of service with a client to provide referral, education, or information regarding needed services.

	<u>PERIOD ONE</u>	<u>PERIOD TWO</u>	<u>PERIOD THREE</u>
	<u>Units of Service</u>	<u>Units of Service</u>	<u>Units of Service</u>
Client Advocacy			
— 15 min Face-to-face contacts	100	100	100
— 15 min Service Coordination on behalf of client	800	800	800
— Unduplicated clients	400	400	400

<u>Client Advocacy</u>	
<u>15-min Face-to-face contacts</u>	<u>110</u>
<u>15-min Service Coordination on behalf of client</u>	<u>200</u>
<u>Unduplicated clients</u>	<u>60</u>

~~D. NON-MEDICAL CASE MANAGEMENT~~ E. REFERRAL FOR HEALTHCARE (ELIGIBILITY SCREENING) SERVICES - CONTRACTOR shall, at minimum, provide the following units of service. A session shall be fifteen (15) minutes in duration and shall consist of face-to-face contact with a client to assist with benefits services.

	<u>PERIOD ONE</u>	<u>PERIOD TWO</u>	<u>PERIOD THREE</u>
	<u>Units of Service</u>	<u>Units of Service</u>	<u>Units of Service</u>

Eligibility Screening	40	40	40
—15-min Face-to-Face contacts			
—15-min Service Coordination on behalf of client	320	320	320
—Unduplicated clients	40	40	40

<u>Eligibility Screening</u>	
15-min Face-to-Face contacts	270
15-min Service Coordination on behalf of client	250
Unduplicated clients	60

EE. CONTRACTOR and ADMINISTRATOR may mutually agree, in writing, to modify the Units of Service Paragraph of this Exhibit A to the Agreement

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EXHIBIT B
TO AGREEMENT FOR PROVISION OF
HIV CARE SERVICES ~~WITH~~
BETWEEN
COUNTY OF ORANGE
AND
SHANTI ORANGE COUNTY
MARCH 1, ~~2016~~ 2019 THROUGH FEBRUARY ~~28, 2019~~ 29, 2020

I. BUSINESS ASSOCIATE CONTRACT

A. GENERAL PROVISIONS AND RECITALS

1. The parties agree that the terms used, but not otherwise defined below in Subparagraph 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 Agreement 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 Agreement, 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 Agreement.

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 Agreement 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 Agreement.

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:

1) 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.

2) 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.

3) 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:

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

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

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

4) 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.

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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.

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 appropriate safeguards, as provided for in this Business Associate Contract and the Agreement, 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 immediately 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 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. If CONTRACTOR maintains an Electronic Health Record with PHI, and an individual requests a copy of such information in an electronic format, CONTRACTOR shall provide such information in an electronic format.

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 COUNTY and the Secretary in a time and manner as determined by COUNTY or as designated by the Secretary for purposes of the Secretary determining COUNTY's compliance with the HIPAA Privacy Rule.

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

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respond to a request by an Individual for an accounting of Disclosures of PHI in accordance with 45 CFR § 164.528.

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11. CONTRACTOR agrees to provide COUNTY or an Individual, as directed by COUNTY, in a time and manner to be determined by COUNTY, that information collected in accordance with the Agreement, in order to permit COUNTY to respond to a request by an Individual for an accounting of Disclosures of PHI in accordance with 45 CFR § 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. If CONTRACTOR receives Social Security data from COUNTY provided to COUNTY by a state agency, upon request by COUNTY, CONTRACTOR shall provide COUNTY with a list of all employees, subcontractors and agents who have access to the Social Security data, including employees, agents, subcontractors and agents of its subcontractors.

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

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

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

with the standards and requirements of HIPAA, the HITECH Act, the HIPAA regulations or other applicable laws. COUNTY may terminate the Agreement upon thirty (30) days written notice in the event:

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

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

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

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

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

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

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

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

information systems in Federal agencies;

4. 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.

5. CONTRACTOR shall report to COUNTY immediately 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.

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

E. DATA SECURITY REQUIREMENTS

1. Personal Controls

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

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

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

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

check documentation for a period of three (3) years.

2. Technical Security Controls

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

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

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

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

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

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

g. User IDs and Password Controls. All users must be issued a unique user name for accessing PHI COUNTY discloses to CONTRACTOR or CONTRACTOR creates, receives, maintains, or transmits on behalf of COUNTY. Username must be promptly disabled, deleted, or the password

changed upon the transfer or termination of an employee with knowledge of the password, at maximum within 24 hours. Passwords are not to be shared. Passwords must be at least eight characters and must be a non-dictionary word. Passwords must not be stored in readable format on the computer. Passwords must be changed every 90 days, preferably every 60 days. Passwords must be changed if revealed or compromised. Passwords must be composed of characters from at least three of the following four groups from the standard keyboard:

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

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

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

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

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

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

m. Transmission encryption. All data transmissions of PHI COUNTY discloses to CONTRACTOR or CONTRACTOR creates, receives, maintains, or transmits on behalf of COUNTY outside the secure internal network must be encrypted using a FIPS 140-2 certified algorithm which is

128bit or higher, such as AES. Encryption can be end to end at the network level, or the data files containing PHI can be encrypted. This requirement pertains to any type of PHI in motion such as website access, file transfer, and E-Mail.

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

3. Audit Controls

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

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

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

4. Business Continuity/Disaster Recovery Control

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

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

5. Paper Document Controls

a. Supervision of Data. PHI COUNTY discloses to CONTRACTOR or CONTRACTOR

creates, receives, maintains, or transmits on behalf of COUNTY in paper form shall not be left unattended at any time, unless it is locked in a file cabinet, file room, desk or office. Unattended means that information is not being observed by an employee authorized to access the information. Such PHI

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in paper form shall not be left unattended at any time in vehicles or planes and shall not be checked in baggage on commercial airplanes.

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

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

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

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

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

F. 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 immediately to the COUNTY Privacy Officer. CONTRACTOR's notification may be oral, but shall be followed by written notification within 24 hours 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;

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, at the sole 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 F and as required by the Breach notification regulations, or, in the alternative, that the acquisition, access, use, or disclosure of PHI did not constitute a Breach.

6. 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.

7. CONTRACTOR shall provide to COUNTY 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 as soon as practicable, but in no event later than fifteen (15) calendar days after CONTRACTOR's initial report of

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

8. CONTRACTOR shall continue to provide all additional pertinent information about the Breach to COUNTY as it may become available, in reporting increments of five (5) business days after the last report to COUNTY. 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.

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

G. PERMITTED USES AND DISCLOSURES BY CONTRACTOR

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

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

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

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

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

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

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

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

H. PROHIBITED USES AND DISCLOSURES

1. CONTRACTOR shall not disclose PHI COUNTY discloses to CONTRACTOR or

CONTRACTOR creates, receives, maintains, or transmits on behalf of COUNTY about an individual to a health plan for payment or health care operations purposes if the PHI pertains solely to a health care item or service for which the health care provider involved has been paid out of pocket in full and the individual requests such restriction, in accordance with 42 USC § 17935(a) and 45 CFR § 164.522(a).

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

I. OBLIGATIONS OF COUNTY

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

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

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

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

J. BUSINESS ASSOCIATE TERMINATION

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

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

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

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

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

b. CONTRACTOR shall retain no copies of the PHI.

c. In the event that CONTRACTOR determines that returning or destroying the PHI is not feasible, CONTRACTOR shall provide to COUNTY notification of the conditions that make return or destruction infeasible. Upon determination by COUNTY that return or destruction of PHI is infeasible,

CONTRACTOR shall extend the protections of this Business Associate Contract to such PHI and limit further Uses and Disclosures of such PHI to those purposes that make the return or destruction infeasible, for as long as CONTRACTOR maintains such PHI.

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

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EXHIBIT C
TO AGREEMENT FOR PROVISION OF
HIV CARE SERVICES
BETWEEN
COUNTY OF ORANGE
AND
SHANTI ORANGE COUNTY
MARCH 1, ~~2016~~2019 THROUGH FEBRUARY ~~28, 2019~~29, 2020

I. PERSONAL INFORMATION AND SECURITY CONTRACT

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

A. DEFINITIONS

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

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

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

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

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

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

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

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

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

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

B. TERMS OF AGREEMENT

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

2. Responsibilities of CONTRACTOR
CONTRACTOR agrees:

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

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

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

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

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

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

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

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

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

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

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

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

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

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