

AGREEMENT FOR PROVISION OF
HIV HEALTH CARE SERVICES
BETWEEN
COUNTY OF ORANGE
AND
HOAG MEMORIAL HOSPITAL PRESBYTERIAN

~~JULY 15, 2008~~ MARCH 1, 2010 THROUGH FEBRUARY 29, 2012 ~~28, 2010~~

THIS AGREEMENT entered into this ~~15th~~ 1st day of ~~July 2008~~ March 2010, which date is enumerated for purposes of reference only, is by and between the COUNTY OF ORANGE (COUNTY) and HOAG MEMORIAL HOSPITAL PRESBYTERIAN, a California nonprofit corporation (CONTRACTOR). This Agreement shall be administered by the County of Orange Health Care Agency (ADMINISTRATOR).

WITNESSETH:

WHEREAS, COUNTY wishes to contract with CONTRACTOR for the provision of HIV Health Care Services described herein to the residents of Orange County; 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:

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REFERENCED CONTRACT PROVISIONS

Term: ~~July 15, 2008~~ March 1, 2010 through February 29, 2012

~~“Period One” means the period from March 1, 2010 through February 28, 2011~~0

~~“Period Two” means the period from March 1, 2011 through February 29, 2012~~

Basis for Reimbursement: Fee for Service; ~~Negotiated Rate~~

Payment Method: Fee for Service

Notices to COUNTY and CONTRACTOR:

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

CONTRACTOR: Hoag Memorial Hospital Presbyterian
 Attention: Contracting Department
 One Hoag Drive
 Newport Beach, CA 92663

CONTRACTOR’S Insurance Coverages:

<u>Coverage</u>	<u>Minimum Limits</u>
<u>Comprehensive General Liability with broad form property damage and contractual liability</u>	<u>\$1,000,000 combined single limit per occurrence</u> <u>\$2,000,000 aggregate</u>
Workers' Compensation	Statutory
Employer's Liability	\$1,000,000 <u>per occurrence</u>
Professional Liability	\$1,000,000 <u>per claims made or</u>
Comprehensive General	per occurrence
<u>Sexual Misconduct Liability Insurance</u>	<u>\$1,000,000 per occurrence</u>
Sexual Misconduct Insurance	\$1,000,000

I. ALTERATION OF TERMS

1
2 ~~—~~ This Agreement, together with Exhibit A ~~to this Agreement,~~ attached hereto and incorporated
3 herein by reference, fully expresses all understanding of COUNTY and CONTRACTOR with respect to
4 the subject matter of this Agreement, and shall constitute the total Agreement between the parties for
5 these purposes. No addition to, or alteration of, the terms of this Agreement, whether written or verbal,
6 shall be valid unless made in writing and formally approved and executed by both parties.
7

8
II. COMPLIANCE

9 A. COUNTY's Health Care Agency (HCA) has established a Compliance Program for the purpose
10 of ensuring adherence to all rules and regulations related to federal and state health care programs.

11 1. CONTRACTOR may adopt HCA's Compliance Program or establish its own. If
12 CONTRACTOR has established its own Compliance Program, CONTRACTOR shall acknowledge
13 existence of HCA's Compliance Program and shall provide certification to ADMINISTRATOR that
14 CONTRACTOR shall operate its own Compliance Program and shall ensure that its employees,
15 subcontractors, interns, volunteers, and members of Board of Directors or duly authorized agent, if
16 appropriate, ("Covered Individuals") are made aware of CONTRACTOR's Compliance Program
17 policies and procedures.

18 2. If CONTRACTOR elects to adopt HCA's Compliance Program, ADMINISTRATOR shall
19 provide CONTRACTOR with a copy of the relevant HCA Policies and Procedures relating to the Office
20 of Compliance. CONTRACTOR shall ensure that Covered Individuals relative to this Agreement are
21 made aware of these Policies and Procedures.

22 B. CODE OF CONDUCT - Under the direction of the HCA Office of Compliance, a Code of
23 Conduct for adherence by all HCA employees and contract providers has been developed.

24 1. Within thirty (30) calendar days of award of this Agreement, CONTRACTOR has the
25 option of submitting to ADMINISTRATOR a signed acknowledgement and agreement that
26 CONTRACTOR shall comply with the "HCA Contractor Code of Conduct" ~~specified in subparagraph~~
27 ~~B.3. below~~ or CONTRACTOR shall submit a copy of its Code of Conduct to ADMINISTRATOR for
28 review and comparison to federal, state and county standards by the HCA Compliance Officer.

29 2. If CONTRACTOR elects to submit a copy of its Code of Conduct, HCA's Compliance
30 Officer shall advise CONTRACTOR of any necessary changes to CONTRACTOR's Code of Conduct
31 to meet minimum standards and CONTRACTOR shall either take necessary action to meet said
32 standards or shall be asked to acknowledge and agree to the "HCA Contractor Code of Conduct"
33 ~~specified in subparagraph B.3. below.~~

34 ~~3. HCA CONTRACTOR CODE OF CONDUCT - CONTRACTOR and its employees and~~
35 ~~subcontractors shall:~~

36 ~~a. Comply with all applicable laws, regulations, rules or guidelines when providing and~~
37 ~~billing for the services specified herein.~~

~~b. Use their best efforts to conduct themselves honestly, fairly, courteously and with a high degree of integrity in their professional dealings related to this Agreement and avoid any conduct that could reasonably be expected to reflect adversely upon the integrity of CONTRACTOR and/or COUNTY.~~

~~c. Treat COUNTY employees, clients and other COUNTY contractors fairly and with respect.~~

~~d. Not engage in any activity in violation of this Agreement, nor engage in any other conduct which violates any applicable law, regulation, rule or guideline.~~

~~e. Take precautions to ensure that claims are prepared and submitted accurately, timely and are consistent with all applicable laws, regulations, rules or guidelines.~~

~~f. Ensure that no false, fraudulent, inaccurate or fictitious claims for payment or reimbursement of any kind are submitted.~~

~~g. Bill only for eligible services actually rendered and fully documented and use billing codes that accurately describe the services provided.~~

~~h. Act promptly to investigate and correct problems if errors in claims or billings are discovered.~~

~~i. Promptly report to HCA's Compliance Officer any activity that CONTRACTOR believes may violate the standards of the HCA Compliance Program, or any other applicable law, regulation, rule or guideline.~~

~~j. Promptly report to HCA's Compliance Officer any suspected violation(s) of the HCA Contractor Code of Conduct.~~

~~k. Consult with HCA's Compliance Officer if there are any questions or uncertainties of any Compliance Program standard or any other applicable law, regulation, rule or guideline.~~

~~4~~ 3. Failure of CONTRACTOR to submit the acknowledgement of the HCA Contractor Code of Conduct or to submit its own Code of Conduct shall constitute a material breach of this Agreement, and failure to cure such breach within sixty (60) calendar days of ~~such~~ notice of such breach from ADMINISTRATOR shall constitute grounds for termination of this Agreement as to the non-complying party.

C. CONTRACTOR shall screen all Covered Individuals employed or retained to provide services related to this Agreement to ensure that they are not designated as "Ineligible Persons," as defined hereunder. Screening shall be conducted against the General Services Administration's List of Parties Excluded from Federal Programs and the Health and Human Services/Office of Inspector General List of Excluded Individuals/Entities.

1. Ineligible Person shall be any individual or entity who:

a. is currently excluded, suspended, debarred or otherwise ineligible to participate in ~~the~~ federal health care programs; or

b. has been convicted of a criminal offense related to the provision of health care items or

1 services and has not been reinstated in the federal health care programs after a period of exclusion,
2 suspension, debarment, or ineligibility.

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

6 3. CONTRACTOR shall screen all current Covered Individuals annually, unless otherwise
7 authorized in writing by ADMINISTRATOR, to ensure that they have not become Ineligible Persons.

8 4. Covered Individuals shall be required to disclose to CONTRACTOR immediately any
9 debarment, exclusion or other event that makes the Covered Individual an Ineligible Person.
10 CONTRACTOR shall notify COUNTY immediately upon such disclosure.

11 5. In addition to screening organizations and vendors under subcontract, CONTRACTOR
12 shall also request that its subcontractors use their best efforts to verify that they are eligible to participate
13 in all federal and State of California health programs and have not been excluded or debarred from
14 participation in any federal or state health care programs, and to further represent to CONTRACTOR
15 that they do not have any Ineligible Person in their employ or under contract.

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

22 D. REIMBURSEMENT STANDARDS

23 1. CONTRACTOR shall take reasonable precaution to ensure that the coding of health care
24 claims and billing for same are prepared and submitted in an accurate and timely manner and are
25 consistent with federal, state and county laws and regulations.

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

28 3. CONTRACTOR shall bill only for those eligible services actually rendered which are also
29 fully documented. When such services are coded, CONTRACTOR shall use only correct billing codes
30 that accurately describe the services provided.

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

33 E. COMPLIANCE TRAINING - ADMINISTRATOR shall make General Compliance Training
34 and Provider Compliance Training, where appropriate, available to Covered Individuals.

35 1. CONTRACTOR shall use its best efforts to encourage attendance at Compliance Training
36 by Covered Individuals.

37 2. Such training will be made available to Covered Individuals within thirty (30) calendar

1 days of employment or engagement.

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

3 4. Each Covered Individual attending training shall certify, in writing, attendance at
4 compliance training. CONTRACTOR shall retain the certifications. Upon written request by
5 ADMINISTRATOR, CONTRACTOR shall provide copies of the certifications.

6
7 **III. CONFIDENTIALITY**

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

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

15 2. CONTRACTOR acknowledges and agrees that it shall be responsible for obtaining written
16 consents for the release of information from all persons served by CONTRACTOR pursuant to this
17 Agreement. Such consents shall be obtained by CONTRACTOR in accordance with California Civil
18 Code, Division 1, Part 2.6 relating to Confidentiality of Medical Information.

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

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

29
30 **IV. DELEGATION AND ASSIGNMENT**

31 A. CONTRACTOR may not delegate the obligations hereunder, either in whole or in part, without
32 prior written consent of COUNTY; provided, however, obligations undertaken by CONTRACTOR
33 pursuant to this Agreement may be carried out by means of subcontracts, provided such subcontracts are
34 approved in writing by ADMINISTRATOR, meet the requirements of this Agreement as they relate to
35 the service or activity under subcontract, and include any provisions that ADMINISTRATOR may
36 require. No subcontract shall terminate or alter the responsibilities of CONTRACTOR to COUNTY
37 pursuant to this Agreement. CONTRACTOR may not assign the rights hereunder, either in whole or in

1 part, without the prior written consent of COUNTY.

2 B. For CONTRACTORS which are nonprofit corporations, any change from a nonprofit
3 corporation to any other corporate structure of CONTRACTOR, including a change in more than fifty
4 percent (50%) of the composition of the Board of Directors within a two (2) month period of time, shall
5 be deemed an assignment for purposes of this paragraph. Any attempted assignment or delegation in
6 derogation of this paragraph shall be void. ADMINISTRATOR may disallow, from payments
7 otherwise due CONTRACTOR, amounts claimed for subcontracts not approved in accordance with this
8 paragraph.

9 C. For CONTRACTORS which are for-profit organizations, any change in the business structure,
10 including but not limited to, the sale or transfer of more than ten percent (10%) of the assets or stocks of
11 CONTRACTOR, change to another corporate structure, including a change to a sole proprietorship, or a
12 change in fifty percent (50%) or more of CONTRACTOR's directors at one time shall be deemed an
13 assignment pursuant to this paragraph. Any attempted assignment or delegation in derogation of this
14 paragraph shall be void.

15
16 **V. EMPLOYEE ELIGIBILITY VERIFICATION**

17 | CONTRACTOR warrants that it ~~makes~~shall make its best effort to fully comply with all federal and
18 state statutes and regulations regarding the employment of aliens and others and to ensure that ~~all its~~
19 employees, subcontractors and consultants performing work under this Agreement meet the citizenship
20 or alien status requirement set forth in federal statutes and regulations. CONTRACTOR shall obtain,
21 from all employees, subcontractors and consultants performing work hereunder, all verification and
22 other documentation of employment eligibility status required by federal or state statutes and regulations
23 including, but not limited to, the Immigration Reform and Control Act of 1986, 8 U.S.C. §1324 et seq.,
24 as they currently exist and as they may be hereafter amended. CONTRACTOR shall retain all such
25 documentation for all covered employees, subcontractors and consultants for the period prescribed by
26 the law.

27
28 **VI. FACILITIES, PAYMENTS AND SERVICES**

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

34
35 **VII. INDEMNIFICATION AND INSURANCE**

36 | A. CONTRACTOR agrees to indemnify, defend and hold COUNTY, its elected and appointed
37 officials, officers, employees, agents and those special districts and agencies for which COUNTY's

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

9 B. COUNTY agrees to indemnify, defend and hold CONTRACTOR, its officers, employees,
 10 agents, directors, members, shareholders and/or affiliates harmless from any claims, demands, including
 11 defense costs, or liability of any kind or nature, including but not limited to personal injury or property
 12 damage, arising from or related to the services, products or other performance provided by COUNTY
 13 pursuant to this Agreement. If judgment is entered against COUNTY and CONTRACTOR by a court
 14 of competent jurisdiction because of the concurrent active negligence of CONTRACTOR, COUNTY
 15 and CONTRACTOR agree that liability will be apportioned as determined by the court. Neither party
 16 shall request a jury apportionment.

17 C. Each party agrees to provide the indemnifying party with written notification of any claim
 18 related to services provided by either party pursuant to this Agreement within thirty (30) calendar days
 19 of notice thereof, and in the event the indemnifying party is subsequently named party to the litigation,
 20 each party shall cooperate with the indemnifying party in its defense.

21 D. Without limiting CONTRACTOR’s indemnification, CONTRACTOR warrants that it is self-
 22 insured or shall maintain in force at all times during the term of this Agreement, the policy or policies of
 23 insurance covering its operations placed with reputable insurance companies in amounts as specified on
 24 Page 3 of this Agreement. Upon request by ADMINISTRATOR, CONTRACTOR shall provide
 25 evidence of such insurance.

26 E. COUNTY warrants that it is self-insured or maintains policies of insurance placed with
 27 reputable insurance companies licensed to do business in the State of California which insures the perils
 28 of bodily injury, medical, professional liability, and property damage. Upon request by
 29 CONTRACTOR, COUNTY shall provide evidence of such insurance.

30 **VIII. INSPECTIONS AND AUDITS**

31
 32 A. ADMINISTRATOR, any authorized representative of COUNTY, any authorized representative
 33 of the State of California, the Secretary of the United States Department of Health and Human Services,
 34 the Comptroller General of the United States, or any other of their authorized representatives, shall have
 35 access to any books, documents, and records, including but not limited to, medical and client records, of
 36 CONTRACTOR that are directly pertinent to this Agreement, for the purpose of responding to a
 37 beneficiary complaint or; conducting an audit, review, evaluation, or examination, or making transcripts

1 during the periods of retention set forth in the Records Management and Maintenance paragraph of this
2 Agreement. Such persons may at all reasonable times inspect or otherwise evaluate the services
3 provided pursuant to this Agreement, and the premises in which they are provided. COUNTY may
4 provide CONTRACTOR with at least seventy-two (72) hour notice of such inspections or evaluations.
5 ~~Unannounced inspections, evaluations or requests for information may be made in those situations~~
6 ~~where arrangement of an appointment beforehand is not possible or is inappropriate due to the nature of~~
7 ~~the inspection or evaluation.~~

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

12 C. CONTRACTOR shall not be subject to disallowances as the result of audits of the cost of
13 services.

14 D. AUDIT RESPONSE

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

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

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

32
33 **IX. LICENSES AND LAWS**

34 A. CONTRACTOR, its officers, agents, employees and subcontractors shall, throughout the term
35 of this Agreement, maintain all necessary licenses, permits, approvals, certificates, waivers, and
36 exemptions necessary for the provision of services hereunder and required by the laws and regulations
37 of the United States, the State of California, COUNTY, and any other applicable governmental agencies.

1 CONTRACTOR shall notify ADMINISTRATOR immediately and in writing of its inability to obtain or
2 maintain, irrespective of the pendency of an appeal, such permits, licenses, approvals, certificates,
3 waivers and exemptions. Said inability shall be cause for termination of this Agreement.

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

7 1. Title XXVI of the Public Health Services Act, as amended by the Ryan White HIV/AIDS
8 Treatment Modernization Act of 2006.

9 2. Federal Single Audit Act of 1984 (31 U.S.C.A. 7501.70).

10 3. The Americans with Disabilities Act of 1990 (42 U.S.C.A. 12101 et seq.).

11 4. 42 CFR, Public Health.

12 5. Public Law 103-227, Pro-Children Act of 1994.

13 6. State of California Penal Code Section 11164, et seq., Child Abuse and Neglect Reporting.

14 7. State of California Welfare and Institutions Code Section 15600, et seq., Abuse of the
15 Elderly and Dependent Adults.

16 8. 45 CRF Part 76, Drug Free Work Place.

17 9. California Code of Regulations, Title 9, Division 4.

18 10. California Code of Regulations, Title 22,

19 11. California Health and Safety Code, Divisions 10.5 and 10.6.

20 12. U.S. Department of Health and Human Services, Public Health Service, PHS Grant Policy
21 Statement.

22 13. Office of Management and Budget (OMB) Circulars A-89, A-110, A-122 and
23 A-133.

24 14. Health Insurance Portability and Accountability Act (HIPAA) Privacy Rule, as it may exist
25 now, or be hereafter amended, and if applicable.

26 C. ENFORCEMENT OF CHILD SUPPORT OBLIGATIONS

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

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

31 b. In the case of a contractor doing business in a form other than as an individual, the
32 name, date of birth, social security number, and residence address of each individual who owns an
33 interest of ten percent (10%) or more in the contracting entity;

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

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

1 2. Failure of CONTRACTOR to timely submit the data and/or certifications required by
2 subparagraphs 1.a., 1.b., 1.c., or 1.d. above, or to comply with all federal and state employee reporting
3 requirements for child support enforcement, or to comply with all lawfully served Wage and Earnings
4 Assignment Orders and Notices of Assignment shall constitute a material breach of this Agreement, and
5 failure to cure such breach within sixty (60) calendar days of notice from COUNTY shall constitute
6 grounds for termination of this Agreement.

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

9
10 **X. LITERATURE**

11 Any written information, including educational and promotional materials, distributed by
12 CONTRACTOR to any person for purposes directly related to this Agreement must be approved by
13 ADMINISTRATOR before distribution. For the purposes of this Agreement, distribution of written
14 materials shall include electronic media such as the Internet. Such information shall not imply
15 endorsement by the COUNTY, unless ADMINISTRATOR consents thereto in writing.

16
17 **XI. NONDISCRIMINATION**

18 **A. EMPLOYMENT**

19 1. CONTRACTOR shall ensure that applicants are employed, and that employees are treated
20 during employment, without regard to their ethnic group identification, race, religion, ancestry, creed,
21 color, sex, marital status, national origin, age (40 and over), sexual preference, medical condition, or
22 physical or mental disability. Such action shall include, but not be limited to the following:
23 employment, upgrade, demotion or transfer; recruitment or recruitment advertising; layoff or
24 termination; rate of pay or other forms of compensation; and selection for training, including
25 apprenticeship. There shall be posted in conspicuous places, available to employees and applicants for
26 employment, notices from ADMINISTRATOR and/or the United States Equal Employment
27 Opportunity Commission setting forth the provisions of the Equal Opportunity clause.

28 2. All solicitations or advertisements for employees placed by or on behalf of
29 CONTRACTOR shall state that all qualified applicants will receive consideration for employment
30 without regard to ethnic group identification, race, religion, ancestry, creed, color, sex, marital status,
31 national origin, age (40 and over), sexual preference, medical condition, or physical or mental disability.
32 Such requirement shall be deemed fulfilled by use of the phrase "an equal opportunity employer."

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

37 **B. SERVICES, BENEFITS AND FACILITIES - CONTRACTOR shall not discriminate in the**

1 provision of services, the allocation of benefits, or in the accommodation in facilities on the basis of
2 ethnic group identification, race, religion, ancestry, creed, color, sex, marital status, national origin, age
3 (40 and over), sexual preference, medical condition, or physical or mental disability in accordance with
4 Title VI of the Civil Rights Act of 1964 (42 U.S.C.A. §2000d) and all other pertinent rules and
5 regulations promulgated pursuant thereto, and as otherwise provided by state law and regulations, as all
6 may now exist or be hereafter amended or changed.

7 1. For the purpose of this subparagraph B., "discrimination" includes, but is not limited to the
8 following based on one or more of the factors identified above:

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

18 2. Complaint Process - CONTRACTOR shall establish procedures for advising all clients
19 through a written statement that CONTRACTOR's clients may file all complaints alleging
20 discrimination in the delivery of services with CONTRACTOR, ADMINISTRATOR, or the
21 U.S. Department of Health and Human Services' Office for Civil Rights. CONTRACTOR's statement
22 shall advise clients of the following:

- 23 a. In those cases where the client's complaint is filed initially with the Office for Civil
24 Rights (Office), the Office may proceed to investigate the client's complaint, or the Office may request
25 COUNTY to conduct the investigation.
- 26 b. Within the time limits procedurally imposed, the complainant shall be notified in
27 writing as to the findings regarding the alleged complaint and, if not satisfied with the decision, may file
28 an appeal with the Office for Civil Rights.

29 C. PERSONS WITH DISABILITIES - CONTRACTOR agrees to comply with the provisions of
30 Section 504 of the Rehabilitation Act of 1973 (29 U.S.C.A. 794 et seq., as implemented in
31 45 CFR 84.1 et seq.), and the Americans with Disabilities Act of 1990 (42 U.S.C.A. 12101 et seq.),
32 pertaining to the prohibition of discrimination against qualified persons with disabilities in all programs
33 or activities, as they exist now or may be hereafter amended together with succeeding legislation.

34 D. RETALIATION - Neither CONTRACTOR, nor its employees or agents shall intimidate, coerce
35 or take adverse action against any person for the purpose of interfering with rights secured by federal or
36 state laws, or because such person has filed a complaint, certified, assisted or otherwise participated in
37 an investigation, proceeding, hearing or any other activity undertaken to enforce rights secured by

1 federal or state law.

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

6 #

7 **XII. NOTICES**

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

10 1. When written and deposited in the United States mail, first class postage prepaid and
11 addressed as specified on Page 3 of this Agreement or as otherwise directed by ADMINISTRATOR;

12 2. When ~~FAXed~~ faxed, transmission confirmed;

13 3. When sent by electronic mail; or

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

16 B. Termination Notices shall be addressed as specified on Page 3 of this Agreement or as
17 otherwise directed by ADMINISTRATOR and shall be effective when ~~FAXed~~ faxed, transmission
18 confirmed, or when accepted by U.S. Postal Service Express Mail, Federal Express, United Parcel
19 Service, or other expedited delivery service.

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

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

27 — E. In the event of a death, notification shall be made in accordance with the Notification of
28 Death paragraph of this Agreement.

29 **XIII. NOTIFICATION OF DEATH**

30 A. NON-TERMINAL ILLNESS DEATH

31 1. CONTRACTOR shall notify ADMINISTRATOR by telephone immediately upon
32 becoming aware of the death due to non-terminal illness of any person served hereunder or served
33 within the previous twelve (12) months; provided, however, weekends and holidays shall not be
34 included for purposes of computing the time within which to give telephone notice and, notwithstanding
35 the time limit herein specified, notice need only be given during normal business hours.

36 2. In addition, CONTRACTOR shall, within sixteen (16) hours after such death, hand deliver
37

1 or ~~FAX~~fax, a written Notification of Non-Terminal Illness Death to ADMINISTRATOR.

2 3. The telephone report and written Notification of Non-Terminal Illness Death shall contain
3 the name of the deceased, the date and time of death, the nature and circumstances of the death, and the
4 name(s) of CONTRACTOR's officers or employees with knowledge of the incident.

5 B. TERMINAL ILLNESS DEATH

6 1. CONTRACTOR shall notify ADMINISTRATOR by written report ~~FAXed~~faxed, hand
7 delivered, or postmarked within forty-eight (48) hours of becoming aware of the death due to terminal
8 illness of any person served hereunder or served within the previous twelve (12) months. The
9 Notification of Terminal Illness Death shall contain the name of the deceased, the date and time of
10 death, the nature and circumstances of the death, and the name(s) of CONTRACTOR's officers or
11 employees with knowledge of the incident.

12 2. If there are any questions regarding the cause of death of any person served hereunder who
13 was diagnosed with a terminal illness, or if there are any unusual circumstances related to the death,
14 CONTRACTOR shall immediately notify ADMINISTRATOR in accordance with subparagraph A.
15 above.

16
17 **XIV. RECORDS MANAGEMENT AND MAINTENANCE. NOTIFICATION OF PUBLIC**
18 **EVENTS AND MEETINGS**

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

22 B. CONTRACTOR shall notify ADMINISTRATOR at least ten (10) working days in advance of
23 any applicable public event or meeting. The notification must include the date, time, duration, location
24 and purpose of public event or meeting. Any promotional materials or event related flyers must be
25 approved by ADMINISTRATOR prior to distribution.

26 //

27 **XV. RECORDS MANAGEMENT AND MAINTENANCE**

28 A. CONTRACTOR, its officers, agents, employees and subcontractors shall, throughout the term
29 of this Agreement, prepare, maintain and manage records appropriate to the services provided and in
30 accordance with this Agreement and all applicable requirements, which ~~are listed below~~include, but are
31 not limited to:

32 1. California Code of Regulation Title 22, Chapter 7, Article 6, §75055 - Retention of records
33 by outpatient medical facilities.

34 2. State of California, Department of Alcohol and Drug Programs Reporting System (ASRS)
35 manual.

36 3. State of California, Department of Alcohol and Drug Programs Fiscal System (DPFS)
37 manual.

1 4. 45 CFR, HIPAA Privacy Rule (Designated Record Set).

2 5. State of California, Health and Safety Code §§123100 – 123149.5.

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

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

8 D. CONTRACTOR shall be informed through this Agreement that HIPAA has broadened the
9 definition of medical records and identified this new record set as a Designated Record Set (DRS).
10 45 CFR §164.501, defines DRS as a group of records maintained by or for a covered entity that is:

11 1. The medical records and billing records about individuals maintained by or for a covered
12 health care provider;

13 2. The enrollment, payment, claims adjudication, and case or medical management record
14 systems maintained by or for a health plan; or

15 3. Used, in whole or in part, by or for the covered entity to make decisions about individuals.

16 E. CONTRACTOR shall ensure all HIPAA DRS requirements are met. HIPAA requires that
17 clients, participants, patients, etc., be provided the right to access or receive a copy of their DRS and/or
18 request addendum to their records.

19 ~~F. CONTRACTOR shall ensure compliance with requirements pertaining to the privacy and~~
20 ~~security of personally identifiable information (hereinafter “PII”) and/or protected health information~~
21 ~~(hereinafter “PHI”). CONTRACTOR shall, immediately upon discovery of a breach of privacy and/or~~
22 ~~security of PII and/or PHI by CONTRACTOR, notify ADMINISTRATOR of such breach by telephone~~
23 ~~and email or facsimile.~~

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

27 ~~H. CONTRACTOR shall retain all financial records for a minimum of five (5) years from the~~
28 ~~commencement of the contract, unless a longer period is required due to legal proceedings such as~~
29 ~~litigations and/or settlement of claims.~~

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

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

37 ~~IK. If CONTRACTOR is unable to meet the record location criteria above, ADMINISTRATOR~~

1 may provide written approval to CONTRACTOR to ~~change the record~~ maintain records in a single
2 location ~~criteria~~, identified by CONTRACTOR.

3 ~~J.L.~~ CONTRACTOR may be required to retain all records involving litigation proceedings and
4 settlement of claims for a longer term which will be directed by the ADMINISTRATOR.

5 ~~M.~~ CONTRACTOR shall notify ADMINISTRATOR of any Public Record Act (PRA) request
6 within twenty-four (24) hours for persons served by CONTRACTOR pursuant to this Agreement.
7 CONTRACTOR shall provide ADMINISTRATOR all information that is requested by the PRA request
8 for persons served by CONTRACTOR pursuant to this Agreement.

9
10 **XVI. SEVERABILITY**

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

16
17 **XVII. STATUS OF CONTRACTOR**

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

29 #

30 **XVIII. TERM**

31 The term of this Agreement shall commence and terminate as specified on Page 3 of this
32 Agreement, unless otherwise sooner terminated as provided in this Agreement; provided, however,
33 CONTRACTOR shall be obligated to perform such duties as would normally extend beyond this term,
34 including but not limited to, obligations with respect to confidentiality, indemnification, audits,
35 reporting and accounting.

36
37 **XIX. TERMINATION**

1 A. Either party may terminate this Agreement, without cause, upon ~~ninety (90)~~thirty (30) calendar
2 days written notice given the other party.

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

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

9 1. The loss by CONTRACTOR of legal capacity.

10 2. Cessation of services.

11 3. The delegation or assignment of CONTRACTOR's services, operation or administration to
12 another entity without the prior written consent of COUNTY.

13 4. The ~~habitual~~ neglect by any physician or licensed person employed by CONTRACTOR of
14 any duty required pursuant to this Agreement.

15 5. The loss of accreditation or any license required by the Licenses and Laws paragraph of this
16 Agreement.

17 6. The continued incapacity of any physician or licensed person to perform duties required
18 pursuant to this Agreement.

19 7. Unethical conduct or malpractice by any physician or licensed person providing services
20 pursuant to this Agreement; provided, however, COUNTY may waive this option if CONTRACTOR
21 removes such physician or licensed person from serving persons treated or assisted pursuant to this
22 Agreement.

23 D. CONTINGENT FUNDING

24 1. Any obligation of COUNTY under this Agreement is contingent upon the following:

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

27 b. Inclusion of sufficient funding for the services hereunder in the applicable budget
28 approved by the Board of Supervisors.

29 #
30 2. In the event such funding is subsequently reduced or terminated, COUNTY may terminate
31 or renegotiate this Agreement upon thirty (30) calendar days written notice given CONTRACTOR.

32 E. In the event this Agreement is terminated prior to the completion of the term as specified on
33 Page 3 of the Agreement, ADMINISTRATOR may, at its sole discretion, reduce the Maximum
34 Obligation of this Agreement in an amount consistent with the reduced term of the Agreement.

35 F. After receiving a Notice of Termination CONTRACTOR shall do the following:

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

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

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

6 4. Assist ADMINISTRATOR in effecting the transfer of clients in a manner consistent with
7 their best interests.

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

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

12
13 **XX. THIRD PARTY BENEFICIARY**

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

16
17 **XXI. WAIVER OF DEFAULT OR BREACH**

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

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

32
33 HOAG MEMORIAL HOSPITAL PRESBYTERIAN

34
35
36 BY: _____

DATED: _____

37 TITLE: _____

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COUNTY OF ORANGE

BY: _____ DATED: _____
CHAIR OF THE BOARD OF SUPERVISORS

SIGNED AND CERTIFIED THAT A COPY
OF THIS DOCUMENT HAS BEEN DELIVERED
TO THE CHAIR OF THE BOARD PER G.C. SEC. 25103, RESO 79-1535
ATTEST:

DARLENE J. BLOOM
Clerk of the Board of Supervisors
Orange County, California

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 HCA.

1 EXHIBIT A
2 TO AGREEMENT FOR PROVISION OF
3 HIV HEALTH CARE SERVICES WITH
4 HOAG MEMORIAL HOSPITAL PRESBYTERIAN

5 ~~JULY 15, 2008~~ MARCH 1, 2010 THROUGH FEBRUARY 29, 2012 ~~28, 2010~~

7 **I. PAYMENTS**

8 A. BASIS FOR REIMBURSEMENT - As compensation to CONTRACTOR for providing
9 ~~Specialty Medical Care~~ specialty medical care services described herein, COUNTY shall compensate
10 CONTRACTOR at one hundred five percent (105%) of the current Region 26 RVRBS Medicare fee
11 schedule.

12 B. BILLING - CONTRACTOR shall obtain prior authorization for all services pursuant to this
13 Agreement. Prior authorization shall consist of a Prior Authorization (P.A.) Form approved by
14 ADMINISTRATOR.

15 C. CONTRACTOR shall submit to ADMINISTRATOR or designee, claims for services to
16 individual clients, on a properly completed form approved or supplied by ADMINISTRATOR.
17 CONTRACTOR's claims shall include such information as is required by ADMINISTRATOR. All
18 claims are due within sixty (60) calendar days of the date of service and payments to CONTRACTOR
19 should be released by COUNTY no later than forty-five (45) calendar days after receipt of the correctly
20 completed claim.

21 D. ADMINISTRATOR may withhold or delay any payment if CONTRACTOR fails to comply
22 with any provision of this Agreement.

23 E. CONTRACTOR may bill separately an additional twenty percent (20%) of the current
24 Region 26 RVRBS Medicare fee schedule for any payment released greater than forty-five (45) calendar
25 days after COUNTY receipt of the correctly completed claim provided delay is not due to
26 CONTRACTOR's failure to comply with any provision of this Agreement.

27 F. CONTRACTOR may not claim reimbursement for services provided beyond the expiration
28 and/or termination of this Agreement.

29 G. Claims and service authorization, set forth in this Agreement may be adjusted by mutual written
30 agreement of CONTRACTOR and ADMINISTRATOR.

31 H. All claims to COUNTY shall be supported, at CONTRACTOR's facility, by source
32 documentation.

34 **II. SERVICES**

35 A. CONTRACTOR shall provide facilities for outpatient diagnostic tests and procedures including,
36 but not limited to, laboratory and pathology, radiology (CT Scans, MRI, Ultrasound, and Upper GI
37 series), biopsies, and endoscopies. ADMINISTRATOR and CONTRACTOR acknowledge and agree

1 that the provision of physician services for such tests and procedures is not within the scope of this
2 Agreement.

3 B. COUNTY shall provide primary HIV medical care for all patients referred to CONTRACTOR.

4 C. CONTRACTOR shall provide ~~Specialty Medical Care~~ specialty medical care services that are
5 within the scope of CONTRACTOR's license(s) to practice or to provide said services.

6 D. Physician services shall be based on current established medical standards of care.

7 E. CONTRACTOR shall provide outpatient clinic appointments and visits within three (3) weeks
8 of the request for service or sooner, if medical condition warrants.

9 F. CONTRACTOR services shall be limited to those services authorized by ADMINISTRATOR
10 on a P.A. Form. CONTRACTOR shall retain a copy of each approved P.A. Form in each client's file.

11 G. CONTRACTOR shall obtain P.A. Forms for additional services, tests, and procedures not
12 identified on the originating P.A. Form.

13 H. CONTRACTOR shall use, whenever possible, pertinent medical records and laboratory results
14 provided by ADMINISTRATOR, prior to requesting authorization for additional testing.

15 I. Lab services are not covered unless specifically authorized by a P.A. Form.

16 J. CONTRACTOR shall provide follow-up consultation notes and/or reports to
17 ADMINISTRATOR in a timely manner, not to exceed seven (7) calendar days from the date of service.

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